

Philosophy of the Constitution. Guidelines for a philosophical critique of the Mexican Constitution of 1917.

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Abstract: This article is based on a philosophical critique of the CPEUM taking into account its ontological and gnoseological components. From this conception, two lines of analysis are proposed based on a materialistic philosophy. We start from a delimitation of our philosophical perspective, then examine the ontological status of the constitution following its semantic, syntactic and pragmatic determinations. Likewise, gnoseological figures inscribed in the constitutional text are identified and the notion of constitutional engineering linked in recent times to the Mexican constitutional map is channeled. Thus, it will be tried to show that in the processes of creation of the CPEUM (existing since 1917) there are implicit ideological-philosophical assumptions. This analysis assumes a dialectical conception of the constitution insofar as this is not a canon of absolute truth. In this sense, the iusphilosophical optics problematizes the content that is presented in the horizon of understanding of the current constitutional text. Throughout the work, it has tried to relate the criticism of the CPEUM with the historical context in which it is located. To finish, it concludes by suggesting open themes related to the subject and also insists on the philosophical tension with the constitutional *unthinking*.

Keywords: Iusphilosophy, ontology and gnoseology constitutional, centenary of the CPEUM, analysis of constitutional issues.

Introduction

The Political Constitution of the United Mexican States, which turned a hundred years old on February 5th of 2017, still a matter of debate –and recently also as propaganda–. Probably, in the Mexican territory, the «guardians» of the Constitution (as we may call the ministers of the Mexican Supreme Court of Justice) are not the only ones interested in the constitutionality. Because there were numerous dialogisms (courses, seminars, work groups, book releases, conferences, publicity on radio, etc.) on the basis of the Political Constitution of the United Mexican States. In this article, rather than enter into a debate *ab imo pectore*, we will try to explore different philosophical aspects that are represented and practiced in the current «wording» of the Mexican Constitution (since 1917).

By simple consideration of this article's subtitle, in current circumstances there should be various interpretations: which guidelines are we trying to raise? It is also required to ask: is it necessary to talk about a «philosophical critic of the Constitution» now in the very trend of interdisciplinarity? Does it make sense to begin this critic regardless of criticisms on the Mexican constitutional law? From our perspective, it is necessary to think outside the subjective answers given by representatives, senators, governors and some strange law procedures, all about the centenary of «our Constitution». This is the reason why we seek to specify guidelines of philosophical interpretation. It is because of this that the idea that we create ourselves on these guidelines, though limited, are related to the «social function» (determined by a *legal rationality*) of the Mexican Constitution.

Certainly, many will consider that the clarification of the philosophical foundations in the Mexican Constitution rests in the «legal philosophy» (or philosophy's law); or that it is not in the Constitutional law jurisdiction to address these matters. The issue, in principle, is to accept the challenge of recognizing the «philosophical significance» in the Constitution trying to establish the most appropriate criteria and to identify the ideological correlation, due to the analysis and systematization of the various uses of the term «Constitution» have philosophical relevance. In this paper we will demarcate the philosophical perspective under the Mexican Constitution, thereupon study and develop the main philosophical guidelines presented in the constitutional context. In the end, a gnoseological reconstruction of the highly used phrase «constitutional engineering» should be rehearsed, whilst this phrase tries to address the Mexican constitutional map.

Philosophical perspective delimitation in the Mexican Constitution context

It is true, the analysis of the philosophical terms that are implicated in the constitutional text involves the fact of having the material and formal aspects of the Constitution well distinguished. This does not necessarily imply the distinction –of conceptual order– between the «organic» and the «dogmatic» currently present in the Constitution. It is also true that such differences show the fulfillment of two covenants deployed from the social

contract, all of that sustained by iusnaturalists (Ruiz Miguel, 2002). But when we talk about constituent materials we are indeed talking about essential ingredients, unbiased (with an ideal objectivity in text and a real objectivity in the social order); while those attributes of formal nature correspond to the human attitude that recognizes a legal standard. It is not enough to construe this «acknowledgment» simply from Hart, because it is not just the contractual acknowledgment from which a document can be created, but that one that is based on a situation and attitude that depends of an intelligible structure, of «significance», that, by the way, it exceeds the very own «constitutional sentiment» that Verdú studied (1985). Strictly speaking, the concepts that shape the Constitution are preserved in a formal and material level. These levels cannot be shown while making an abstraction of all of its contents like they exist *a priori*. We depart from the premise that contents should necessarily exist.

Within this content's framework, we considered that the analysis of terms such as «freedom», «culture», «nation», «equity», «justice», «religion», «freedom of expression», «State», «law», «sovereignty», among others, are not just semantic matters, nor just words. It is true that legal-academic ideas have achieved remarkable historic dimensions (Guzmán Brito 2002). But to the extent that they seek to surround an institutionalized disciplinary proceeding in our «legal culture», in this sense it becomes necessary to stress –regardless of «neo-constitutionalists» efforts– that for our matters it suits to interpret the current Mexican Constitution in a dialectic way: the Constitution is not canon of philosophical truth, capable of unequivocal contents, but a decisive context on which legal sense operates in our national law. As regards our justification, it is the necessary examination of the alleged clarity of the constitutional text. President Carranza's moment in time has been thoroughly revised by national historiography, but now it has become necessary the systematic consideration of it, rather than its notable national overestimation.

To this effect, in order to establish if «philosophical foundations» do exists inside the Mexican Constitution, it is important to remark some «identification criteria». What is the philosophical importance inside the Mexican Constitution? What are those foundations that we are talking about? The formulation of this matter could consist (for now) in emphasizing the terms belonging to the philosophical vocabulary. To take this into account, it is enough to point the concepts that overflow the categorical field of certain discipline. There are terms in our constitutional text such as «culture», «freedom of expression», «justice», «equity», «power», «willingness», «responsibility», etc. These terms are used with a regulatory intention, but they have a philosophical referentiality. Such reference is evoked by Díaz Cossío (1998) when adducing that the 1917 Constituent faced a philosophical and ideological tension between the «liberal thinking» and «social ideas» (or socialist).

That said: one philosophical way to distinguish concepts and ideas can be formulated as of categorical areas. One concept can only be formulated in conditions of a single category. In contrast, the Ideas (capitalized) overflow the categorical area of a single science. For example, the Idea of «structure» used in many disciplines. It should be added that the philosophical relevance of the constitution can be criticized as of its relation to philosophical Ideas. Any given constitutional system shows a philosophical foundation (good or bad, in an

adduced sense). Thus, facing the issue of the philosophical substantiality deposited in the Mexican Constitution, we will confine ourselves to the following «guidelines»:

- I. Ontological guideline
- II. Gnoseological guideline

In other words, the philosophical criticism of the Mexican Constitution surrounds in narrow sense at least two important guidelines of analysis. By way of simplification, it should be noted that if we think about the 1917 Mexican Constitution wording, all of its essential attributes should be recognized, that these are something different of the mere text that a lawyer could in any way convert into arguments. We can easily say that the Constitution has been written from a «horizon of comprehension» (as in Gadamer's approach), and not only rhetorically but also in association with its interpretative process. The hermeneutic orientation, although it is useful for a beneficial parliamentary practice, constitutes a pathway for an essential highlight of the constitution. Every Idea involves a presumption that comes from a historic understanding. Sure enough, from the scope of the legal argument theory, the hermeneutic determination is not enough. In any case, to be brief, let us talk about the guidelines previously described.

Ontological guidelines

The constitutional text presents some issues concerning its ontological statute, because of an equivocal approach to the term, we should not understand «ontological» according to an idealistic and metaphysic presumption (i.e. exempt from the corporeal reality). For our purposes, we follow the basic ideas of Bueno's philosophical materialism (1972). The notion of ontological presumptions in the Constitution is not new, for example, Troper (2004: 116) uses the expression «ontological order» to allude –with certain lack of accuracy– certain issues of constitutionalist dogma that do not have anything to do with the strict philosophical study. In the same way, Ignacio Burgoa talks about the «ontological element» reducing it just to culture (Matí Capitanachi, 2002: 656). Hence, is it fair to assume that many jurists use the term without clarifying which concept of ontology they allude? The answer is affirmative because they use the term in a conventional and arbitrary way.

On this basis and according to the ontological aspects that we will contemplate, the next issue could prompt: what is the Constitution? In the same terms as Lassalle's famous question. However, a lexicographical answer from the dictionary is not the purpose here. The question's purpose is to discuss the «material substantiation» in the Constitution. According to this, the approach to the issue is not so much to follow certain «spirit of the Constitution» –using Jean Pierre Ancillon's words from early 18th century– but to determine, as we said before, the materials which give its reality and significance. Please note that in our particular case, the Mexican

Constitution gathers legal, political, social, economic and historic components in its content. The question about the essence in the constitution normally gets its answer from the «legal thinking». Tamayo y Salmorán (1979), for example, believes that the Constitution presupposes three views: (1) a legal order, (2) a legal norm, and (3) a legal power. This acknowledgement assumes the State's legitimization processes. Nevertheless, in general, the ontological approach does not deny the legal thinking. The difference is that it seeks the «ontological layer»: What makes a Constitution a Constitution *per se*? The importance of this question can be seen in the 1916 and 1917 Constitutive Debate Journal, that is because more than one representative queried the nature of the Constitution.

By means of the ontological account, we do not suggest the «justification» of our legal-political institutions, and additionally, we do not tie this with the old controversy regarding iusnaturalism/positivism. It is immersed in the radical argument that the Constitution has a guarantor style that pretends to establish its ontology in «human nature». This last designation, nevertheless, is misled: what does human nature means? As can be seen, the problem does not depend of the political volunteerism («political will») between representative and its citizens. The awareness of the problem is essentially historic. The heritage of the Querétaro Constituent signified the root of the problem to the extent it summarized an ambiance of intellectual confrontation expressed in two views: one from the representatives who claimed that the Constitution embodied the rights of man; another point of view supported the idea that the Constitution comes as a result of social struggle. Clearly there is no contradiction between these two views, but for many constituents the Constitution's DNA were the «rights», the «separation of powers» and the «sovereignty». With these elements, they align their constitutional understanding in a long constitutionalist tradition. Even while reading the historic analysis from Fioravanti (2001) we can observe that our Constituent's concerns were not so uneven in comparison with the «first» modern Constitutions. However, we cannot put aside neither the constitutional map of Mexico in the 20th century, nor the consolidation of the philosophical relevance in certain integral parts that can be determined in accordance with its appropriation in the referred constitutional system.

The ontological criticism of the Constitution will require an answer to the question previously formulated. From our perspective, the ontological crux could be deduced from the next determinations:

- a) Semantic determinations
- b) Syntactic determinations
- c) Pragmatic determinations

For that matter, in the complexity of any constitutional system that «actually exists» –without diminishing the minor systems known as state constitutions– there is a tendency to perform and represent some of the ontological determinations stated above. Now the question raised has to do with the parts involved in the constitutional field: how could the semantic determination of the Constitution's ontological guideline be understood? How can the ontology in the Constitution be addressed in its syntactic fragment? Also, what could be understood from the ontology of the Constitution regarding its pragmatic determination?

In the first case, the semantic determinations embrace notions such as individual, rights, obligations, values, principles, etc. Strictly speaking, when conceptualizing the constitution, it is necessary to distinguish its stratum of philosophical Ideas (think about it as a totality, categorial concepts are rooted in this stratum. In light of references such as «culture», «freedom of expression», «justice», «equality», «power», «responsibility», etc. that our Mexican Constitution has, it is how this matter can be illustrated: clearly these are Ideas that ontologically determine the scope of constitutional concepts, these organize the construction of the constitution. As mentioned above, the philosophical Ideas are pathways to explain the ontological relevance of the Constitution. If we stick to this, we need to highlight that the 1917 Constitution did not set *ab initio* all the rights «recognized and conferred», its initial drafting did not have the almost 700 reforms that we know today and, additionally, the values stated were constrained –by European influence– to liberty, equality, legality, legal certainty, property. In terms of «philosophical principles», we are able to differentiate them from the «principles of law» and the «general principles of law» because the first ones have the foundations of rationality that gives universal basis.

In the second case, we consider the syntactic determination consistent with the «propositional» (or discursive) point of view, given that the constitutional formulations tend to be structured in a certain way. When referring to the form, we meet the idea of its design. What should be understood by it? First, an organizational presumption that satisfies the conditions of the propositional order. In this light, we should begin to substantiate the Mexican Constitution by its structure, where its distinctive shape comprises titles, chapters, articles (136 in total), fractions (in articles 2, 20, 27, 37, 105, 115, 122, and 123 there are also subsections and numerals) and a final section of temporary articles. We should not underestimate that its discursive form is neither prose nor verse. In the constitutional writing, an article is a set of words written with a normative form, by definition, it represents legal «notions» and, at the same time, reconstructs a constitutional tradition.

On the other hand, it should be noted that the constituent procedure of the Mexican Constitution's creation had an «analogue» method alike the geometric science. Given the propositional nature of the articles, apart from all «institutional intention», it has a straightforward exposure. Therefore, the «linguistic conscience» of the Constitution's writers, tacitly applied an axiomatization criterion. It is very likely that this component can be subsumed to the methodological part of the «legal technique». As such, a precept (regardless of being normative or not) must be stipulated clearly and well defined. The recurring problem is that the positivization of a legal regulation leaves legal gaps, normative and «axiological» contradictions, because of this comes also the problem of constitutional interpretation. In the case of Mexico, Fariás (2003) has rightly noted some legal gaps in accordance with its content, «abstract» shape and the Constitution's current methodology. Certainly, the syntactic dimension determines what a Constitution is because it influences a constitutional program behavior (and even more in the so-called «constitutional control»).

In relation to the pragmatic determination, we would say that corresponds to the relation existing between the constitutional signs and the factual context of the operative subjects (justice receives and justice administrators, etc.). With this we are not only talking about the «appliance» of a constitutional norm in particular instances. It is also necessary to consider that the constitutional system in the Mexican Constitution is made of linguistic

propositions that can *trigger* processes of signification in the everyday social system. A symptomatic problem that currently exists in some areas of the Mexican social life is that the «legal decoding» has been turbulent and dire because of a lack of institutional reliability. Such is the case, for example, of the origin and development of articles 3, 27 and 123. Its validity and feasibility historically exceeded the dimension of legality and build itself in correspondence between language and action. The difficulty with constitutional law is that not all of its propositions are actually linked to reality. This is something completely reasonable since the constitution is refunded and recast by the means of linguistic practice in the social system in which it is constituted. Under the pragmatic point of view, for example, nationality (article 30), citizenship (article 34) and sovereignty (article 39) have an unquestionable pragmatic significance because they reveal a relation between to be and to do.

We can assure that or constitution determines its «being» (in a materialist term) in so far as is «connected» to reality. This connection has a specific nature. The constitution, as a power, has the potential of being a constructive project for any nation. In certain way, its reality emerges from its own strength (think about it from a human rights perspective), and this reality to which the Constitution appeals is determined by language through signification processes, although this does not mean that language will determine reality *ipso facto*. In this particular case, it is not about raising, ultimately, the pragmatic connection of the constitution with the antinomy to be / ought to be. It is a serious issue to crisscross ontology and deontology. What the Mexican Constitution *could be* and what it *has to be* is not what it *ought to be*. It does not make any sense to say what “C” *is* (C represents a constitution with modern characteristics, to say at least) in comparison on what “C” *is ought to be*. The introduction of that procedure does not construct the established processes between normative signs and factual context, because, in general, factuality is indeed the criteria that manifests verity of the norm.¹

In overall, this guideline of ontological criticism is identified with issues related to the concrete “existential” condition of the constitution. It is necessary to notice in this line that the contents assumed as ontological depend of the philosophical ontology of reference. We understand that the «functioning» of our constitutional reality cannot be maintained exempt from ontological determinations, which by the way, are worthy of consideration. Therefore, we should emphasize two things: first, that a constitutional system implies the Idea of totality (the Mexican Constitution was established with a totalizing intention); and second, that the ontological line cannot be seen from a voided body of gnoseological premisses. We will look through this last issue in detail.

Gnoseological guidelines

When referring to the notion of gnoseology we use it as a perspective that is distinguished from the «epistemology» (whose interest consist in certainty). The gnoseological guideline fuses in the logical and

¹ This interpretation of the iusphilosophical pragmatism has produced interesting scrutiny around constitutional justice (as shown in the illustrious investigation of Duarte Cuadros, 2012).

material structure of the categorical sciences. How can the constitution be thought from a gnoseological perspective? Given that the gnoseological reconstruction of the Mexican Constitution would result in a myriad of topics, it would rather be appropriate to analyze the gnoseological structure of some concepts in order to prove that the philosophical criticism is justifiable. We believe that if the constitutions have a «gnoseological core» this must be reduced to the current scientific disciplines. In the context of the various Mexican Constitution interpretations, this critical guideline has a secondary position. If the truth be told, however, the constitutional «doctrine» that is implicit in the Mexican Constitution involves the reconstruction of the «constitutional praxis».

The scientist of the Mexican constitutional Law may adapt certain theory of the «legal science» in order to conceptualize the gnoseological core of the Mexican Constitution, although the limitations in that methodology are numerous, this matter leads us to reconsider if certain *scientific* approach can be acknowledged in our constitution. First of all, our constitutional system uses various gnoseological figures like: definitions, axioms, classifications, models, determinant contexts, problems, tenets, paradoxes, etc. Our analysis presupposes that such figures are «given» in the constitution, because of it, we will give an account of two possibilities:

- 1) On one side, it is important to identify the gnoseological figures existing in the Mexican Constitution (returning to concepts of Bueno's categorical closures theory, 1992).
- 2) On the other hand, it is pertinent to channel the gnoseological plane certain concepts used nowadays with practical motivations that tend to bring together a gnoseological aspect (for example: «constitutional engineering»).

Regarding the global perspective of the first matter, it is noticeable that the Mexican Constitution has gnoseological figures. As regards to the definitions, the Mexican nation is generically defined in the 2nd article, because of its conceptual horizon, it is a deficient definition. But the existent definitions in the constitution, even if short, are actually unintelligible. In a similar figure, applying a constitutional dogmatism criterion, these axioms could be understood like the human rights. This is how law axioms are formulated in education (3rd), right to health (4th), right to «culture» (4th), the right to freedom of religion (24th), etc. Because it is something dogmatized, the rights –without bias of its «generation»– «given and recognized» in the constitution have an axiomatic form. Because, ultimately, there would be no human rights if these were recognized from a disenchanted skepticism. In the general reasoning of human rights, these are the origin (with strict adherence to the Greek word *arjé*) of many legal institutions assumed as unquestionable.

Additionally, regarding the critic's rationalization par excellence, that is to say, the categorization, it is necessary to advise that inside the existing Mexican Constitution system various and simple classifications have been made. Article 49, specifically, gives three classifications to the powers of the «federation»: executive, legislative and judiciary. It is necessary to keep in mind that the faculties of each power are captured in articles 74 (Chamber of Deputies) and article 76 (Chamber of Senators). In these cases, the classification is distributive. In the case of the attributive classification, keep in mind article 43, since this article divides the federation into

states. Insofar as our Constitution owns mechanisms for classification, it becomes evident a gnoseological process.

In order to address the gnoseological figure in the models, it goes without saying that these are «configurations» or «armors» that can establish well defined relations in the terms of a gnoseological area, in this case is the political and legal area (Bueno, 1992: 141). To summarize, one could say that the federal system captured in article 40 is indeed a paradigmatic model with the forms of the State. Likewise, the presidential system captured in article 80 is a paradigm of certain political events. In contrast with the constitution of Apatzingán, the Mexican Constitution followed an individual presidential model. In a sense, the Constitution of 1917 kept a resistance core that neither was from president Madero nor president Huerta's political groups. Its historic core was oriented towards the resistance against the movements of Pancho Villa and Álvaro Obregón respectively. Because of it, one may ask: which were president Carranza's reasons to introduce this model in Mexico? The *ortograma*² of constitutional creation includes considerations that reflect an ideology of nation. Carpizo (2002: 43) stated that the Constituent of Querétaro gave extensive capacities to the Executive power. In consequence, the Mexican Constitution, gnoseologically speaking, leads to a federal State model and to an *equalized* model of presidential Government, likewise, because of the «judicial guarantees» stated in the Mexican Constitution (writ of amparo, writ for the protection of political-electoral rights, action of unconstitutionality, constitutional controversy) and also because of the existence of a *legis latio* (in other words, of a legislative power that currently presents itself irrational on its substantive determinations).

With regard to the determinant contexts, in accordance with Bueno's point of view (1992), we could now analyze article 71. In general, the determinant contexts have the next characteristics: they are complementary processes with particular contexts, they determine a system of interactions where other operative patterns are integrated. Gnoseologically speaking, there is a juridical and political science applied in the «legislative function». In the practice of the Mexican Constitution, the legislative operations require self-reference terms that must be absorbed (relationally) objectively in law initiative. Certainly, there is a «collimator context»: the political partisanship. The ideological confrontation (of a subjective-natured guild) of each party or each political representative will tend to organize the legislative decisions. But, from an analytical perspective, operations will only be possible on account of the determinant context of the constitution (article 72 gives some sort of «game rules» that complement, at the same time, the Organic Law of the General Congress of the United States of Mexico).

Regarding the existing (gnoseological) issues in the constitution, the first concern is seen in article 40. This article literally reads: «it is the will of the Mexican people to become a democratic, federal and representative

² TN: This word does not exist in the English language, article's author explains it this way; *Ortogramas* (in plural) are those formalized subjects that can function as active molds or programs in the way materials are given. For example, an algorithmic program, a grammatical rule, a conviction, etc. (Bueno, 1998: 391-393). For that matter, the Mexican Constitution can act as an *ortograma*. Here we will talk about the Mexican Constitution as an *ortograma* because it represents an active mold that recurrently is part of the national construction process. Certainly, an *ortograma* involves the fact that there are various counter-*ortogramas*. The capacity of the political subjects to orient themselves inside of certain *ortograma* depends of the political and moral conscience of the historic moment on which they are positioned.

Republic». Reading it does not necessarily mean it has been understood. To which democracy does the article refer? The fact that no more information is given about such democracy and its terms gives place to a significance problem. «Democracy», as is known, is an equivocal concept. This case should be an example, although is not the only case. Article 130 introduces another problem: the so called «laicism principle». There is in fact mention to a «separation» that, nevertheless, in the constitutional text there is no mention to the *operative conditions* of that separation, this lack of reasons configures an objective problem. Because of the gnoseological scale (not axiological) in which we are located, we do not construe both concepts –democracy and laicism– as «essentially controversial concepts» (in the same way Gallie gave a meaning in 1956). Obviously, those and other concepts have a dense moral burden that strongly influence the constitutional text interpretation. (Iglesias Vila, 2002).

Finally, in the gnoseological perspective the figure of the postulate should be thought *in abstracto*. A postulate is a proposition that has not been proved but is accepted because there is no other principle to which it can be referred. For example, in geometry the assumptions are referred as postulates. Assuming this, article 25 leads to a mended postulate, because it makes us think that a correlation exists between the State and «national development». What is considered State or national development is not here under discussion. Ultimately, we only reconstruct the gnoseological value of the article because it assumes a biunique State-development relation, there the key resides in the quest for balance. It is an equation immerse in a set of variables (money, work, national heritage, property, taxation, debt, etc.) that right now we are not going to consider.

At the same time, although this first gnoseological guidance identified an important gnoseological guideline, it is also no less important to canalize the concept of «constitutional engineering», concept about which currently so much has been said (particularly in the group of constitutionalist lawyers). Such expression dates back to the early 1980s in the context of practical and theoretical debates of the Italian constitutional law (Verdú, 1979). It should be said that with this precedent, many elements point that this is a constitutional rethink with a gnoseological background that it has not been examined. When discussing «constitutional engineering» there is the assumption that knowledge about non-judiciary sciences can be applied to the constitutional practice (Sartori, 2001). Based on the search of «interdisciplinarity» in the contemporary praxis, there is a tendency to maintain an «open dialogue between knowledge». In this respect, the constitutional law subdues to the political criteria, which ultimately leads to consider that the Mexican Constitution goes by that orientation.

In this regard becomes relevant the gnoseological criticism made by Vega (2000) when he warns that the introduction of other sciences in the law practice essentially drives the constitutional phenomena to a *praxeological* level. It is not in fact the intention to vary the «conditions of constitutionalization» (Guastini, 2001: 154) by introducing the practical (or dynamic) perspective to the constitutional system in order to establish a «good government». From there, the scientific postulate of the «constitutional engineering» becomes problematic: it is understood not as constitutional right methodology, but as technical methodology based on anthropological or psychological principles. «Let us not forget that the constitutional engineering, as far as constitutional policy, is characterized by notes of prudence, opportunity, opportuneness and pondered observation» (Verdú, 1979: 37). Said in a schematic way, the assumption is that by reforming the law, the

(sociopolitical) context changes. It is an assumption of «application» that tries to be categorized and that leads to rationalizing the gnoseological situations of the problem.

In general, the concept of «constitutional engineering (or «reengineering»）」 takes a gnoseological meaning when it intends to create a link between practice and normative science, in a way that the various relations between knowledge and context adapt to practical purposes. Its gnoseological statute implies that the legal-practical operators *return* to the constitutional structures but also to confront these with different (phenomenal) empirical levels. The unbiased version of the constitutional engineering seeks –and this is *prolepsis*– applicative results. This means, therefore, a methodological *desideratum*, this creates operations that maintain a β -operative component (according to the terminology of the theory of categorical closure) as long the normative subjects (just like the legal subjects) move in a practical rationality that gravitates around operations that cannot be neutralized (despite the dogmatic justifications being taken as structural or surrounding context). The constitutional engineering estimates that the constitution is a dynamic entity that relies on political forces, civic education, the social crisis, the constitutional sentiment and more (Verdú, 1979), furthermore, it is conceived as a therapy for the political structures of coexistence. It is in this line that it reaffirms its profound praxeological sense.

In sum: it is undeniable that the constitutional engineering can be a «technology» with a praxeological direction, subject to positive and negative results, but because of its «discovering contexts» could become an extra-scientific discourse for trying to include a political and legislative rhetoric that sees in the word «engineering» (or «reengineering») some sort of salvific word (even more the case of «electoral engineering»). Without limiting the foregoing, it should be noted Sartori's effort –who just passed away on April 4th of 2017– for proposing a better «functioning» (from β -operative premises in gnoseological terms) of the Mexican constitutional map.

Conclusions

As we have seen, studying the idea of the Mexican political constitution, ultimately, involves seeing it as a problematic idea that is sustained by different contexts. We addressed the philosophy in the Mexican Constitution that criticized its ontological and gnoseological components. We took by reference a materialist philosophy, reinforced with a materialist ontology and gnoseology. now we have to pay attention to those matters that remain open. Among those of ontological character we should ask: which is the connection between different «materialities» in the Constitution? Of gnoseological character: which are the gnoseological extents present in the «comparative constitutional engineering»? All these matters are worth of studying. The fact that we are now in the centenary of the Constitution's promulgation increases the importance to continue with this matter. Because the philosophical approach of the Mexican Constitution is not a well explored field, it becomes urgent to regenerate and sustain any kind of critical philosophy because of the radical importance in the present. It is not an easy task to determine how is the Mexican Constitution going to «approach» to the future generations. Merleau-Ponty was right when saying that inherit some thinking means to deal with those

unthought, and in our case, on what is left to thought in constitutional philosophy. We share that vision. What is most valuable in the Mexican Constitution should be present in our contemporaneity, in these troubled times of «ontological trance», crisis of reason, legal malpractice, generalized uncertainty, local and supranational conflicts; that is where it should figure, in defense of constitutional democracy.

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