



Artur Victoria

# **IN/JUSTICE**

**First edition. May 2, 2025.**

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**ISBN: 979-8231650255**

**Written by Artur Victoria.**

# Preface

By **IVES GANDRA DA SILVA MARTINS** \*

Once again, my dear friend and great humanist, Artur Victoria, has surprised me with a book addressing one of the most important issues in human history and one that continues, despite advances in civilisation, to challenge social coexistence: that of injustice between men.

In the 19th century, Bastiat wrote a short book entitled 'The Law', in which he said that the law should, rather than promoting formal justice, not allow injustice.

In his 'theory of the four causes' (material, formal, efficient and final), Aristotle tried to schematise the types of motives that allow us to better understand anything we want.

In the legal field, my son Ives - a senior minister of the Superior Labour Court in Brazil, of which he was once president - recalls that the material cause would be the Law, the 'suum jus' of each person, the formal cause would be 'tribuere', giving what is rightfully yours, in the Ulpinian definition, with the abstract efficient cause being legislative production, the concrete efficient cause being the judicial decision and the final cause being social peace, as Isaias said (*Opus Justitiae Pax*).

We, the jusnaturalists, understand that justice begins with respect for legislative production and for those who apply it to the small bundle of natural rights inherent to every human being, which it is not up to the state to produce, but only to respect.

There is therefore no conflict between positive law and natural law, and it is up to the authorities to respect the immensity of the norms produced by the State.

It should be remembered that the Universal Declaration of Human Rights of 10 December 1946 is a charter of Natural Law,

whose main author was a Thomist naturalist, René Cassin, also inspired by the lessons and writings of Jacques Maritain.

Master Artur Victoria tackles these issues in his book with insight and depth, in an irreproachable way, from those that occur in social, family and community life, but especially among those in power when they seek to remove their adversaries, punish their enemies and control those they judge, something that occurs not only in dictatorial governments, but also, unfortunately, in democracies.

Artur Victoria analyses this injustice, which thinkers of all ages have tried to condemn and correct, with no success other than to improve legislative production, which is almost never fully respected by those in power. He looks at its various forms of manifestation in the economy, at work, in the family, in access to justice and health and in politics in search of the common good, based on a thought by Saint Joseph Mary Escriva who said: 'Don't you think that equality, as they understand it, is synonymous with injustice?'

The book, after a long introduction in which he formulates the basis of his reasoning, focuses first on the common good and then tackles injustice in the light of the judicial functions which, strictly speaking, are its greatest efficient ca

Personally, as an originalist when it comes to constitutional interpretation, I have opposed doctrinal currents such as constitutional jurisdiction, consequentialism or neo-consequentialism, which attribute to the Judiciary the competence to adapt the supreme law to current realities according to its personal exegesis, replacing the Derived Constituent Power, which is the Legislative elected by the people. In this vision of adapting the law to its image and likeness, it becomes a permanent source of injustice, as it transfigures itself into a political power, which it is not, ceasing to be, in these matters, the technical power it should be.

This reality of the Federal Supreme Court - without any judgement on the intellectual level and suitability of the Brazilian magistrates appointed by a single man (who is the President of the Republic) - is the drama that is being played out in my country, which according to polling agencies on popular opinion about it, has led to a marked loss of credibility with the population.

Doctrinally, they have incorporated theories from parliamentary or semi-parliamentary regimes, where the separation of powers is not as clear-cut as in presidentialism, and have started to pass judgement according to their political preferences and opinions, abandoning the origins of the political system.

With the respect I have always had for all the Justices, in my 90 years and 61 years as a university professor I allow myself to differ, understanding that these doctrinal currents were not those established by the Constituents in the 20 months of debates on the Supreme Law, which I followed, not only being heard in public hearings by the original legislators, and through permanent contact with the Constituent Assembly's rapporteur Bernardo Cabral and the president of the National Constituent Assembly Ulysses Guimarães, which allowed me, together with the late Professor Celso Bastos, to comment on the Brazilian Constitution in 15 volumes and approximately 10,000 pages for Editora Saraiva.

Artur Victoria's book is a splendid contribution to the discussion of the main core of law, which, more than doing justice, is not doing injustice.

Congratulations to my friend and teacher, and I look forward to a brilliant publishing career for his work.

Welcome Artur

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