Rights for Sale: A Genealogy of Labor Immunization in the Brazilian Judiciary — with Theoretical Reflections from Esposito and Nietzsche

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Abstract

This paper investigates how the Brazilian Judiciary, historically regarded as a guardian of rights, has been silently transforming how these rights are understood and managed. Vacation and leave entitlements—once considered expressions of functional dignity—are increasingly relinquished voluntarily, becoming negotiable assets. Grounded in Roberto Esposito's paradigm of immunization and Friedrich Nietzsche's genealogy of morality, this study reflects on the shift from Hannah Arendt's "right to have rights" toward what may be characterized as the "right to sell one's own rights." As it becomes possible to "sell a right," a new legal semantics emerges in which rest is no longer a limit, but a resource. One opts to remain productive, accrue tasks, and postpone rest, thus integrating into an institutional mechanism that administers vitality through performance. In this scenario, the functional body not only propels the institutional machinery—it becomes its own measure of value. Power is made flesh—and Law, in this trajectory, becomes a politics of lived time. This logic, increasingly normalized through repeated administrative practices, is currently under discussion in the Brazilian Supreme Court, concerning the legitimacy of compensating unused vacation time for active public servants. The study proposes a genealogy focused on the Judiciary's everyday engravings, aiming to understand how rights can be redefined in the very bodies that enact them. Between gestures, routines, and institutional silence, a new grammar of citizenship emerges, where the body that decides and produces becomes the locus where Law reinscribes itself.

Keywords: biopolitics; Esposito; functional bodies; judiciary; Nietzsche