

abstracts

Penal Processual Law and the Constitution — about the principle of double degree of jurisdiction in penal matters

António Malheiro de Magalhães

(pp.543)

The problematic issue which rotates around the principle of double degree of jurisdiction in penal matters, which has as its background the penal processual constitution, constitutes the theme which we select as the object of this work.

In fact, we will begin by making the necessary reference to the relations existing between the Penal Processual Law and the Constitution, preferably falling upon the meaning and functions which characterise that branch of the Public Law. At this level, it will be necessary to make immediate reference to the conception of penal processual constitution, and to the insertion of guarantees in defence of the accused within the specific regime of the rights, liberties and guarantees which are constitutionally established. In the same way, we will approach the principle of double degree of jurisdiction with particular acuity in the context of constitutional penal processual law, expressing, as much as possible, the positions of the doctrine and constitutional jurisprudence in this field.

Following this, we shall concentrate our attention on the right of appeal in matters of fact, enquiring about its eventual inclusion in the penal juridical-processual ordinance of Portugal and Macau, at the same time as trying to establish, as far as possible, a parity of situations between the respective present ruling regimens.

For that, we should not overlook considering the solutions foreseen in the original text of the Code of the Portuguese Penal Process (1987). This is, namely, the appeal of a broader review from the collective court to the Supreme Court of Justice, as well as the effectiveness of a double degree of jurisdiction in matters of fact, introduced by the revision in 1998, of which this Code was a target.

In the same way, it was necessary to proceed to an analysis of the regime of the ordinary appeals, as stated in the wording originating from the Code of the Penal Process of Macau (1996).

Therefore, from this comparison the result would also be that in the penal juridical-processual ordinance of Macau, an appeal would be

established in matters of law in the modality of the broader review of the decisions of the 1st Appeal for the Supreme Court of Justice.

On the other hand, taking into consideration the transference of Sovereignty on 20 December last, it was our intention to investigate the importance given to the penal processual guarantees, observed in the text of the Basic Law of the Macau Special Administrative Region.

Finally, following this same train of thought, we cannot fail to make a quick reference to the legislative alterations, yearning for appeals in penal matters, carried out by the new Law of Bases of the Judiciary Organisation of Macau (Law no. 9/1999), which, in the main, refer to the creation of the Court of Final Appeal and to the establishment of a double degree of appeal.

The development of Macau Arbitration System

Lok Wai Chong

(pp.605)

In this article, we can see a term «Arbitration» that bears a meaning to the legal technique for resolving disputes by referring them to a third party for a binding decision.

In the second part of the article, a detail analysis about the Macau arbitration system shows some problems in the following facts: 1. Macau Arbitration Structure has not been completed yet. 2. There is a large short talents of arbitrator for the need of the development of Macau. 3. The function of the arbitration institute is suffer from the limitation of autonomy. 4. The efficiency of the arbitration system is blocked up by the Macau court's intervention. 5. The Law of Macau Arbitration is awfully ideal.

In the last part of the article, we have some suggestions for improving the situation of Macau arbitration system, those are: 1. For realizing of the Law of Macau arbitration, Macau needs complete the structure of arbitration system as soon as possible. 2. Establishing a exchange net working with the other arbitration institutes. 3. Training more professional arbitration talents quickly. 4. Modifying the present laws in the area of Macau arbitration. 5. Rationalizing the relationship on the co-operation between the Macau court and the arbitration system.

Family, Kinship and Marriage; Space and Time Asymmetry

Cândida da Silva Antunes Pires

(pp.617)

This article endeavours to report on the origins and evolution of the Family Institution throughout the various cycles of the history of humanity, with reference to the "four corners" of the world and to the diversity of the people who inhabit them.

Based on the data supplied by Archaeology, History, Sociology and Social Anthropology, we attempt to describe and interpret the types of

organisation and the functions that the family, whether nucleus or expanded, have fulfilled in human societies, from primitive times until the present day.

Although restricted to its main outlines, the approach made here also undergoes some reflections about subjects within the family, such as education of the children and systems of parenthood, with special emphasis on the rules of marriage, from its "traditional model" as an institution carrying out its own interests, to its "modern model", in which this institutional side undergoes a pronounced fall in values.

In conclusion, emphasising the relativity and historicity of the concept of the family, the complexity, encompassment and fascination which offers all the matters related to it, in short, its vast importance and actuality.

Final report on the contingency plans of Macau Special Administrative Region facing the Y2K problem

Tou Chi Man

(pp.643)

This article states the preparations made by the Macau Government in solving the Y2K problem and reports on the result achieved. The awareness of the Government of the impending Year 2000 issue was shown with establishment of the Y2K Problem Consultative Council in 1998. Efforts were then made to alert both public and private sectors of this problem. To ensure no disruptions occur in the rollover into Year 2000, especially on 1 of January and on 29 of February, public utilities, hospitals, banks, the airport and the immigration, etc had made special arrangements and contingency plans. Smooth transition was made possible with support of the Government and public utilities in terms of money, time and manpower. Finally, it was recommended that some computer systems that had not undergone complete conversion should make necessary changes so as to ensure continuous operation in the year 2000 and beyond.

The Chinese government's claim of dominion over Macau from 16th Century to the middle of 19th Century

Wang Qichen

(pp.657)

Macau has been China's territory ever since ancient time. From 1553 when Portuguese went to Macau and rent it to the middle of 19th Century, the Chinese government had the claim of dominion over Macau and dominated all the affairs such as the territorial, military, administrative, judicial and customs events. Only after 1888, when Friendly, Commerce Agreement between China and Portugal went to effect, had the Portuguese obtained the administration right as «Permanent administration in Macau», which didn't mean that Portugal has the claim of dominion over Macau. According to International Law, administra-

tion is not equal to sovereignty, however, it is actually below sovereignty.

Joaquim Afonso Gonçalves, Professor and Sinologist

Antonio Aresta

(pp.677)

In this article the author recollects the extraordinary importance of the pedagogic work of the greatest Portuguese Sinologist of the nineteenth century, Joaquim Afonso Gonçalves (1781 to 1841). Forgotten by his contemporaries, his work (which is in need of a new edition) is one of the first bridges launched for a true Luso-Chinese understanding. Political vicissitudes prevented Joaquim Afonso Gonçalves from being the founder of the Portuguese Sinology School of Macau. The life and the works of a man who dedicated his whole life to the pedagogy of the Portuguese and Chinese languages is portrayed in broad outlines.