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The Structuring Principles of Society in the Right: Fundamentals for Applying a Legal Theory That Forms the Right

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Abstract

This work proposes a legal theoretical line of a psycho-anthropological nature, which allows us to support the hypothesis that the principles of security and equality originate in the instinct of self-preservation and structure the right. A legal theory is necessary to form the right that articulates these principles and operates them only within the formal ideal order. The purpose of the right is to finish forming social relationships within an ideal order, and in symbolic terms, and integrate them into the "Social Pact," thus maintaining security in relationships. To form these ideal, symbolic social relationships and provide them with security, it is necessary to form the right by applying the principle of equality. This principle of equality is the formative element of social relations and, therefore, of law. This ideal equality can only be applied through a formal logical ideal legal theory, adapting to the ideal order of the concepts of Hans Kelsen's pure theory of law (right).

Keywords

Principle of Security, The Principle of Equality, Order, The Pure Theory of Law (Right), and Integration

1. Introduction

This paper describes the foundations that reflect the need to apply a legal theory[1] in judicial practice to form the right, in the ideal order, and create safe social relations between socialized people and their relationship with the State; to achieve this, it is necessary to introduce the principle of equality as on element of the ideal order within the theory of right to generate security in ideal relationships. Thees social structuring principles that appear in the "Social Pact" and in other laws are: the principle of security and the principle of equality [34]. The security principle is an element of psychic origin, which comes to demand a safe physical environment, but this is not enough to give security to its psychic structure, for which it requires and needs that its ideal social relations contain elements of security, for this reason, this security must be given in the ideal and abstract plane of social relations.

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1 It is necessary here to make 3 distinctions that belong to continental law and is different with respect to common law, so that the reader understands the purpose of this work: 1- The distinction between Law and right, being the law of the causal order and component animist, that is to say, the imposition on the real world of the laws of soul life; (Moreno Fernandez, 2019) 2- The right which is born in the ideal order, and therefore needs formal logic to form that right contained in the law; 3- To form the right within the ideal order, the pure theory of law is necessary to be able to extract the object of law from the causal order law and form it within the ideal order through the elements of this legal theory. This is done with two tools used by Kelsen, the rule of law and the logical category of imputation of the duty to be.

Here, the principle of equality is born; it is a purely psycho-anthropological expression and necessity because it requires the treatment of equality within the order ideal in interpersonal relationships.

The right finishes forming secure human relationships in terms of equality with social purposes, that is, to integrate them into the social pact; this is the ultimate purpose of the psychic and social structure of the human being, and it is, therefore necessary, a legal theory that work with formal ideal elements, which would have a sufficient entity to apply this principle of equality in the ideal social order. A legal theory of a formal ideal nature, such as right, can meet the requirements demanded in the right and maintain security in the psycho-anthropological environment.

The importance of a legal theory of ideal order is basic to give security to social relations through the abstract application of the principle of equality. These are fundamental structures of social relations, and therefore when forming the right, these two structuring principles must be observed within a theory of right. Thus, when these principles are not observed in the formation of the right, through the application of a formal ideal legal theory, a direct claim is observed by those affected requesting equality and security.

Its non-application causes great instability, not only in the legal order but also in the social order, as unformalized discretionary interference is observed. This idea is inspired by the work of [23], "The Elementary Structures of Kinship", in his text the author above exposes the structure of the social organization through these principles of psychic origin.

These principles are born from the instinct of self-preservation, identified by Freud within the ego drives [10]. This instinct requires a safe physical environment within a causal order, but it also requires safe social relationships, and here we are already within an ideal order. To guarantee this security to social relations, it is necessary to carry out a complex exercise of abstraction and use elements of the formal ideal order to apply the principle of equality required by the "social pact" [34].

In this instinct of self-preservation, we observe the precursor element of the principle of security within the causal order and the principle of equality within the ideal order. In these social structuring principles, a gradual transformation allowed the creation of stable, secure social relations and later transformed them into institutions, applying to the entire group. Thus we observe these principles in the Constitutions of the current States and their laws, for example, article 9 of the Spanish Constitution, section 3- "The constitution guarantees the principle of legal certainty," and article 14 of the Spanish Constitution, "The Spaniards are equal before the law.

We understand that these principles of security and equality structure society and, therefore, the right as parts of a specific social system; the purpose of these principles is to provide security and stability to the social group, and the right must integrate those safe social relations to order or social pact.

This purpose creates the need for a legal theory in applying right that articulates the elements of the system with these essential principles [35].

According to Bacigalupo: "Legal theories have the purpose of guaranteeing equality since they provide a basis for the application of the law that can be generalized to all cases that fall within the field of the norm" "It is about linking the norms with their purpose of obtaining a certain state of affairs in society, with the why of the norm"[2]. "In a specific case, judges cannot refrain from knowing it, on the pretext that the law is obscure or indeterminate, so the judge is forced to resort to evaluative elements to complete the law and where the law only marks parameters" [2]. We affirm, like Bacigalupo, the need to operate within the right with a legal theory. Still, we propose to do so under an ideal formal approach to right, that is, the right as an indeterminate element that must be determined or completed at the time of imputation of the must to be. This right (In this sense the definition of the right given by the authors is very different: "The right is the human act with coherent social significance with THE SOCIAL PACT") terminology will be used throughout this work as an indeterminate or incomplete formal object that will be determined or completed by applying the elements of legal theory as the "principle of equality" that responds to its ideal nature. The principle of equality obliges to apply the element of the theory that is a logical category defined by Kelsen[2], as the must to be.

We understand that the problem is complex, but we believe this complexity is increased by distorting elements mixed with ideologies and values [18]. It is important to point out that we will treat the law from the current of continental law and for this reason we highlight it in English as right and not law. We observe that the law contains the right, but it is a right that is indeterminate because it is a formal ideal object; the law only contains and when the judge hears a specific case, what he does is identifying that right to determine and to form it, by applying the principle of equality regulated in a legal theory, and this element of the theory is the logical category defined by Kelsen as the must to be. That right must to be, because it has to be integrated in a coherent way with the Social Pact, as Rousseau well identified [34] "Instead of destroying natural equality, the fundamental pact replaces with a moral and legitimate equality what nature had put in physical INEQUALITY or TALENT, all become equal by convention or RIGHT".

The right can only be determined if the principle of equality was first applied through the element of the theory such as Kelsen's logical category, the duty to be, and this duty to be must be consistent with the social pact. Therefore, the judge should not interpret the rule with ideological or evaluative elements. Instead, it must determine the right contained in the norm and do so with formal elements as required by the

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2 We remember Hans Kelsen's pure theory of law, from continental law we call it right to help the reader distinguish between law and right and for this reason "right" appears in parentheses to warn the reader that we are referring to right and not to a law.

principle of equality. The judge cannot openly determine the law with distorting features such as evaluative ones, nor with ideological tools, but must do so through a legal theory that adapts to the ideal nature of the object of study of LAW. The law and its rules are used to form or determine that right in a specific case and integrate it into the social pact [28].

The formation of right, containing the principles of security and equality, must be formed or determined through a legal theory that works only with formal ideal elements, as Kelsen's pure theory of law [18] does to a great extent. Legal theory must respond to the nature of the object of study of right, applying the principle of formal equality, where all the elements that enter the ideal order of right must be formalized. For this reason, and as Bacigalupo observes well, the need arises to form the right through a legal theory. This theory will be the generalizable formal ideal element applicable to all cases within the law [2].

2. Proposed Hypotheses

To address the central problem described in the previous section and develop a comprehensive solution, which involves a legal theory that fits the nature of the object of the right study and that applies the principle of equality to generate stability in social relations (safety principle), we will develop the following hypotheses.

The first hypothesis is based on the assumption that the principle of equality and the principle of security have a exact psychic origin and are studied by causal science since they arise from the instinct of self-preservation, preservation, or life instincts whose purpose is integration, forming larger living structures, preserving them and taking them to higher evolutions.

The second hypothesis presented in this paper lies in the assumption that social structural principles such as the principle of security and the principle of equality are structures of right in the ideal formal order.

The third hypothesis states that legal theory contains these two structuring principles, security, and equality, which allow the right to be formed since it does not seek to dominate physical behavior, but to order social meanings to integrate and develop the psychic structure within the social order generating security in social relations and allowing the complex development of current societies.

In summary, this work consists of seven sections; in the third section, entitled "The psycho-anthropological origins of the principle of security and the principle of equality that structure the right," the origin and meaning of these structuring principles of right are developed. In the fourth section, entitled "The absence of a legal theory in the practice of law and the effects on the principle of equality and security," the consequences of applying the right without a legal theory that supports, relates, and articulates it is based with the social system. In the fifth section, entitled "The social pact, the law and the right articulated by the principles of security and

equality," the idea of how these principles allow the creation of social relations through the signifiers that form the right inside the structure of the social system. In this articulation, it is demonstrated that both the law that is within the causal order, as well as the right that is within the ideal order, must be developed under the structural and structuring principles to which the right is subjected by the mandate of the law and the social pact. In the sixth section, entitled "Hans Kelsen's pure theory of law as an instrument of articulation and transcription" from the causal order of law to the ideal order of right under the application of the structuring principles of society, the suitability of several theoretical elements that allow working on imputation with ideal and formal elements such as right and social relations, and finally, in the seventh section, the conclusions of this work will be given.

This work is structured under a conceptual and methodological order of the causal and normative sciences to gradually derive the concepts of the former within the formal science of right. We propose to analyze the elements that make up the human order, conceptual elements extracted from psycho-anthropology, which are introduced in the legal order, such as laws and right science.

The methodology that will be used to develop the hypotheses of this work will be inductive for the causal sciences, analyzing and developing the concepts of the social psycho-anthropological order based on the results of psychologists, ethnologists, and anthropologists, who, through observation, have been able to delimit structural elements of the psychic and social organization. The deductive methodology will be used to develop the science of right. This method allows us to substantiate the need for a formal symmetry theory with the object of the right study to form or determine it within the ideal order, guaranteeing legal and social security.

3. Psycho-Anthropological Origins of the Principle of Security and the Principle of Equality that Structure the Right

In this section, we begin to expose and develop the first hypothesis: we affirm that the principle of security and equality, which operate in the ideal formal order to which the right belongs, have the same origin, that is, the instinct of self-preservation. This instinct generates several conservative organic drives, avoiding changes and preserving the individual in all aspects; they are regressive [9]. In this sense, the instincts of integration would be identified with the sexual or libidinous life instincts (Eros) whose purpose is to form the living substance, ever more significant structures, thus preserving the duration of life and taking it to higher evolutions [7]. Creating a safe and stable environment is necessary to maintain the time of life and make it evolve. Therefore, this environment must be subject to order. This order is now SOCIAL and is designed to fulfill this psycho-physical purpose of conservation under the

principle of security [32, 33, 36], "the self is dominated by the consideration of security, the "self" has a dual purpose of self-preservation and integration in more complex structures, for this reason, the "I" uses feelings of anguish as signals that indicate threatening dangers to its integrity" [7, 8]. Within a safe and orderly environment, concerning the dangers of the outside or nature, we need to order and provide security for social relationships.

This organic need for conservation is demanded with the same intensity [11]. Still, it is expressed in a very different and complex way within the ideal, abstract order since it needs to be formalized to start operating within the symbolic order. Here, we observe how this instinct for self-preservation of the causal order translates into the ideal order in principles, concepts, and abstractions that impose a state of the symbolic order. Through the right, the domain of human behavior is required. Still, it is directed to the ideal, symbolic order, through the formation of right, to order the "social relations" these social relations are no longer behaviors but charged symbolic elements of meanings, which must be coherent with the social ideals contained in the "Social Pact," which have the ultimate destination of the integration of the psychic structure of the "I" to society, that is the top structure of the process of formation of the people in society, that is, every element integrated into the psychic structure of the individual's "I," is a formative element of the person as a social being. For these reasons, we affirm that both the law, which is within the causal order because of its purpose, which is to control human conduct, and the right, of which purpose is to order the social meanings within the ideal order, share the same roots and behave a psycho-anthropological, is born from the instinct of self-preservation.

Societies are organized under ethical commandments and laws; these laws create an institutional order that mediates the relationships of individuals in society through rights and have an origin as primitive as taboo [42, 43]. This institutional order responds to the primary needs of the human psyche and is represented in social principles that go on to structure social relationships [21-24]. Those principles are the principle of security and the principle of equality. The principle of equality is the one that structures the relationships between individuals in society. If it is affected by its lack of application, it threatens and affects the security of the individual and the group [41]. We understand that to generate security; the right must be formed under the principle of equality as required by law. For this to happen, it is necessary for the right to be included in practice under a legal theory that supports it and makes it independent of the evaluative, ideological, or moral elements awarded by law. Thus, highlighting the separation and ontological difference between Laws and Rights.

"The social pact creates a moral and collective body [16, 17]; it is the basis of every social system where the pact replaces with a moral and legitimate equality what nature had put in physical inequality between men, being able to be unequal in strength or talent, come all equal by convention or

right" [34]. Societies are structured under different orders; within the psycho-anthropological field, we find two structuring principles of the social system that are later required in other orders, but their purpose does not change. Thus, for example, the law introduces these two principles that structure the right within the political order rough its legal theory from the right; that is, they coherently order the social signifiers seeking the purpose of integration into the social pact. These two principles are studied within psychology and anthropology, but we will see how applicable they are also required within the ideal, logical-formal field of right [35]. We understand that without order, there is no structure and without structure, there is no psychological or social stability therefore there is no integration, which is why we see in the theory of right the means of articulation of social relations, where equality maintains the structure social, but on a formal level, which makes it possible to generate social stability [23].

Observing the introduction of the security principle through the social theory of Rousseau's "Social Pact" [34], we give the concepts of both principles studied from psychology, where their origins are observed within a safe and orderly environment concerning the dangers of the outside or nature, we now need to order social relations, that is, the socialized subjects within a group. Here, the principle of equality is required; this principle is also born from the primitive need for security but focused on social relationships on the ideal order and it is based on connecting with the other socialized subject [23]. In psychic terms, it is defined as: "If my pleasure is to be limited by that of another, then it is necessary that I at least have the same as him. If I can't be supreme, we must be equal. My desire for exclusive possession is disciplined by my fear of his invasions and if I admit it with the same right, he will not try to have more, for this reason equality is the lowest common denominator of all these desires and all these fears. Therefore, what provides value to the object is the relationship with the other" [35]. In this sense, the right has the purpose of guaranteeing that security on an ideal and formal level, which is why equality is the element by which a right that arises from a human relationship is determined or completed, and then between socialized subjects and this relationship that is generated is between subjects, not only natural persons but between legal persons, that is, the relationship with the Moral State, to integrate into it.

The principle of equality is born as a need for security in the psychic sphere and is later transferred to the ideal social order. Within the causal psychic field, equality is achieved through the exchange and acceptance of equal material elements or objects; that equality, since it cannot occur in human physical terms, occurs through the transfer of the idea through the objects, objects, being physically equal, generate security for having that equality, as [35] affirmed. But in the ideal order, where social relations are generated through significations, equality is also required since it allows for the generation of security in social relations. Still, since we cannot work with material objects to generate equality because we are within

the abstract ideal order, it is necessary to formalize all the elements that enter this ideal order only through concepts and conceptual structures that can contain and transform these social meanings into secure relationships, for this, formal ideal legal theories are necessary that allow forming the right. In theory, all elements are equal and ideal and apply to all, generating formal ideal equality. And according to Rousseau, it is the basis of every social system: "Instead of destroying natural equality, the fundamental pact substitutes, on the contrary, with moral equality and legitimizes what nature had placed in physical inequality between men and which, being able to Be all unequal in strength or talent, they all become equal by convention or right" [34]. It is here where the idea appears that legal theories are the ones that have the purpose of guaranteeing the ideal equal treatment since they provide the basis for the application of the law that can be generalized to all cases that fall within the field of the norm [2].

In the present work, it is affirmed that the law is structured from two general principles of psycho-anthropological origin, such as the principle of equality and the principle of security. This is how the law, that belongs to the causal order, like the right, that belongs to the ideal order, shares the same psycho-anthropological roots. For this reason, the right cannot escape this structural reality. For this reason, we find in the disciplines of psychology and anthropology the necessary tools to be able to connect the ideal and formal order of right with the causal or natural order to which the social law that seeks to dominate human behavior in society belongs, the social law still retains the primordial element defined as normative animism [27].

Everything is a principle of the organization with the ultimate goal of integration, "The primary role of culture is to ensure the existence of the group as such and replace chance with ORDER in this domain" [23]. That is why the legal order and its norms have the purpose of dominating the physical behavior of men in society, but they do not operate in the ideal order; the right does this; the right is formed of social signifiers destined to integrate the psychic structure of people to the State.

From the beginnings of social organization, in the work of [12] on Totem and Taboo, the essential elements of the causal order and the ideal order appear. The law is in the causal order because its purpose is to control the behavior of men that is to say, it has an animistic element[3], regardless of whether or not they achieve it. On the other hand, the right is very different in origin; it does not seek to dominate behavior but seeks to form the social meanings produced in human relationships to incorporate them into the coherent symbolic order that contains the "social pact": if it is necessary to obey by force, You do not need to obey out of duty, and if you are not forced to obey, you are not obliged, it is seen, then, that this word right does not add anything to force, it means nothing at all" [34], reintegrate them into the ideal order; once these social

meanings are integrated into the psychic structure of the "I," the individual can integrate socially into his community.

The right aims to integrate and generate security in social relations within the ideal, abstract, and symbolic order. This can only be achieved through a formal ideal legal theory that contains and articulates the principles of equality and security [23].

4. The Absence of a Formal Legal Theory of Rights and the Affection for the Principles of Equality and Security

The law is a generating element of a particular order in social relations; the principles of psychic origins, such as the principle of security and the principle of equality, structure this order. To form the law, it must have a tool capable of articulating these principles and adopting the objective elements contained in the law [4]. For this reason, a legal theory of a formal ideal order is needed that allows these operations to be carried out. This theory must be able to transcribe the objective element contained in the law and also will enable the transition of this objective element from the causal order towards the formal ideal order to be later able to carry out the symbolic and social integration [26, 29-31]. The lack of application of a law theory articulating the structural principles of society was observed in different scientific areas such as anthropology. In the words of Lévi-Strauss, "a curious fatality weighs on the teaching of law, caught between theology, to which his spirit was united at that time, and journalism, towards which the recent reform is leading him, it seemed that it is impossible to situate oneself on a plane that is both solid and objective: it loses one of its virtues when it tries to conquer or retain the other." These ideological and moralistic elements that belong to the psycho-anthropological order within the law prevent it from applying under the principle of equality, which affects the stability of the principle of security in a society [23]. The error of right is to search in these evaluative elements. These foundations can never be applied in an ideal, logical-formal order governed by the principle of formal equality. Formal equality is there to avoid affecting the social structure and allow the integration of the individual into society. For this reason, the law needs a theory that guarantees security and the possibility of transitioning from a causal order to an ideal order.

The central problem of the law is not to achieve evaluative, moral, and ideological independence from the rule, preventing the law from being formed through a legal theory. Weber, for example, justified specific infidelity to the theory rather than straying from it [40]. Other jurists believe that practice requires a departure from legal theories, forgetting to apply the principle of equality through a theory of formal law, losing contact with reality, and moving away from security [2]. Current jurists present their doubts regarding the theories that underpin the right; [5] affirms that "the uncertainties about the

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3 The animistic element of the law is defined as the imposition of the animistic laws on the real world of life (Moreno Fernandez, 2019)

science to which we dedicate ourselves..., the social scientist is aware of the relativity of his knowledge and the insecurity that their statements are endowed with"; [5] affirms that: "the complex of legal norms constitutes the object of the Science of right. This legal matter, given its complexity, is what makes the work of the jurist especially hard; the legal norm is a rule of behavior, regola dell¨agire", and finally, in the work of [2], it is stated that "the practice law requires moving away from theory. Jurists do not cultivate an empirical science, but rather a hermeneutic science; they interpret texts, and their theories are possible understandings of some norm". Given these conceptions, we observe that the fatality of the law lies in being contaminated with elements of the causal order, evaluative and ideological elements, and the lack of a legal theory that makes it independent and supports it. As [2] did, we observe that a legal theory applied in judicial practice would guarantee this formal equality. In this sense, equality is necessary to protect social relations, expressed in the norm and transcribed through a formal legal rights theory.

5. The Social Agreement, Law, and Right Articulated by the Principles of Security and Equality

The social pact is a social theory that managed to order the structural principles of society, such as the principle of security and the principle of equality. In his work, Rousseau expresses himself: "It is the association of individuals to provide security, which defends and protects the person and the assets of each associate from all common forces, making a social contract. This act produces a moral and collective body made up of its members, forming a public person" [34]; In this text, we observe the first structuring principle, which is the principle of security and one of those that underlie the structure of our current society, this principle is structuring of each individual and society in general and is the precursors of the self-preservation instinct., which respond to an archaic need for security [9].

To order individuals within a social group, another structuring element of group life is necessary, identified by [12, 23, 35]; This principle also responds directly to the principle of security, but not in relation to the physical, natural environment and its fortuitous events [6], but only responds to the social environment, that is, to the symbolic order, in relation to another human subject. It is essential to highlight how [34] did well in this principle of equality, the birth of morality; equality in the social sphere is the foundation of character: "The fundamental pact substitutes, on the contrary, with moral and legitimate equality, what nature had put in physical inequality among men, all become equal by convention or right" [34]. For these reasons, the law is an instrument of the causal order, generalizable with moral content. Therefore, we believe making the ontological distinction between law and right is necessary. This social pact creates the body politic, with evaluative

elements from the affective, moral, and even the ideological. At this point, there are no contradictions since this is a social pact, which does not enter the ideal order of rights, structured in strict security canons that keep out of it any value element that puts the hard core of security at risk. We can say that the social pact, the law, and the entire legal order are elements of the social order but continue to contain human nature and therefore order those desires and the idiosyncrasies of the groups that make it up a Nation State. But now, all this must be connected and ordered through another normative element that expresses the nuclear element, which orders social relations. This nuclear element is the right, and in turn, that right that governs a symbolic relationship must be consistent with the "social pact." A legal theory is necessary, which will be the generalizable element in the ideal formal order. It allows forming the right under formal equality, granting security to social relations, and allowing them to be articulated with the Moral State [14]. In this sense, a theory of right capable of articulary ingrelations under these structuring principles and cohering them to the general social system would guarantee its stability.

These social structural principles are what allow, in turn, to articulate various normative elements with the right, to order social relations in such a way that they are coherent between subjects and can be cohesive to the social and moral system in general, provided for by law or legal norm [15, 20, 37], for this we first expose these articulations coming from the theory of the social pact towards the right and vice versa. "The general will can direct the forces of the State according to the purpose of its institution, which is the common good, being the exercise of the general will, a collective being where the general will tend to equality" [34]; in this sense, we observe in the general interests, that all the subjects of a certain social group need a safe environment. Every group is stable because it is safe, they share the same interests, and these general interests are equal; that is, generality is achieved through ideal equality, an element of structural safety. For these reasons, we support the need to introduce a formal ideal legal theory in judicial practice that articulates these principles with the law and makes them coherent with the social system.

6. Hans Kelsen's Pure Theory of Law[4] as an Articulation Between Structural Principles and Social Relations

Observing Hans Kelsen's pure theory of law (right), the author above understands society as a system [13, 25]. This system is structured by social principles that do not belong to the right but are imposed on the right by means of the law. We observe that the law or the social pact obliges applies the right under the principle of equality [1, 2]. The present work pro-

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4 We remember Hans Kelsen's pure theory of law, from continental law we call it right to help the reader distinguish between law and right and for this reason "right" appears in parentheses to warn the reader that we are referring to right and not to law.

poses Hans Kelsen's pure theory of law (right) because it allows us to work with ideal elements, such as social relations. The methodological tool used is a logical category identified as "the should be" [18, 19]. Being formal, this category allows us to work with ideal elements to form the right and thus order social relations to integrate them into the Social Pact.

The elements of this theory are general, that is, they are applicable to all cases, and it allows us to form the right that is contained in the law [38, 39]. These elements of the theory are known and called the rule of imputation of the right and the logical category of duty. In this sense, the rule establishes the relationship between a condition and its consequence, and if the condition is fulfilled, the consequence of the duty is imputed. For this reason, a legal theory is needed that works with formal ideal elements, that applies the principle of equality through its elements, which are the rule of law, such as the relationship between a condition (act) and its consequence, which is the imputation of the duty. being as a logical and formal category, (the imputation to a human act its consequence). Finished forming the law through the imputation and integrated into the social pact, this integration through the theory allows not only to form the law, but also allows the transition of human behavior to the human act from the causal order to the ideal order.

We observe that a legal theory that allows the principles to be articulated with human relations to form the law generates legal certainty and allows the social subject to be integrated into the social system, making the system a predictable and safe element for the social group. The aforementioned author, Hans Kelsen, defines the methodological elements of the imputation of the duty to be as an element belonging to the formal sciences: "it has a purely logical meaning"[3] and "it is a specific functional relationship established between the elements of a given system, the right" [18]. Therefore, following the same formal ideal line of the author above, we maintain the law under formality through processes of formalization of all the elements that come under its order. The formality allows to establish and complete an ideal relationship between physical and legal persons since the so-called physical persons are governed entirely by the psychic structure of the "I," and the Moral State is its faithful copy, as Rousseau defined it: "The State or city is nothing but a moral person, whose life consists of the union of its members" [34].

The statute of the self-preservation drives" [9, 11] gave rise to the principles of social organization, arose from the psychic source, and was adapted in a group or society under a transformation into principles. We observe in the principle of equality the true precursor instinct of self-preservation [7, 10]. Both instinct and principles gave rise to a very sophisticated formal ideal element that is right and is the element that has allowed the generation of solid foundations to build modern societies. In our times, we see the need to improve the foundations through the legal theory that will enable us to connect the relationships between the subjects of a group with the Moral State or social system through the ideal legal theory to form the right.

7. Conclusions

The primary elements of the social organization arose from the psychic source, and in a group or society, it was adapted in the form of structuring principles. In the principle of security and equality, we observe the true precursor instinct of self-preservation, which will later give life to the most diverse and complex institutions such as right today. The Constitutions of the current States and their laws show their validity and expose this foundation; their purpose is to provide security, predictability, and stability to the social group through generating coherence in the social relations of individuals that develop within him and the articles of incorporation contained in the State as a Moral Person.

To form the law (right) and for it to order and integrate social relations, the right must have a theory where all the elements that compose it must belong to the order of formal ideal sciences since the theory will be the generalizable element in the ideal order, which allows all its elements to be applied to all cases that fall within its scope. Therefore, the resulting right will be based on a formal equality product of the same application of the same formal elements contained in his theory.

In the pure theory of law (right), we observe the treatment of formality that is given to the right when creating the imputation method as formal logic understood within a system. Kelsen defined the imputation element of duty as a "purely logical category and the conception of law (right) as a system of norms" [18]. In this sense, Kelsen understood right as a double system of norms: the static one, where the set of norms are determinants of human behavior, and the dynamic one, where a group of human behaviors are generated, which in turn influence the formation of norms [18]. The conclusion here is that the system of norms only contains the law, which is indeterminate and in its nature is not to direct human behavior but rather seeks to instead ideal formal elements such as human acts, which have a coherent social significance, expressed in a relationship with another subject in symbolic terms, in this sense both the law, as well as the social relations and logic that predominate in the social system, are purely abstract elements, which have meanings that must be completed in that abstract and formal plane by through a theory of formal ideal right.

We observe the purpose of the right, to order social meanings, that is, ideal relationships between socialized human beings; it is expected that these ideal relationships can be complementary and harmonized with human behavior in the causal and natural order, although this result is not always produced. The legal order is part of the psycho-anthropological order and is expressed through its law, but they have different purposes and scope, while the laws are the means of expressing the ethos of a determined social group, the right seeks to relate them and make them coherent

with the "social pact" in the symbolic order. For all these reasons, we conclude that the right forms social relations, not to seek the happiness of the individual or satisfy their desires, but to integrate them into the social group and preserve it. Since it is in the integration process where the ultimate goal of the Moral State and the evolution of the human species resides.

Conflicts of Interest

The authors declare no conflicts of interest.

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