

**RESEARCH METHODOLOGY SCIENCE EDUCATION LAW<sup>1</sup>:  
proposal for Research in the World of Work in the XXI Century**

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*Fecha de recibido: 3 de octubre de 2011*

*Fecha de aprobación: 7 de diciembre de 2011*

*Artículo resultado de Investigación.*

**Abstract**

This research report contains elements of methodology of legal science of law. also proposes the need for it is addressed-in the field of labor law-under the multidisciplinary that allows both the Sociology of Law as its relations with the social sciences (Philosophy, Economics, Science, History, etc.). This reading allows us to propose a solution to the conflict in the world of work presented in society by giving prevalence of Sociology of Law. This paper from a new methodological perspective of the Sociology of Law offers a few examples to tackle them

**Keywords**

Sociology of Law, Labour Law; Multidisciplinary; Research Methodology; Union Organization

**METODOLOGÍA DA INVESTIGAÇÃO DA CIÊNCIA JURÍDICA TRABALHISTA:  
proposta para a investigação no mundo do trabalho no Século XXI**

**Resumo**

Este relatório de pesquisa reúne elementos de metodologia da ciência jurídica de direito. Da mesma forma, propõe-se a necessidade de que se dirige, no campo do Direito do Trabalho, sob a multidisciplinaridade que admite tanto a Sociologia do Direito como suas relações com as ciências sociais (filosofia, economia, ciência histórica, etc) .Esta leitura nos permite propor uma solução para o conflito no mundo do trabalho que ocorre na

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<sup>1</sup> This article is the product of the research on “The World of Work in the XXI Century”, developed within the research group “Social Protection and Conflict” attached to the Research Center Legal partner Faculty of Law at the Universidad Libre. Bogotá. May, 2011.

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sociedade, dando prevalência o Sociologia Jurídica. Assim, este trabalho propõe -de uma nova perspectiva metodológica da Sociologia Jurídica- alguns exemplos de abordagem.

### **Palavras-chave**

Sociologia do Direito, Direito do Trabalho, multidisciplinaridade, metodologia de pesquisa, organização sindical.

## **METODOLOGÍA DE LA INVESTIGACIÓN DE LA CIENCIA JURÍDICA LABORAL: propuesta para la investigación en el mundo del trabajo en el Siglo XXI**

### **Resumen**

El presente informe de investigación recoge elementos de metodología de la ciencia jurídica del Derecho. De igual manera, propone la necesidad que éste sea abordado -en el campo del Derecho Laboral- bajo la multidisciplinariedad que admite tanto la Sociología Jurídica como sus relaciones con las ciencias sociales (Filosofía, Economía, Ciencia Histórica, etc.). Esta lectura nos permite proponer solución a la conflictividad del mundo del trabajo que se presenta en la sociedad, al darle prevalencia la Sociología Jurídica. De aquí que el presente trabajo proponga -desde una nueva perspectiva metodológica de la Sociología Jurídica- algunos ejemplos de abordaje.

### **Palabras clave**

Sociología Jurídica; Derecho del Trabajo; Multidisciplinariedad; Metodología de la Investigación; Organización Sindical.

*The research must strive to assimilate the material investigated in detail, to analyze various forms of development and discover their internal links. Crowned only after this work, the researcher can proceed to the actual movement be adequately described. And if you know it and get exposure ideally reflect the life of matter, there is always the possibility of having the impression of being faced with an a priori construction<sup>2</sup>.*

refers to a reality external to us which we try to penetrate, science of the spirit - Dilthey says -, are based on inner experience is, most immediately possible. It is, therefore, to find a science base on which rests the whole of the science of the spirit; to this author, this science is Metaphysics<sup>3</sup>. However, in contemporary times and in the words of author cited, it seems that the methodology of scientific research in the field of social science (including legal science) that science becomes; in this sense, is absolute and universal a unique moment of past experience. For the author it is clear that history - and development of metaphysical essences and universal reason

### **INTRODUCTION**

Wilhelm Dilthey (1978, p. 10) believes that the science of the spirit, as a set of science itself,

<sup>2</sup> Marx, K. (1981). *El capital: crítica de la economía política*. (W. Roces. Trad.) p. XXIII. México: Fondo de Cultura Económica. [Trabajo original publicado en 1867]

<sup>3</sup> In this regard, Abbagnano (1980) p. 163 points: (...)Science First, that is, the science that aims to own the common object of all others, and self-principle-a principle that determines the validity of all other. The concept of metaphysics can be analyzed from Theology and Ontology, and Epistemology. Metaphysics also be defined as the science of what is beyond the experience.

and the spirit world - imply in some ways as the law of history; while the latter is not taken in all its complexity, so it falls into mere abstraction. By contrast, Dilthey wants to study the complex social history in all its concreteness.

Therefore, and based on the cited author, emphasizes that, on the grounds that it is necessary to rethink the methodology of social science research of modern times, this methodology has become the science that includes all multidisciplinary aspect to build new arguments that give this same possibility to establish and build objects of research from a new perspective on social science

Traditionally, the research methodology of legal science builds upon criteria that are confused by the methodology of interpretation<sup>4</sup> of the rule (Medina, 2002). In the case of research must be made clear that the methodology of legal science is connected to the world of social science research, methods and techniques. By contrast, when we talk about the methodology of interpretation in legal science are establishing a basic object that is the standard that can be approached from the exegetical method, the historical, the sociological method or positive, the comparative method, and / or deductive and inductive method, these methods are intended to study the rule. Once the research methodology<sup>5</sup> in legal science, you must build your object from positive legal science, but from a reading approach to social reality and analyze this reality from the multidisciplinary nature of legal science.

In the words of Manuel Castells:

<sup>4</sup> "A doctrine of interpretation, be inspired by natural law or the values of realism or of legal positivism, can not be exhausted at the semiotic-linguistic, but requires fundamental choices are made in the political arena and the general theory of law". Luzzati: 1993, 49.

<sup>5</sup> *Methodology* (inglés); *Méthodologie* (francés); *Methodologie*, *Methodenlehre* (alemán); *Metodologia* (italiano). This term can be understood four different things: 1) the logic or the logic of studying methods, 2) the transcendental logic applied, 3) all of the orderly procedures of a science or more science, 4) philosophical analysis of such procedures. Vid. Abbagnano, N. p. 802 (1980). Diccionario de filosofía. (A. N. Galletti. Trad.) 1200 pp. México: Fondo de Cultura Económica. [Trabajo original publicado en 1961]

(...) *To vaccinate legal positivism against technocracy methodological myths against epistemological idealism speculation sociological, against obscurantism of those who reject the scientific understanding of our societies to preserve their privileges.* (Castells, 1981, p.14)

This can provide that, from the methodological point of view in which we should be taking stock to answer the question "¿What kind of new methodology is required to analyze the complexity of the world of work in this era of XXI century?". A methodology is a system of principles and organization leads to a theory and practice, therefore, the analysis of the object to investigate the world of work, that balance could be proposed but this method becomes an analysis of realities pre-built from the manufacture of a "Ivory tower", as in the case of the researcher (s) and degree (s), since this kind of researcher loses its critique of social reality. Hence, the research methodology (Arroyo, 2009, p.17) in the field of Labour Law -when analyzed from the idea that all science is a field of action itself- should seek to go in search of social responses to humans. The Science of Labor, with its elements sui generis (human labor as a social phenomenon and legal), allows the use of different social sciences through research methodology from the standard speech and lectures and from reading the social, economic and historical situation in which labor law has its reality.

The question problem and the working hypothesis of this document revolves around the need to establish new methodological elements that allow for a new reading of the working world in the XXI century, theoretical analysis that fits the scene of the social reality of the world of work has undergone profound changes, where the theoretical elements of approach in the world of work intended to give a reading of theoretical approaches that have been overwhelmed by these new realities.

## Research Problem

Question arises as whether or not it is necessary to establish new methodological approaches to reading the world of work in the century XXI, given the complexity of the changes, and - its

effects - produced by contemporary society in the field of human labor organization, including the conceptual changes on the job.

### Methodology

The methodology to address is essentially the methodology called interpretive «frame construction» (Chihu, 2006, p. 9) from the Sociology of Law. This methodology allows to identify, interpret, classify the business of the world of work, taking into account the need to organize experience and individual or collective action so that, from these, many questions arise about the purpose of research, namely: developing a new methodology that gives meaning to the world of work and understanding of this, therefore in this brief documentary methods will be used and the methodology of discourse analysis in order to establish a relationship scenario between theory and practice.

## RESULT

Here are some methodological features that would analyze and investigate the world of work in Colombia from a reading of the Sociology of Law in terms of multidisciplinary. Thus, while in Europe the regulation of the world of work in the capitalist (Eagleton, 2005, p. 54) stage is characterized, in most cases, they result from the social struggle of the working class and trade union organizations, the situation is different for Colombian; in our country, regulating the world of work has been more the product of the paternalistic discourse of social actors, which acquired different nuances over time and in the social struggle has played a minor role (Garza, 2010, p. 15). Let us see the proposal for a new reading of the Colombian Labor Law:

### 1. FROM THE SOCIOLOGY OF LAW AS USING MULTIDISCIPLINARY TOOLS FOR THE HISTORY OF LAW

Between the fifteenth and eighteenth centuries, begins to build a new concept of work as opposed to medieval Christian conception demanded worldly merit, for the heavenly reward (although work was not considered an honorable activity).

Such a view begins to change from budgets conceived mercantilist foreign trade and craftsmanship as a source of wealth. Subsequently, the study of work begins to constitute a scientific way, is how the Physiocrats locate the source of social wealth in material production and Adam Smith (1723-1790) (Smith, 1794, p. 97) -representative of the school-classical- makes a great contribution to the study of the work, noting that the value is created from all work applied to production. However, as Karl Marx would point out later (1818-1883), the reality is that the worker sells his labor power, but it's not working (p. 45).

The nineteenth century profoundly transforms the valuation of work to make him the model of creative activity. It is at that moment, the pair that were the various national schools of history, comes in. disseminating the works of Karl Marx, who expressed some criteria around the idea of History:

*(...) This conception of history is, therefore, to expose the actual production process starting from the production to material of immediate life and to conceive the form of exchange for this mode of production and generated by it, that is, society civil in all its phases, as the foundation of all history. (Marx, 1974).*

So we can say that Karl Marx sees history from social production (social work) of human existence. He points out that men enter into definite relations of production, necessary and independent of their will, and that these relations of production correspond to a certain degree of development of material productive forces, overall, not in a mechanistic way, constitute the economic structure society, the real foundation on which rises a legal and political superstructure to the corresponding forms of social consciousness. Thus, the mode of production of material life, and with it, work-life conditions the process of social, political and intellectual. In general, there is the consciousness of men that determines reality ... on the contrary, the social reality that determines their consciousness.

In the nineteenth century there are new ideas about the state of the world of work. Thus,

George Wilhelm Friedrich Hegel describes what is known as the «study of master and servant» (Hegel, 1993, p. 117), it exists in a man (servant) attached to a job that determines its existence, and a man (the lord) that appropriates and has the work of that other, the servant is not a human being who is an employee works ... that works on objects belonging to another. But it is labor that transforms this relationship, in short, is the need of free men fighting for recognition and the Hegelian recognition is obtained through the patronage of the Lord. In this way, lord and serf recognize each other.

Karl Marx (1974) then use the «study of master and servant» to raise the alienation to be known as the «commodity fetishism»:» (...) all that is mysterious in the commodity form, is simply man to reflect the social characteristics of their own work and characters materials of their products work» (Marx, 1974, p. 36-55). Which means that man is not recognized as a creator of goods does not recognize that value comes from him and not from nature, this is the alienation itself. By patronizing working conditions, the “commodity fetishism” serves to disguise the real conditions of production in bourgeois society, there is no exploitation, the worker owes his salary to the workforce and the paternalism of the capitalist, who does believe their profits come from the performance of your capital.

It is appropriate, then ask the same question that Pierre Vilar made in relation to Marx: Karl Marx wanted to be a historian? (Vilar, 1983, p. 176). The answer is no, in the sense of conceiving history as isolated events count the socioeconomic context in which they occur. On the contrary, Marx is part of the so-called “Thinkers of suspicion”, possessing a constant mistrust of any appearance of any speech<sup>6</sup>.

To establish this we must say that Karl Marx can not accept a conception of history isolated

<sup>6</sup> Similarly, Eric Hobsbawm concludes that the influence of Karl Marx-plural history now conceived as a dialogue of different viewpoints is greater. Vid. Hobsbawm, E. J. E. (1998). *Sobre la historia*. (J. Beltrán. y J. Ruíz. Trads.) p. 175. Barcelona: Crítica. [Trabajo original publicado en 1997]

from the general context that can explain it is necessary for the analysis of modern society relies on a concept or suprahistorical extra. Rightly criticizes Michel Vovelle mechanistic, who see in Karl Marx’s economic determinism. This interpretation “vulgar” Marxism forget that Marx spoke, not the economic factor, but the production and reproduction of real life as the determining factor in the materialist conception of history. (Vovelle, 1985, p. 9)<sup>7</sup>

Then one of the contributions of Karl Marx is giving us, through the historical materialism, a method of analysis of human society, this method integrates the tools of social science research (from economics to sociology) to form social history. Later, the vision of social history is reinforced by the “documentary method of investigation” of Leopold von Ranke<sup>8</sup> (1795-1886) and the “method of interpretation or interpretive

<sup>7</sup> Vovelle M. (1985). *Ideologías y mentalidades*. (J. Bignozzi. Trad.) p. 9. Barcelona: Ariel. [Trabajo original publicado en 1982]

Moreover, it matters little if the intent is discerned clearly, as we commented Friedrich Engels (1890) to Joseph Bloch in a letter:

(...)According to the materialist conception of history, the determining factor is, ultimately, production and reproduction of real life. Neither Marx nor I have ever claimed otherwise. If then somebody twists this proposition and makes him say that the economic factor is the sole determinant, the transformation is an empty phrase, abstract, absurd (p. 514).

<sup>8</sup> About herein, refer to Ranke (1979):

(...)Now, why roads have been possible to explore all this again? The basis of this work, the sources of their materials has been a number of memoirs, diaries, letters, memorials of ambassadors and accounts from eyewitnesses to the facts historians. We’ve only resorted to another kind of writing where it appeared directly based on any testimony or credited to a greater or lesser extent, knowledge of the same original. At the bottom of each page shows the work that has taken something, when that is the case. The research method and critical results will be presented in another book, we gave to the press on par with this. The purpose and matter determine the form. It is not possible to require that development of a story free theory, at least for a poetic work, and we’re not even sure that no one can reasonably believe to have discovered such freedom in the works of Greek and Roman masters. There is no doubt that the historian is the supreme law rigorous exposure of the facts, however conditional and lacking in beauty that they are (p. 38 y ss.).



sociology” of Max Weber<sup>9</sup> (1864-1924), although these authors are completely removed from the ideological vision of Marx. Since human action, Weber said the scientific nature of history, sociology, and economics from the understanding of social and historical reality (Weber, 1985, p. 6), therefore, history is interpreted not only from economic interests, but also from the class movement and the reasons of a psychological and religious<sup>10</sup>.

Despite the efforts of the Annales School (named after the French publication of the journal *Annales*

d’histoire économique et sociale, later called *Annales. Economies, sociétés, civilizations*, renamed in 1994 as *Annales. Histoire, Sciences Sociales*) contemporary history-in its role of recounting facts and information<sup>11</sup> - remains positivist. Because the central element of discourse is the source text and it changes to a speed at that time and space disappear, History today, -based solely on information, data and statistics-, ceases to exist, to the extent that these ‘bases’ switch, leave in question the principles of reality and objectivity. The historical school of law, represented by Karl von Savigny Friedrich (1779-1861)(1994, p. 22-25) - used these principles to develop a history of the German national legal culture, which is projected to compare cultures and establishes a universal<sup>12</sup> legal theory on the nature historical law. The question is to know the relationship of the past with the present law. Savigny says matter of law is given by all the nation’s past that comes from your inner essence, of an inner need to be rejuvenated from time to time.<sup>13</sup>

However, already in the XXI century, the history of law tends towards a higher content of analysis (sociological, economic and other sciences) that is evident in his desire to know the social impact that the law has occurred over time. Therefore,

<sup>9</sup> Weber (1997) says:

(...)Sociology constructs “-type concepts,” as often assumed as self-evident, and seeks to find rules ‘general’ of the occurrence. This as opposed to history, which strives for causal analysis and attribution of personalities, structures and individual actions deemed “culturally” important. The conceptual construction of sociology finds its “material” very essentially paradigmatic, although not exclusively, in the realities of action is also considered important from the standpoint of history. It is also building its concepts and laws for the purpose, above all, if they can provide a service for historical causal attribution of culturally important events. As in any generalizing science is a condition of the uniqueness of its abstractions that their concepts have to be relatively empty compared to the concrete reality of the historical (p. 16).

<sup>10</sup> By the way, Weber (1985) appears:

(...)Whenever you “understand” human action as determined by “ends” conscious ones and a clear understanding of the “means” our understanding reached, no doubt, specifically high degree of “evidence”. But if we ask on what basis, will be revealed at once its foundation lies in the fact that the relationship between “means and ends” is a rational, accessible, specifically to a “causal account generalizing” in the sense of ‘legality’. No action without any rational grounds for streamlining those aspects of reality that are considered in all articles and resources that can be manipulated, ie, regardless of a complex framework of “rules” that indicate the empirical effects can be “expected” of a particular behavior (p. 152). Also cfr. Stammler, R. (2001). La superación de la concepción materialista de la historia. (Ó. J. Guerrero Peralta. Trad.) Bogotá: Nueva Jurídica. [Trabajo original publicado en 1907]. Con respecto a la importancia de Max Weber en las ciencias históricas, vid. Iggers, G. G. (1998). La ciencia histórica en el siglo XX: las tendencias actuales: una visión panorámica y crítica del debate internacional. (C. Bieg. Trad.) p. 39. Barcelona: Idea Books. [Trabajo original publicado en 1993]

<sup>11</sup> Studies on the history of law take place with the emergence and development of the capitalist market; there, the story itself became a reality due to the global unification of time. “World history has become reality because the world has united under the deployment of this time. The irreversible time is the unified world market and, consequently, the global spectacle”. Debord: 1996, 132.

<sup>12</sup> Ocampo López, J. (1984). *Historia básica de Colombia*. p. 109. Bogotá: Plaza y Janés.

<sup>13</sup> Vid. Quesnay, F. (1974). El “Tableau Économique” y otros escritos fisiócratas. pp. 68-69. (F. Gispert. Trad.) Barcelona: Fontamara. [Trabajo original publicado en 1758]; Rodríguez Casado, V. (1963-1965), Tomo II: 33. Conversaciones de historia de España. Barcelona: Planeta; Beneyto Pérez, J. (1973). *Historia social de España y de Hispanoamérica - repertorio manual para una historia de los españoles*. (2ª ed. rev.). 546 pp. Madrid, España: Aguilar; Rodríguez Salazar, Ó. (1990). *El pensamiento económico en la formación del Estado Granadino 1780-1830*. *Revista Historia Crítica*, (3), 107-117.

the history of law can not deal with rules and doctrines that are isolated from economic and social history of his time, as it raises the historical school of law, it must show us the history of specific conditions emerged Law in time, to which the law-without producing fits relation to the sciences that support binary or absolute truths, because ultimately this is a result of these conditions. For this purpose it is necessary to read the standard speech and mobility, from the subject who produces the speech.

Given the above, it should be noted that when talking about history of law, it can not be conceived only as the history of the positive legal norm, as this would turn the law in a legal formality which would be a single vision reality that excludes all possible worlds. The analysis of the law must come to see the multiplicity and plurality of possible worlds that may become necessary in worlds, so, its purpose would be to study the positive norm of alternativality theoretical and practical solutions to the coexistence social.

The reason to address the history as a starting point of this paper mainly lies in statements made by Johann Wolfgang von Goethe:

*(...) Today, there is no doubt that world history should be rewritten from time to time. This need does not arise, however, the fact that while many events are discovered previously unknown, but they have created new views, because the partner comes time you go through a few points of view from which to conduct a new look to the past. (Goethe, 1963)*

He states that the time history is a live-time is past, present and future, in which man builds history by analyzing past events based on present needs. So history is founded on assumptions of absolute truths and claim to be universal, it is history in the past tense, is a static history does not allow a new look to the past. The previous concept of history is to be used in developing this work. The authors believe that, without trying to rewrite the socioeconomic history or the history of Colombian labor regulations,

the contribution of this work is to have made a rereading of the different discourses that have constructed the same story-telling product of paternalism and negative in the construction of Colombian society. Therefore, there is no right or true readings or readings will be binary, there will be readings of dissent, according to the reader's interest corresponding to the demonstration of his thesis, directed by his reading.

## **2. CONSTRUCTION METHODOLOGY THROUGH THE SOCIOLOGY OF LAW**

Law is a discipline intertwined with a specific object, which finds its base of knowledge in social science and, in turn, is taxed an important contribution to it. It is precisely in this context of interrelation of the various social sciences where it begins to form labor law as a concept, it will study the production of the rule of law from the perspective of history. Thus, Peter Fitzpatrick states that any autonomous area of law not to analyze it from its historical content is contrary to a sociological approach it. Therefore, the law as legal science is embedded in the progression of society. For him, history itself is the essence of law. (Fitzpatrick, 1998, p. 2008)

The Sociology of Law sees the law as a system of social relations that has developed into a social order. However, society should not be understood as a totalizing system, but as the articulation of diverse elements, in the case of interest, is the association.

In this sense, the current sociology deals with the study of the social dimension of human life, social groups and associations of various kinds, and recognizes that they are all made by individuals, but they are something more than the sum of these. (Bajoit, 2008, p. 19)

Before starting the analysis of the union from the perspective of the sociology of law, we must reflect on the very object of sociology, in order to establish whether, in effect, the union, understood as a legal institution and social can be studied by sociology. In this regard, "(...) the

centrality of positive philosophy is to consider all phenomena as subject to natural laws, unchanged, eliminating the problem of causes as non-existent issue” (Comte, 1984, p. 34). Should be added that for this author recognized as one of the founders of this science, the goal of sociology is the study of man and their needs in a modern industrialized society. (Horkeimer y Adorno, 1987, p. 288)

For his part, Max Weber provides a definition of law in a sociological sense, which states:

*(...) An order should be called: a). Convention, where their validity is guaranteed externally by the probability that, within a certain circle of men, a discordant behavior will encounter a (relative) and practically sensible general disapproval. b). Law: When is externally guaranteed by the probability of coercion (physical or mental) carried out by a cadre of individuals instituted with the mission to compel compliance with that order or punish their transgression. (Weber, 1997, p. 27)*

According to Weber (1997, p. 11), law is a body of external coercive rules for individuals, for their thoughts and actions in this regard, the important effects of coercion on the individual, that is, the pragmatic reality. Moreover, Weber defines sociology in relation to social action: “(...) deals with the types of development the same (social action) as opposed to history, interested in the single most important connections for charging causal, that is most fraught with destiny” (p. 22). Therefore, the use of custom and order (or law) should be analyzed within a circle of men, in the case of law, order ensures that a constraint on the stress that is the legal guarantee, in the highest degree - the direct service of economic interests, and they are the most effective factors in shaping the law.

For example, the trade union as an expression of the collective is part of the rule of law and

social reality<sup>14</sup> can therefore be tested empirically, social theory, and, to be regulated by law, can be analyzed from the rule of law.

Thus, the Sociology of Law considers the law as a product and expression of social life. Max Weber<sup>15</sup> points out that the object of sociology is the study of social action, ie, the action is for those whose sense of place, on the other hand, includes the law within the types of orders that may be legitimate or Convention law. Under this premise Weberian statistical survey<sup>16</sup> methodology takes into account the value-neutrality, this suggests that sociology does not judge, but on the contrary, examines the behavior of individuals. This concept marks the beginning of sociological studies of law involved in the events, links, actions, interactions, processes and social relations.

Some authors have defined and have presented their views on the concept of Sociology of Law as a discipline that allows us to analyze the transfer of the rule of law in everyday life, in other words,

<sup>14</sup> “The core argument of “The social construction of reality” is based on a distinction between “brute facts” and “institutional facts” to then develop a refined theory of the logical structure of the social construction of the latter”. Searle: 1997, 12.

Similarly, Bonilla and Rodriguez (1997) state:

*(...)The social reality is a human product with objective dimensions (inherent to institutionalization, the legality and preservation of historical order unchangeable) and subjective conditions (related to how the man knows and interprets the reality that he built) (p. 113).*

<sup>15</sup> Referring to this, Weber (1997) says:

*(...)In no way is objectively right or a sense of a true sense metaphysically founded. This is precisely the difference between the empirical sciences of action, sociology and history, against any dogmatic science, jurisprudence, logic, ethics, aesthetics, which intend to investigate its purpose, the fair and valid way (p. 6).*

<sup>16</sup> Durkheim (1982) says:

*(...)The fact is characterized by social exteriority with respect to the individual conscience and the exercise or enforcement action that can have on that consciousness. Social phenomena are imposed on the observation and should be treated as objects or data, regardless of conscious subjects that represent them, discarding all preconceptions and rearranging the facts according to their common external characteristics. (p. 37).*



the reality of the applicability of the rule of law. For example, Theodor Julius Geiger (1983, p. 11) defines the Sociology of Law as the discipline that deals with the mutual influence between the legal and social reality. Elías Díaz García (1981, p. 177), in turn, considers the Sociology of Law as the study of the interplay between law and society, and explores the relationship between them.

For his part, German Silva Garcia (2001) says that the Sociology of Law is a specialization of general sociology that deals with institutions-defined as social structures relating to legal and social control in relation to social practices or social interactions exist.

Vincenzo Ferrari (1989, p. 33) says the Sociology of Law is the analysis of the relationship between law and society, and emphasizes the functions of law. Manuel Atienza (1998, p. 261) states that the Sociology of Law aims to study the relationship between law and society, but this is the only discipline that deals with this, since one can not rule out legal anthropology, law and economics analysis or legal history.

For his part, Boaventura de Sousa Santos (1991, p. 149) considers the sociology of law is only as a social science (specialized branch of general sociology), after the Second World War, using techniques and methods of empirical research and theorizing itself made on the results of an investigation. Thus, the law makes specific theoretical object independently.

Pierre Bourdieu indicates that:

*(...)The scientific role of sociology is to understand the social world starting with the power operation that is not socially neutral and meets undoubtedly a social function. Among other reasons because there is no power that does not owe a part and not the least of their effectiveness in ignorance of the mechanisms that underlie.* (2000, p. 29).

Previous authors agree that the conceptual framework of the Sociology of Law is tied to the relationship between law and society, so that the trade union as part of this society can be analyzed with the conceptual and methodological tools provided by this branch of sociology.

However, given the complexity<sup>17</sup> of current phenomena, it is necessary to overcome the traditional conceptions of the social sciences that seek to attribute a universal and absolute truth as its linear and binary readings. Such a transformation would be designed to fulfill a critical role on the reality, accepting that its object is to read the buildings constructed realities, with all the limitations that implies, and the need to consider different perspectives to contribute and enrich the subject study.<sup>18</sup>

In this sense, Pierre Bourdieu argues:

*(...) Most of the errors that exposes sociological practice and reflection on the same lie in a false representation of the epistemology of natural sciences and their relationship with the epistemology of the sciences of man. Thus, as opposed epistemologies, evident in his statements as the dualism of Dilthey, who can not think of*

<sup>17</sup> Luhmann (1996) explains:

*(...)However, complexity and ability to relate to her is not only ulterior motive, the unifying purpose behind all the conceptual orientation of the functional method; is at the same time, the real and fundamental problem for functional research. Only from the point of view of its extreme complexity worth addressing the problem of the world as a whole, the universal horizon of all human experience. (p. 8).*

<sup>18</sup> Therefore, the late, sociology is no stranger to the consciousness we have of the decline of the West, the crisis of rationalism and the Enlightenment that occurs especially in Germany. The triumph of capitalism requires the breaking of the rational image of man both for sociologists and for economic historians, it is clear that the desire for profit and power, the war in the markets and the obligations imposed on workers in business cannot be reduced to the image smoothed rationalization. Cfr. Touraine A. (1994). *Crítica de la modernidad*. p. 130. México: Fondo de Cultura Económica. [Trabajo original publicado en 1992]

*the specificity of the method of the sciences of man, but putting a picture of the natural sciences, originated in the mere concern to differentiate, and positivism-concerned to imitate an image made from natural science to the needs of this imitation, ignore both common philosophy of the exact sciences.* (1976, pp. 18-19)

The Sociology of Law assumes the Labor Law as a communicative phenomenon that can only be understood from this perspective. It seeks to define the organizational structure and functioning of trade unions as an area to develop the right of association in the world of work, from elements provided by the “theory of *Campus and Habitus*” de Pierre Bourdieu (1997, p. 60). To determine the organizational and functional structure of the Colombian trade union organizations and establish their role in society, it is necessary to utilize the empirical elements that compose it, in contrast to studies historical studies (Miguel Urrutia(1969), Alvaro Delgado, Maria Alicia Cabrera Mejia (2005), Maria Mercedes Cuellar (2009, p. 784), Ricardo Sanchez Angel (2009), Mauricio Archila Neira y Leidy Jazmin Torres Cendales (2009), Renan Vega Cantor (2009), Luz Ángela Núñez Espinel and Alexander Pereira Fernández).

It is therefore necessary to establish a relationship with the elements of social reality that is linked with the union. The analysis of complexity, understood as the set of possibilities that one finds meaning in experience or in a web of actions, implies taking into account the interdisciplinary (Garcia, 2003, p. 157) with the looks of the different areas of social sciences (Stuchka, 1983, p. 38) to enrich the subject matter.

### 3. A NEW METHOD OF ANALYZING THE WORLD OF WORK

The research methodology of legal science is the applicability of the different branches that has divided legal science (philosophy of law, history, law, or Sociology of Law). A social organization in the world of work could be viewed from the Sociology of Law, thus, highlights that it is possible

to conceive of a democratic society (Supiot, 2005, p. 167) without a union capable of renewal and the challenges-internal and external generating new economic technological innovation, and changes in consumer society. The imminent development of new forms of work organization (deslaborización contract, teleworking, informal, cooperative work associations, independent work, etc.) that has been through more flexible working (Valencia, 2004, p. 179) patterns in the world that has subsequently generated the representativeness of the working class is being taken over by other organizations (cooperatives, foundations, NGOs) and not by the unions that emerged in the development of capitalism.<sup>19</sup>

This makes evident the need for renewal in the union that can generate a transformation of the old union model-emerged with the Industrial Revolution, a model that incorporates solutions to the consequences of globalization<sup>20</sup> -that is, to

<sup>19</sup> As Salvador Giner (1998), a union is: (...) A formal organization made up of workers, with the aim of improving their working conditions, better wages and provides the stability of the solidarity among them. As a self-associative structures developed in the context of the evolution of capitalism in the nineteenth century, acquire a huge boom in industrialization and the emergence of mass society, consolidating, since the beginning of the twentieth century as the dominant organizational form of the movement worker. In defense of the interests of workers, the scope of the unions now covers both companies and the economy and politics in general. (p. 686). Overall, workers’ organizations called “unions” have been designed to improve working conditions and defend the workers on pay. This model is reflected in the C87 (Freedom of Association and Protection of the Right to Organise Convention, 1948) of the International Labour Organization (ILO), ratified by Colombia through Law 26 of 1976, which embodies the term “organization “referring to the right of association to defend the interests of its members (Article 10).

<sup>20</sup> About it, Jauregui, Molto Garcia and Gonzalez de Lena (2004) state: (...)Globalization is the idea that the economy operates at the global level, beyond the borders, not only of States but of the zones or larger territorial regions and the European Union. (...)In any case, one could argue that among the factors influencing the transformation of work so that globalization itself, it should be noted the increasing outsourcing of economic activity sector and that this change is related to both globalization and technological innovation. (pp. 68 y 70).

over-new forms of unregulated and outsourced work, and at the same time, devise an alternative to critical thinking only general<sup>21</sup> trend of the global market and free, as proposed by the economic model of neoliberalism.

Now arises the following problem: whether the Colombian trade union legal model has come to an end. To determine whether the model is in crisis or not, it must be analyzed from the perspective of historical sociology of law, and if so, set some solutions from the so-called Colombian union studies. Given the complexity of the analysis of the trade union and social organization of the working class and its many interactions with society, this analysis will be done from the perspective of Sociology of Law as part of general sociology<sup>22</sup> in studying the law in relation to society, while recognizing the need to use theoretical and empirical (surveys and interviews) to substantiate the analysis.

<sup>21</sup> The term “single thinking” means the convergence of doctrine that has taken place in the world of democratic politics: it is a social and political process that favors the absence of effective alternatives to the capitalist economy, the prevalence of soft values of the “late-modernity (or postmodern), the personalization of politics of the only ruler capable the “dramatization” of their practices and the reduction of public life by the power struggles, such characteristics of the “single thinking” seek universal values of capitalism as the only ones capable of producing well-being of society.

<sup>22</sup> Do not forget that contemporary sociologists have seen the need to generate, within sociology, branches to address the complexity of the union. therefore be taken into account specialized areas such as industrial sociology, sociology of industry and business, as well as the sociology of industrial relations, organizational sociology and the sociology of work. Vid. López Pintor, R. (1986); Vol. 4. *Sociología industrial*. 351 pp. Madrid, España: Alianza; Dahrendorf, R. G. (1965); Vol. 176. *Sociología de la industria y de la empresa*. (C. Gerhard. Trad.) 172 pp. México: Unión Tipográfica Editorial Hispano Americana (UTEHA). [Trabajo original publicado en 1956]; Morales Navarro, J. (1995). *Sociología de las relaciones industriales*. 208 pp. Madrid, España: Trotta; Perrow, C. B. (1991). *Sociología de las organizaciones*. (B. González Rodríguez. Trad.) 369 pp. Madrid, España: McGraw-Hill. [Trabajo original publicado en 1972]; De la Garza Toledo, E. (2000). *Sociología del Trabajo*. 796 pp. México: El Colegio de México/Facultad Latinoamericana de Ciencias Sociales/Universidad Autónoma Metropolitana/Fondo de Cultura Económica.

If by “theory of association”<sup>23</sup> means a reasoned and systematic reflection on the assumptions that guide the trade unions, so some questions can be answered in this paper: What does this kind of union?; What does organizing a new type of the proletariat or working class?; what does organize proletarian movements in relation to the local and global?; How is the crisis of nation-state with labor movements, while new findings emerge in the global arena?; should be under consideration the possibility that the association is near its end?<sup>24</sup>. These questions suggest the need to analyze the term “union” under the new changing world of work and the role of the social organization of workers, whether this be understood as a collective, a crowd or an aggregate of individuals.

One can say that unions, as these are regulated by the state, are within the subject matter of the Sociology of Law and this confirms the need to look at the sociology of law from an interdisciplinary and critical beyond being and must be enabling binary transgress rationality of law. It’s about seeing the study of law in its entirety and in their interrelations with the law and society.

The contribution is to make the theoretical analysis with empirical support capable of establishing criteria, from critical analysis of the working class, propose solutions allow to prove the objective validity of these judgments, in this empirically determined that the theory historical and social

<sup>23</sup> The use in common parlance the term “union” does it measure up to the ideological left and is considered as a factor that threatens the stability of States, while being linked to “strike” in this violation. This raises questions about the role of trade union organization in contemporary society.

<sup>24</sup> Under the assumptions of Jean Braudrillard (2004), the end of the union model is understood as follows: (...) Large incinerators history, from the ashes of which has risen phoenix of postmodernism. We must surrender to the evidence that all was not degradable, it was not exterminated, is now recycled and, therefore, no final solution. We get rid of the worst, ie that the story will never end, because the remains, all that remains-the church, communism, democracy, ethnicity, conflicts, ideologies, are indefinitely recyclable (p. 47).

theory that it responds to common needs. (Marcuse, 1981, p. 21)

## CONCLUSIONS

In order that the analysis in this case the trade union organization, take this (historical fact accumulated over time) as a starting point, the Sociology of Law must be approached from contemporary society and not from the society past. For this work, we must take into account the following epistemological assumptions:

- I. Overcoming the belief that both the reality and scientific knowledge are articulated from a static and absolute. Edgar Morin (1995, p. 186) leaves the traditional concept of sociology and makes a new rationality of science, based on the study of all technological, economic, legal, and ideological. For this author, the object of sociology is dynamic and your statements are not intended to establish itself as absolute truths. It must therefore rediscover a systematic order in which knowledge is isolated sub-disciplines and other social sciences are articulated with each other as a whole. Thus, when unions are analyzed from a sociological perspective, according to Edgar Morin can be established that the man faces the end of the union and the worker-subject, to the extent that the individuality is gone, the market (Stiglitz, 2010, p. 43)<sup>25</sup> - through the consumption-turns men into "useful idiots", destroying their ability to choose and freedom.
- II. The relationship between history and sociology is inescapable and ambiguous (Ferrarotti, 1997), and becomes narrower in the so-called School of the Annales (1929) and Past and

Present (1952) (Illades, 2006). During the last twenty years, historians have ignored the tools provided by sociology, both at the time to reflect on their practices as when have used it to study other social universes. In part, this contradiction is that historians have always been reluctant to question the analysis that its power and interests, but on the other hand, it is because most of the time, sociologists have understood his "dialogue" "by historians as a challenge to their discipline, or a discussion of its intellectual legitimacy. Peter Burke points out that sociologists and historians are not always good neighbors (Burke, 1987, p. 11). However, both disciplines, along with social anthropology, studying the whole society in dealing with human behavior.

Therefore, the current historical reflection is built on the refusal to take seriously the study of social practices that underpin the research. Georges Gurvitch highlights the need to free from dogmatism to sociology to history and the particular social sciences, to force them to collaborate effectively (Gurvitch, 1969, pp. 324-325), according to this author, that can be achieved if you take the procedures of the Dialectic.

As pointed out Raymond-Claude-Ferdinand Aron:

*(...) Sociology is defined either as opposed to other social sciences, or in opposition to history. In the first case, it appears as a specialized discipline whose object would be the social, the whole society. In the second case, sociology is characterized by the effort to establish laws (or at least regularities or general), while history is limited to recount events in their unique set. (Aron, 1984, p. 255)*

The social history in general should be analyzed as a universal idea of man and can not do without the community, as this would be to ignore one of its most valuable sources. For this social history is not limited to a mere chronology, requires the organization of different aspects within an explanatory scheme. However, until now, the

<sup>25</sup> To do this, Stiglitz (2010) explains: (...)Today, after the collapse, almost everyone says regulation is needed, or at least that more regulation than there was before the crisis. Lack of regulation has cost us much at least: the crisis would have been less frequent and less costly, and the costs of regulators and regulation have been a trifle compared to these costs. Markets alone fail to obvious forms and fail frequently. (p. 43).



socio-historical studies that have attempted to move beyond the mere collection of information often have used a binary<sup>26</sup> history that limits and makes the historical world in a static world.

History is no longer the means to identify the events in a given space and time, and happens to be characterized by their tendency to answer questions about why, in this way, it becomes a widespread scientific history. In large part this is due to the disillusionment of essentially deterministic and economic models (whether these Marxists, classical or neo-positivists) of historical explanation that, after the war, tended to dominate, also due to the decreasing commitment ideology of Western intellectuals, and experience contemporary recalled that the political decision and action can shape history and the fact that history has done what was expected of her. That's what Eric Hobsbawm says Professor. (p. 190).

Place on the scene the relationship between Sociology of Law and history of law as autonomous and specialized science, involves the analysis of the standard in time and in this particular case, the regulations concerning the structure and functioning of trade unions To help to establish the context in which they produced these organizations, the history of law points out what

has been its role and its effectiveness in solving social conflicts. To achieve this approach, it is important to resume the new rationality of science, which aims for an interdisciplinary approach. It must seem strange to be established such relationships, as expressed Francine Muel-Dreyfus (2005), who, working with Pierre Bourdieu, could deepen freely in historical sociology, no matter what the academic rankings.

To establish the relationship between the history of law and legal sociology is to provide an understanding of that object through the individual's relationship<sup>27</sup> with the social world and with the mediation of language that determines the sociability of the individual. By the term "representation", language analysis allowed to enter the social or historical time, from its origins to its evolution, so, for example, a union of people in defense of their interests as 'the union', but those interests -in accordance with society will be different and will change over time. In keeping with this analysis, we generated the following questions: Does the union model built in Colombia for the rule of law is the discourse of the working class, or did have come to an end the interests of Colombian workers today?

III. According to Carlos Francisco Morales De Setién Ravina, Pierre Bourdieu is precisely a key figure in contemporary sociology-who opens a new rationality of law from its sociological methodology. The method of social analysis of Bourdieu (Bordieu y Teubner, 2002, p. 61) denies both the formalism and the determination of the relative autonomy of the legal field, and is based on the real autonomy of legal practice. In this sense, Pierre Bourdieu's approach allows a closer approximation to the reality of Colombian trade union movement. Thus, we will identify the key categories that

<sup>26</sup> In the preface to the second edition of "Eighteenth Brumaire of Louis Bonaparte" (1869), Karl Marx (1974) criticizes the historical analysis from a binary: (...)Among the works dealing at the same time the same subject, only two are noteworthy: Napoleon le Petit, Victor Hugo and Coup d'Etat y de Proudhon. Victor Hugo is limited to a bitter and witty inventiveness against the editor responsible for the coup. Regarding the event itself, it seems, in his lightning that fell from a clear sky. Not see him more than an act of force of a single individual. It warns that it does is magnify the individual rather than diminished, by attributing a personal power of initiative that had no parallel in world history. For its part, Proudhon tries to present the coup as a result of past historical experience. But his hands, the historical construction of the coup, he becomes a hero historic apology for the coup. It falls into the error of our so-called objective historians. I, however, demonstrates how the 'class struggle' in France created circumstances and conditions that allowed a mediocre character and grotesque play the hero. (p. 405).

<sup>27</sup> About it, Womack (2007) mentions the following: (...)We are far from understanding the fact that work is what our species became human, more human. It is absurd lack of interest to study the history of activity necessary for the occurrence of any other human history. It is naturally interesting historical fact that the species became extinct much faster without working without copulation. (p. 34).



can reveal the socioeconomic reality of the trade union in Colombia, which is necessary to employ the concepts of 'field', 'social space', 'capital' and 'habitus'.

To Duran Alvaro Moreno and Jose Ernesto Ramirez, the concept of field refers "(...) a specific area where follow one 'series' of interactions" (2003, p. 16). Otherwise, Bourdieu defines it as "(...) the particular system of objective relations that may be of alliance or conflict, competition or cooperation between different positions, socially defined and institutions regardless of physical existence and agents who occupy it"<sup>28</sup>.

Alvaro Moreno Durán and José Ernesto Ramírez (2003) define the "social space" as "(...) an organized body or system of social positions that is defined in relation to each other. Management positions are positions that involve running, for example, the heads with respect to subordinates" (p. 13). The social space is seen as a set of relationships or systems of social positions. The notion of social field that uses Pierre Bourdieu refers to a specific social space in which relationships are defined according to a special kind of power or capital.

Using these concepts, Pierre Bourdieu (1997, p. 11) replaces the positive understanding of society made by Comte in the nineteenth century, to analyze the set of logical relationships that occur and remain within society, is construction of realities complex, to the extent that each field prescribing its particular values and possesses its own regulatory principles.

<sup>28</sup> Bourdieu (2000) adds:

(...)The fields are synchronous to the apprehension as structured spaces of positions (or posts) whose properties depend on their position in these spaces, which can be analyzed independently of the characteristics of the occupants (some of which are determined by positions). There are general laws of fields: fields as diverse as the field of politics, the field of philosophy, the field of religion, laws of motion are invariant (that's what makes the project a general theory is not foolish and that since that time, you can use what you learn about how each particular field to examine, or interpret other fields, thus overcoming the fatal contradiction of the monograph ideographic and formal theory and empty. (pp. 112-113).

In this vein, it is possible to apply the concepts of "field" and "social space" to the world of work, in which employers, unions and workers are put on. An analysis of the trade union movement as a field can be defined as an objective power, which are linked both individuals and institutions. In the case of trade unionism, the field is understood as a social organization that has defined objectives, their own dynamics and political capital-understand, "Power" -, the latter determines the dynamics of the union struggle and he directed all his strategies.

The concept of "habitus" is explained by Pierre Bourdieu as:

*(...)All the schemes of perception, appreciation and action by the social environment instilled at a time and in a certain place, that is a set of rules is socially acquired through learning. It appears as mediation between objective conditions and individual behaviors.*<sup>29</sup>

It is called economic capital, cultural and social-a relationship that occurs within a field, capital is the object of the game. Thus, the capital of the participants in the legal field is a mixture of economic and social capital, which sometimes forms a symbolic capital. (p. 69)

Meanwhile, Moreno Duran and Ramirez are the following concept:

*(...) Legitimacy is the main reason of the consent of the dominated. The process by which a dominant, which in turn makes the object communicates dominated by*

<sup>29</sup> For Bourdieu (2000), the "habitus" is:

(...)In short, a product of conditioning that tends to reproduce the objective logic of the condition, although undergoing a transformation, is a kind of processing machine which makes reproducing the social conditions of our own production, albeit in a relatively unpredictable in such a way that can not be passed mechanically simple and the conditions of knowledge production to knowledge of the products. (p. 134).

*the recognition in both senses of the term of a party, its power is recognized, that is, admitted, accepted and justified-, and the other, the dominated are also recognized by the rule itself, as his contributions to the relationship*<sup>30</sup>.

In the case of Colombian trade union field and in accordance with the characteristics attributed to Pierre Bourdieu field, structured space of positions that would be formed by the union system standardized by the State, the implementing organization, its internal power relations and external, and the position of the Colombian trade union organizations in all industrial relations and participation in political life in Colombia.

Moreover, the boundaries between the fields can not be determined outside of themselves: only the effects of the field, and the intrinsic qualities of the participants, can define the space of a field. In this sense, these effects can only be determined by empirical research. The Colombian trade union field limit is given by its own title, that is, the organizational structure or the behavior of union policies implemented by the leaders of these organizations.

However, the fields whose purpose is to achieve authority, maintained or transformed by fighting between the forces that are field-all is a place of struggle. Thus, the concept of field includes the relationship between social and individual, within a class structure and struggle between them, such a structure, intended for processing on the principle of strategies, is itself a game. For the Colombian trade union, the struggles, in which the field is the place, would analyze this power struggle that seeks to achieve dignity or political representation.

<sup>30</sup> "Thus, the main mechanism for the legitimation of power in relationships of domination is the possibility that both dominant and dominated share a set of representations, considering each part occupies the position it deserves". Moreno Durán y Ramírez Pinzón: 2003, 21.

Finally, the field<sup>31</sup> is characterized by autonomy: it is a system governed by its own laws. In the case of Colombian labor, this can be seen in the fact that their organizations are made independently, which is manifested in behavior, as in his politics and labor.

You can set when you examine the world of work, and in this case the Colombian trade union organization as an organization-product of the working class, it must be considered from the perspective of Sociology of Law, since in this organization are interrelated to economic, social and cultural rights above, with the passage of time, will come to understand this phenomenon in all its dynamics.

The XXI century, characterized by a deepening of the economic and social product of neoliberalism<sup>32</sup> and globalization<sup>33</sup> has generated an exclusive

<sup>31</sup> To do this, Morales De Setién Ravina (2002) explains: (...)Finally, the elements of the fields are then: a) be a limited space, b) be a space of struggle, c) be a space defined by regularities accepted rules of behavior and d) present conjunctural crisis moments where the rules until then the game came into question regulating e) be a space where the force distribution is uneven. (p. 62).

<sup>32</sup> One can not fall in international market competition to justify a lower job protection. Today, the "social dumping" is discussed within the World Trade Organization (OMC); as "social dumping" means the sale of a commodity cheaper as a result of a lower payment for labor (as, for example, China, Taiwan and the Mexican maquilas). The effects of neoliberalism have undoubtedly been negative: Indecent work, informal work, work devalued, negative value of labor, unorganized world of work, etc.. To counter these effects, has deepened in the welfare state without paternalism, which, with a more active role of workers, returns the old mutuality of care and a labor organization that adapts to new ways of organizing work.

<sup>33</sup> Globalization is a political and economic phenomenon that is not without controversy-inevitable and proven by many and even very beneficial in the opinion of others, but this controversy is not valued here. It is true that when we talk of globalization is often overlooked other nuances of ideological and cultural, which, no doubt permeate deep into the minds of human beings to be present in a conscious or unconscious. He referred to the "cultural globalization" or "ideological" is not new. This globalization has received many names, some as old as Western civilization itself and has recently been classified as "single thinking", "globalization" and "global village", among others. The idea of an ethnic community, intercultural or international law, a "global village" is now possible on a large scale due to technological developments in the last hundred years, but it is not unheard of reality over which they have arisen questions throughout history.

consumer society, with increased poverty, and disguised with fictitious indicators established by statistical methods. Socioeconomic changes produced at the end of the nineties have profoundly affected the working relationship. Factors such as technological innovation and productivity growth have resulted in the need to transform not only the company but the organization of work and, above all, trade union organizations in order to deepen the democratic processes of world of work and not be relegated, it is necessary to produce a new social construction based on these new realities, keeping in mind how these processes of change affecting daily life.

In the world of work, neoliberalism<sup>34</sup> evidence that Karl Marx (1981), pointed out:

*(...)The mysterious character of the commodity form lies, therefore, purely and simply that the men planned to the social character of labor, as if they were a material character of the products of their own work, a social natural gift of these objects and as if, therefore, that mediates the social relationship between producers and the collective work of society was a social relationship established between the same objects, regardless of its producers. This quid pro quo is what makes the work products into a commodity, physical objects or social objects metaphysical. (Marx, 2003, p. 37)*

Therefore, work-in-capitalism is considered a commodity, as the worker produces (Cooter, 1998, p. 13) more wealth, is becoming poorer, because labor becomes cheaper. Thus, neoliberalism through strategies of "savage capitalism" - restore capitalism in crisis, by sacrificing the basic demands of the population and the welfare of workers.

Social scientific knowledge (Khun, 2004) and researchers should start from the premise that

<sup>34</sup> Sobre el tema, vid. Fazio Vengoa, H. (2000). Globalización, relaciones laborales y desigualdades. Revista Nómadas, (12). 56-63.

the scientific research methodology of social science is undergoing a crisis (Olmeda, 1977, p. 30) characterized by the reading of social reality from the methodology of the natural sciences this has led to a contradiction that some the complexity of human beings and their social environment. Hence the crisis consists in believing that the methodology of research finally led to the discovery of social laws, which absolute truths and universal, these laws are neither true nor binary universal (Merlino, 2009, pp. 113-132). Currently, research in the social sciences have understood that we can not copy the methods of natural science, we must create our own methodologies, redo epistemology to build an object of research in the field not only theoretical but also in the empirical field. Subject and object must be constructed from a multidisciplinary approach to attribute characteristic mobility, flexibility and, above all, affordability social research instruments.

Valentin Petev, who says that in the legal field should develop an open method for an open society is worth quoting:

*(...) The legal regulations have undergone profound changes in important core of society such as family, labor, education and human rights. The law should respond in future as a whole, the expectations of a society that has become highly educational. This has resulted in a strengthening of the procedural and methodological awareness and solutions for more informed response. (Petev, 1996, p. 19)*

This allows us to establish that labor law must be addressed beyond the normative discourse or the comparative method works with the formal logic of legal discourses of the legislature or the judicial, therefore, that methodology must be broken into binary a new methodology that allows us an interpretation of the discourse of social policy. In Weber's words:

*(...) The legal status of the PLC linked to the simple interpretation of contracts and*

*articles of the law, automata comparable apparatus in which is inserted through the top of the legal fact of the coast next to that throw below sentence, together with its reasoning appears to the modern practice lawyers as something subordinate, and sense of an increasingly painful precisely because of the universality of formal legalism. Such lawyers call the judge an activity "creative", at least in cases where the laws are silent. (Weber, 1983, p. 653)*

These robots perform legal analysis of the science of law from a reductionist dogma or from standard to standard, without leaving it-which becomes Legal Metaphysics. From social phenomena, economic and / or philosophical, it is intended that both new cognitive paradigms, such as construction of a research methodology in the legal science of labor law to understand what legal help from society. Addressing the legal-from globalization from postmodernism, allows the company to propose new components of the standard or strengthen existing ones. This requires reconstructing the object of legal research, recognizing that there is a crisis of rationalism and the Enlightenment in the century, and there are a triumph of capitalism imposed by the rupture of human rationality.

Precisely these breaks are what allow us to reconstruct this methodology, to play an active role to help the development of the theory, this role will develop at least four functions: observation, experimentation, quantitative approach and qualitative approach. As a result, defeat the claims of universalism and bilateralism through which the science of the nineteenth and twentieth century has sought to be imposed on legal issues. Also be taken as an example the discussion of Manuel Castells (2006), who studies the model of capitalist development based on the information and technological change of the network society, discussions of Ulrich Beck (2006),, which revolve around globalization of institutions modern and the liberalization of everyday life in the society of risk, and Zygmunt Bauman (2002) discussions on how to manage this society where liquid

modernity, flexible or changeable part of the social and existential tensions generated when men relate . In short, we need a methodology to use multidisciplinary social sciences and even in some cases tangentially from the natural sciences: a research methodology in the Labour Law which placed him in their entire relationship in order to research, which is the world of work in society.

This new methodology will be built to identify the research method which enables the analysis, interpretation and application results, is built from the historical reality of the Labor Law. Work in the legal culture, the applicability of the method of research from a multidisciplinary, will clearly identify the research object, the subject of research knowledge and conception of reality that operates in researching, this reality will be extremely complex and dynamic arise because of the complexity of culture in the world of work and ideological interests that may be brought within the interpretation and results of the investigation.

The investigation into the world of work could be completed in the following proposal: a research method that allows the analysis and interpretation of the normative because this method will not be considered absolute values or as a recipe book containing artificial and abstract forms of recognition social, will be a result of the application of this method within a critical and dialectical context. The method results dogmatic go beyond mere labor standard, understanding the legal culture is a normative universe in which highlights new socio-legal in the world of work, so it will allow the plurality of forms. In the end, recognize that the workplace is not only interpreted from the methodologies of legal science, but also in the methodologies of the social sciences. Therefore not be ignored that and there is a strong ideological link in your own activity analysis of the reality of law, there is also a combination of historically specific and conflicting. They conclude that the legal culture of the world, work is an expression of the socioeconomic reality of the global society of XXI century.



In the words of Luis Enrique Alonso and Carlos Jesús Fernández Rodríguez, “the study of labor discipline geared to passing that cultural aspects related analysis work process itself and its various actors” (2009, p. 39). From this follows the need for new methodology to analyze the world of work in the XXI century should be more subjectivity, that is more subject to analysis in the words of Mauricio Beuchot “human and social sciences require a hermeneutic analogue based on the analogy to make us understand what happens in the other, the different, the use of our own starting point by the similarity” (2008, p. 89).

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