

THEORETICAL AND METHODOLOGICAL CONSIDERATIONS

Manuel MORA Y ARAUJO

I. RESEARCH PLAN

This research explores the Argentine people's attitudes, perceptions and values with regard to the Law, the Constitution and the political system. It is an investigation into the images people have in their minds about institutions and different aspects of reality. Public opinion is part of the political reality, but not all. Depending on the viewpoint taken, it can either play a central role or a more peripheral one. From the sociological perspective, public opinion—a combination of a population's perceptions, beliefs, images and expectations—plays a key role because it constitutes a conditioning factor for the function of institutions. It is common knowledge that the result of an election which consecrates a democratic government is heavily conditioned by public opinion—in fact, candidates address their electoral campaigns to it—and that macroeconomic variables crucial to every society, like inflation, the degree of monetization or consumer spending, are largely influenced by public opinion. Similarly, the legitimacy and effectiveness of juridical institutions and laws depend, to some extent, on public opinion.

In this project we have researched how much the public knows about institutions; what they know about the national Constitution and what importance they attribute to it; their evaluation of democracy as a form of government; their opinions about the functioning of the National Congress; and what value they place on compliance with laws. First of all, the survey seeks precise data on these aspects and to underscore their most important revelations. Secondly, it aims to extract conclusions about the consequences they will have on the political and institutional reality of Argentina.

From a conceptual standpoint, we see the relationship between citizens and the law in two different planes. The first is where the citizen sees the law as something given to him; the law is, one might say, part of his environment. The second concerns the use the citizen thinks he can make of the law, either to his own ends, or to oppose it or to dodge it. Socialization starts in the first plane, when the individual—whether at home, at school or in other environments where he has developed as a citizen since his childhood—incorporates norms and social definitions of legality. But then socialization leads each individual to a complex learning process of the use of norms, which includes perceptions of group responses to his own actions, learning behavioral modes and weighing chances to fully adapt himself to the group, challenge it or adapt to it reserving degrees of innovation, creativity or defiance. In this way, society builds a *juridical culture*, both inside the professional community and outside of it, established in the ensemble of its members.

We know that experts and the Judiciary have theoretic and doctrinal debates in keeping with these considerations. Our focus is interdisciplinary, that is, juridical, political and sociological. In this perspective, both positive law and social norms are on the *supply side* of the social space. The citizens, with their stock of information, perceptions, beliefs and expectations, represent the *demand side*.

Social life is the exercising of relations of exchange and power between both sides. In the positive law plane, supply offers no greater options; laws are not proposals, but mandates. But actually, the government's ability to ensure compliance with the law is neither total nor constant; so it does in fact offer options, and these are a central aspect in socialization. Every person is acquainted with the content of laws to some extent, as well as the criteria about the chances and risks of obeying or violating them. And finally, every person is familiar with criteria on the usefulness or convenience of respecting the law and keeping a close watch on other people's compliance with the law.

In the social norms plane there is no formalization of regulatory principles, so that the ability to ensure compliance with those norms depends entirely on the cohesion of social groups. On that plane, on the demand side options are perceived, and the group and its members are valued and judged based on personal expectations.

Every citizen, every person responds to the stimuli he receives in life based on the combination of two basic elements: his predispositions—everything he learned and which formed his moral, emotional and cognitive structure—and his perception of the stimulus: what he understands, registers and deciphers of its content. The sociological perspective leads us to try to understand what the predominant predispositions in society are, and how its members, the citizens, perceive and register regulatory stimuli. This perspective necessarily sees all things legal and institutional as a continuous flow, moved by its own dynamic and conditioned by that of societies.

This study is the first step on the road to explore those aspects. We try to identify traits in the Argentine society, both in the plane of those predispositions—or people's values and attitudes—as well as in the plane of perceptions, available data and valuable judgments on the performance of different social actors. We believe that, with this focus, we are close to a diagnosis which, zooming in on problems with the law and institutions, can shed some light into other basic troubles in Argentina.

II. ENFORCEMENT OF LAW-BASED ORDER IN ARGENTINA

The factors influencing the legal culture of any society are many, and under no circumstances do we aspire to systematically cover them in this study. Cultural traditions as well as political culture and other characteristics of society all come into play. A social order centered on the rule of law opposes two other typical situations: on the one hand, an authoritative or corporative order, and on the other, an order based on strong social ties where informal rules prevail. Law, authority and social capital can be considered the pillars of three alternative models of social order.

In the specific case of Argentina, as in the whole of Latin America, the Hispanic tradition possibly played an important role, but added to that was the impact of mass immigration from the end of the 19th century. The wave of migrants who populated Argentina and radically transformed the society were not the bearers of a law-oriented tradition from highly institutionalized societies. To the contrary, they came from authoritarian societies. Even so, their assimilation into Argentina was highly successful. That, together with the great social mobility that prevailed during the first half of the 20th century, made it easy for the main immigrant groups to form mutual associations and social organizations to protect and serve their members. The result, we think, was to boost the sense of intra-group belonging and little commitment to the public order in force in society as a whole.

On the other hand, legal culture everywhere is closely entwined with political culture. Argentina has suffered an institutional weakness at the hands of government and in the democratic system, which reflects in a Judiciary demeaned by scant social credibility and a fairly generalized perception of highly politicized government.

Consequently, due to different factors, the country developed all through last century along lines closer to the patterns of an order with authoritative and corporative components than an order bound by the rule of law or by a high capacity for accumulation of social capital. In the last two decades, the country has been governed by democratic rules which society endorses by consensus. But this has not been enough to set up a reliable judicial order. Our study suggests that society has become aware of that failing and is building high hopes in that direction. At the same time, our research allows us to identify and, to some degree, quantify negative aspects.

III. METHODOLOGICAL ASPECTS

The purpose of this research project is basically comparison-oriented. For this reason, we have used a data-collecting tool—a questionnaire—essentially similar, as previously mentioned, to the one used in Mexico, with small adaptations to the idiomatic customs and realities of our country.

The focus is basically quantitative. We worked with a probability sample of the population so that estimated statistics for the distribution of each variable can be generalized for all the population studied. Moreover, constructed variables like “ordinal” scales were used, which allow numbers to be assigned to the different values or responses to each variable; in this manner, it is possible to use data-analyzing statistical tools.

In some cases, for exploratory purposes, we also used questions with open answers.

As for the sample, we used standards that are widely accepted in this type of research (and which are displayed in the paragraph on sample design). Interviews were conducted in the country’s large cities, assuring an adequate representation.

IV. TOPICS STUDIED

The poll contains ten main topics. The first is the degree of knowledge about institutions. The questions are strictly cognitive; they refer to different functions of Congress, the Executive Branch or justice.

In the second topic the questions are about confidence in others—in general, in the community and in different areas or institutional officials.

The third topic is the law. Here, we explored perceptions on respect for the law on a nationwide scale, and at both a provincial and personal level. We examined the reasons for either observance or violation of the law, and the perception regarding its universal application. We enquired about the image of social actors or groups being greater violators of the laws. Finally, we explored sentiments of protection against abuse of power.

The fourth topic refers to justice procedures. Here we study different matters related with standards for serving justice in different criminal situations.

The fifth topic is the national Constitution. We want to know people’s knowledge of the Constitution, the importance and meaning they attribute to it, the extent to which it is

applied, as well as the rights that are most violated. We also asked how the country should proceed in order to reform the national Constitution.

The sixth topic is the National Congress. The explored areas are: interest in matters dealt with by Congress; perception of compliance with laws passed by Congress; and special powers and essential emergency decrees.

The seventh topic is the Judiciary. We measured values regarding the application of justice and the image of the independence of judges and the Supreme Court. We also enquired about people's view on the administration of justice.

In the eighth topic we measured the population's values with regard to a democratic government system. We also asked about the legitimacy of the majority decisions. One question refers to the type of political leadership preferred.

The ninth topic refers to the model of society. We explore values of the different attributes of a desirable society, and of the Argentine society in particular: respect for rights, respect for the Law, individual autonomy and limits on people's behavior, freedom of the press, tolerance and responsibility.

Finally, in the tenth topic, we measured socio-demographic variables and exposure to the media.