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FÜR EUROPÄISCHE RECHTSGESCHICHTE

MAX PLANCK INSTITUTE
FOR EUROPEAN LEGAL HISTORY

www.rg.mpg.de



Max Planck Institute for European Legal History

research paper series

ISSN 2699-0903 • Frankfurt am Main

No. 2015-03 • <http://ssrn.com/abstract=2616169>

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“The Active Arm of the Government” The Police of Buenos Aires in the First Half of 19th Century

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"The Active Arm of the Government" The Police of Buenos Aires in the First Half of 19th Century.

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I. Police and government in a recent episode of Argentinean history.

In the morning of 3rd December 2013 the province of Córdoba awoke with unforeseen news: the police force had decided to stay in their quarters –a measure known as *autoacuartelamiento*– and to left the capitol city without the security they were meant to provide. The cause of the strike was a long claim against the government to get an increase in the wages they received. Suddenly, this extreme but not unusual measure¹ culminated in a vastly chaotic situation which implicated disturbs, lootings, attempts of robbery, and, most of all, it showed a society whose individuals had recognized the necessity of taking guns for themselves.²

Those circumstances called the attention of the governor who, suspending a trip around Latin-America, returned immediately to his province. The three stages of his discourses would mark the rhythm of the events. In the first speech he gave, after descending from the

¹ According with the study of the "Centro de Estudios Nueva Mayoría", the number of "acuartelamientos" and mutinies since 1986 arise to 217 all around the country. For more information and graphics consult the url: http://www.nuevamayoria.com/index.php?option=com_content&task=view&id=4178&Itemid=30.

² Information taken from the National Journal "Diario La Nación", Frontpage, 5th December 2013. Url: <http://servicios.lanacion.com.ar/archivo/2013/12/05/001/DT> - Consulted [1.4.2015]

airplane, he stated that there would be no negotiation at all. Thus, the police force would be compelled to obey his orders. Consequently, the officers should return to their work, otherwise they would be severely punished. After a few hours, the images of Córdoba and the tension among the population caused a change of his oral management. In this second stage, he decided to enter into negotiations with the representatives of the police force (some relatives of the agents and a few lawyers).³ Meanwhile, the Governor asked for the help of the federal forces to reconstitute peace in his Province but, owing to the frail relationship between the President and the Governor –who was seen as a potential adversary in the presidential polls– he was left alone.⁴ In this context, the third speech occurred after the meeting. The announcement made clear that the police force had successfully won the struggle, because the agents obtained the increasing of their wages, as well as no condemnation for their actions. This final act made the power of the Police clear. After thirty-three hours of political frictions, violence and extreme uses of the force that embodied civil society, the police came down to the city to regain the control of the situation. The words they expressed serve as a good picture of the tension between forces: “Let’s go to regain the city, *Córdoba is ours*”.⁵

This episode was followed with attention, all over the country, by other police forces. The amazing triumph of the police over the Government served as a ground for the spreading of similar claims in the different States. In less than a week twenty-three out of the thirty-four state police forces rose against the governors.⁶

The most dramatic events were supposed to happen in the province of Buenos Aires. With a population of nearly twenty million inhabitants, most of them in poor conditions of living, and with a crisis in the security system, the dangerous situation rapidly called the attention of every newspaper. Here the structure of the problem was similar to Córdoba’s. On the one hand, the governor was seen as a potential candidate for next presidential elections, so the help of the Federal Government was not to be expected. On the other hand, the province

³ It is important to remark that the families –especially the wives– of the policemen were the leaders of the strike. This difference has some tactical explanation, because by doing so, no policeman could be condemn or make responsible for the actions of the group.

⁴ The crisis between the Federal and the State Government was encompassed by several meetings among the Chief of Ministers, the National Security Secretary and the Governor. On this conflict see: “Diario La Nación”, 5th December 2013, url: <http://www.lanacion.com.ar/1644745-con-el-eco-de-los-saqueos-cordoba-busca-volver-a-la-normalidad>; “Diario La Nación”, 5th December 2013, url: <http://www.lanacion.com.ar/1644860-el-gobierno-insiste-con-que-de-la-sota-no-solicito-el-envio-de-gendarmes>; “Diario La Nación”, 6th December 2013, url: <http://www.lanacion.com.ar/1645212-dos-dias-despues-de-los-saqueos-el-gobierno-enviara-2000-gendarmes-a-cordoba>. - [All information consulted on 1.4.2015]

⁵ Journal “Diario La Razón”, 5th December 2013, url: http://www.larazon.com.ar/economia/muerto-robos-saqueos-terror-Cordoba_0_521100061.html - [Consulted on 1.4.2015]

⁶ During the spread of the manifestation, the most dramatic case occurred in Tucumán, where the police strike left the neighbors alone, who in order to defend their properties decided to arm themselves and to fight the looters. The difference with the case of Córdoba was that, after a few hours, the people made a manifestation against the Government. At this point, the Gendarmería –Federal Force– react to protect the Governor expressing a real controversy between the citizenship, on the one hand, and security forces and the political government, on the other. Journal “Diario Ámbito Financiero”, 5th December 2013, <http://www.ambito.com/noticia.asp?id=719856>, - [Consulted on 1.4.2015].

presented a long experience of violence, and since the hyperinflation of 1989, has shown the end of the year with several looting and rampaging attempts. With that background it was reasonable to suppose that the Province was at an extreme risk.

Nevertheless, in this situation the strategy developed by the police force was different. Instead of remaining inside the quarters and leaving civil society by itself, the force chose to present that measure as a possibility in case the governor would not take its claim seriously. Thus, the nonconformity of the police was expressed by blocking the streets with their families in the free hours of work. Hence, the police control was secured but the claim was made visible to the authorities. This strategic action can be explained with the good bonds that the governor had established with the police force after an extended period of conflicts with the previous administrations.⁷ So, here the negotiation remained within the framework of pressure but there were not any extreme measures from one part or the other. The corresponding political conflicts between the Federal Administration and the State Government had been understood by the forces which, despite claiming more and better wages, looked with mistrust the criticism that came from the politics of the National Administration, especially taking under consideration the human rights policies of the later. In this special case, after some meetings, the salaries of the police force of Buenos Aires were considerably increased and the potential strike dissolved. This expressed the capability of governance of the governor and the confidence between Police and local politicians.

In any case, the tension that was reflected in every newspaper and the mass media played a huge role in the behavior of the population. The sense of insecurity, considered as a social fact, made people stop going to work, to close shops and even to avoid sending children to school. All that implied that the role of governance realized by police in social control was so important that without its intervention the population could not lead a normal life. More to the point, if the claims showed a bond between them (more money, more recognition) the logics of dealings were dissimilar. This fact makes visible the strategy used by the actors of the political relationships between the local administration and the police; also, between the Federal Government and the Province Government, and finally; between the police and civil society.

Those affairs expressed the problem of *governmentality* as a discipline of population and the role that the police institution has still today in shaping and controlling the public spaces. This point, seen through the lens of the paradigm of the development of devices of social control, allows to understand that police lingers as one of the more important institution of social control in the local states, which includes, logically, a connection with the constitutional and political structure of the state in Argentina. However, despite of being a huge internal problem, not too much ink on the police has been spilt and that deserves a short explanation.

⁷ On this process see: AGUSTINA UGOLINI, "La division entre oficiales y suboficiales en la policia bonaerense: de su problematización a la acción política pública", en BARRENECHE/OYHANDY (Comp.), *Justicias, leyes e instituciones de seguridad en Buenos Aires (siglos XIX a XX)*, La Plata, ed. Edulp, 2013.

II. Police: Narratives of a silent institution.

If each one of those strikes showed characteristics that could not be isolated from the specific conjunctures of political order of every local State, there is one thing they have in common: after the turbulences an extreme silence about the episodes prevailed in society and the mass media. Nobody dared to speak about the clash between the administration and the police. Therefore, the resolution of the conflict and the regaining of the control of the streets by police forces obliterated every question regarding the role of governors, the measurement of forces, the attitudes of the actors, etc. As can easily be understood, there were some functions of the police about which nobody wanted to know or even to deal with. So, only a few politicians tried to deal with the problem of police –considering the problematic relationship that every change implicates–, and the general population did not care about the problem of the forces. Nevertheless, that silent attitude can be easily understood and explained by recurring to the history of the studies on police in Argentina.

1. Studies on police in Argentina: A History of Silence.

The emptiness of studies on police and the lack of interest on it is linked with the role played by the forces during the different dictatorships that took the control of the Government during the 20th century. The involvement in different dictatorships has made the history and sociological analysis of the police ethically inconvenient, if not dangerous. So, the political inconvenience of dealing with an institution which guards inside its archives obscure facts and evidence of the link with State terrorism expelled the possibility of making research on it. In that sense, between the decades of 1950 and 1980 only few studies on police were produced. Consequently, the material with which the researcher counts it is considerably less voluminous than the one produced on other juridical, sociological and political topics. However, the analytical emptiness left by the social science did not imply a lack of discourses. On the contrary, the blank space had been filled up with an epical narrative produced in different institutional histories written by police commissions and policemen –*Comisarios*.⁸ The main aim of this literature was clear: to justify the role of the institution and to clean its name for the present action.⁹

It was not until the return of democracy in 1983, with the recovery of the constitutional rights, when those few institutional discourses were put in the balance to be criticized. In those circumstances, the new studies on police forces in Argentina focused on dismantling

⁸ RAMÓN CORTÉS CONDE, *Historia de la Policía de la Ciudad de Buenos Aires. Su desenvolvimiento, organización actual y distribución de sus servicios*, Buenos Aires, Biblioteca Policial, 1937; FRANCISCO ROMAY, *Historia de la Policía Federal Argentina*, Buenos Aires, Editorial Policial, 1975 (5 Volumes); ADOLFO E. RODRÍGUEZ Y EUGENIO ZAPPIETRO, *Historia de la Policía Federal Argentina a las puertas del tercer milenio. Génesis y desarrollo desde 1590 hasta la actualidad*, Bogotá, Editorial Policial, 1999.

⁹ OSVALDO BARRENECHE Y DIEGO GALEANO, "Notas sobre las reformas policiales en la Argentina, siglos XIX y XX", *Cuadernos de Seguridad*, N°. 8, 2008.

the institutional narrative, and by doing so, researchers started a long journey to understand the institutional logics of violence applied in the formation of the agents; violence that afterwards was poured into the society. The agenda was marked by the advances made by anthropological studies –such as juridical anthropology– and also by political science. Both of them were based and supported by Human Rights’ policies, which opened a path towards diverse research programs to deal with the “anti-democratic” practices internalized and reproduced by the force.¹⁰

As a consequence of that sedimentation of narratives, a thematic controversy is displayed in those texts, which can be seen as the result of a dialogical exercise between the institutional narrative and the one produced by social sciences. In short, it can be said that meanwhile the police force’s narrative tries to build a tradition, in order to legitimate an institution neglected by society and suspected by intellectuals; the studies made by social sciences are guided by the value of democratization, analyzing the role that the institution performed as a part of a traumatic violence unfolded by the State in the last fifty years. This narrative’s aim is to dismantle the reproduction of the authoritarian mentality inscribed in the police action nowadays.¹¹

What becomes clear in both cases, more than with other objects of study, is the link established with the present which appears as a key point to understand the production of police narratives. The focus on the present reduces the role of history to an operative tool, which becomes essential to reveal those traditions which still today operate in the mind of the agents and the institution.

2. Social Sciences and History: The role of legal history in police studies.

As already stated, the study of the history of police in Argentina is not a task which is presented exclusively in the historical field; on the contrary, it is the result of an interdisciplinary

¹⁰ SABINA FREDERIC, *Los usos de la fuerza pública*. Buenos Aires, Biblioteca Nacional, Universidad Nacional de General Sarmiento, 2008; DIEGO GALEANO Y GREGORIO KAMINSKI (coords.) *Mirada (de) Uniforme. Historia y crítica de la razón policial*. Buenos Aires, Teseo, 2011; MARIANA SIRIMARCO (comp.), *Estudiar la policía. La mirada de las ciencias sociales sobre la institución policial*. Buenos Aires, Teseo, 2010; MÁXIMO SOZZO, (dir.), *Policía, violencia, democracia. Ensayos sociológicos*, Santa Fe, Universidad Nacional del Litoral, 2005; SOFÍA TISCORNIA, *Burocracias y violencia. Estudios de antropología jurídica*. Buenos Aires, Antropofagia, UBA, 2004; SOFÍA TISCORNIA, “Introducción” a “La antropología política y jurídica, entre la etnografía y la historia”, in *Cuadernos de Antropología Social. Investigaciones en antropología política y jurídica*, Núm. 32, 2010; JOSÉ ANTONIO GARRIGA, “Barriletes, cachivaches e irrespetuosos. La alteridad y la lógica de la violencia entre los miembros de la policía de la provincia de Buenos Aires”, in *Ensamblés*, Vol. 1, Buenos Aires, 2014.

¹¹ As an example of the vast bibliography produced in the last decade here shall be remarked the following works: GABRIEL KESSLER, (COORD.), *Seguridad y ciudadanía. Nuevos paradigmas y políticas públicas*, Buenos Aires, Edhasa, 2009; MARTEAU, “Azul casi Negro: la gestión policial en: Buenos Aires. Notas para una política policial democrática”, in Briceño-León, (comp.). *Violencia, Sociedad y Justicia en América Latina*, Buenos Aires, CLACSO; MARCELO SAÍN, *El Leviatán azul. Policía y política en la Argentina*. Buenos Aires, Siglo Veintiuno, 2008.

exchange, accelerated by the claim of social sciences to comprehend a phenomenon of the present. In that case, the uses of history can be schematically ordered in two employments. The first one, corresponding to the anthropological studies, reaches historical studies for dismantling the construction of the policeman as a subject. In this way, history became a key tool for observing how the institutional logics were inscribed in the bodies through every day practices. Consequently, those analyses display and try to explain the structure of the *habitus* of policing in Argentina, recurring to the institutional history just to question the formation of police officers in the past and, consequently, to criticize the ideological background of a tradition which continues to be part of the police formation in the present.¹² The second approach corresponds to Political Sciences and expresses its relation with the past to recapitulate previous experiences of policing –in an international and comparative case studies–, looking forward to a horizon of expectation that has as an aim to produce institutional changes. Here, history serves as a crystallized image in which some critical characteristics of the police in Argentine are reunited: “self-governance”, “self-administration”, “anti-democratic attitudes” and “violence”.¹³

Both approaches recurred, principally, to recent history, considering that the short term –fifty or seventy years– is sufficient to recollect the information needed to comprehend the transformation of the institution in face of the authoritarian mentality, which could explain the tendency towards violence and self-governance. In that field a history of the police in connection with the history of other state disciplinary institutions can be found, especially, taking into consideration the role played by the army in the different dictatorships that occurred in Argentina during the 20th century.¹⁴ In recent times, historical science has received a call from those disciplines to develop a demystifying history of the police that implies a revision of the narrative of the police. This call has revitalized historical research.¹⁵

¹² See, for example, the recurrence to the slang –lunfardo– as an historical reference in MARIANA SIRIMARCO, *De civil a policía. Una etnografía del proceso de incorporación a la institución policial*, Buenos Aires, ed. Teseo, 2009.

¹³ SAÍN, *El Leviatán azul...*, cit.

¹⁴ As an example, LAURA KALMANOWIECKI, “Police, Politics and Repression in Modern Argentina”, in Carlos Aguirre and Robert Buffington (eds.), *Reconstructing Criminality in Latin America*, Delaware, Jaguar Books, 2000; LAURA KALMANOWIECKI, “Origins and Applications of Political Policing in Argentina”, in *Latin American Perspectives*, Vol. 27, N° 2, 2000; OSVALDO BARRENECHE, “Formas de violencia policial en la provincia de Buenos Aires a comienzos de la década del 60” in *Anuario del Instituto de Historia Argentina*, N° 12, 2012; OSVALDO BARRENECHE, “La reforma Policial del Peronismo en la Provincia de Buenos Aires, 1946-1951” in *Desarrollo Económico*, Vol. 47, N° 186, 2007; OSVALDO BARRENECHE, “Paro y represión a...Policías. Reclamos Salariales, protestas y huelga en la policía bonaerense (1955-1973)”, in *Desarrollo Económico*, Vol. 51, N° 202/203.

¹⁵ It can be pointed out, that exists also another line of studies related to a modernization and the techniques of knowledge developed by police during the last part of the 19th and the first part of the 20th century, in a strong connection with criminality, rather than politics. On this subject, see LILA CAIMARI, *La ley de los profanos. Delito, justicia y cultura en Buenos Aires (1870-1940)*, Buenos Aires, FCE, 2007; LILA CAIMARI, *Mientras la ciudad duerme. Pistoleros, policías y periodistas en Buenos Aires, 1920-1945*, Buenos Aires, Siglo XXI, 2012; DIEGO GALEANO, *Escritores, detectives y archivistas. La cultura policial en Buenos Aires, 1821-1910*, Buenos Aires, ed. Teseo, 2009.

Albeit the important trails opened by those studies and the precision with which they have been realized, they show some reluctance to extend the examination to the logic of governance. In this sense, the concentration on the everyday action of police simplifies the inter-connection with politics, considering mostly the influence of the current measures of Government, and thus, showing a tendency of taking into account almost exclusively a synchronic correspondence between both parts of the equation in the present. By doing so, this viewpoint disregard a *long term perspective* that could help to find some structural tendencies of the police institution and politics that could help to clarify some connections between them.

At this stage, it is undeniable that the problem is not the object itself but, perhaps, the time and *temporalization* chosen to understand the logic of police government. In this regard, as BRAUDEL once stated, “the social reality changes when it is observed from different temporal or spatial scales, or simply through diverse categories or levels of analysis”.¹⁶ From the particular point of view of legal history, the pretension to comprehend history from a constitutional and institutional perspective¹⁷, implicates a tendency to extend the timeline towards a long term period in the past.¹⁸ This particular position changes the dimension and the particularities of the analysis, allowing the researcher to find in the genesis of the institution some logical structures of knowledge, in order to find there the juridical and anthropological foundations of a political order. It is important to remark that far from being disconnected from the present, this perspective becomes important to achieve some structural configuration of police order that are occluded not only by the narratives but also by the languages used to write a history that looks to the present instead of dismembering the logic inscribed in the genesis of an institution.¹⁹

¹⁶ FERNAND BRAUDEL, “Histoire et Science sociales. La longue durée”, in *Annales E.S.C.*, Vol. 13, N° 4, [1958], p. 725-753, quoted and analyzed in depth by JAVIER FERNÁNDEZ SEBASTIÁN, “Tradiciones electivas. Cambio, continuidad y ruptura en historia intelectual”, in *Almanack*, N° 7, [2014], p. 8 note 7.

¹⁷ Constitutional must be taken in the sense of Brunner’s *Verfassung* which resembles the topic of Constitution as a historical concrete order –not only normative. See OTTO BRUNNER, *Terra e potere. Strutture pre-statali e pre-moderne nella storia costituzionale dell’Austria medievale*, Milano, Giuffrè Editore, 1983; CARL SCHMITT, *Teoría de la Constitución*, Madrid, Alianza, 2006.

¹⁸ In the long term perspective the studies on Police belong to the recent History of Justice, and they established a strong –despite being critical– dialogue with legal history. As an example see RAÚL FRADKIN, “Justicia, Policía y sociedad rural. Buenos Aires, 1780-1830”, in MARTA BONAUDO, ANDREA REGUERA AND BLANCA ZEBERIO, *Escalas de la historia comparada*, Buenos Aires, Miño y Dávila, 2008; RAÚL FRADKIN, Raúl, *La ley es tela de araña: ley, justicia y sociedad rural en Buenos Aires, 1780-1830*, Buenos Aires, Prometeo Libros, 2009. For a reconstruction of criminal justice and police in the city of Buenos Aires, the most important work is OSVALDO BARRENECHE, *Dentro de la Ley, Todo. La justicia criminal de Buenos Aires en la etapa formativa del sistema penal moderno de la Argentina*, La Plata, ed. Al margen, 2001. From the legal history the most important work belongs to ABELARDO LEVAGGI, “La seguridad en la Campaña Bonaerense entre los años 1821 y 1826. Establecimiento, supresión y restablecimiento de las comisarías de policía de campaña”, in *Investigaciones y Ensayos*, N° 20 [1976].

¹⁹ From conceptual history’s perspective see: GIUSEPPE DUSO en *La lógica del potere. Storia concettuale come filosofia política*, Milano, Polimétrica, 2007. The anthropological essence of history can be found in: BAROLOMÉ CLAVERO, “Historia y antropología. De la división convencional de las ciencias sociales”, in *Llull*,

At this point, the problem of government and police, of local states and nation-state, of functions of police in a society which opened this inquiry, can be better comprehend, when dismantling the contemporary conceptual framework, the logic of police and governance emerges without ‘statalistic’ categories.²⁰ Thus from an analytical perspective this reconstruction could show: 1) how the formation of the police institution was used as a strategy to create a central governmental power; 2) how the concept of police derived from the logic of domestic government; 3) how this power was inscribed in a tension with the traditional local police and justice system. Finally, considering those tensions as structural elements (Police vs. justice and central police government vs. local police government), the aim of this essay will be to reconstruct briefly, in the historical local context of Buenos Aires, the complexities that faced the creation of a centralize force as a result of the persistence of a negotiable political culture.

With the purpose of explaining those dimensions, and especially to confront them with an anachronistic history written by the police force, here the formation of the police force of Buenos Aires province in the early decades of the 19th century will be re-examined. This institutional history²¹ requires a *temporalization* which will be established in the period demarcated by two extreme years: 1812-1852. In this period of time, the year of 1812 will work as a milestone, which will allow building some bridges to the past –to recover some juridical dimensions which remained in the police– and also to extend the analysis of police to the future, reaching the late years of 1852 when Rosas government was overthrown. This temporality will help to see some structural elements of police order in the political organization, which would remain after the Constitution of 1853 was passed.

III. The police regulation of 1812: Context and languages.

1. The context: Triumvirate and local *Cabildo*.

During the revolutionary wars unleashed as a consequence of the crisis of the Hispanic Monarchy due to Napoleon’s invasion of the peninsula (1808), the Río de la Plata viceroyalty presented an acceleration of a process of militarization, which had already begun during the Bourbon’s attempts of reformation in the last quarter of the 18th century.²² In the first decade

vol. 4, [1981]; BARTOLOMÉ CLAVERO, *Tantas personas como estados. Por una antropología política de la historia europea*, Madrid, Ed. Tecnos, 1986.

²⁰ On the problem of state categories see: JEAN-FRÉDÉRIC SCHAUB, “Sobre el concepto de estado”, in *Historia Contemporánea*, N° 28 [2004].

²¹ See the chapter “Lo institucional y lo social”, in JACQUES REVEL, *Un momento historiográfico: trece ensayos de historia social*, Buenos Aires, ed. Manantial, 2005.

²² For a global and atlantic perspective see: ANTONIO ANNINO, LUIS CASTRO LEIVA and FRANCOIS-XAVIER GUERRA (comps), *De los imperios a las naciones: Iberoamérica*, Zaragoza, IberCaja-Forum Internacional des

of the 19th century, the tension between old and new forms of political government to rule the space became crucial in order to secure the territory.²³

The institutional changes were related with the state of captivity under which Ferdinand the seventh had been kept by Napoleon –*vacatio regis*. By using the theory of the retroversion of sovereignty, the diverse *pueblos*, represented by the *Cabildos* (city council) as a unity²⁴, according with the interpretation of that time, regained the sovereignty that they had once translated to the King.²⁵ Besides this and, owing to the common history of unity under the Viceroyalty, those local governments were convened to go to Buenos Aires with the purpose of meeting in a congress (*Junta Grande*), to decide on the proper actions that must be taken in the new context of instability. However, the extension of the war throughout the entire territory required to make some expeditious decisions, which the voluminous number of congressmen reunited in the *Junta* (board) could not realize. Thus, through the Organic Regulation (*Reglamento orgánico*) of 1811 a division of powers was realized, creating a new “executive” institution under the name of Triumvirate (*Triunvirato*), and leaving the legislative authority in the previous *Junta Grande*, an institution that was renamed as *Junta Conservadora* (Conservative Board).

A short time went by and the Triumvirate, suddenly, acquired a fundamental role. Not only by the competence to enact new regulations (*Reglamentos*) but because, by using those legal devices, the *Junta Conservadora* and other similar institutions were suppressed. In this case, the dissolution of the *Junta Conservadora* was afterwards followed by the suspension of the diverse boards held in the different provinces. The emptiness of governance in the interior of the Río de la Plata was fulfilled by the Triumvirate’s selection of governors who responded directly to its power.²⁶ The intention was clear: to concentrate the power as much as possible and, under the excuse of the defense of the homeland, to stifle every institution that limited the Government’s actions.

Sciences Humaines, 1994; JOSÉ MARÍA PORTILLO VALDÉS, *Crisis Atlántica. Autonomía e independencia en la crisis de la monarquía hispana*, Madrid, Marcial Pons Historia, 2006.

²³ On the local perspective see: TULIO HALPERÍN DONGHI, “Militarización revolucionaria en Buenos Aires, 1806-1815”, in TULIO HALPERÍN DONGHI (comp.), *El ocaso del orden colonial en Hispanoamérica*, Buenos Aires, ed. Sudamericana; TULIO HALPERÍN DONGHI, *Revolución y Guerra. Formación de una elite dirigente en la argentina criolla*, Buenos Aires, Ed. Siglo XXI, 2011 [1972]; GABRIEL DI MEGLIO, *¡Viva el bajo pueblo! La plebe urbana de Buenos Aires y la Política entre la revolución de Mayo y el Rosismo*, Buenos Aires, ed. Prometeo, 2007.

²⁴ JOSÉ CARLOS CHIARAMONTE, “La formación de los Estados Nacionales en Iberoamérica”, in *Boletín del Instituto de Historia Argentina y Americana Dr. Emilio Ravignani*, N° 15 [1997], pp. 143-165.

²⁵ On this subject see the classical work of TULIO HALPERÍN DONGHI, *Tradición política española e ideología revolucionaria de Mayo*, Buenos Aires, Prometeo, 2009 [1961]. Including the presence of Puffendorf in the logic of the *vacatio regis*, see ANTONIO ANNINO, “Soberanías en Lucha”, in ANTONIO ANNINO – FRANCOIS-XAVIER GUERRA (Coord), *Inventando la Nación. Iberoamérica siglo XIX*, México, Fondo de Cultura Económica, 2003.

²⁶ In addition, in terms of the justice, in January 1812 the *Real Audience* was changed to a *Cámara de Apelaciones* –Courts of Appeal.

The tendency to accumulate power facilitated the spread of control over a vast territory. However, the collateral effect of constructing a central institution was to impulse a friction between factions to take control of it. In fact, the conflicts started not long after the Triumvirate had suppressed the *Junta Conservadora*. As a result of military mutiny that occurred at the peak of the revolutionary war, the 8th October 1812 a “Second Triumvirate” was established. This change made evident the ephemeral character of the Government’s power and prepared the ground for the unfolding of several devices to gain more influence.

In this process of concentration of power there were some institutions difficult to be dissolved. Among them appeared the traditional *Cabildo* of Buenos Aires, which administrated the justice of first instance and was, also, in charge of the local political government –Police-. Both jurisdictional powers were reunited in the city council and made it capable of restricting considerably the development of the Triumvirate in the main center of its power: Buenos Aires. However, unlike the *Junta Grande* or the *Real Audiencia* –organs which were erased from the map of power–, this institution was deeply rooted in the traditional political structure from which the new government had gained its legitimacy –retroversion theory–, so its suppression was logically impossible. Precisely, even when the state of emergency allowed taking some extreme measures, the possibility of bringing under control the *Cabildo* of Buenos Aires was a complicated matter.²⁷

So, the role of the city council and the power that it held made the Triumvirate to be worried about the future of its action. In this context, the constitutional impossibility of eradicating the institution did not stop the later to intent reducing the local powers. Consequently, if the institution of justice held by the *Cabildo* was difficult to take over, because of the ideological limits imposed in a jurisdictional world, its second function as a local political government appeared as a possible target. In this context, the 22nd November 1812, the *Reglamento provisional de Policía* (Provisory Regulation of Police) was sanctioned, and this juridical piece could be seen as the attempt of the executive Government to annex one of the powers of the *Cabildo*: the Police.

2. Text, languages, powers.

To accomplish the difficult task of diminish the power of the city council and to appropriate its police functions, the Triumvirate wrote a regulation by which it created a new Force. From a legal perspective the “Provisory Regulation of Police” could be separated in two parts. The first section corresponded to the structure of the institution, in which the position occupied by the *Intendente* (Chief of police), the *comisarios* and the auxiliaries were established (arts. 1º/17º). In the second part the functions and the devices with which the Head of Police counted to exert its jurisdictional powers were described (arts. 18º/34). Inside this structure

²⁷ On this conflictive process see the excellent and clarifying reconstruction made by MARCELA TERNAVASIO, *Gobernar la revolución. Poderes en disputa en el Río de la Plata, 1810-1816*, Buenos Aires, Siglo XXI Editores, 2007, pp. 108-126. On the power reserved to the *Cabildo*, pp. 93-96.

three points are crucial to comprehend the role of the Regulation in the dispute for hegemony. The first problem that faced the legal instrument was to establish –in the narrative– which was the origin of the police; the second task was to describe the functions of the police; and, finally, the last topic was to try to set some boundaries between the police and other institutions with the aim of restricting the intromissions of the city council in matters of police.

The first point can be traced in the article 10° where it stated: “From now on is suspended the police function as it has been practiced the Governor Intendant in the Capitol”. Apparently, by this article the power of the Police Institution was presented as a continuity of the function that once held the now “suspended” ex-officer *Gobernador Intendente*.²⁸ In this regard, the Regulation could be seen as a way of filling a blank left by the retreat of the Hispanic officers, but seen through the contextual frame given by the tendency to centralize and to accumulate power the appeal to the “Governor” had another meaning. By doing so, the Triumvirate avoided the direct reference to the *Cabildo* –the real danger–, which had reinforced its police power in the vacancy of that royal officer. However, by recalling to this bourbon officer the Government revitalized a figure which traditionally had been controversial for local powers.

The previous tensions between these two instances –the local city council vs. the *Gobernador-Intendente*– had presented a long history of collisions in the territory and the intention of the later of getting rid of the control and limitations imposed by the *Cabildo* were well known. In fact, in a foregoing *Bando* (local regulation) enacted by the Governor and General Captain, JUAN JOSÉ VÉRTIZ in the year of 1772, this point had been underlined:

To all the commissioners and to each of them for the matters expressed in this Bando, using of the powers that in me reside and on behalf of His Majesty, may God Protect, I confer them all the Economic jurisdiction that is for Law required, privately and absolute, *without being disturbed by any of the justices, being only subjected to this Government*.²⁹

As the *Bando* shows, the logic of policing –economic jurisdiction in the old language– had presented a conflict with the justices and, as it has been studied, this limitation proceeded especially from the local magistracies.³⁰ Thus, the origins of this power recreated and reinstalled an old controversy and, as a result, the indirect attack against the city council appeared

²⁸ EDBERTO OSCAR ACEVEDO, “La Causa de Policía (o Gobierno)”, in JOSÉ MA. MARILUZ URQUIJO (Dir.), *Estudios sobre la Real Ordenanza de Intendentes del Río de la Plata*, Buenos Aires, ed. Instituto de Investigaciones de Historia del Derecho, 1995.

²⁹ “A todos los cuales comisionados juntos, y a cada uno para los asuntos que van expresados en este bando, usando de las facultades que en mí residen y en nombre de Su Majestad, que Dios guarde, les confiero cuanta jurisdicción económica es por Derecho necesaria, privativa y absoluta, sin que en ella puedan ser inquietados por ninguna de las justicias, quedando únicamente sujetos a este gobierno” in VÍCTOR, TAU ANZOÁTEGUI, *Los bandos de buen Gobierno del Río de la Plata, Tucumán y Cuyo. (Época hispánica)*, Buenos Aires, Ed. Instituto de Investigaciones de Historia del Derecho, 2004, p. 284.

³⁰ ALEJANDRO AGÜERO, “Jurisdicción criminal y represión informal en las postrimerías coloniales. Córdoba del Tucumán, siglo XVIII”, en *Revista de la Junta Provincial de Historia de Córdoba*, Segunda Época, Núm. 23 [2006]; AGUSTÍN E. CASAGRANDE, “Erradicando los *rústicos juzgamientos*. La Real Audiencia y las justicias menores de Buenos Aires, 1785-1787”, in *Sudhistoria*, N° 5 [2012].

clearly. Consequently, the second step was, then, to restrain the *Cabildo*'s competences by describing the functions of the police institution.

The article 11° declared that: "The Institute of the Intendant of Police is the direction and arrangement of all the trades related to the *tidiness, police and good order* of the capital, suburbs, prisons, and other public places [...] it possesses all the required *civil, economic, direct and gubernatorial jurisdiction* to perform its duties". Further, but now considering the spatial terms required for establishing a jurisdiction, it could be read: "The jurisdiction of the General Intendant –Chief of Police–, both *economic and surveillance*, is extended to the Capitol jurisdiction, notwithstanding with the ordinary practiced by the justices in the countryside, which shall make themselves understand with General Intendant in all the cases contained in the present Regulation" (art. 13°). These articles extended the functional jurisdiction of the Police towards the natural space of the city council. As it can be seen in the *Bandos de Buen Gobierno*, from the 17th and the 18th century, those functions had been traditionally realized by the neighbors and the auxiliaries of the *Cabildo*.³¹ And even when the Bourbon authorities regained that power, to put the jurisdiction in action had always required the assistance of the neighbors. Here the new jurisdiction would not only overlap the spatial delimitations of the *Cabildo*, but it would also try to replace the neighbors-commissioners by officers under the dependence of the Police Institution.

Now, there was not only a superposition of functions, but also the Regulation's aim was to achieve a displacement of powers by creating some protections for the new jurisdiction of the Police. The article 9° was established that: "The jurisdiction of the Chief of Police depends immediately from the Superior Government, with exclusion of any other authority and it shall be subject to residence."³² And last but not least, in the closure of the Regulation appeared a declaration which showed the Triumvirate's endeavor to create a force which exclusively responded to its leadership. Precisely, in the article 35° of the Regulation, and resembling the quoted *Bando* of 1772, it was written: "The intendance of Police is not a magistracy of pure dignity; it is the executor and the active arm of the Government and its immediate delegate in this branch".³³ The article tried to anticipate and to prevent the expected reaction of the neighbors of Buenos Aires.

The interesting point, here, is to realize that the formation of the police (the arm), should not be seen simply as an extension of a preconceived power (the Government); on the contrary, as an interpretative hypothesis it can be said, that it represented a strategy to build the later –provisory and recently established. In this sense, the arm was nothing but a tool to the self-inauguration of the body. Nevertheless, as it will be explained further, the Police was far from being "attached" to the body and thus, the *governmentality* on the territory was difficult to achieve.

³¹ TAU ANZOÁTEGUI, *Los bandos...*, cit.

³² Registro Oficial de la Nación Argentina, pp. 187-189; Art. 9.

³³ Ídem.

At this point, by recovering an old conflict between centralist government and the local police, the foundations of the police of Buenos Aires cannot be seen as a novelty. Besides, the usage of old juridical resources by the authors of this juridical piece shows, that they were not only a part of a still remaining legal culture, but also makes clear the way a displacement of power could be realized by using traditional categories.³⁴ The anchorage in the past, precisely call the attention to get the structural elements of police's foundation in the traditional legal order. To get to this point and to understand the genesis, the logic and the apories of the "new institutional government" two correlative strategies can be unfolded. The first one shall be focused on the semantic of power inscribed in the words selected to breathe life to the police institution. In addition, that exercise will be complemented by the analysis of the constitutional relationships of powers in which the new institution surfaced.

IV. *Policia*: historical stratification of a juridical concept.

Starting from the two articles that described and demarcated the power of the police, it can be seen how the signifiers selected by the Government were principally adjectives that accompanied the historically profound and ubiquitous concept of jurisdiction. Consequently, if the police was presented as an especial type of this genre, its particularity had to be distinguished by singular lemmas: *economic*, *direct* and *gubernatorial*. Furthermore, as if the qualification of the jurisdiction was not clear enough, in the description of the task and objectives of the Institution of Police appeared: *police and good order*.

Those words had a specific meaning given by the integrated employment of them inside the classical juridical reasoning. But to unveil the meanings compressed in the semantic field of the concept "police" within the scheme of the exercise of the powers in which it emerged –from the 16th up to the 18th centuries–, a methodological clarification must be done.

It can be pointed out, that the breaking in the semantic of the political concepts brought by the new discourses of the 18th and 19th centuries³⁵ impedes to the contemporary reader to reach the true meaning of the words used in the past without what is called an histori-

³⁴ CLAUDIO NUN-INGERFLOM, "Cómo pensar los cambios sin las categorías de ruptura y continuidad. Un enfoque hermenéutico de la revolución de 1917 a la luz de la historia de los conceptos", in *Res pública*, N° 16 [2006].

³⁵ What underlies here is the heuristic category of *Sattelzeit*. See: REINHART KOSELLECK, "Einleitung", in OTTO BRUNNER, WERNER CONZE, REINHART KOSELLECK, *Geschichtliche Grundbegriffe: Historisches Lexikon zur politisch-sozialen Sprache in Deutschland*, Stuttgart, Klett-Cotta, 1972, Band I, p. XV; JAVIER FERNÁNDEZ SEBASTIÁN (DIR.), *Diccionario político y social del mundo iberoamericano. La era de las revoluciones, 1750-1850*, Madrid, Fundación Carolina-Sociedad Estatal de Conmemoraciones Culturales-Centro de Estudios Políticos y Constitucionales, 2009, Bloque Introductorio. It is interesting to remark that in the case of Latinamerica the *Sattelzeit* traditionally presented for the European world around the years of 1750-1850, in Latin-America was displaced to the years of 1780-1880 (see the second volume of the Project Iberconcepos).

cal-conceptual consciousness.³⁶ To achieve this, it shall be remember that it was only during the 19th century and, owing to the formation of a new block of modern conceptuality, when the semantic field of the concept of police was reduced significantly, coming to represent an institutional force in charge of securing the inner State, especially related with criminality.³⁷ In the specific case of the concept of “police”, this *Trennung* could be exemplified in the development of the *Polizeiwissenschaft*. To this extent, this science can be seen a watershed between two distant worlds and experiences. So, the discipline conjugates inside its space of matters, on the one hand, a long tradition of governmental and political knowledge and, on the other hand, the attempt to use it to create a State.³⁸ Notwithstanding the contact with those lectures in the Spanish world through the circulation and translation of the specific literature³⁹, the impact in the Río de la Plata should be moderated, pervading the old senses of the traditional law.⁴⁰

According to this, to comprehend the senses inscribed in the formation of the institution and to achieve a proper contextualization for a more accurate understanding of the role and the structure of the police in the early 19th century, here the effort will be focus on recovering the ancient juridical meanings inscribed in the concept, trespassing the limits given by the modern *state* language.⁴¹

³⁶ DUSO, *La lógica del potere...*, cit., p. 70. ELÍAS PALTI, remarks as a key element of historical reconstruction the “historic-conceptual accuracy”.

³⁷ Over the semantic displacements of the concept of Police two reconstructions could be seen as a guide the conceptual history. Both were made for the German linguistic space: FRANZ-LUDWIG KNEMEYER, “Polizei” in BRUNNER, CONZE, KOSELLECK, *Geschichtliche Grundbegriffe...*, cit., Band IV, 1978, pp. 875-897; KARL HÄRTER, “Polizei”, in FRIEDRICH JAEGER (Ed.) *Enzyklopädie der Neuzeit*, Stuttgart, Ed. J.B. Metzler, pp. 170-180.

³⁸ As VON UNRUH has explained meanwhile in the edition of 1756 von Justi was still anchored in the antique conception of police, seen as the duty of providing the entrust to the subjects by protecting them, in the edition of 1760/61 the objective of the *Polizeiwissenschaft* was presented by saying that the main goal was the “Grundfesten zu der Macht und Glückseligkeit der Staaten” and by it the State should provide the ground for the development of the subjects or the families. Between the two editions it can be appreciated the role of the State and the relation with the subjects in a tendency of liberating the forces of the subjects, and so to reduce the “duty” of the sovereign. GEORG-CHRISTOPH VON UNRUH, “Polizei, Polizeiwissenschaft und Kameralistik” in KURT G. A. JESERICH, HANS POHL, GEORG-CHRISTOPH VON UNRUH (eds.), *Deutsche Verwaltungsgeschichte*, Band I, Stuttgart, Deutsche Verlags-Anstalt, 1983, p. 416-417.

³⁹ ESTEBAN CONDE NARANJO, “Libros de policía, policía de libros. España, 1800”, in *Quaderni Fiorentini per la storia del pensiero giuridico moderno*, N° 35 [2006].

⁴⁰ Specifically, that means to temper the uses of Foucault theory, especially, in relation with the impact of the German *Polizeiwissenschaft* and the work of Nicolas Delamere in the imaginary of order and social control of the rulers in the Spanish periphery. On this subject: TOMAS A. MANTECÓN MOVELLÁN, “Meaning and social context of crime in preindustrial times: rural society in the North of Spain, 17th and 18th centuries”, in *Crime, Histoire & Sociétés*, Vol. 2 N° 1 [1998]; for the case of Mexico, it is remarkable the recent study of DIEGO PULIDO ESTEVA, “Policía: del buen gobierno a la seguridad, 1750-1850”, in *Historia Mexicana*, Vol. 60, N° 3 [2011], pp. 1595-1642.

⁴¹ On the problem of State languages in Police history from the recent Spanish historiography see: JOHANNES-MICHAEL SCHOLZ, “Policía”, in MICHAEL STOLLEIS-KARL HÄRTER-LOTHAR SCHILLING (eds.), *Policey im Europa der Frühen Neuzeit*, Frankfurt am Main, Vittorio Klostermann, 1996.

1. *Policía, Buen Gobierno, Economía*: on the paternal structure of power.

From the linguistic perspective, the appearance of the word *Policía* (police) can be traced in the Courts Acts of the 15th century.⁴² This lemma, due to the indeterminacy of pre-modern conceptual framework had an extensive sense and rarely appeared unaccompanied. On the one hand, the word was commonly composed by the using of the adjective *Buena* –good–, resulting *Buena Policía* –Gute Policy, Good Police. In this sense, the use of *Buena Policía* or *Buen gobierno y policía* resembled the desirable state of the community⁴³, which was associated with having a quiet and pacific coexistence and living in justice. Here the determination of the aim of the police force as “police and good order” –*policía y buen orden*, resembled to the old significance of living in quietness and harmony.⁴⁴ Consequently, it was neither strange nor overabundant to find that the role of the police institution was to achieve a “good police”. If the signifier was the same there was not tautology in its usage.

Besides this particular employment, the lemma was also found without qualification. In those circumstances, however, it was part of a structure composed by other words, which appeared in the qualification of the jurisdiction: *Gobierno* and *Economía*. This linguistic pair can be encountered in laws and juridical literatures of the Spanish tradition. For instance, in the *Corregidor Perfecto* written by Lorenzo Guardiola y Sáez (1785), the role of the *Corregidor* (ruler-regent) was described in this way:

Generally they have observed and practiced what in the Laws of these kingdoms, Instructions, Decrees and *Pragmáticas* is established as much for the good administration of justice, as for the *political and economical government* of the Towns (*pueblos*), with all that could guide to the benefit of the Subjects, and the prosperity of the domains of the King our lord...⁴⁵

In a contemporary text, in which the officer's powers were left behind in order to analyze the jurisdictional spaces of the government and justice, it could be read: “Belong, thus, the political and economical government of the towns (*pueblos*) to their city councils –*Ayuntamientos o Consejos*–, and so exclusively that, without a complain of any interested part or prosecutor instance, the *Chancillerías* or *Audiencias* cannot interfere in these matters.”⁴⁶ In both cases ap-

⁴² JESÚS VALLEJO, “Concepción de Policía”, in MARTA LORENTE (Dir.), *La jurisdicción contencioso-administrativa en España. Una historia de sus orígenes*, Madrid, Consejo General del Poder Judicial, 2009, p. 118.

⁴³ HÄRTER, “Polizei”..., cit., p. 171.

⁴⁴ AGUSTÍN E. CASAGRANDE, “Por una historia conceptual de la seguridad”, in *Conceptos Históricos*, N° 1 [2015] *in press*. The logic of good order appeared in several ordinances in reference with a pacific life, using the traditional Agustino's concepts –*Tranquilidad, quietud pública, pax et justitia*. On this topic, see THOMAS SIMON, *Gute Polizei. Ordnungsleitbilder und Zielvorstellungen politischen Handelns in der Frühen Neuzeit*, Frankfurt am Main, Vittorio Klostermann, 2004, pp. 22-27.

⁴⁵ LORENZO GUARDIOLA Y SÁEZ, *El corregidor perfecto, y juez exactamente dotado de las cualidades necesarias y convenientes para el buen Gobierno Económico y Político de los Pueblos...*, Madrid, Imprenta y Librería de Alfonso López, 1785, p. 157-158.

⁴⁶ “Pertenece, pues, el gobierno político y económico de los pueblos a los Ayuntamientos o Consejos de ellos, y tan privativamente que, no habiendo queja de parte o instancia fiscal, no pueden las Chancillerías o Audiencias entrometerse en estos asuntos”, SANTAYANA BUSTILLO, *Gobierno político de los pueblos de España, y el corregidor, alcalde y juez en ellos*, Zaragoza, 1742, p.7. Quoted and analyzed by ALEJANDRO AGÜERO,

peared a clear separation between “justice” and “government”, being the later a power that belonged to the *Pueblos* which were ruled by the police order –this aspect will be studied later. There, as in many other cases, the adjective economical was not groundless. Nevertheless, in regard of this concept’s meaning, inside the field occupied by the semantic of governmental power, the reference to the pure commercial and productive tasks shall be suspended. In this sense, during the 16th and 18th centuries, the term referred to the government of the house, corresponding to the idea of domestic power.⁴⁷

On this subject, it is worth pointing out that in the late medieval reception, the Aristotelian theory for the virtuous existence, divided in the correlated spheres of ethics –whose space was the individual–, *oeconomy* –related to the house– and politics –community–⁴⁸ was extended throughout Europe.⁴⁹ As it has been abundantly studied by legal history, the second discipline –*oeconomy*– functioned as a source to which the jurists resorted for developing extra-jurisdictional powers for the King in the modern era.⁵⁰ In regarding the juridical-political thought, the King had been always represented as a judge, which allowed the exteriorization of his power only in case of disturbance of a perfect and given order. Nevertheless, during the 16th and 17th centuries, the blossoming of a new metaphor that presented the King as *Paterfamilias*⁵¹ widening its possibilities of intervention. Exactly, by this correlation with the figure of the father, the King could arbitrate the organization of the political space resorting to diverse measures justified by the *preventive* role of the father in regard his children.

In the Spanish cultural space the reference to the Economy was rapidly extended from the figure of the Monarch⁵² to the rulers of the cities, with the presentation of the local authori-

“Herramientas conceptuales de los juristas del derecho común en el dominio de la administración”, in LORENTE, *La jurisdicción contencioso-administrativa...*, cit., p. 31.

⁴⁷ OTTO BRUNNER, “La ‘casa grande’ y la ‘Economica’ de la vieja Europa”, in *Prismas revista de historia intelectual*, N° 14 [2010]; On the emergency of the Political Economy and the displacement of meanings see also, MARK NEOCLEOUS, *La fabricación del orden social. Una teoría crítica sobre el poder de policía*, Buenos Aires, ed. Prometeo, 2010.

⁴⁸ MICHAEL STOLLEIS, *Geschichte des öffentlichen Rechts in Deutschland. Reichspublicistik und Policywissenschaft (1600-1800)*, Erster Band, München, C.H. Beck, 1988, p. 336.

⁴⁹ For a global and comparative vision on this phenomena see: STOLLEIS-HÄRTER-SCHILLING, *Policy...*, cit.

⁵⁰ DANIELA FRIGO, “<<Disciplina Rei Familiariae>>: a *Economia* como Modelo Administrativo de *Ancien Régime*”, in *Penélope, Fazer e desfazer a história*, N° 6 [1991]; LUCA MANNORI, “Per una ‘preistoria’ della funzione amministrativa. Cultura giuridica e attività dei pubblici apparati nell’età del tardo diritto comune”, in *Quaderni Fiorentini per la storia del pensiero giuridico moderno*, N° 19 [1990]; ANTÓNIO MANUEL HESPANHA, “Justiça e administração entre o Antigo Regime e a Revolução”, in BARTOLOMÉ CLAVERO, PAOLO GROSSI, FRANCISCO TOMÁS Y VALIENTE, (eds.), *Hispania. Entre derechos propios y derechos nacionales*, Milano, 1990, Tomo I; BARTOLOMÉ CLAVERO, *Antídora. Antropología Católica de la Economía Moderna*, Milán, ed. Giuffré, 1991.

⁵¹ FRANCESCA RIGOTTI, *Die Macht und ihre Metaphern. Über die sprachlichen Bilder der Politik*, Frankfurt am Main, Campus Verlag, 1994, pp. 86-95.

⁵² This was mainly through the literature named “Policía Christiana” during the 16th and 17th centuries. See VALLEJO, “Concepción...”, cit., p. 199; ROMINA ZAMORA, “Amor, amistad y beneficio en la biblioteca para padres de familia de Francisco Magallón y Magallón. Una defensa tardía de la *oeconomía*”, in *Revista de Historia del Derecho*, N° 46 [2013].

ties as ‘*Fathers of their Republics*’.⁵³ In one of the most quoted book, that circulated all over the Spanish Monarchy, written at the beginning of 17th century, it could be read:

The Economy is equivalent to Politics, which deals with housekeeping, because the well-governed family is the true image of the Republic, and the domestic authority is similar to the supreme authority, and fair housekeeping is a true model for the government of the Republic [...] because the house is a small city, and every city a big house.⁵⁴

In that paragraph the old sense of the lemma Economy appeared clearly. However more than the semantic field of the word, what becomes decisive is the passage from the domestic discipline to the political space in a condensation of images which would operate with immense clarity in the receptors’ mentality. This “familiarization of politics”, to use AGÜERO’s sentence for describing this new political motif⁵⁵, supposed an extension of extra-jurisdictional competences, which found in the tutorial role of the father towards his children a model to act preventively and, also, in the fatherly love an excuse for punishing without the figure of trial. It was this preventive role the one that appeared as an Economical function of the police. To act “direct” and to have an “economical jurisdiction” implicated the vigilance and other characteristics of the police action which appeared with detail in the Regulation of 1812. However in the classical juridical theory, as the sources show⁵⁶, that power belonged to the *Repúblicas*, constituted by the city councils: *Cabildos*.

2. *Policía* and *Regimiento*: the oblivion of the city.

If the old meanings remembered the domestic government’s structure, which worked as a legitimacy’s fountain for the surveillance, and likewise, the Good Order and Police recovered the old aspiration of having a community in order and quietness; the oblivion of the word *Regimiento* –Regiment, that traditionally accompanied the syntactic field of police, was not innocent. Here, the attack against the *Cabildo*, and the radical change of orders, always inside the traditional constitution, can be better understood.

The formula Political Government and Regime –*Gobierno político y Regimiento*– was essential in the structure of order of the Spanish tradition. Those two words, in effect, were so relat-

⁵³ This transference occurred during the 17th and the 18th centuries, and the vehicle was the “*Literatura Práctica*”. See ALEJANDRO AGÜERO, “El testimonio procesal y la administración de justicia penal en la periferia de la Monarquía Católica, Siglos XVII y XVIII”, in *Fontes*, N° 1, 2014, pp. 6 y 7

⁵⁴ “Equipárese la Política a la Económica, que trata del gobierno de la casa, porque la familia bien regida es la verdadera imagen de la República, y la autoridad doméstica semejante a la autoridad suprema, y el justo gobierno de la casa es el verdadero modelo del gobierno de la República. [...] porque la casa es una pequeña Ciudad, y la Ciudad una casa grande.” JERÓNIMO CASTILLO DE BOVADILLA, *Política para Corregidores y señores de vasallos en tiempos de paz y de guerra*, Madrid, ed. Imprenta de Joachin Ibarra, 1759, Tomo I, Libro, I, Título II, 29, p. 13. On this topic see BARTOLOMÉ CLAVERO, “Beati Dictum: derecho de linaje, economía de familia y cultura del orden”, in *Anuario de Historia del Derecho Español*, N° 63-64 [1993-1994], p. 63.

⁵⁵ AGÜERO, “Herramientas...”, cit., p. 40.

⁵⁶ See the quotation of SANTAYANA BUSTILLO: note 44.

ed that “regiment” rapidly became the signifier for designate the special kind of government established for the conservation of each *República* –city.⁵⁷ Later on, from that word derived the name of the officials who were in charge of that task. Finally, the signifier was also used to name the place where the officials and neighbors gathered in assembly.⁵⁸ In one philological reconstruction of the word realized at the beginning of 17th century, CASTILLO DE BOVADILLA stated that “*de todo ello se colige, quan antiguo sea el Regimiento, y Policía de Aristóteles...*” In his work, for example, the unstable meaning of the word *Policía* found stability only when referred to the role of *Regimiento*, which meant, according to FRANCIOSINI, “government, apparently to the abundance of the Republic.”⁵⁹

In several ordinances of diverse towns of the peninsula appeared constantly the formula “*Buen regimiento y policía*” (good regiment and police); and following the suggestions given by THOMAS SIMON for the reconstruction of the concept of police in the German linguistic area, those two concepts were a synonymic couple condensed in a pleonastic formula.⁶⁰ As it can be seen, the connection between the city and the police was a constitutional factor in the organization of power.⁶¹ This device –the city and the police order– had been translated from the Spanish peninsula to the Río de la Plata, and had functioned as the pivotal tool in the process of “arming politically the territory.”⁶² In this regard, the history of the local government (*Regimiento*), summarized a long tradition of politics that came from the Spanish *reconquista* of the territories during the 15th century.⁶³ In the particular case of Buenos Aires owing to the effect of distance from the peninsula and from other apparatus of government

⁵⁷ ALEJANDRO AGÜERO, “Ciudad y Poder Político en el Antiguo Régimen. La tradición castellana” in *Cuadernos de Historia*, N° 15 [2005]; see, also, from the microhistory of the political space: DARÍO G. BARRERA, *Abrir puertas a la tierra. Microanálisis de la construcción de un espacio político. Santa Fe, 1573-1640*, Ed. Ministerio de Innovación y Cultura de la Provincia de Santa Fe y Museo Histórico Provincial “Brigadier Estanislao López”, Santa Fe, 2013.

⁵⁸ Diccionario de la lengua castellana, en que se explica el verdadero sentido de las voces, su naturaleza y calidad..., Madrid, Imprenta de la Real Academia Española, por los herederos de Francisco del Hierro, 1737, p. 545.

⁵⁹ LORENZO FRANCIOSINI FLORENTIN, *Vocabulario Español, e Italiano aora nuevamente sacado a luz*, Roma, Juan Angel Rufineli, y Angel Manni, 1620, p. 635.

⁶⁰ SIMON, *Gute Polizei...*, cit., p. 111.

⁶¹ HEIKKI PIHLAJAMÄKI, “Lo europeo en Derecho: Ius Politiae y el derecho indiano”, in FELICIANO BARRIOS PINTADO (Coord.) *Derecho y administración pública en las indias hispánicas*, Actas del XII Congreso Internacional de Historia del Derecho Indiano, Cuenca, Ed. Universidad de Castilla-La Mancha, 2002. On this topic is clarifying the recent book: VÍCTOR TAU ANZOÁTEGUI – ALEJANDRO AGÜERO (Coord.), *El derecho local en la periferia de la Monarquía Hispánica, Río de la Plata, Tucumán y Cuyo siglos XVI-XVIII*, Buenos Aires, Inhíde, 2013.

⁶² ANTÓNIO MANUEL HESPAÑHA, “Espacio Político”, in *La Gracia del Derecho: Economía de la Cultura en la Edad Moderna*, Madrid, CEC, 1993. Hespanha, XXX.

⁶³ ALEJANDRO AGÜERO, “Expansión y Colonización”, in MARTA LORENTE – JESÚS VALLEJO (Cords.), *Manual de Historia del Derecho*, Valencia, Tirant Lo Blanch, 2012.

this castellan tradition of city government had been strengthened, creating by this way a convention among the neighbors that linked the Police with the city.⁶⁴

Considering this tradition, the new Police, dependent from the Government, continued, in an accelerated way, the tendency of the Bourbons reformers of trying to expropriate the Police control from the *Regimientos* (city councils). What in old times had been conceived as the tutor role of the regency of the town, invested with the police power by the neighbors, would be dislocated obliterating the electoral factor that functioned as the empowerment of the neighbors to exercise the political government of the city.⁶⁵ Simultaneously to the change in the election's logic, the creation of a new institution generated a *delocalization process* that impacted in broadening the space of action. Precisely, without a tight dependence to the neighbors the police could extend its domains.

Inside this scheme, however, the resistances of the locals against the centralization would find an expression in the intervention of the justice against the police advance. Those measures, which in essence belonged to the same strategy unfolded during the Bourbon era, constituted the city council as the center of opposition. However, to understand the historical and logical ground on which that antagonism took place, the tension between the justice and the police shall be revisited.

V. Police and Justice: Change of orders, continuity of values.

Traditionally the institutional conflicts in face of the governmental power had had the justice as a decisive factor of resolution. During the 18th century the mediums had been the Real Audiences, which tried to discipline the executive actions by the jurisdictional exercise: bringing "justice" to the territory. In the new revolutionary context the conflicts for ruling the space (*Cabildos* vs. Triumvirate) would, also, call to this past experience confronting police and justice.

To better comprehend the submission of the *Economic-Police* power to the classical jurisdiction, it must be said that during the *Ancien Régime* the jurisdictional logic of being ruled by the value of justice prevailed in front of the logic of being ruled by a fatherly structure.⁶⁶ At this stage, owing to the dissimilar legitimacy process developed to establish them, the government and the justice were seen as ontologically diverse. If the two metaphors King-Judge and King-Father described two different models of action,⁶⁷ ordinary –justice-*iurisdictio*– and extraordinary –Government-*oeconomics*–, the later was clearly subdued by the former. Conse-

⁶⁴ IVÁN DE SOLÓRZANO PEREIRA, *Política Indiana*, Madrid, 1648, lib. V, cap. II, p. 754. Edición Online en Fondo Documental de la Universidad de Sevilla, <http://fondosdigitales.us.es/> [en consulta el 2/3/2012].

⁶⁵ BARRIERA, *Abrir puertas...*, cit.

⁶⁶ On this topic see the synthesis written by ANGELA DE BENEDICTIS, *Politica, governo e istituzioni nell'Europa moderna*, Bologna, il Mulino, 2001, chapter seventh: "Giustizia, diritto, leggi, «iurisdictio»".

⁶⁷ STOLLEIS, *Geschichte...*, cit., p. 369.

quently, the paternal role of the authorities did not eclipse that previous basis for understanding the power's exercise that was the act of judging –deeply rooted by the Catholicism.

Descending from the metaphorical world to the praxis, the prevalence of the jurisdictional logic was not only owing to the weight of tradition but, primarily, that was a consequence of the semantics of power that involved the constitutional structure of the kingdom, which was crystallized in the physiology of the institutional apparatus of justice. In this regard, it should be remembered that in a world where the separation of powers was inexistent the qualification of the power employed was realized considering the nature of the acts.⁶⁸ Consequently, it was in the day-to-day exercise when, through a process of qualification, the nature of the act was determined. So, the qualification through the institutional dynamics, presented the dependency of the extra-ordinary acts to the jurisdictional control, as a consequence of the possibility, for those who found their rights infringed, of going to the justice, with the intention of revoking the act of government, by using different juridical remedies. By this way, the possibility, for the government to intervene directly had been, always, submitted under the control of the justice.

This way of understanding the exercise of power, under the paradigm of giving justice, supported by the Catholic experience, had an extended acquaintance among the population of the Río de la Plata, and, also, in the mind of the authorities, who saw themselves as magistrates. In fact, every act that pretended to be a legitimated as an exercise of public power must be understood as a manifestation of the justice and to do justice supposed the regard of a procedure.⁶⁹

This acknowledgment would impact in the relation between the Triumvirate –and the successive executive powers– and the *Cabildo*. Since the police action –government and economy– was not jurisdictional in pure nature, it was subdue to the judiciary control: and that was one of the powers that the *Cabildo* had kept by itself. Precisely, against the growing of the domestic power of the government the judicial resources of the inhabitants gave more influence to the local city councils, and this correlation would change radically the logic of power.⁷⁰ The police –that once had been the typical element of local-city government– found its place altered, residing in hands of the *Central Power*. Meanwhile the justice –last justification of the centralist monarchy power– started to be enacted by the local government to contradict the Triumvirate's impositions. As a consequence, the local justice would be transformed in a resource to restrain the police power. This torsion would radicalize the opposition between justice and government-police and this aporia would only be resolved once the locals regained the police power again.

⁶⁸ CARLOS GARRIGA, "Gobierno y justicia: el Gobierno de la Justicia", in LORENTE, *La jurisdicción...*, cit., pp. 70-106. CARLOS GARRIGA, "Gobierno" in JAVIER FERNÁNDEZ SEBASTIÁN – JUAN FRANCISCO FUENTES (eds.) *Diccionario político y social del siglo XIX español*, Madrid, 2002, pp. 319-335.

⁶⁹ AGÜERO, "Herramientas...", cit, p. 31.

⁷⁰ BARTOLOMÉ CLAVERO, "Sevilla, Consejo y Audiencia: invitación a sus ordenanzas de justicia", in *Ordenanzas de la Real Audiencia de Sevilla*, Sevilla, Tecnograph S.L. de Sevilla, 1995, pp. 27-47.

VI. Political discourses and institutional history of police (1812-1860).

The research on the historical categories used in the genesis of the Police, derived in the study of the institution's logics. What becomes clear is that the Police and the government were not merely correlated institutions; on the contrary, the creation of the police was a strategy to achieve a distinctive and unique power by the Triumvirate. Besides, that operation has shown how the government with the "expropriation" of the police power from the neighbors intensified the long term opposition between the locals and central government. This extreme reveals that the police in the 19th century would follow closely the problems of the government, and thus the history of the police would work as an appendix of the diverse mechanisms of legitimacy displayed by the government to overcome the expropriation of a local power.

As a consequence of the disappearance of some elements of the traditional legal and political culture, the formation of a governmental power would require of new discourses to legitimate the existence of extra-ordinary actions, and thus the acceleration and changes in the political languages would be the counterpoint of the steadiness of the juridical discourse established under the permanence of the religious and antique value of justice. In this context, the invocation of the "justice" had indubitably a *pragmatic use*, which was extremely powerful owing to the extension in the popular language. For that reason, the political language and the objectives to which the government resorted, would impact in the structure, tasks and goals of the police institution and, in this understanding, the analysis of the police cannot be isolated from the political history.⁷¹

According to this, to manage the great volume of regulations, ordinances, circulars and manuals of police that shapes the police archive, the guide of extra-institutional sources becomes fundamental. So, not only the literature but also the General Laws enacted can let the observer to understand the changes, some of them unperceived in the bare look at the police's archives. Here, as an example, three moments will be revisited to show in the failed attempts of creating a police by the central government was a consequence of a resistance produced by the traditional political understanding of police *as* local order.

The first phase would take in consideration the revolutionary period (1812-1821) when the military discourse and the role of the security functioned as the legitimacy dispositive for developing a police action. The second one encompasses the unfolding of the "prosperity" discourse, and would present the RIVADAVIA's project to build a State under the light of the economic reformation (1821-1829). This period could be seen as the intent of creating a centralized system of state police. Both periods and the failures to create an effective police force will put in evidence the limits that the local conception of order generated. This ten-

⁷¹ This remark, which would appear evident, is not such as a consequence of the division of matters inside the argentinean historical academic field, where the history of the institutions has been separated from the political history –tout court. On the recent dialog between Legal and Political History see CARLOS GARRIGA, "¿La cuestión es saber quién manda? Historia política, historia del derecho y "punto de vista", in *Polbis*, N° 10 [2012].

sion will lead to the third moment that covers Rosas' government (1829-1852), when the police power was re-localized through the figure of the Judges of Peace, which restored the old system of *governmentality*. The effectiveness of this institution serves as an observatory of the continuity in the local mentalities of the role of the justice and police (judge and tutor) in the local context.

1. Militarization, security and the *in*-formation of the Police (1812-1821).

The first decade of police action presented an asymmetric match between the institutional organization, the tasks and the discourses used to rule the police. On the one hand, the martial languages had been extended throughout the city and the countryside and that fact had an impact on the role played by the institutions. On this topic, as HALPERÍN DONGHI has remarked, the militarization of the elite created "at the same time, an institutional organization, as well as institutional channels to communicate with the urban plebs."⁷² In this synthesis it can be appreciated how the "martial-political"⁷³ discourses would possess two simultaneous functions: on the one hand, they justified the erection of some institutions; and, on the other hand, by using those institutions as vehicles, the new discourses were spread among the people to secure the government's power. The flowing of information presented the institutions as language's corridors between different spheres,⁷⁴ and in this regard, the institutions –particularly the police– acted as collectors, diffusers and executors of orders.⁷⁵

Nevertheless, by seeing the means of collection and diffusion of knowledge realized by the Police, the "communication" was still fastened to the traditional configuration of personal notification and, also, through the hanging of *Bandos* in the usual places to reach the people. In this sense, inside the Police there was a continuity in strictly personal technique communication used to circulate the knowledge between the Chief and the officer. This can be seen in the signatures of every *Alcalde de Barrio* –district deputy– in the regulations enacted by the Intendant.⁷⁶ On the other hand, it must be remembered that these officers were part of the old system of local justice, "expropriated" to the City Council and that made evident from the structural perspective of the institution, the impossibility of changing radically the Ancien Régime's logic.

⁷² HALPERÍN DONGHI, *Revolución y guerra...*, cit., p. 166.

⁷³ VICENTE OIENI, "Ciudadanía y revolución en el Río de la Plata 1806-1815", in *Historia contemporánea*, N° 28 [2004].

⁷⁴ DARÍO BARRIERA, "Voces legas, letras de justicia. Las culturas jurídicas de los legos en el Río de la Plata entre los siglos XVI y XIX", in TOMÁS MANTECÓN MOVELLÁN, *Bajtin y la historia de la cultura popular*, Santander, PUBliCan, 2008.

⁷⁵ MICHAEL STOLLEIS, "Der lernfähige und lernende Staat", in JOHANNES FRIED, MICHAEL STOLLEIS (Hg.), *Wissenskulturen. Über die Erzeugung und Weitergabe von Wissen*, Frankfurt am Main, Campus Verlag, 2009, pp. 58-78.

⁷⁶ See as an example the Circular N° 68 from the Archivo General de la Nación [A.G.N.], Departamento de Policía, X-32-10-1, fs. 108-108 vta, [16th March 1814].

Focusing on contents of the regulations –*circulars, secret circulars, etc.*, the principal topic, which validated the institution’s intervention, was to secure and to prevent the danger brought by the “enemies of the Fatherland” –*Patria*.⁷⁷ On that ground, and besides the continuity of the old typical functions of police orders that could be traced in the Bourbon’s Governor-Intendant dispositions⁷⁸, the principal role was related with the control of the circulation of Spanish people⁷⁹, the capture Vagrants-Deserters⁸⁰ and the disruption of political adversaries’ meetings. In those criminalization processes worked the common consideration of those men as *enemies*. In this case, and justified under the problem of security, the reserved circulars were only to be known by the officers.⁸¹

Yet, those new functions, which reinforce the argument the political dependence of the executor arm of the Government, were exercised through old devices. In fact, not only by asking for the *Papeleta de conchabo* –labor permission– or the *Military passport* to the plebs the institution continued employing the means given by the Bourbons⁸²; but the police dependents also continued acting as local *Magistrates*. In a critical moment, when the military leaders claimed with heart and soul for more arms to the army, the example of the control of vagrancy would show how the traditional justice practice made impossible to fulfil that request successfully.

In a Circular sent by the Intendant of Police, dated on 19th December 1813, the Deputies of District were warned in this form:

To nip in the bud the abuses and the complaints that every day this Intendancy experiences, in the case of vagrants’ prison to be applied to the Military Service, and to calm any remorse that might originate from the simple suspicion that it will apprehend an Honest Citizen of well-known occupation, I prevent you that for the successive action, you will not proceed to the arrest of any of that class only by the indication of its Lieutenants, but you will have to report personally with the more righteous neighbors of the quarter, and with their report to act according with the instruction assigned.⁸³

⁷⁷ GABRIEL DI MEGLIO, “Patria” in NOEMÍ GOLDMAN (ed.), *Lenguaje y revolución. Conceptos políticos clave en el Río de la Plata, 1780-1850*, Buenos Aires, ed. Prometeo, 2008.

⁷⁸ The resemblance between the traditional functions and the matters of police could be seen in an empirical dimension by comparing the “Bandos” or “autos de buen gobierno” from the Colonial Archive and the Regulations of the Intendant reserved in the archive of the “Departamento de Policía”.

⁷⁹ RAÚL FRADKIN - SILVIA RATTO, “¿Qué hacer con los prisioneros españoles? La construcción del “enemigo” y las formas de dejar de serlo. Buenos Aires, 1817-1819”, in DARÍO BARRIERA (coord.), *La justicia y las formas de la autoridad. Organización política y justicias locales en territorios de frontera. El Río de la Plata, Córdoba, Cuyo y Tucumán, siglos XVIII y XIX*, Rosario, ISHIR CONICET-Red columnaria, 2010.

⁸⁰ RAÚL FRADKIN - SILVIA RATTO, “Desertores, bandidos e indios en la frontera de Buenos Aires, 1815-1819”, in *Secuencia*, N° 75 [2009].

⁸¹ For example, against the Spanish the *reserved circular* of the 2nd May 1814 said that the Deputies and their assistances –Tenientes de Alcalde– were in charge of informing the situation in which they lived. A.G.N., Departamento de Policía, X-32-10-1, fs. 133.

⁸² MARCELA GONZÁLEZ DE MARTÍNEZ, *Control social en Córdoba. La papeleta de conchabo (1772-1892)*, Córdoba, Centro de Estudios Históricos, 1994.

⁸³ A.G.N., Departamento de Policía, X-32-10-1, fs. 48.

This document shows not only how the claims of the neighbors were a limitation in the police's action, but also it makes manifest the necessity to count with their support in day-to-day praxis. Precisely, the use of a disciplinary system by the authorities was moderated by a type of police-judicial action that showed an extensive negotiated modus of action.⁸⁴ Despite being under the pressure of the accelerated rhythm of the war, the participation of neighbors and the form to substantiate the apprehension of "vagrants" made the police's intervention clearly inconvenient and still deeply dependent of the local negotiation.

Up to here it was seen only one part of the communicative action, from the head of police to its auxiliaries. But the chief of police, to know about the state of the city in order to take different measures, needed information that could only been obtained from the lower instances of the institution. Specifically, in this point the classical logic of government is shown. In a *Circular* given on 2nd June 1813 the Chief of Police asked the District Deputies to:

For the most punctual observance of my Circular Order from yesterday, over the brevity and accuracy with which you have to bring to this Intendence one reason –*Razón*– of all the vagrants that exist in their respective quarters, I prevent you should work with the Commissar *Dn. Francisco Doblas*, to whom this matter has been particularly requested.⁸⁵

The most two remarkable aspects of this document are, on the one side, the personal inter-connection between the officers: the chief of police with the commissar and the later with the district deputies. Here, the complexity to operate with people appeared more than collecting the information. The denials and the ignorance about how to fulfill this task on behalf of the officers required of a Commissar to control and take care of this process. How this information would be communicated and registered? The word *Razón*, precisely let the reader know that there was no much analysis, no mapping, it only called for assenting on books the number of individuals considered dangerous.⁸⁶ This *Razón* charged with the countable semantic of the epoch presented the scheme of imprecision that characterized the action of the police as a traditional "economic" power.

If the police praxis could be characterized as a part of a deeply rooted *negotiated culture system*, which buffered the impact of the force on the soil of Buenos Aires; the local justice of the city councils played also an important part, being a permanent nuisance for the government's police. In fact, local justices not only supported the neighbors' claims against the chief of police but they also bothered directly the auxiliaries and officers of the Police. This extreme can be proved by a *Decreto* –decree– signed by a new unipersonal executive power, named *Director Supremo*, on 5th March 1814:

In the request that You have made, the 2 of the current month, to make a transcription to all the Courts of Justice of the Provisional Regulation of Police, with the aim of avoiding the hampering of the dispositions of that Intendence, the Supreme Director has enacted the following Decree:

⁸⁴ MARIO SBRICCOLI, "Justicia Criminal", in MAURIZIO FIORAVANTI (ed.), *El estado moderno en Europa. Instituciones y derecho*, Madrid, ed. Trotta, 2004.

⁸⁵ A.G.N., Departamento de Policía, X-32-10-1, N° 39.

⁸⁶ Diccionario de la lengua castellana..., cit., 1737, p. 501.

“Notify the Provisional Regulation of Police to all the Courts, Justices, and the other corporations of this capitol.”⁸⁷

Notwithstanding the effort realized by the government to support and extend the power of the police; the irresolvable tension between local justice and police could not clearly be achieved only by the notification of the “Provisional Regulation of Police”. Inside a negotiated culture the proximity of the justices –local power of the city hall– would oppose the value of the justice to the government’s security. In the middle of this complexity, to create a strong government would require not only the suppression of the local power, but also an intention of changing the negotiable logic of a world of neighbors and justices.

2. Police and population in the “*País de la Abundancia*” (1821-1829).

During the period comprehended between 1812-1821, the security and the revolutionary war functioned as plinths on which the governmental action was based. The characteristic of a territory subdued to the war made that every institution, measure and, even, goals were presented as temporary measures –*Provisionalidad*. Not in vain the Regulation of Police was characterized as “provisional”. During this time the independence was declared (1816) and, as a consequence, the first Constitution was sanctioned (1819). However the institutional organization was far from being accomplished. In fact, after the constitution was passed, its strong centralist-unitary tendency –concentrating the power and given to Buenos Aires a primary role– made the leaders of the interior of the Río de la Plata to reject it.⁸⁸ After an internal war against the Director, the different Provinces established themselves as autonomic spaces, leaving Buenos Aires alone. This failure, however, reduced the space of action of the diverse governments, redefining the structure of the government in the provinces, and giving some new strategies of order to be developed.

After a decade of war, the fatigue and the economic effort made by inhabitants had consumed the call of the *Homeland*. In fact, during the diverse elections realized in the decade of 1820 the main criticism was directed against the military classes who had impoverished a rich land because of their ambitions and incompetence. What the people of Buenos Aires needed, according with the new discourses, were leaders who knew how to make the land newly rich and prosper.⁸⁹ The contrast between the two epochs has been resumed with mastery by HALPERÍN DONGHI, as the passage from Sparta to Athens.⁹⁰ This *passageway* shaped a new hegemonic discourse based on the aim of bringing the prosperity back to Buenos

⁸⁷ A.G.N., Departamento de Policía, X-32-10-1, fs. 71.

⁸⁸ In this constitutional text the police force was in charge of the Executive Power, and it was related with the creation of a National Administration (Art. LXXXVIII, Chapter III, Section III).

⁸⁹ HALPERÍN DONGHI, *Revolución y guerra...*, cit., p. 365.

⁹⁰ HALPERÍN DONGHI, *Guerra y finanzas en los orígenes del Estado Argentino (1791-1850)*, Buenos Aires, ed. Prometeo, 2005, pp. 138-139

Aires. This new ambition accompanied –when not produced– the cattle breeder’s expansion and the correlative extension of the governmental control over the rural spaces.⁹¹

Along with this horizon of expectations, the new “Pax and Prosperity” values, required some structural changes with the purpose of definitely breaking the Ancien Régime’s dynamics and, thus, to implant a new knowledge based on the economic growth of the *pampas*. From 1821 up to 1825 these transformations were developed by the minister of government: RIVADAVIA.⁹² The more relevant topics of those reforms, traditionally studied by the historiography, were related to fight against the power of the church and the action against the military forces. In the case of the later, the breaking of the military power through the reduction of their forces, the retirement of the chiefs and, finally, the dissolution of the jurisdiction was associated with the topic of the peace, but also, correlated with the effort of turning those fighters into workers.

In this context, to contain such changes, the police and the justice system needed to be reformed; otherwise, the jurisdictional disputes would diminish the chances of controlling the population. On 24th December 1821 the Honorable Chamber of Representatives sanctioned a Law by which the *cabildos* were definitely suppressed.⁹³ This measure ended up with the tension that crossed all the first decade of the 19th century; however, the completely delocalization of the power was far from being achieved. The justice that the city councils had executed during the previous decades was assigned to a five literate judges –two for the capitol and three for the hinterland– and, the minor cases were awarded to a new magistracy, located in every parish jurisdiction: “judges of peace”. As it can be seen the dispersion of the magistrates in the territory could not secure the centrality of the government and in this sense the judges of peace would follow the local neighbors ruling system. However, the other branch of the power would be intended for counterbalancing that local justice, and that would be the police. The new structure of the institution, under the control of the government, presented a Chief of Police, six Commissariats for the capitol and eight for the countryside.⁹⁴

The new spatiality and the new projects of bringing economical prosperity required a cultural change with the determination of constructing a prosperous State. According with this, the foundation of the Buenos Aires University and the Topographical Department, the sanction of the emphyteusis law, were parts of a plan to rationalize the territory and to control a population to facilitate the improvement of productivity. At this point, JEREMY BENTHAM and

⁹¹ HALPERÍN DONGHI, Tulio, “La expansión ganadera en la Campaña de Buenos Aires, 1810-1852”, in *Desarrollo Económico*, Vol. III, N°. 1-2 [1963].

⁹² SERGIO BAGÚ, *El plan económico del grupo rivadaviano (1811-1827). Su sentido y sus contradicciones sus proyecciones sociales sus enemigos*, Santa Fe, Instituto de Investigaciones Históricas-Universidad Nacional del Litoral, 1966; MARCELA TERNAVASIO, “Las reformas rivadavianas en Buenos Aires y el Congreso General Constituyente (1820-1827)”, in Goldman, *Revolución, República*.

⁹³ TERNAVASIO, Marcela, “La supresión del Cabildo de Buenos Aires: ¿Crónica de una muerte anunciada?”, en *Boletín del Instituto de Historia Argentina y Americana “Dr. Emilio Ravignani”*, Tercera serie, N° 21 [2000], pp. 60-62.

⁹⁴ Registro Oficial de la Provincia de Buenos Aires [R.O.P.B.A.], (1821), pp. 124-125.

JAMES MILL's influences on RIVADAVIA were crucial⁹⁵ and the bound between the economical growth and police was made immediately clear. On the one hand, in MILL's book *Elements of Political Economy* it could be read: "Political Economy is to the State, what domestic economy is to the family".⁹⁶ Under this precision, the *State* would embrace the prosperity as the final target and, consequently, the police, conceived as the perfect auxiliary, would see its tasks significantly broadened. At this point, it can be said that if the influence of MILL was felt in the economical field, the works of BENTHAM would be the inspiration for changing the police. In BENTHAM's essay "A general view of a Complete Code of Laws", rapidly translated into Spanish⁹⁷, the police was presented as "a system of precaution, either for the *prevention of crimes* or of *calamities*. It is destined to prevent evils and provide benefits." For Bentham, inside this preventive system there was no separation between police and justice, and the reason was that both were necessary to practice the fatherly authority required to rule a State.⁹⁸ Inside this scheme of paternal authority the police tasks were difficult to summarize because it "varied according to times and circumstances." Nevertheless, for BENTHAM there was a way of describing its "businesses" appalling to the transgressions against the Police:

The business of police may be distributed in eight distinct branches: 1. Police for the prevention of offences. 2. Police for the prevention of calamities; 3. Police for the prevention of endemic diseases; 4. Police of charity; 5. Police of interior communications; 6. Police of public amusements; 7. Police for recent intelligence and information; 8. Police for registration, for preserving the memory of different facts interesting to the public, such as births, marriages, deaths, population, number of houses, situation and qualities of different properties, contracts, offences, procedure, &c.⁹⁹

The principle of prevention allowed a pro-active exercise of power to regulate the population. Precisely, because the justification for the governmental power was to make prosperous a country whose abundance was unquestioned, the measures taken to install a working ethic prevailed. The different decrees against idleness and vagrancy were justified as a control of Police of charity, but also, to fight the "offences against the National Wealth".¹⁰⁰ The new goals, made the police to be reorganized which can be recognized in the Institution's internal communication system. In fact, during this period, the proto-functionaries received from the "Chief of Police" and the "Minister of Government" several orders reunited in diverse books,

⁹⁵ KLAUS GALLO, "Jeremy Bentham y la Feliz Experiencia. Presencia del utilitarismo en Buenos Aires 1821-1824", in *Prismas*, N° 6 [2002], pp. 79-96.

⁹⁶ JAMES MILL, *Elementos de Economía Política*, Madrid, Imprenta de D. Miguel de Burgos, 1831, p 1. This book was ordered to read by a decree of Rivadavia in the creation of the first course of "Political Economy" at the University of Buenos Aires (R.O.P.B.A., -1825- p. 92.)

⁹⁷ JEREMÍAS BENTHAM, *Tratados de Legislación civil y penal, obra extractada de los Manuscritos del señor Jeremías Bentham, juriconsulto inglés*, Madrid, Imprenta de d. Fermín Villalpando, 1821-1824 [t. I-V].

⁹⁸ MARKUS D. DUBBER, *The police power. Patriarchy and Foundations of American Government*, New York, Columbia University Press, 2005, p. 69.

⁹⁹ JEREMY BENTHAM, *The works of Jeremy Bentham. Now first collected*, Edimburgh, William Tait, 1839, 169.

¹⁰⁰ R.O.P.B.A. (1825), p. 86. The justifications of that Regulation were similar to the content seen in the offenses of the V° order in Bentham's a general view on a Code.

such as, compilations of norms and small manuals with extracts of their tasks.¹⁰¹ This new dimension more adjusted to law rather than personal negotiation could have secured the vertical structure of order and also the des-individualization of the police action.¹⁰² Nevertheless, whatever the directions were, when these orders are studied from the receivers' perspective, the plan of organizing the force as a government's administration, exhibits some cultural and material limitations.

On the behalf of cultural limitations what is interesting to remark is the impossibility for the Government to produce a "police of registration". In innumerable documents the government asked the Police to give statistic information –*Razones estadísticas*. The denial or even the impossibility to accomplish with that requirement was a consequence of the lack of awareness on what that meant. Not only the police officers disregarded the request to create a system of information needed to treat the community as a population, but it was even difficult to conceive this idea. Besides, the mere representation of this concept, which was conceived as an art for the State, would have implied the suppression of the way of understanding the community as the natural structure of order, conception that was deeply inscribed in the agents' mind.

Nevertheless, the lack of communication among the diverse spheres was understood, at that time, as a consequence of the distance between the capitol intendance and the police officers. As some documents shows, for RIVADAVIA it was the lack of officers to execute the policing, the cause for the insecurity and vagrancy problems, especially, in the countryside. This interpretation convinced the government to make an appeal to the judges of peace to take care of the police duties under the direction of the Chief of Police.¹⁰³ This confusion between jurisdictions could be understood not only as a reflection of the tradition but, on the contrary, as it was remarked earlier, as a consequence of the paternal conception of power that operated in benthamian's thoughts. Nonetheless, the intention to subjugate the judges of peace was not simple.

In this regard, it is important to remember that RIVADAVIA, in order to secure the central administration of the police, had planned and ordered the isolation of commissariats from the local community: the agents of police should be strangers in the community avoiding the personal relationships with the neighbors. On the contrary, the judges of peace, elected by the neighbors, counted with more support from the community and regarding the tension between local negotiation and central law application, the traditional social control mediums made the police inefficient. By those means the judges of peace were commissioners of police power –reuniting in their power the justice and the police in a local space–, but the dependence with the local community hindered the straight connection with the government. After a year the commissariats would return to the countryside but the role they played

¹⁰¹ *Manual de la policía*, Buenos Aires, Imprenta de la independencia, 1825.

¹⁰² MARTA LORENTE SARIÑENA, *La voz del Estado. La publicación de las normas (1810-1889)*, Madrid, Boletín Oficial del Estado – Centro de Estudios Políticos y Constitucionales, 2001, p. 56.

¹⁰³ LEVAGGI, "La seguridad en la Campaña..."; cit.

would be reduced by local justices. As a consequence the Judges of Peace would become the central figure in the province's structure of power.

As a conclusion, it can be said that in spite of RIVADAVIA's hard work to get an organized state police under the power of a centralized government, the local and negotiable logic of political order generated a resistance against the presence of strangers. On the other hand, the separation between a literate magistracy –almost impossible to be settled on the countryside¹⁰⁴, and local minor justices which suddenly had *recovered* the police power occluded tension of the pragmatic use of the justice against the police. In this regard, by this reunion of functions in the same agent, the justice was confused inside the domestic government and the new tension would be inscribed in the contrast between *two domestic logics*: the central domestic government and the local domestic power. In both cases, the *re-edition* of the traditional opposition between local and central government would be accentuated and accelerated by the failure of the RIVADAVIA's project to impose a rational-statistic central police apparatus. This last endeavor to consolidate the police as an "arm of the Government", exhibited that the police logic of government was still impregnated in the local structure of auto-regulation: *Regimiento y Policía*. The balance of powers showed that between the *re-gained* traditional local police order and the central government was a huge gap, which only through negotiation could be overcome.

3. A negotiable police order: Rosas and the Justice of Peace (1829-1852).

RIVADAVIA's attempt to impose a central police to the local powers brought back the old resistance of the neighbors, and the institutional reform proposed by suppressing the *Cabildos* (two in Buenos Aires) generated an inverse effect. This fact can be appreciated, since the creation of the justice of peace pulverized the old city councils power into microphysical structures, impossible to subdue under the command of the Ministry of Government. The particular role of these Judges in the countryside was not only to resolve the neighbors conflicts but they were constantly practicing the police power which was represented in a diffuse way, especially after the incapacity of extending the police force to the rural spaces. The conflicts with commissariats were common but after a few years –in 1836– the suppression of the countryside commissariats would attribute to the Judges of Peace the police power, and thus the hegemony over their jurisdictions. The consolidation of a local government –with justice and police integrated in one figure– would last until the sanction of the first constitution in 1853. This crystallized device of social control was a consequence of the traumatic experience of the local vs. central government. In this regard, the diverse attempts to centralize the power by suppressing the self-domestic governments, showed that instead of imposing a central power to the local, it would be more clever to establish negotiation between these different *structures*. This experience was understood quite well by the new governor of Buenos Aires

¹⁰⁴ In fact, the magistracies of the countryside were suppressed in 1824.

(Rosas), who under this paradigmatic model ruled the Province and extended the power throughout the countryside for more than twenty years.

The mature expression of the institutions of Judges of Peace in the countryside secured the administration of ROSAS who controlled with accuracy the election of the magistrates.¹⁰⁵ In this context, the patriarchal tradition extended by the local government would be a consequence of the logical recovery of the police power, which represented the preventive and protective role of the father.¹⁰⁶ After decades of institutional experimentation the police order had been re-localized and the traditional semantic of power recovered the role of local *order* and *quietness* which penetrated in the discourse of ROSAS. The role of the countryside as the source of richness, the interconnection between the estancias –small devices of house control– and the role of the judges of peace in towns projected without resistance a domestic command. In this “new” order, the day-to-day communication between ROSAS and the local Judges was made by letters, in which the later informed the Governor about the number of vagrants captured and different felonies punished by them in the local spaces.¹⁰⁷ In this case, what lay beneath the straight communication was the negotiable structure of personal contact, which proved that, in order to secure the government, the interpersonal understanding and familiarity were crucial.

At this point, it is undeniable that, as the reconstruction made by the social historians has shown, the neighbors’ relationships with the judge of peace were decisive for the instauration of the government.¹⁰⁸ What had triumphed, after all, was a disciplinary model of domestic power based on a process of familiarization of the public space. The classical CASTILLO DE BOVADILLA’s metaphor of “the *city* as a big house”, interpreted under the signifiers of the 19th century Rio de la Plata can be summarized in the phrase: every “*town* is a big house”. The redefinition of the space, however, did not occlude the big metaphor of the province as a House, and if every town had its father, the father of the state would be the governor. The

¹⁰⁵ MARCELA TERNAVASIO, “Entre el cabildo colonial y el municipio moderno: los juzgados de Paz de campaña en el Estado de Buenos Aires, 1821-1854”, in MARCO BELLINGERI, *Dinámicas de Antiguo Régimen y orden constitucional. Representación, justicia y administración en Iberoamérica. Siglos XVIII-XIX*, Torino, ed. Otto Editore, 2000.

¹⁰⁶ BENITO DÍAZ, in fact, wrote “So, it was not the simple and patriarchal judge that intervened in the neighbors’ quarrels or in the repression of common felonies; its influence was such, that in different times the countryside was left to its unique discretion, above all in the periods of political struggles or revolutions”, Quoted by TERNAVASIO, “Entre el cabildo...”, op. cit.

¹⁰⁷ RICARDO SALVATORE, “Los delitos de los paisanos”, in RICARDO SALVATORE, *Subalternos, derechos y justicia penal. Ensayos de historia social y cultural argentina (1829-1940)*, México, Gedisa, 2010; RICARDO SALVATORE, *Wandering Paysanos. State, Order and Subaltern Experience in Buenos Aires, during the Rosas Era*, London, Duke University Press, 2003.

¹⁰⁸ JORGE GELMAN, “Crisis y reconstrucción del orden en la Campaña de Buenos Aires. Estado y sociedad en la primera mitad del siglo XIX”, in *Boletín del Instituto de Historia Argentina y Americana “Dr. Emilio Ravignani”*, Tercera serie, N° 21 [2000]; JUAN CARLOS GARAVAGLIA, “Alcaldes de la Hermandad et juges de paix à Buenos Aires (XVIIIe-XIXe siècle)”, in *Études rurales*, N° 149/150 [1999]; JORGE GELMAN, “La construcción del orden postcolonial. El sistema de Rosas en Buenos aires, entre la coerción y el consenso”, in *Tiempos de América*, N° 11 [2004]; Juan Carlos Garavaglia, “Paz, orden y trabajo en la campaña: la justicia rural y los juzgados de paz en Buenos Aires, 1830-1852”, in *Desarrollo Económico*, Vol. 37, N° 146 [1997].

revolutionary process not only concluded in a “*ruralization* of the bases of power” but, also, and owing to the dislocation of the Bourbon influence, reinforced the “familiarization” of the politics through a re-localization of the police power in small towns, paradoxically, under the figure of the *Justice* of peace.

VII. Police, History and anthropology.

In this article by tracing the genesis of the police institution, what emerged clearly was the difficulty to create an organized structure under the command of the Government. The traditional understanding of order and the political role of the locals complicated the formation of a state governmental power. In this context, and instead of using that “ancient” genesis as an explanation of the present’s police problem, the interesting remark would be to say that in order to comprehend some structural dimensions of order some common senses must be removed.

One of the most important limits for understanding the police action was the essentialism with which the police as an institutional force was thought. This approach, provoked by the Police’s force narrative was, also, fed by the influence of the schema of a disciplinary society given by rushing lectures of FOUCAULT. Without denying the crucial point that FOUCAULT’s reflection has unveiled, in order to separate justice from police and to reinstall the later inside the tradition of *governmentality*, the processes described by him present diverse connotation from one geographical space to another. In legal history the consciousness on the *des-historization* of historical experiences emerged when the framework of the state was eradicated from the lecture of the past. In this sense, not only a new grammar of power was discovered but, also, the de-construction of the preconceived state apparatus allowed recognizing the history of the periphery avoiding the retrospective dogmatism which, irremediably, led to an anachronistic judgment.¹⁰⁹ This exercise of reflection can be transferred to other models and theories that functions as resources to explain the institutional world. The problem with the disciplinary society could be assimilated with the problem of the state, because, as MICHEL DE CERTEAU stated: “the final formation (the contemporary technology of surveillance and discipline) that serves as a starting point to a *regressive* history practice by Foucault, explain the impressive coherence of the practices that he selects and examines”.¹¹⁰ The argument and imputation of the “regressive” character of the narrative, which can be put forward as a criticism against the history written by the police institution, could be also considered as the Achilles’ heel for a social history of the police. And that would occur every time the

¹⁰⁹ CARLOS GARRIGA, “Orden Jurídico y poder político en el antiguo régimen”, in *Istor Revista de historia internacional*, N° 16 [2004].

¹¹⁰ MICHEL DE CERTEAU, *La invención de lo Cotidiano. 1. Las artes de hacer*, México, Universidad Iberoamericana, 2000, p. 56.

researcher takes the police, only, as a part of the development of modern state disciplinary devices. There the subjects and negotiations are erased by the institutional logic inscribed in bodies of men.

With this methodological warning in mind, what the historical reconsideration of police through the semantic and institutional history has shown is that despite the *normalization's* intention that started in 18th century with the Bourbon's reforms, the tradition of being ruled by justice blocked the attacks against local communities. This was not only a controversy experimented by the communities but, what is more important, it was a limit to impose a discipline even *inside* the police force.

The history of the concept of police helped to overcome this limit and to show the anthropological roots of policing. The metaphor of the father explained the preventive role, the direct action and the way the authority was built. However, what turned to be very interesting was the extensive use of the family's metaphor to understand the territorial action of police. The city or town seen as "big house" activated a process of localization where the ruler commanded similarly to a father inside the household. Consequently, the members of the collectivity were represented as a unity summarized by the power of the father. This genetic-spatial logic radicalized the *self-administration* of local institutions, which in order to get legitimacy responded more to the principal neighbors rather than to the central institutional head. In this sense, the institutional dynamics were also conditioned not only by the imposition of rules, but also and principally, by the negotiation.

Under these premises, legal history, which sees itself as an anthropological discipline, cannot be surprised by new anthropological studies which started the analysis of becoming a police officer from the day-to-day praxis in the local police station. The way the "real" knowledge is transmitted, the relationships, the representation of the leadership, the machismo, etc., call for the traditional structure of the family. In this sense, the metaphor of the house, which has been obliterated by the modern conceptuality still incardicates some roles of the police institution, and precisely, when police officers were on strikes they presented themselves as part of a Family. Consequently, the question would not be to ask if there is a process of discipline that goes through the police institution, dimension which is undeniable, the real question to answer would be: what kind of discipline *governs*, today, our political institutions?

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