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Reflections between law, politics and structural coupling

Reflections between law, politics and structural coupling

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Summary

This article analyzes the formation of the coupling between Law and Politics, with Constitutions as its central focus. The approach is based on the theory of autopoietic social systems, applied to the legal sphere. Constitutions play a crucial role by configuring themselves as structural couplings between Law and Politics, based on communicative processes that occur between functionally differentiated systems. These processes represent the translation of communications that occur between the social system and the political system, giving rise to the legal texts that guide life in society and citizenship. The article, based on the work of Niklas Luhmann, is organized into three sections. Initially, a brief approach will be made on legal positivism and models of articulation of the relations between law and politics. Then, it presents an overview of the topic, elucidating some of the key concepts. Finally, it explores the notion of structural coupling and examines the relationship between the political and legal systems through Constitutions.

Keywords: Structural coupling; Law; Politics; Constitutions.

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Abstract

The present article analyzes the formation of the coupling between Law and Politics, having as its central point the Constitutions. The approach is based on the theory of autopoietic social systems, applied to the legal field. Constitutions play a crucial role in being configured as structural couplings between Law and Politics, based on communicative processes that occur between functionally differentiated systems. These processes represent the translation of the communications that occur between the social system and the political system, giving rise to the legal texts that guide life in society and citizenship. The article, based on the work of Niklas Luhmann, is organized into three sections. Initially, a brief approach will be made to legal positivism, and models of articulation of the relations between law and politics. It then presents an overview of the topic, elucidating some of the key concepts. Finally, it explores the notion of structural coupling and examines the relationship between the political and legal systems through the Constitutions.

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INTRODUCTION

In a world characterized by increasing complexity and interconnectedness of social institutions, the relationship between Law and Politics plays a role fundamental in the organization and maintenance of order in modern societies. The this article, entitled "Reflections between Law, Politics and Structural Coupling," seeks to explore this central relationship, highlighting the role of Constitutions as key elements in forming the coupling between these two functional systems.

The approach adopted is based on the theory of autopoietic social systems, a theoretical perspective that offers valuable insights into understanding the complex interactions between Law and Politics in contemporary times. The theory of social systems autopoietic allows us to analyze the dynamics of modern societies, characterized by functionally differentiated systems that, in turn, depend on processes intricate communicative mechanisms to perform their distinct functions.

At the heart of this analysis are the Constitutions, which represent points of contact continuum, or "structural couplings," between the legal system and the political system.

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These Constitutions, through specific communicative processes, translate the interactions between these systems, culminating in the creation of legal texts that regulate life in society and citizenship.

This article, built on the theoretical basis of Niklas Luhmann, is organized in three essential sections. Initially, legal positivism and different models of articulation of relations between Law and

Policy. Next, an overview of the key concepts that guide the analysis. Finally, it delves into the notion of structural coupling, examining how Constitutions act as central elements in the interaction between the political system and the legal system.

By diving into the complexities of this encounter between Law, Politics and structural coupling, we seek to contribute to a deeper understanding of dynamics of contemporary societies, enriching the debate on interdependence of these functional systems and their influence on the formation of the order legal and political.

1 MODELS OF ARTICULATION BETWEEN LAW, MORALITY AND POLITICS

Legal positivism emerged as a way of combating natural law, which, argues that law would have a dual character, assuming that “unjust laws do not are right”, therefore the validity of a certain norm would be linked to the notion of justice (ANDRADE, p.21, 2022).

> According to Andrei Marmor, the school of natural law or natural law argues that the conditions of validity of a norm are not exhausted by those created by law, acts and events. The content of the norm, especially its moral content, also supports its validity. From this, a normative content that does not contain a threshold of moral acceptance cannot be legally valid. Marmor cites the famous saying of Saint Augustine: Nam lex mihi ese non videtur, quae iusta non fuerit (To me it does not seem to be law, that which is not a just law) – even though this view is attributed to

> to the Christian tradition, it is a problematic issue that has some philosophical support (ANDRADE, 2022, p. 22).

According to this theory, when a norm, in an arbitrary manner, grants or deny certain people the rights that are natural to the human person, he will not have validity, since it would be denying the will and desire for justice, therefore, it would have no reason for the population to obey this rule, and lawyers must be the first to do so. refuse it. Thus, the theory of natural law, "is that which considers being able to establish the that is fair in a universally valid way" (ANDRADE, 2022, p. 22). In summary,

> [...] legal positivism as the current that understands that the conditions of validity of the law are constituted by social facts and legality is constituted by a complex of facts related to people's actions, beliefs and attitudes, and these social facts exhaust the conditions of validity of the norm. [...] Positive law is a coercive order that is transmuted into the State, although this realistic, non-personificative and non-anthropomorphic view clearly demonstrates the impossibility of justifying the State by law, just as it is impossible to justify law by law - with the exception of the use of the term in the sense of correct law (justice) (ANDRADE, 2022, p. 23).

From this perspective, legal positivism is the study of positive law, where "it is based on the belief that law is a product of human will and has no relation to non-human wills, such as God, nature, oracles, etc., bases of theories natural law or natural law" (ANDRADE, 2022, p. 23).

An example of this situation is brought by Pérez Luño (2014), when dealing with relations between law, morality and politics, he points out four models of articulation of relations between law, morality and politics. The first model presented is that of separation radical, according to the author:

> Hans Kelsen can be considered the most representative thinker of this attitude. The idea of <<purity>> is the element that, according to Kelsen, differentiates his doctrine from other theories of law. According to Kelsen, the theory of law must be taken as an object of study in law itself, and it is to decide the law within a self-sufficient, self-referential and normative structure.

> coherent. To individualize what differentiates the right from reality, Kelsen refers to the Kantian distinction between <<being>> and <<must be>>, placing the right in legal science within the scope of the <<must be>>. Kelsen warns at the same time that this <<must be>> is a natural logic and formal normative one, it is not, therefore, an <<must be>> ethical. The tenor of Kelsian premises about the autonomous (<<pure>>) character of legal science, an ethical, political or sociological concept of law, results scientifically as inadequate as a medical concept of Architecture, the economic concept of Chemistry (LUNO, 2014, p. 133).[6]

Therefore, the theory of law is separated from morality "precisely because the field of moral duty concerns valuations, while the legal scientist also verifies with the help of logic, law as a fact, as a positive, existing data". Not there is room, therefore, for "discussions and subjective beliefs, especially imposed by a small group dominating the rest based on their values, favoring, therefore, a plural and democratic system" (ANDRADE, 2022, p. 25).

The second model brought by Luño (2014) is that of relative separation, in this understanding, the connection between law, morality and politics would be represented by a pyramid, where at the top would appear morality (ethical minimum) as a criterion legitimizing the law, which in turn would function as a normative order, guiding political activity. However, regardless of this connection, each of the sectors would maintain its functional autonomy (LUÑO, 2014, p. 134). In Luño's words:

> At the theoretical level, this model connects with the postulates of moderate legal positivism, which does not ignore the ultimate foundation of the right in an ethical minimum, but for methodological and legal security reasons it maintains the requirement not to confuse the right that <<exists>> (right

[6] Free translation: " Hans Kelsen can be considered the thinker who most represents this attitude. The idea of "purity" is the element that, according to Kelsen, differentiates his doctrine from other legal theories. For Kelsen, the Theory of Law must take as its object of study the law itself, that is, the law as a self-sufficient, self-referential and coherent normative structure.
To identify what differentiates law from reality, Kelsen resorts to the Kantian distinction between being and ought to be, placing law and legal science in the field of ought to be. Kelsen warns at the same time that this should be of a logical nature and normative form, and is therefore not an ethical ought to be. According to Kelsen's premises on the purely autonomous character of legal science, an ethical, political or sociological concept of law is scientifically as inadequate as a medical concept of Architecture, or an economic concept of Chemistry."

> positive), which morally aspires to <<should exist>> (natural right). Asimismo, without reconducting legal norms within the scope of social and political hechos, tends to avoid formalistic fictions by admitting political support of norms as a guarantee of their effectiveness7 (LUÑO, 2014, p. 134).

The third model deals with absolute integration, in this perspective *"la reminiscent of the ethos, as well as the ideal of a legal order and a political life sustained on morality, it has led to theorists of air and today to complain about it strict integration of the three normative scopes of practical conduct"* (LUÑO, 2014, p. 136). Thus, morality would have a comprehensive meaning, encompassing all the other norms, while the law would be the regulatory guideline of political life.

> Therefore, from the perspective of the ontological structure of the right, the natural right, understood as a fair objective right, is identified with the same notion of the right; However, in this context, the very notion of a just right constitutes a pleonasm, as unfair laws may exist, but not an unjust right8 (LUÑO, 2014, p. 136).

The fourth model corresponds to relative integration, it rejects the thesis that defends the separation between law, morality and politics, especially in its strong version, as well as that which postulates its total integration. This model defends autonomy and relative independence of law, morality and politics in which aspects they are undermined, and their necessary coincidence in others. Its graphic representation responds to the circles secants, whose intersection represents the space, more or less wide according to the different doctrinal theses, of encounter and connection between law, morality and politics.

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[7] Free translation: "On a theoretical level, this model connects with the postulates of moderate legal positivism, which does not ignore the ultimate foundation of law in an ethical minimum, although for methodological reasons and legal certainty it maintains the requirement not to confuse the law that "exists" (positive law), of which it is morally aspired that "should exist, (natural law). Likewise, without redirecting legal regulations to the sphere of social and political facts, they tend to avoid formalistic fictions by admitting a political support for the norms as a guarantee of their effectiveness.

[8] Free translation: "Therefore, from the point of view of the ontological structure of law, natural law, understood as objective fair law, is identified with the very notion of law; Furthermore, according to this approach, the very notion of fair law constitutes a pleonasm, since there may be unjust laws, but not unjust law".

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As mentioned by Luño (2014), Ronald Dworkin would be the author who best would represent this model,

> Dworkin tries to highlight the fragmentary and unsatisfactory character of the theses that make the validity of the system of sources rest in formal normative criteria; From there, the validity of the concrete norms would depend on their conformity with the procedural norms that in each legal system regulate legal production (theory that is defined by Dworkin as <<test of the pedigree>>)(Dworkin, 1978, 17 and 39 ss.) No less reprehensible than the doctrines that reconduce the validity. at the factual purification of the effectiveness of the norms, that is, to determine their application and compliance with a certain social practice. The rejection of each of these postures also leads to the rejection of the syncretism of both, as would emerge from Hart's thesis9 (LUÑO, 2014, p. 138).

From the analysis of these four models, it is possible to observe that only one of them proposes a radical separation between law, morality and politics, with the others being more quantitative than qualitative differentiations of this relationship. By contrasting the models, with the exception of the totally separatist model, the differences between the others are subtle, and, according to Luño (2014), perhaps the decisive feature for making distinctions between the moderate positions would be the fact that, *"the first, the moral foundation of the order legal and political fall circumscribed to the cusp of the normative pyramid",* therefore the law and politics would be completely autonomous normative orders.

Moderate integrationism would represent a model of diffuse legitimation, which defends the existence of a certain sector of coincidence and necessary complication (for

[9] Free translation: " Dworkin tends to show the fragmentary and unsatisfactory nature of the theses that make the validity of the system of origin based on formal normative criteria; from this, the validity of specific norms would depend on their conformity with the procedural norms that in each legal system regulate legal production (a theory that is qualified by Dworkin as the "pedigree test") (Dworkin, 1978, 17 and 39 ff.). The doctrines that redirect validity to data do not seem less rejected to him, since they purify evidence of the effectiveness of the rules, that is, the fact of their application and compliance through a certain social practice. The rejection of each of these positions also leads him to reject the syncretism of both, as would be deduced from Hart's theses."

example, everything that concerns the legal normativity of values and principles) between law, morality and politics (LUÑO, 2014, p. 139).

2 BRIEF CONSIDERATIONS ON SYSTEMS THEORY SOCIAL MEDIA BY NIKLAS LUHMANN

Social systems theory represents a break with paradigms and classical concepts, seeking to establish a new reference for understanding and analysis of contemporary society, including postmodernity. It proposes to examine modernity, and even the extreme speed of social change, without the need to anticipate these transformations in a predetermined way.

Niklas Luhmann initiated the development of social systems theory, taking advantage of concepts originating in various disciplines, such as cybernetics, notably the principles of self-organizing systems and environment arising from works of Heinz von Foerster, neurobiology, including the concept of autopoiesis of Humberto Maturana and Francisco Varela, and logic, with George's idea of form Spencer Brown. However, in incorporating these concepts, Luhmann adapted them and reformulated to clarify its specific application in the context of social theory.

As a result, in social systems theory, the demarcations and boundaries between the social, biological and technological domains become clear and precise. It provides a conceptual framework that allows analyzing and understanding the complex interactions that occur between these spheres, without the need to predict or determine in advance the transformations that may emerge.

The evolution of systems, as well as society as a whole, is characterized by events that are inherently improbable and unpredictable. As a result of this process, an evolutionary gain emerges that cannot be determined in advance. This gain is related to the expansion of the complexity of the system and the reconfiguration of its structures (NEVES, 2005, p. 47).

The evolution of systems does not follow a pre-established plan. Although, in certain stages of systemic evolution, it may seem tempting to see systems

as pre-planning products, given the level of complexity they can reach, the results of the individual operations that make up the evolution are, in reality, unpredictable. Even when a system has achieved a high degree of complexity and may appear to be a certain repetition of some operations, each new operation performed may lead to results that have never been observed previously (NEVES, 2005, p. 47).

The evolution of systems emerges from the operation of their components, from development of its internal complexity and the effectiveness of its functional distinctions. The stabilization and survival of systems progressively lead to an increase additional internal complexity, creating a cycle that often results in a new internal differentiation and the subdivision of the system into subsystems (NEVES, 2005, p. 48).

> In the theory of social systems, Luhmann proposes the analysis of society as a broad social system, within which all other systems are grouped without, however, there being coordination between the different systems. Each one develops and functions with its own internal communicative processes.
> Thus, what is valid within the functioning of the social system (economy, Wirtschaft), for example, is not necessarily valid within the religious system (Religion). From this type of proposition we can verify the functioning of each sphere of society independently, without a priori determinations of which elements give meaning in that sphere. This type of analysis seeks to map the elements that order it and describe its mode of operation, through observation (Beobachtung). Each area organized in a system will thus present its own communicative processes, the symbolically generalized means of communication, the characteristic feature of that system (NEVES, 2005, p. 11).

From Luhmann's perspective, the description of the dynamics of formation and evolution of social systems requires the consideration of two crucial concepts arising from a organicist approach to society: autopoiesis and structural coupling.

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In the domains of biology and medicine, according to Maturana and Varela, the process of autopoiesis, which involves the self-reproduction of living organisms, is understood as based on the idea that these organisms select elements from the external environment by through competent internal coding. This allows them to exclude other elements of the environment during the process of self-reproduction. In short, autopoiesis implies that all interactions in the autopoietic system are subordinate to the maintenance of its autopoietic organization. Since this organization defines the system as a unity, all phenomenologies of the system are subordinated to the preservation of its unity (ROCHA, COSTA, 2021, p. 29).

> In terms of social theory, Luhmann uses this conception to describe how social systems self-reproduce through processes that involve the selection of communication that is part of their environment based on their own binary code. Thus, the Legal System is an autopoietic system insofar as, of all possible communications in society, it is capable of selecting only that which is legal communication based on its binary code law/non-law (ROCHA, COSTA, 2021, p. 29).

Autopoiesis, which involves the self-reproduction of the system, occurs at the intersection between the internal production of the constituent elements of the system (i.e., its closure operational) and its cognitive openness, that is, its ability to receive stimuli from environment in the form of information that affects it as disturbances and irritations. This makes with which the autopoiesis of different systems evolves together, although each one of them is carried out with the specific constituent elements of their respective system (NEVES, 2005, p. 51).

Through autopoiesis the system is able to develop a high internal complexity, which defines the conditions under which the system will respond to environmental stimuli. This response can range from complete indifference to a active response. The crucial point, however, is that the system itself determines which disturbances will be relevant and which will be considered as contributions to their communicative processes. Furthermore, the system decides how to translate these disturbances and irritations in elements to be used in their internal operations, as

information, which is one of the components of the communication process (NEVES, 2005, p. 51).

Occasionally, this selection includes communicative elements of the environment that become integrated into the Legal System, becoming part of the legal communication, even if they were not previously. Niklas Luhmann refers to to this process as "evolution". This movement can be triggered by irritations originating from the environment, such as, for example, social demonstrations that demand rights. This evolution is mainly recognized through communications themes, such as judicial decisions, which emanate from institutions that represent the core of the Legal System (ROCHA, COSTA, 2021, p. 29).

After delimiting and distinguishing the internal structures of each social system, characterizing their selection and self-reproduction processes based on elements own that preserve the integrity of the system, the presence of continuous points of contact between these structures of the social systems in question. This observation point, conceptualized by Maturana and Varela in the dynamics of living beings and adopted by Luhmann in social theory, is known as "structural coupling".

According to this conception, coupling emerges as a result of reciprocal modifications that interacting units undergo throughout their interactions, without, however, losing their identity. “These continuous points of contact (structural couplings) arise when a social system simultaneously uses its communicative assumptions and the elements of another system at the time of communication” (ROCHA, COSTA, 2021, p. 30).

When there is a structural coupling, the communicative process of a system appears in the other not only as a disturbance, but also as a tool auxiliary to the functioning of operations; its meaning, however, will be constructed only within the system itself in which the communication process was carried out, in such a way regardless of the meaning it had in that original system. Only the complexity operational nature of a system's environment is reproduced within the system that performs the communicative process, not its cognitive processes. This is the case, for example, of linguistic structures that are used to carry out some communicative activities

within a system with its own logic, as in the example given above of operations financial. Through structural coupling, a system “borrows” from another system, which is seen as part of the environment of that first one, the structures necessary to carry out their own operations (NEVES, 2005, p. 53).

3 STRUCTURAL COUPLING, RELATIONSHIP BETWEEN THE POLITICAL AND LEGAL SYSTEMS THROUGH CONSTITUTIONS.

There are several approaches to analyzing the role of Constitutions in societies modern. The most common approach seeks to explain their origins and their relevance in development of a new form of social organization and, by extension, of Law. This explanation generally assumes that a Constitution is the pinnacle of legal system of a society.

This normativist perspective is, to a large extent, a consequence of the evolution acquired by complex modern societies. The process of social evolution makes viable the conception of the Rule of Law, as exemplified by constitutional phenomenon. Thus, the relations between the legal system and other systems result from the internal differentiation of each of these systems in society, and only in society (SCHWARTZ, COSTA, 2018, p. 385).

Modern society stands out for its remarkable systemic functionality, which manifests itself distinctly in communications through a binary structure. This structure gives rise to a series of subsystems, often called systems partial, each characterized by its specific functionality and a unique set of codes.

From the list of such subsystems, two of special relevance emerge: the political system and the legal system. The political system is forged by repeated communication around the power and issues of permission and prohibition, resulting in the production of communications own, such as laws, ordinances, decrees, and the like. This production is intrinsically linked to society, and therefore the legal system incorporates the values previously

chosen, acting with the aim of preserving and enforcing the norms and expectations established (LIMA, 2008, p. 16).

As seen, evolution, as well as self-reproduction mentioned in the idea of autopoiesis, is a process that is carried out while maintaining the integrity of the system in its own act of self-reproduction. In the context of Law, even when incorporating continually communicative elements that were previously not considered legal systems through selections, the legal system never ceases to be based on binary coding of law/non-law (ROCHA, COSTA, 2021, p. 30).

There is, therefore, an intrinsic observation point that allows the System of Law is based exclusively on its own logic, evaluating the social communications as being of a legal nature or not. This form of rationality, which manifests itself in the observation of events based on criteria legal, is a characteristic of both social actors who communicate through Legal System in everyday situations, such as when asked "Do I have the right to something?" or they claim "I demand my right," as much as the actors who participate in the sphere of organizational communication (ROCHA, COSTA, 2021, p. 30).

> Thus, judges who decide and communicate what is and what is not law; and lawyers, who daily plead for answers about law/non-law and constantly irritate the System for the inclusion of new legal categories in the Law environment through actions in court, are representations of this process of legal evolution. In this selection, however, law never loses its unity, after all, the process of self-reproduction (autopoiesis) is always based on the binary code law/non-law. Due to these circumstances, Luhmann coined the expression, also influenced by Maturana and Varela, that “closure is the condition of openness”. Thus, for Law to evolve, it is necessary to know what is and what is not law now. Above all, it is necessary to carry out a process of distinction between social systems (ROCHA, COSTA, 2021, p. 30).

Likewise, the System of Politics, whose communication is based on code government/opposition binary and whose function is to make collectively binding decisions within

of the organizational structure of the State, it is also an autopoietic system, differentiated of the Legal System. All selection processes in the Political System follow a standard that preserves the system unit.

These continuous points of interaction, called structural couplings, arise when a social system simultaneously incorporates its communicative principles and elements of another system during the communication process. In the context of the System Political, from a certain moment in history, especially in events that occurred in the 12th and 13th centuries, each decision taken by the organization in formation of the Political System (which later became the State) began to require legal basis to guarantee its legitimacy (ROCHA, COSTA, 2021, p. 31).

> This continuous coupling of structures (structural coupling) between Politics and Law represents what Luhmann calls the Constitution. Thus, every time the State decides, even if based on the government/opposition logic with the intention of applying its collectively binding power, this decision must be based on a legal element, under penalty of control by the courts (organization of the Legal System). The Constitution in Luhmann, therefore, is formed by the structural coupling between Law and Politics (ROCHA, COSTA, 2021, p. 32).

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In this context, the Constitutions delimit the structure of Power, including the Judiciary. In the Brazilian structure, the Supreme Federal Court plays a role central (and not superior) because, ultimately, it decides on a text that represents the evolutionary acquisition of complex societies. He attributes meaning to this text, which, in turn, is reprocessed recursively through jurisprudence, argumentation, doctrine and other forms of self-organization of the legal system.

> The Magna Carta is the classic example of structural coupling. It promotes the aforementioned link between the legal and political systems. It works as a factor of exclusion and inclusion. It ends up including new values and excluding others previously imposed on the Law; on the other hand, it is seen as a mechanism of irritation of the system.

> for bringing new communication. Property is also a structural coupling, however, of the partial system of Law with the Economy (or vice-versa). It is the basis on which the Economy differentiates itself as a system. It is processed through its binary code: have/not have. However, property is not part of the communication of the legal system. It is not possible to resolve legal disputes with the Economy (LIMA, 2008, p. 18).

Therefore, in the Theory of Autopoietic Systems of Law, the fact is not underestimated that the texts of constitutional norms represent a first-class observation order, while decisions, doctrines and the like represent a second-order observation order, all relevant to the internal structures of the legal system. This finding simple clarifies that the notion of a closed theory of autopoietic systems of law in itself is considerably different from what the theory proposes while also reveals the countless possibilities for evolution resulting from the continuous process of differentiation between systems and the environment (SCHWARTZ, COSTA, 2018, p. 388).

The continuous coupling of structures between Politics and Law, known as "structural coupling," is defined by Luhmann as the Constitution. In this sense, when the State makes a decision, even if based on government/opposition logic, for the purpose of exercising its collectively binding power, it is imperative that such decision is supported by a legal element. Otherwise, it is subject to scrutiny by the courts, which are part of the organization of the Legal System (ROCHA, COSTA, 2021, p. 32).

The approach that conceives the Constitution as a structural coupling between Law and Politics is observed not only in the work of Chriss Thornhill, whose focus main thing is the dissemination of the concept of "power" in social relations throughout history, but also in the more recent works of other jurists, which distinguishes between formal and material constitution. In the context of Teubner's perspective, however, the idea of constitutional fragmentation seems to be more closely linked to the conception of autopoiesis as developed by Luhmann.

In this way, the process of autonomy of civil constitutions, which is described in context of globalization, resembles the systemic idea of self-reproduction of systems social, based on their own elements, with the purpose of maintaining their integrity. To Teubner, the central challenge is to design mechanisms of structural coupling between these new constitutional fragments and a constitutional communication capable of regulating the processes of uncontrolled advancement of these new partial spheres, in parallel to the role that the Constitution has played throughout history from Luhmann's perspective (ROCHA, COSTA, 2021, p. 33).

As noted by Luhmann, there is a historical evolution in society that indicates that from a given point, such as the end of the 18th century in Europe, the communication that defines society becomes structured through various systems, each of them having the responsibility of selecting a specific type of communication (such as Law, Politics, Religion, Economics, among others) (ROCHA. COSTA, 2021, p. 40).

In this context, it is possible to observe how the Constitutions play a fundamental role as a constant point of connection, characterized as a "structural coupling," between the social systems of Law and Politics. Under this perspective, it becomes evident that every decision taken by the State, while component of the Political System, needs to be based on legal principles, under penalty of being subject to scrutiny by the organization of the Legal System itself, notably through the courts. This point of connection, or structural coupling between Law and Politics, is the central concept to which Luhmann refers as "Constitution".

CONCLUSION

Given the interactions between Law, Politics and structural coupling, it is possible understand the relevance of the theory of autopoietic social systems, based on the work of

Niklas Luhmann, for a deeper understanding of the complex relationships that underpin contemporary social organization.

The analysis emphasized the central role of Constitutions as key elements in formation and maintenance of the structural coupling between the

legal system and the political system. The concept of Constitution, according to defined by Luhmann, reveals itself as the continuous point of contact that enables the translation of the interactions between these functionally differentiated systems into texts legal principles that guide life in society and citizenship.

Throughout the article, legal positivism and the different models of articulation between Law and Politics, providing a solid basis for our analysis. Key concepts were explored that allowed us to understand the dynamics of coupling structural, highlighting the importance of communication and system autonomy functional.

As a result, the investigation offered a deeper insight into how Constitutions play a fundamental role in regulating coexistence of functional systems, ensuring the maintenance of social order and the protection of rights and individual freedoms.

As we move forward in the study of these relationships, it is crucial to recognize that the challenges of contemporary times, such as globalization and the growing interdependence between functional systems, continue to shape the dynamics between Law and Politics. Therefore, the understanding the theory of structural coupling and its application to Constitutions remains fundamental to debates on legal and political development.

This article, based on the reflections of Niklas Luhmann, does not exhaust the field of study, but it is hoped that it has contributed to a more in-depth appreciation of the complex interactions between Law, Politics and structural coupling.

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