Social Power, Law and Society

Saulo Casali Bahia,

Fellow and BoT Member of WAAS, and Professor

of Law at the Federal University of Bahia, Brazil.

**Abstract:** The article aims to discuss some aspects of the formal centers of social power. Thus, it seeks to answer how a power becomes institutionalized in formal social organizations; what is the source of political power and how it is converted into institutions of governance; how legal power is generated by society and how it grows; what is the relationship between legal power and consent by those who are governed; what is the role of the legal system and that of the human rights in fostering the distribution of social power; and how a society has enhanced access and equitable distribution of power in recent centuries.

**Keywords:** Institutions - Social Power - Political Power - Social Consent - Human Rights.

**Summary:** *1. The rising of the Institutions; 2. Law and Institutions; 3. The Political Power; 4. The Governed’s consent; 5. Human Rights and distribution of Social Power.*

**1. The rising of the Institutions**

“*From these things****,*** *therefore****,*** *it is clear that the city-state is a natural growth, and that man is by nature a political animal, and a man that is by nature and not merely by fortune citiless is either low in the scale of humanity or above it（like the “clanless, lawless, hearthless” man reviled by Homer, for one by nature unsocial is also ‘a lover of war’) inasmuch as he is solitary, like an isolated piece at draughts*.”[[1]](#footnote-1)

In this way Aristotle defined the nature of man, which is simultaneously gregarious, social and political.

City-states, or States, are a natural consequence of the human character. Like Aristotle pointed out, it is a “natural growth”. The life in society demands a sort of conditions or organization between individuals. Anarchy or absence of rules would bring to an end the possibility of living together. These conditions or organization is a complex system of duties and responsibilities. For each arrangement we will find a specific institution.

Thus, State came into existence with the emergence of man, because the common protection against enemies (animals or hostile human groups) and the promotion of a general supply of alimentation, protection against unfavorable climatic conditions and so on, demanded an organization of the scarce resources, which was only possible after the social establishment of the *hierarchy*[[2]](#footnote-2), *specialization*[[3]](#footnote-3), *coordination*[[4]](#footnote-4) and *integration*[[5]](#footnote-5). State carries out exactly this work among individuals.

Another example is the family, that came into existence naturally, institution which was born out of the survival and evolution needs, after sexual activity had been practiced by a couple or group and the birth of the offspring. All individuals who did not protect the young**,** did not give continuity to the specie, which furthered a natural selection by only using individuals who were able to understand and increase such institution.

State and family are ancestral institutions. But there are a great number of others ones, that were born out of the complexity of life in society.[[6]](#footnote-6)

**2. Law and Institutions**

Law is power, because legal rules establishes the relations among individuals within a society, and affords the permanence and stabilization of these relations. The *hierarchy***,** that is inherent in the state**,** helps to develop a perfect way to demand the enforcement and observance of rules, with menace of sanction. Law is a human creation that corresponds to an (inter)institutional police. Law is derived from and means an institution for maintenance of the institutions.

Thus, power becomes institutionalized in formal social organizations by Law.

Law defines the structure of a society, because the society needs be defined and protected by a large frame of settled-out legal duties and rights.

As Janani Harashi has written, “*society is more than the sum of all people. It is an intricately linked, complex organization. It is like the human body*.”[[7]](#footnote-7) Society can only be defined by Law and it is protected by the institutions and has settled them out.

**3. The Political Power**

As it was considered above, Law has the role to organize and stabilize the relations among individuals in a society**,** and to reinforce all the institutions by granting to State coercion power.

Even the political institutions are defined and circumscribed by Law, because the hierarchy, integration, coordination and specialization (which are the base for government’s activity) imply juridical duties, rights and responsibilities among individuals.

**4. The Governed’s consent**

But does the law have its own will? Obviously not. The Law is not an autonomous institution, with self-direction and self-determinate. The juridical rules, under any kind of government, must get the acceptance of the individuals of a society.

Even when the law has been imposed by an authoritarian leader and his army**,** without the acceptance by the society**,** the imposition will be hardly stable.

It is possible to impose authoritarian rules on some individuals or a specific group all the time. It is possible to impose these rules on all the individuals some of the time. But the history has not register any imposition on all the people all the time (or large time) without a minimum grade of acceptance.

The consent is the base for the Law, and democracy has the advantage to facilitate the permanent and contemporaneous control of the creation and modification of juridical rules.

The legal rules, when established without link with the true aspirations and values of the society, use to be deprived of its legitimacy and treads on toward the lack of applicability to real world. Formal and not-formal insurrections will come out, official clashes will take place, government support will become increasingly fragile, and in the course of time it will be necessarily opened new paths or models for the political governance in the society.

History has demonstrated that the lack of democracy is only supported when the people believe that other superior or valuable rights are granted by the government, and offer acceptance to the state impositions. But the social power, like the constituent power, is always potential and belongs to the people. Democracy is certainly a decision of each people, when they perceive the advantages of living under a different political power system, and no more accept the authoritarian treatment because of the absence of any valid reason.

In this sense, the source of the political, social and legal power is the people.[[8]](#footnote-8) Because of this, “*human capital is the ultimate source of all resources, and it is inexhaustible in potential*”.[[9]](#footnote-9)

**5. Human Rights and distribution of Social Power**

Democracy is not the only value to be considered by individuals in one society. The social power is so related to all the human rights that the legal system has to consider (or not) in its provisions.

Only the human rights taken as a consent by the people must be adopted by the Law. Human rights are historical, evolutionary and variable. But it is a fact that all the human rights which are estimated by the society as appropriate ones, must be performed by the legal system as a consequence of the social power. Justice is consensus.

The history of the advance of the human rights means the history of the increase of solidarity and equality. Only when the solidarity and the equality develops, the individual, collective and social rights are reinforced and can be experienced.

Solidarity and equality indicate that some differences among individuals are merely secondary and accidental, unable to set up a true reason of discrimination. These feelings and values show that the other one can be seen like any other**,** considered by the observer as an equal, creating proximity and empathy. These values suggest that the differences of gender, race, nationality and so on are commonly and generally irrelevant, and that the other one has more things in common than differences. It allows to see the presence of the common humanity in each one, what really matters.

As Janani Harish hasregistered, “*today, clan loyalty or fierce regionalism is increasingly giving way to a growing sense among many people that we all share a common identity and destiny as human beings. Society is evolving from the nation state to the human community*”[[10]](#footnote-10). The same idea Marta Nešković exposed it once: “*We consider that the recognition of equal values of diverse human capacities is a necessary step towards the individual accomplishment acquired through the expression of a unique potential*”[[11]](#footnote-11).

Our common core values must be perceived. These values make the best living, and promote solidarity and altruism. After all, human development requires unselfishness, and human rights come directly from our humanity. Altruism necessarily arises from the identity of individuals. It is necessary to identify the essential traits in common mankind in each of us. This is the Social Power essence and goal.

Author contact information:

e-mail: saulocasalibahia@uol.com.br

1. Aristotle, *Politics*, 1.1253a. In *Aristotle in 23 Volumes*, Vol. 21, translated by H. Rackham. Cambridge, MA, Harvard University Press; London, William Heinemann Ltd. 1944. [↑](#footnote-ref-1)
2. “*Vertical grouping and delineation of authority and responsibility are required for the smooth functioning of any organization*.”, defined Janani Harashi, at the article *Society and Social Power* (in Cadmus v.2, issue 3, 2014: p.47). [↑](#footnote-ref-2)
3. “*Specialization is an improvement on coordination wherein different individuals or sub- groups within a group perform different tasks, and collectively accomplish far more than would otherwise have been possible.* () *Specialization is an improvement on coordination, and generates greater social power*.” Idem, p.46/47 [↑](#footnote-ref-3)
4. “*By coordinating the efforts of many people, society acquires capacities that are not available when everyone acts in isolation.”* Idem, p. 45/46. [↑](#footnote-ref-4)
5. “*Integration magnifies the energy of organization. Within a group, when the various subgroups and their activities are integrated, the overall effectivity is enhanced.”* Idem, p.47. [↑](#footnote-ref-5)
6. About all this process, Janani Harashi pointed that “*the building that one calls house gives an objective reality to the biological tie of the family, but it is not just this physical structure that fully explains the idea of family. A set of rooms – some brick and mortar are not enough – and the social construction of roles and responsibilities are needed to make the biological tie real and complete the family. Society consists of many such non-physical structures that bind people. Language, manners, customs, standards and laws are some. They define and guide the interactions between people. They are like the standardized language, HTML, which makes it possible for billions of people to interact with one another on the internet. Guilds, unions, currencies, governments, armies, religions, trade, markets, factories, ports, banks, courts, parliamentary assemblies, hospitals, schools, newspapers and other media are specialized institutional structures that enable society to engage in a wide range of activities – for self-defense, production, exchange, commerce, governance, healthcare, education and recreation”.* Idem, p.39. [↑](#footnote-ref-6)
7. Idem, p.40. [↑](#footnote-ref-7)
8. “*The source of social power is people. It is from people’s aspiration, energy, and capacities that society derives its power. When individual capacity is organized and channeled through a system, it becomes social power*”. Idem, p. 44 [↑](#footnote-ref-8)
9. Idem, p. 49 [↑](#footnote-ref-9)
10. Idem, p. 38. [↑](#footnote-ref-10)
11. *Knowing Beyond the Structure: Maximizing Social Power through a Synergistic, Values-based Approach on Diversity.* Article in Cadmus v.2, issue 6, 2016: p.134. [↑](#footnote-ref-11)