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# OBSESSIVE NEUROSIS AND NORMATIVE SYNDROME: A STUDY OF ANTIOQUIA'S ROADS REGULATION IN THE NINETEENTH CENTURY[1]

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ABSTRACT:

Roads issue is a constant in several historical moments of Antioquia (Colombia)'s law in nineteenth century, but in view of the impossibility of presenting a study of all the elements, three cases were chosen to observe how law gets obsessed with the construction and maintenance of roads. These three cases are: i) the first republic (1811-1815), ii) the regulation issued by the provincial chamber between 1847 and 1851, and iii) state legislation between 1856 and 1886. This phenomenon may well be elucidated by applying a psychoanalytical allegory: «The obsessive-compulsive neurosis», which remits us to the normative syndrome. Based on a clinical structure, it would be possible to analyze these three cases in a different way like generally have been studied, getting to see clearly situations where normative syndrome and symbolic efficacy dominate the political and normative environment and scenario.

This text concludes that these norms, mostly ineffective, achieved such perfection in their normative description and subsequent publication, and that they became a complex juridical *corpus*, with a high political value, but far away from reality.

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[1] This research used the documentary method, which involved an extensive bibliographic resource, tracked in Colombia and Spain, further the consultation of different archives in Spain (Madrid and Sevilla) and in Colombia (Bogotá, Medellín y Santafé de Antioquia). Further, a first a little version of this paper was published in Spanish Language (Andrés Botero, «La neurosis obsesiva y el síndrome normativo: estudio de las normas antioqueñas sobre caminos en el siglo XIX» in Carlos Molina (Coord.), *Bicentenario constitucional colombiano: la construcción del estado republicano,* Tomo II (Medellín: Universidad de Medellín, 2013: 147-169). Translated by: Lorenza Álvarez Betancur.

KEYWORDS:

Roads, Colombia, Cámara provincial de Antioquia, Obsessive-compulsive neurosis, Normative syndrome, Symbolic efficacy, efficiency.

RESUMEN:

El tema de los caminos es una constante en varios momentos históricos del derecho antioqueño (Colombia) del siglo XIX, pero ante la imposibilidad de presentar un estudio de todos los elementos donde aquél se encuentra, se escogieron tres casos para observar allí cómo el derecho se obsesiona en la construcción y el mantenimiento de los caminos. Estos tres casos son: i) la primera república (1811-1815), ii) la normativa de la Cámara provincial entre 1847 y 1851, iii) y la legislación estatal entre 1856 y 1886. Este fenómeno bien puede ser dilucidado si se aplica una alegoría de origen fundamentalmente psicoanalítico: la neurosis obsesivo–compulsiva, la cual nos remite al síndrome normativo. Con base en esta estructura clínica, bien podrían pensarse los tres casos de manera diversa a como generalmente se ha venido haciendo, vislumbrándose así con claridad situaciones donde el síndrome normativo y la eficacia simbólica dominan el ambiente político–normativo.

Se concluye que estas normas, en su gran mayoría ineficaces, lograron tal perfeccionamiento en su descripción normativa que llegaron a conformar un *corpus* jurídico complejo, con un alto valor político, pero alejadas de la realidad.

PALABRAS CLAVE:

Caminos, República, Cámara provincial de Antioquia, Neurosis obsesivo–compulsiva, Síndrome normativo, Eficacia simbólica.

## INTRODUCTION

This paper presents the conclusions of a study about three periods in Antioquia's roads regulation, which gather in their womb many other juridical-political facts[2]. However, for time and space reasons, there will not be presented in this text the norms studied from those periods, which, when diagnosed, permitted to consider that, (if the allegory is allowed), a clear obsessive compulsive neurotic

[2] It's important to note that a summary of the first two cases already exposed where made it in: Andrés Botero, «La neurosis obsesiva del derecho antioqueño en el siglo XIX: los caminos», *Diálogos de saberes*, Bogotá, 23 (2005): 147-174.

schema in the majority of them (or at least in the responsible for the emission of such discourses), being one of the obsessive ideas: The construction and maintenance of the roads.

If this is, therefore, the intention of this paper it must be clear for the reader, that there will not be exposed other relevant and important issues for the complete understanding of the phenomenon of the studies about roads in Antioquia«s history, such as the need of building roads for ensuring a saver transport to the community and for the contraband[3], the routes, etc.[4]. This text will be attached to a very brief exposition of the conclusions of the study about the three juridical-political periods, so that, this conclusions will be talk by themselves, the proper diagnosis of what there happened can be deciphered. Other conclusions related to other equally important topics could have been mentioned, but that would exceed (by far), the limits established by the editors.

Thus, the conclusions that will be exposed in this paper are based on the study of three periods, namely: i) the Antioquia from 1811-1816, which appeared fundamentally through the emission of constitutions, political proclamations and Government Board directives, finding in all these a common denominator: roads; ii) the period of the legislation issued by the Provincial Chamber of Antioquia between 1847 and 1851, where it is possible to observe how roads matter becomes a recurrent idea; iii) state regulation issued from 1857 to 1886 (although there were also studied some regional norms after this latter date) to clarify how roads issue, now focused on the concession of roads, as well the expropriation of lands to build roads, remained a central activity of regulation, making clear the recurrent idea and the eagerness for constructing nation and economy with land movement.

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[3] To complete the reading process in this area see: Muriel Laurent, *Contrabando en Colombia en el siglo XIX: prácticas y discursos de resistencia y reproducción* (Bogotá: Universidad de los Andes, 2008).

[4] Anyone interested in this respect, see: Sofía Botero, *Caminos ásperos y fragosos para los caballos: apuntes para la historia de los caminos en Antioquia* (Medellín: Universidad de Antioquia, 2005). Francisco Patiño, *Caminos de montaña y carreteros* (tesis para graduarse como ingeniero, Medellín: Universidad de Antioquia, 1909). Germán Arciniegas, «Caminos reales: caminos del mar, caminos en tierra», in *Caminos reales de Colombia* (Bogotá: Fondo FEN, 1995). Norberto Vélez, «Caminos antiguos del Medellín sin carreteras», *Territorio Cultural*, Revista de la Secretaría de Educación y Cultura de Antioquia, (1999): 65-70. Luis González (on line), «Caminos republicanos en Antioquia: los caminos de Medellín a Rionegro, las rutas por Santa Elena», www.bibliotecavirtualantioquia.gov.co (2001). Norberto Vélez & Sofía Botero, «La búsqueda del valle de Arví» (Medellín: Concejo de Medellín, 1997). These strong regulations for the creation of roads where located throughout the republic; so, for the Santander case, during the second half of the nineteenth century, see: Mónica Cortés, «Comentarios al Código de Comercio del Estado de Santander», *Temas Socio-Jurídicos* 54 (26) (2008): 41-56.

However, this text will make a risky exercise in the first chapter: to diagnose such regulation (which supposes precise political-economical structures) in each one of these periods, *as if* they could be object of psychoanalytical reflections, aspect that will lead to identify a *normative syndrome* in the studied phenomenon. The second chapter will answer, by way of conclusions, concrete matters that may emerge from a reflection on *normative syndrome*, which will permit thinking of this concept for other papers of juridical sociology and law history. This paper will be finished with the respective bibliography that supports this investigation.

Finally I would like to thank Professor Andrea Macía (Universidad Autónoma de Madrid), and research assistants Eliana Zapata and Lorenza Álvarez (Universidad de Medellín), for the help they gave for the completion of this paper. Their contributions were significant for this paper. However, the responsibility for what is here said belongs to the author.

## 1. OBSESSIVE-COMPULSIVE NEUROSIS IN ROADS REGULATION

In all three studied periods, which will not be properly explained in this paper for space and time reasons, it is possible to find the presence of a continuous and repeated idea in the normative discourse: The roads. How is possible to diagnose this historical fact promoted from the juridical-political aspect?

An answer is provided by a topographer at the time: «No gozando la provincia de las grandes ventajas de la navegación en lo interior, ha sido preciso multiplicar las vías terrestres, que en beneficio de la agricultura y el comercio se hallan bastante bien establecidas, a pesar de los obstáculos que presenta lo muy quebrado del terreno»[5]. Nevertheless, the historian and law sociologist must go beyond the

[5] «Not disposing the province of the great advantages of internal navigation, it has been necessary to multiply land ways, which in aid of agriculture and commerce are pretty well established, in spite of the obstacles that the cracked terrain presents» Carlos Segismundo De Greiff, «Apuntamientos topográficos y estadísticos de la provincia de Medellín», in *Decretos, resoluciones, etc., de la Gobernación de la provincia de Medellín en ejercicio de las facultades preceptivas de la Cámara de la misma provincia en los años de 1851 i 1852* (Medellín: 1852): 70-83. This author refers to the province of Medellin, but this appointment may well be extended to the provinces of Antioquia and Cordova. Moreover, the importance of the roads in the nineteenth century in Antioquia can be summarized in: 1) integrating the territory and thus cement the political power (institutional legitimacy); 2) to free the people of the province who considered enclosed by the mountains; 3) distribute more evenly the population and increase the colonization of public lands; 4) increase trade; 5) make producing jungle spaces, incorporating the real-estate market, for example, being this jungle spaces inaccessible; 6) expand the border; 7) increase the power of Medellin for Antioquian territory; and 8) allow a greater flow of information. In this regard, see: Juan Vélez, *Los pueblos allende el río Cauca: La formación del Suroeste y la cohesión del espacio en Antioquia 1830-1877*

just quoted description, so another possible solution to the question presented above may be found in other reading contexts which, as far as they offer reasonable keys to a better understanding of the phenomenon, can be taken in their due proportions. This is the case of psychoanalysis, which taken here in a measured and allegorical way, refers to the obsessive-compulsive neurosis, which, at the same time, allows discerning a very interesting concept for sociology and history of law: *normative syndrome*. But in that order what is this neurosis all about?

The obsessive-compulsive clinical structure is characterized by having an irrational idea and the compulsion of a conduct, which is the one that solves the anguish of that irrational idea; like this example the man who leaves home and after walking a few meters thinks if he effectively closed the door, so much so that he feels the imperious need of going back. The key of this process is in the irrationality of an idea and the repetition of a conduct, or an act that helps to calm the anxiety generated by the same idea. Another example is the alcoholic, who in the compulsion or obsession to consume, finds relief for his anguish, even though this repetition becomes later problematic for himself.

Neurosis describes a variety of psychological disorders (which origin is actually being discussed: neurological, psychic, emotional or psychosocial). It is widely accepted that the term neurosis is applied to try to diagnose those conditions which symptoms are the symbolic expression of a psychic conflict. It is worth mentioning that DSM-IV, Manual of Classification of Mental Disorders, from the World Health Organization (WHO[6]), of behaviorist therapeutic orientation, considers obsessive compulsive neurosis as a mental disease, consisting of the persistent intrusion of unpleasant thoughts or impulses in the individual conscience, and of the irresistible urges –compulsions– to develop actions or rituals to reduce the resulting anxiety.

However, could it be possible to talk about an obsessive compulsive neurosis from the examples given in the Antioquian nineteenth century? The theory in this paper is that yes, definitely, as long as we reflect on three aspects: the legitimacy

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(Medellín: Universidad Nacional de Colombia, 2002): 3-44. Orián Jiménez & Oscar Almario, «Geografía y Paisaje en Antioquia, 1750-1850. De los Retos de la Provincia Interna al Espejo Externo del Progreso», in *Geografía física y política de la confederación granadina. Volumen IV. Estado de Antioquia. Antiguas provincias de Medellín, Antioquia y Córdova. Obra dirigida por el General Agustín Codazzi* (Medellín: EAFIT, 2005): 45-55. However, the reader of this paper please do not confuse the importance of roads to the effectiveness of the rules ordering the construction or maintenance. Here it argues that the effective development of roads in Antioquia was not on par with regulations mandating its construction and maintenance, which raises the question about the reasons for such issue.

6 Easily searchable on the Internet, for example: www.psicoarea.org/dsm_iv.htm (accessed September 20th, 2016).

of this relationship between psychoanalysis and juridical system (and the advantages it offers), the repeated idea and finally the irrationality of this one[7].

Let's go to the first point: the legitimacy of applying psychoanalytical categories to the historical juridical system. Regardless of the approaches given by socio-analysis, this kind of reflections are justified fundamentally by two reasons: on the one hand, it is a concept that while intends to explain individual behaviors, may be useful to comprehend social actions and omissions; and on the other hand, it is an exercise of interpretative extension from the use of a rhetorical and argumentative figure: allegory. Consequently, here it is not said that Antioquian law in nineteenth century is obsessive-compulsive neurotic, because of the roads matter, but that it can be analyzed as if it were (or, at least, that those responsible for the issuance of such discourses behaved this way). Add that, if an extra-juridical reading context offers some advantage to comprehend the studied phenomenon, why to reject it straight away? In this case, thanks to the analysis made on roads regulation from the psychoanalytical point of view, it was envisioned the presence of a repeated idea (such as the one of pretending to change reality by the mere normative promulgation and to acquire legitimacy despite institutional weakness), and the repetition of a conduct that calms the anxiety generated by the same idea (the excessive production of juridical norms which, consequently, fall into inefficacy); that is, *normative syndrome*.

The second aspect has to do with the repeated idea. Obsessive neurosis, according to Freud's writings of the late nineteenth century, presents the following characteristics: a) in the subject, the emotive state is the main thing («since it persists unaltered, changing, however, the idea related to it»[8]); b) the emotive state, as such, is always justified;[9] c) there is an original idea that is substituted by other ideas from forced and strained and, therefore, absurd relationships;[10] d) ideas are multiple and increasingly specialized[11]; e) it is easily combinable with phobias[12]; and f) it presents an etiology that can be traced back, according to Freud, to a sexual event that «has caused pleasure, from a sexual aggression inspired by desire

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7 The matter suggest that the road justifies itself well parody matter, when it comes to such extreme, Bierce: «A strip of land along which one may pass from where it is too tiresome to be to where it is futile to go» Ambrose Bierce, *The unabridged Devil's Dictionary* (Athens (Georgia): University of Georgia Press, 2002): 203.

8 Sigmund Freud, *Obras completas* (Volumen 2, Ensayos VII-XVI, Trans. Luis López Ballesteros, Buenos Aires, Orbis, 1988): «*Obsesiones y fobias* (1894-1895)», 178.

9 *Ibid.,* 178-179.

10 *Ibid.,* 179.

11 *Ibid.,* 181.

12 *Ibid.,* 182.

(…) or from a joyful participation in sexual relations»[13]. However, leaving the topic of sexual etiology, it would be necessary to ask about the main idea behind Antioquian law in XIX century and if roads issue is a main idea or a surrogate idea from a forced relationship.

At first sight, it would be possible to consider that roads issue is in itself a main idea within the neurotic schema that is being analyzed (one might even think of it as liberal-progressive[14]). Nevertheless, there is a much more important idea that is behind it and which enables, at least partly, the constant repetition in the normative enunciation regarding the construction and maintenance of roads: the desire that majesty of law prevails for itself on reality, on the one hand, and the discursive legitimization of a political power more or less ineffective, on the other hand.

This will be explained with an example that, at the same time, will permit understanding the irrational element behind the main emotive state of the obsessive compulsive. Suppose a government with great weaknesses to achieve influencing over the conduct of the persons. This government would easily end up generating an obsessive discourse, precisely because of its incapability of achieving the materialization of its orders. In this case, the obsessive discourse is shown fundamentally by two actions: the repeated emanation of the same order (which remits to the «normative syndrome» theory) and the great burden of symbolic or instrumental efficacy in the given order (through which law passes from being a limit of power to its mere instrument). So, when government itself is questioned because of its incapability of concreting its mandates, in order to try to feign power, as a result of the generated anxiety, it compulsively emits norms increasingly specialized, many of them on the same topic that it considers crucial (causing an obsession on the subject, either because power imagines that this normative production will lead to progress –a very strong idea throughout the occidental nineteenth century– or because power thinks that in that way the desired respect and obedience will be achieved, among other reasons), hoping (from forced and sometimes absurd relationships) that, in this way, majesty of law prevails, by itself, on the reality that contradicts it; even, just when governmental action is most required –knowing the inefficacy of its decisions– it does not stop issuing the norm –knowing the scarce probabilities of observance– expecting this one to replace, by itself, certain political activity for which there is no preparation, so that, not infrequently,

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13 Essay «La herencia y la etiología de las neurosis», *Ibid*., 284.

14 Velez, argues that it used to exist in the existed in the nineteenth century the following repercussion: «Aprogressive liberal ideology root around the roads» (Juan Vélez, *Los pueblos allende el río Cauca,* 20). In the context of this work means that qualification, which otherwise might sound somewhat exaggerated. However, the existence of such «ideology» does not contradict that corresponds to a neurotic scheme.

the mere expedition of the norm tries to satisfy political and social interests, despite its ineptitude for being effective.

The juridical norm, in itself, constitutes a way to govern, because its material efficacy is a matter that often escapes from the real possibilities of action of the political power possessor, aspect that has been called «symbolic efficacy in a specific sense»[15], closely related to the «normative syndrome»[16]. The symbolic efficacy in a strict sense[17], which remits to an instrumental use of law, clarifies how certain regulation is issued just because it cannot be materially effective, either because of its redaction, its creation context or its application context, among the three most recurrent causes. Nevertheless, in these cases, it is common to observe that the political system that emits such norm casts as a triumph its expedition, clarifying a neurotic background in which reality (in this case, the inefficacy of what has been ordered) is replaced by the desire-idea (that is, the imperative covered of juridical form), which leads to believe that the mere expedition is enough to complete or close the political act. In this case, the political discourse focuses more on the expedition of the juridical discourse than on making this one materially effective, because, if power itself focused its attention on the applicative reality of the norm, it would have to accept, in not few cases –with the costs that this could involve– the weak-

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[15] For Garcia Villegas it is really important to make the distinction between symbolic effectiveness in general and in specific sense. The first concept make reference to the idea of accepting the state law, an idea that is based on a representation or symbol (very close to the Hart concept of acceptance of law from an internal point of view). By contrast, the symbolic efficacy in the specific sense refers to a deliberate strategy of creative law applicators, which is to ignore the policy objectives for the benefit of other undeclared objectives. Now then, the symbolic efficiency that here we concern its divided in original and derivate. The original symbolic efficacy «refer to normative conceived for don't have the instrumental efficacy that the text announces», meanwhile that the derivate efficacy indicate «norms aimed to full fill the objectives but, in the course of its interpretation and application, ends up acquiring others different objectives not announced by the norm». Mauricio García, *La eficacia simbólica del derecho: sociología política del campo jurídico en América Latina* (Bogotá: Iepri y Debate, 2014): 233. Also, Mauricio García, *Eficacia simbólica del derecho: examen de situaciones colombianas* (Bogotá: Universidad de los Andes, 1993): 91-92. See, also: Mauricio García, «El derecho como instrumento de cambio social», *Revista Facultad de Derecho y Ciencias Políticas: Universidad Pontificia Bolivariana* 86 (1989): 29-44. Boaventura Sousa Santos & Mauricio García, «Colombia: el revés del contrato social de la modernidad», in Boaventura Sousa Santos & Mauricio García (Eds.), *El Caleidoscopio de las justicias en Colombia* (Bogotá: Colciencias and others, 2001): 11-83. Andrés Botero, *Diagnóstico de la eficacia del Derecho en Colombia y otros ensayos* (Medellín: Señal editora, 2003): 33-45.

[16] A further analysis of the normative syndrome: Andrés Botero, «El síndrome normative», *Revista Última Ratio* 0 (1), (2006): 87-106.

[17] Garcia doesn't the strictly symbolic efficacy of the symbolic efficiency in general (the latter being articulated with the idea of legitimacy of law, which leads to material efficiency). Here we use the first meaning. See: Mauricio García, *Eficacia simbólica del derecho: examen de situaciones colombianas*, 79-110.

ness of the political act which was supposed to be already closed when the power promoted the creation of a norm that should have channeled, through itself, a social problem that aroused State's interest. So, when reality does not change in accordance with the desire-idea expressed in the norm, power has, basically, two options: to accept that the political act is weak and assume the costs involved, such as, for example, ask itself about the causes of its incapability of influencing reality (aspect that remits to the eternal question about law s and State's legitimacy); or re-issue orders in the same direction of the first norm, although generally more specialized, thus believing that the political act that supports them would be closed, generating a continuation or repetition of the formalized desire-idea, despite its inefficacy. This second option has been called, generally, normative syndrome, all of which ends up generating possibilities of certain way to govern, especially in a clientelist or patronage political system.

Thus, it appears to the analyst a new normative form that reduces juridical security to the citizen. There exist various modalities in which the norm is redacted in order to generate governance through systemic uncertainty. Concretely, Tarello[18] synthesizes these modalities into three: i) mere formula laws (those which, in order to be approved by the required majority, are redacted ambiguously, hoping that the judge, in the supplying that he must do because of the referred ambiguity, determines the normative program of the norm, releasing the issuer from political responsibility); ii) laws which receive or request agreements by persons that, in spite of being different from the organ that issues these rules, generally assume their administration, so the norm is redacted in such a way that the future administrator could complete it, according to his desires; and iii) laws which are redacted, not in an ambiguous but in a contradictory way, for many reasons, such as to accommodate the largest number of possible positions, thus allowing everybody to add or remove sections of the norm independently of the final coherence of the text. To these modalities it would be necessary to add, according to García Pascual[19], those laws susceptible of being related to constitutional norms (that is, all norms in a context of constitutionalization of ordinary law), which would augment the degree of uncertainty of the predictability judgment, thus increasing the possibilities of reaction of the control system (an example would be the judicial review, which has being conceived by many as another sample of law crisis in the late twentieth century). But the complete understanding of these juridical figures,

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[18] Giovanni Tarello, «La cosiddetta crisi della giustizia e i problemi della magistratura», in *Cultura giuridica e política del diritto* (Bologna: Il Mulino, 1988): 361-368.

[19] María Cristina García, *Legitimidad democrática y poder judicial* (Valencia: Edicions Alfons El Magnànim, 1997).

which imply in some way the need of a supplying function within law (almost always exerted by the judge), could not be achieved outside García Villega's[20] concept of «symbolic efficacy», nor of the «normative syndrome», concept that is here exposed. Therefore, it would exist another normative form to be studied, if the normative context is considered, consisting of the excessive expedition of juridical norms in the same direction or desire-idea, which evidences in most cases their great material inefficacy, but a great symbolic efficacy in a strict sense, because that is how the image of an acting power is created.

Several examples illustrate the case of the symbolic efficacy in a strict sense and of the normative syndrome in roads issue. In the late eighteenth century, the *oidor* Mon y Velarde, as well as the governors Francisco Silvestre[21] and Cayetano Vuelta[22], among others, stipulated the need of increasing roads in Antioquia, as a connatural thing respect the bourbon way of government. Their intentions on the subject are clearly reflected in their private and public discourses, which could lead the unaware reader to understand that, by force of their arguments, the intended objective was achieved, even taking into account the provisions that they suggested, which obliged prisoners to work in construction and maintenance of roads. Financing system was clear: in charge of the neighbors. This implicated that each road that was opened increased the taxation rate for the inhabitants of the *cabildos* (counties) that were benefitted, which generated not few problems that undermined the efficacy of these norms. This, in addition to other difficulties –such as the economical and political interests that could be affected by a new path or route–, led the political organ to act in an even more specialized and statutory way respect the normative re-expedition, as shows, to mention just one case, the «instruction to be followed by engineer Don Pedro Uribe in Sonsón (Antioquia), road under whose direction the project has been entrusted» (1816)[23]. Another example might be the path that should have led to Atrato river, referred by Mon y Velarde, Francisco Silvestre and Cayetano Vuelta, proposal we will find again,

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[20] Mauricio García, *Eficacia simbólica del derecho: examen de situaciones colombianas*, 79-110. Mauricio García, *La eficacia simbólica del derecho: Sociología del campo jurídico en América Latina*, 233-255.

[21] See: Franciso Silvestre, *Relación de la Provincia de Antioquia* (Medellín: Secretaría de Educación y Cultura de Antioquia, 1988): 119-120. This is a transcript of the relation made by the Governor of Antioquia F. Silvestre, research that he concludes in Spain in 1797.

[22] Cf. *Geografía física y política de la confederación granadina. Volumen IV. Estado de Antioquia. Antiguas provincias de Medellín, Antioquia y Córdova. Obra dirigida por el General Agustín Codazzi* (Medellín: EAFIT, 2005): 67. Also, Jiménez & Almario, «Geografía y paisaje en Antioquia», 49-50.

[23] Archivo Histórico de Antioquia (A.H.A.), Volume 3252, document 12 (1816): folio 210r-226v. Also cited by Sofía Botero, *Caminos ásperos y fragosos para los caballos: apuntes para la historia de los caminos en Antioquia*, p. 141.

soon after, by the hand of *pacificador* (peacemaker) Pablo Morillo who intended to gain antioquian s trust and loyalty towards the Monarchy:

«Y con la nueva ruta de Cali, las transacciones se dirigirán hacia el Quindío, por Santa Fe, Antioquia o el Chocó. Finalmente, la ruta de Mariquita a Medellín se ha entregado al público. Esta ruta tan deseada, tan a menudo ordenada en vano, al igual que la que conduce por Urrao al Atrato, vivificarán estas provincias y el complemento de todas estas operaciones será evitar los peligros del Magdalena por la dirección de Guaduas al Guarumo…»[24].

A very similar situation happens with the progressive perfection of the norms which establish the roads financial system in the period between 1847 and 1851. That rules repeatedly order the construction and maintenance of roads, and, through years, the regulation about them becomes more specialized, while the very financing structure remains, generally speaking, the same: division of roads in national, provincial and parochial, disposing that Antioquia s government must only finance the provincial ones; a Chamber s budgetary fund for this purpose; the payment of personal service or a direct tax on the inhabitants; the establishment of tolls; and the direct contracting, through concessions in which the toll collection right and the granting of wasteland were generally provided, using individuals for the purpose. If the structure is similar, would it be possible to explain the constant expedition of juridical norms ordering such labor? Yes, because, in view of the material inefficacy of the norm (generalizing, of course), this one had to be perfected or repeated, thus hoping the legislator that, thereby, he would hit the target of the problem, ceding the reality to the majesty of the political power expressed in a sovereign way: the law. The normative obsession with roads, therefore, is the best evidence of the widespread inefficacy on the subject.

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[24] «And with the new route from Cali, transactions will be directed towards Quindío, by Santa Fe, Antioquia or Chocó. Finally, the route from Mariquita to Medellín has been delivered to the public. This desired route, so often ordered in vain, as well as the one that leads from Urrao to Atrato, will bring life to these provinces and the complement of all these operations will be to avoid the dangers of Magdalena from Guaduas to Guarumo». Signed at the headquarters of Santa Fe de Bogotá, November 15, 1816. Pablo Morillo, *Memorias* (1826) (translate from French by Arturo Gómez Jaramillo, Bogotá: Edit. Incunables, 1991): 52. This letter is also embodied in Archivo General de Indias (A.G.I.), «Estado 57», Number 34, Folio 46v (however, presents some different words but both versions have the same meaning). The road of Medellin wat to the South (Quindio and Cauca) became the «Caramanta», built between 1837 and 1841 with money from a particular (who was a privilege for it) and the work of poor settlers. View: María Teresa Uribe & Jesús Álvarez, *Poderes y regiones: problemas en la constitución de la nación colombiana, 1810-1850* (Medellín: Universidad de Antioquia, 1987): 209-211. Juan Carlos Vélez, *Los pueblos allende el río Cauca*, 23-27. On the way to the Atrato, the project continued to occupy a central place in political and legal discourse of the second half of the nineteenth century of Antioquia, generating all sorts of disputes about the route (Ibid, p. 29-35).

Furthermore, the above explains the constant state and departmental Antioquian regulation about roads issue (1856-1886). A mere reading of the titles of the aforementioned norms is enough to realize the constant normative emission concerning construction and maintenance of roads, even the expedition, in short time periods, of several frame norms about ways of communication, where the most recent of them added, reformed or derogated the previous one, thus believing that, with such addition, reform or derogation, the idea-desire expressed in the frame norm would operate in reality.

It is observable, then, in these examples, that the repetitive idea which characterizes neurosis, with its resulting discursive specialization in two crucial areas for the efficacy of the norm: private financing and public expropriation. These two lines show the confluence of public and private worlds towards the satisfaction of collective desire, within a large process of «publization»[25] of private law and «privatization» of public functions, which is nothing more than the rarefaction of «public» and «private» categories inherited from antiquity, almost extinct in the Ancient Regime, and partly recovered during the nineteenth-century republic[26]. But this search for private financing of public roads through diverse and repeated national and state norms, meant, in some way, that such norms were the result of erratic politics regarding the expounded objectives (the increasing of passable roads or *carreteros*[27] for public enjoyment), which implicated the constant reformation of norms, in the typical exercise of normative syndrome, at the same time that marked the alternation of procedures, considering that, through the repetition of the repeated idea, desire was satisfied, which happened, in fact, very few times. In other words, it is analyzed here the repetition of norms and its progressive specialization, observing that they, by themselves, clarify that reality did not cede to the desire expressed in law (since, if that had happened, such normative profusion

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[25] Concept developed in Andrés Botero & others, «Teorema de las relaciones complejas en el discurso interventor: el espacio vital, el maltrato familiar, el individuo y la familia antioqueña», *Revista Universidad de Medellín* 79 (40), (2005): 39-53.

[26] On the categories of «public» and «private» in the story, see: Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (1962) (Trans. by Thomas Burger Cambridge (MA): MIT Press, 1991): 14-26. This enables tell the prof. Victor Uribe (Florida International University) that «the classification of colonial law, in categories such as public and private, is utterly anachronistic, and comes from extrapolation and imposition of ancient or present societies and periods obeyed world» Víctor Uribe, «El constitucionalismo provincial colombiano, vida pública y vida privada en el período postcolonial», in Andrés Botero (ed.), *Origen del constitucionalismo colombiano* (Medellín: Universidad de Medellín, 2006): 33-52.

[27] Following the terminology used by Agustin Codazzi in 1852 (See the mentioned work: *Geografía física y política de la confederación granadina*) to differentiate the roads, suitable for transit, required by larger scale and the old ways that he rejects for the Antioquia region.

would not have been necessary). It is clear that paths were opened, especially in the mid-nineteenth century, thanks to, among other things, the profits that it involved for individuals interested in toll charging during more or less longer periods and in acquisition of lands (national law of May 7, 1845 granted toll collection rights for 50 years to whoever constructed roads or bridges, as well as numerous bushels of waste land), but these roads did not increase at the rate desired by law and not all of them were «*carreteros*».

Thus, the principal emotional state, product of the constant discursive remission to roads, was none other than the search for legitimacy by the political power that was related to substitute ideas, as in this case the continuous promulgation of juridical-political discourses, which intended to impose roads with the mere issuance of words, and that, faced with the inefficacy of its mandate, must again issue a norm or a proclamation, while these (norms and proclamations) were the principal means which the power (that, therefore, is characterized as weak) of the analyzed epoch possessed. In fact, it is this repetition of norms –which inefficacy was frequently known before they were promulgated– what explains the lack, in many of them, of some juridical consequence for its infringement by the State, and the existence of significant penalties for individuals[28].

The obsession settled on the substitute idea, the construction and maintenance of roads, and government compulsively issued very similar norms, although progressively more complex, over short time periods, thus justifying its political action by the normative emission act, intention (governing through norms and trusting them to change reality for themselves[29]), by the way, maybe absurd for the contemporary observer, but not for the power's possessor in that time well that he only saw in this his way of being in the power itself, in face to his own weakness.

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[28] This is the time to expose in very summary way, an interesting debate that it has emerged during this study: these legal standard were juridical rules despite the lack of legal consequences? Several colleagues have noted that, from reading positivist models, especially Kelsen, does not face legal norms by the lack of consequence, but only to political norms, which would affect the rating of «normative syndrome» to these imperatives. However, this statement must be qualified, among others, for the following reasons: a) judge the legality of rules from further theoretical model is an anachronism; b) the social imaginary and political practices that were in this place make such rules able to analyze that we are faced with legal standards, at least in a broad sense; c) the normative syndrome, as its name implies, characterized any dysfunctional situations of certain requirements, including but not exclusively legal ones.

[29] «So that, sometimes the law is created to make think that reality has changed with the simple fact of declare (by the law) the change itself. In this case, the power of law is the power to say the law: to say is to make». Mauricio García, *La eficacia simbólica del derecho: sociología política del campo jurídico en América Latina,* 244. The text between parentheses is out of the original text.

Let, then, this frame to serve for the comprehension of the concept of normative syndrome, and of its concrete possibilities for the reading frames given by the history of law and juridical sociology, from the specific case of roads regulation.

## 2. NORMATIVE SYNDROME CONCEPTUALIZATION

To finish, we can conclude that during the colony, authorities tried more than once, through the expedition of political speeches, judicial proceedings for the opening of roads, opening orders, etc., to open and maintain roads, but the very inefficacy of their provisions leads to identify their obsession and compulsion on this subject. Latter, creoles, based on *Junta de Gobierno* of Antioquia, followed the same course through diverse proclamations, political speeches, regulations and even through the provincial constitutions (through a process called «hyper-constitutionalism»[30]): governing primarily through the issuance of juridical norms, which could have been done without further delay, giving the idea of an acting government, but that, in fact, was nothing more than a surrogate idea which devoted to roads as a continuous regulation object.

Subsequently, during the period between 1847 and 1851, it is possible to observe how a significant percentage of the ordinances issued by the Provincial chamber of Antioquia were about roads (see the attachment), and how in such a short time period, various construction and maintenance systems, very similar to

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[30] With this term we refer to the Independence period of Colombia that «determinate a sort of type of hiper-centralism of the constitutional issue in the political debate, which instaurated a new type of mixture among politic and law». Mauricio García, «Apuntes sobre codificación y costumbre en la historia del derecho colombiano», *Opinión Jurídica* 8 (4), (2005), 60. By his side, Javier Ocampo says: «The constitutionalism is another historic phenomena that we find in the Independence's juncture. Its presents as the necessity or organize juridically an State and adopt the shape more convenient of government for the new Independence State… The constitutionalist spirit in the Independence's juncture, that was general in Latin America, search establish the State ruled by the law; it's the idea of find to each problem a solution with a legal foundation that justified» Javier Ocampo, *El proceso ideológico de la emancipación: las ideas de génesis, independencia, futuro e integración en los orígenes de Colombia* (Tunja: Universidad Pedagógica y Tecnológica de Colombia, 1974): 47-48. In a similar sense, Romero holds that «the constitutionalism was almost an obsession from the beginning. Without make possible establish valid principals of representativeness, were called congress by everywhere that should assume the soberanity of the new nation and sanction the constitution that, up and down, will shape the new society. The principles seemed solid, indisputable, universals. A few opinions –none of them– objected them. Only were contradicted by social an economic reality, that overcome the frames of the doctrine with their concrete exigencies, originals and conflicting» José Luis Romero, *Situaciones e ideologías en América Latina* (Medellín: Universidad de Antioquia, 2001): 75.

each other, were issued, and just when one of such ordinances did not create by itself the desired routes, it was issued again with certain modifications –which involved a gradual complexity of the rule–, thus hoping reality to cede to the state desire formalized in the valid norm. Likewise, during the State of Antioquia (1856-1886), were issued various norms concerning the construction and maintenance of roads, focused on the financing and expropriation required to achieve that purpose, but the desire was not always fulfilled through the emission of the repetitive idea, thus configuring a clear obsessive compulsive neurosis schema, and with this the syndrome that characterizes it.

But this tendency did not vary significantly if it is observed the third studied period: the second half of XIX century. Here, it remains the spirit of continuous expedition of norms regarding roads, many of them materially ineffective, thus hoping to influence reality by at least two ways: an acting legal State image (acting rule of law) and a belief that majesty of law can overcome daily world difficulties.

However, it is clear, as was said in the preceding paragraphs, how that normative series, *mutatis mutandi*, responds to the basic features that Freud described at the time as inherent in the obsessive-compulsive neurosis (which at the same time permits to reflect on the normative syndrome): a) some emotional stability in the subject (in this case State and society), and some instability associated with the idea that ends up being obsessive (law as a way to govern); b) an emotional state that will always be justified by any excuse, to avoid assuming, on the one hand, the real causes of the material inefficacy of certain norms and, on the other hand, the political responsibility for promoting these systems in crisis; c) an original idea which is replaced by other ideas from forced and absurd relationships (such as believing, for example, that juridical discourse can, in the contexts of the studied norms and by itself, change the *world of life*); d) multiple and increasingly specialized ideas in the course of time (that, in the case of this investigation, is shown by the constant complexity of roads regulation); e) and easily combinable with phobias (comparable to the increase of the means of social control over certain groups which end up being stigmatized, made invisible and made responsible for the inefficacy, by the state juridical-political discourse).

But, what is normative syndrome? In the first place, this concept involves some negative valuation, although not necessarily pathological, of the phenomenon that is qualified as such. The syndrome does not involve, necessarily, a disease, but this syndrome involves a characterization easily recognizable as dysfunctional. So, syndrome is a dysfunctionality of the ideal or the referential system, that, in the case of Antioquian regulation, discursively immersed in a liberal State context, would be conformed, not only by the promulgation, under constitutional and legal frameworks, of valid norms, but also by the material efficacy of the objectives expressed by the norm, as well as by the «symbolic efficacy in

a general sense». In other words, referential system would be composed by the materially effective juridical norm, as a vehicle for channeling conflictive social relations, generating state legitimacy (symbolic efficacy in a broad sense)[31] from the way how the norm was presented and in its real applicability. In the case of roads regulation, referential system is not verified; it is, on the contrary, distorted, since the promulgation of norms is incessant, due to the inefficacy of the previous norm, looking forward to generate –through the continuous expedition of ineffective norms– legitimacy, no longer through referential institutional ways, but through the patronage or clientelist discourse of issuing norms in accordance with social desires and popular pressure in exchange of favors, but knowing, in advance, their inefficacy. In fact, the dysfunctional aspect is verified, as it has been mentioned, when in the next opportunity for normative promulgation, the new norm that will replace the previous ineffective one, is issued with more complexity in its normative program, believing the naive persons, that the previous simplicity was what caused the material inefficacy.

Moreover, this phenomenon –in the studied context– widely explored in psychoanalysis and which is brought in here with due reservations, involves a rarefaction of the norm and/or of the juridical system, which involves a loss of juridical security and certainty, among other dysfunctional effects.

This leads to an important question: asserting that a juridical phenomenon suffers from *normative syndrome*, implies the need of counting on socio-juridical therapists and of a moralization within law? This question should not worry more than necessary, for the following reasons:

- The presumed objectivity of the scientist, which, by the way, cannot be identified with neutrality –a more than denounced myth–, is just one facet of law that does not oppose, in itself, the political roles of reform surrounding scientist and law. Although scientist's tastes can not be confused with his scientific assertions –though they cannot either be completely separated, because knowledge is intentional (Schopenhauer, Brentano, Husserl, etc.)– it can not either be denied that both levels can –even, must– get connected from the reasoned identification, through validated meth-

[31] «Do not forget that a current strategy of political legitimization, it s consist in make of the law those what law says wants to do, thus, it's to make the law became effective» («No hay que olvidar que una estrategia corriente de legitimación política consiste en hacer del derecho lo que éste dice querer hacer, esto es, el lograr que el derecho sea eficaz») Rodrigo Uprimny & Mauricio García, «Corte Constitucional y emancipación social en Colombia», in Boaventura Sousa Santos (ed.), *Democratizar la democracia* (México: Fondo de Cultura Económica, 2004): 260.

ods, of dysfunctional situations of law, thus hoping that stronger political roles take charge of the reforming function.

- Identifying syndrome does not require in all cases the participation of a therapist; however, although scientific function is not reducible to therapeutic function, nothing prevents for thinking of communicating circuits between them, as the one of identifying dysfunctional patterns which allow others, in more political than scientific roles, the proposal of restoring more functional patterns from validated referential systems.
- There exist, and it is not the intention of this paper to analyze or question them, proposals which do not conceal political intentions, and that, however, have achieved widespread academic recognition, making clear, among other things, that methodological purity ideals are no longer benchmarks in the scientific community (an example of paradigmatic change is shown by multi-inter-trans-disciplinary researches, and by the strengthening of critical schools).
- Identifying a phenomenon as «syndrome» does not involve a valuation beyond the verification of dysfunctionality regarding benchmarks which not always belong to specific structural morals. In fact, there is not a moral which is consolidated as single and true and, therefore, there is not a single moral which unifies benchmarks. Add that not every benchmark corresponds to a moral, unless one has such a wide concept that includes any valuation, whatever it is. If it is assumed that every valuation is moral (matter that is, by the way, debatable), it would be necessary to conclude that the determination of dysfunctionality involves a moralization within law. But denying such exercise would involve scientific exercises reduced to pure description, which verge on myth. Anyway, scientific discourse is always in a colors scale, where the condemnable thing is the rapprochement to the chromatic extremes (black and white).

In the second place, the idea of *normative syndrome* sprang on the occasion of the studies made by the author of this paper about obsessive-compulsive neurosis, as an interpretative allegory concerning the fixed idea recurring through time, found in roads regulation in the three studied periods. However, it would be possible to reach the same concept without resorting to psychoanalytical criteria, all the more since the issue of normative overproduction effects has been shown up since time immemorial. There are reflections on the dysfunctionality caused by the excessive normative production in the works of Isocrates[32],

[32] Isocrates in Aeropag. 147 d, considers the multiplication of laws as a sign of decadence of the States (Cf. Tacitus, An. III, 27: – *corruptissima republica plurimae leges*).

Descartes[33], Erasmus[34], More[35], Campanella[36], Tomas de Mercado[37], etc. Even Tao Te King says:

> «The more laws and restrictions there are,
> The poorer people become.
> The sharper men's weapons,
> The more trouble in the land.
> The more ingenious and clever men are,
> The more strange things happen.

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[33] He said: «And since the multiplicity of laws provides excuses for vices, so that a state is much better ruled when it has but very few laws and when these are very strictly observed» René Descartes, *Discourse on Method* (Third ed., Translated by Donald A. Cress, Indianapolis: Hackett Publising Company, 1998): 11.

[34] Erasmus, *The Praise of Folly* (Translated by John Wilson, London & *et al:* Oxford University Press, 1913): 63-64: «For that simple people of the golden Age, being wholly ignorant of every thing call'd Learning, liv'd only by the guidance and dictates of Nature; for what use of Grammar, where every man spoke the same Language and had no further design than to understand one another? What use of Logick, where there was no bickering about the double-meaning words? What need of Rhetorick, where there were no Law-suits? Or to what purpose Laws, where there were no ill manners? from which without doubt good Laws first came». «And amongst them our Advocates challenge the first place, nor is there anie sort of people that please themselves like them: for while they dailie roul Sisyphus his stone; and quote ye a thousand cases, as it were in a breath, no matter how little to the purpose; and heap Glosses upon Glosses, and Opinions on the neck of Opinions; they bring it at last to this pass, that that studie of all other seems the most difficult». *Ibid.,* 111.

[35] «They have but few laws; for to people so instruct and institute very few do suffice. Yea, this thing they chiefly reprove among other nations, that innumerable books of laws and expositions upon the same be not sufficient. But they think it against all right and justice that men should be bound to those laws which either be in number more than be able to be read or else blinder and darker than that any man can well understand them» Thomas More, The Utopia (New York: The Macmillan Company, 1912): 164.

[36] «They have but few laws, and these short and plain, and written upon a flat table and hanging to the doors of the temple, that is between the columns. And on single columns can be seen the essences of things described in the very terse style of Metaphysic — viz., the essences of God, of the angels, of the world, of the stars, of man, of fate, of virtue, all done with great wisdom. The definitions of all the virtues are also delineated here, and here is the tribunal, where the judges of all the virtues have their seat. The definition of a certain virtue is written under that column where the judges for the aforesaid virtue sit, and when a judge gives judgment he sits and speaks thus: O son, thou hast sinned against this sacred definition of beneficence, or of magnanimity, or of another virtue, as the case may be. And after discussion the judge legally condemns him to the punishment for the crime of which he is accused — viz., for injury, for despondency, for pride, for ingratitude, for sloth, etc. But the sentences are certain and true correctives, savoring more of clemency than of actual punishment». Tommaso Campanella, *The City of the Sun* (online) (Adelaide: University of Adelaide, 2014) (https://ebooks.adelaide.edu.au/c/campanella/tommaso/c18c/complete.html, Consulted 27-09-2016).

[37] Tomás de Mercado, *Suma de tratos y contratos* (Madrid: Editora Nacional, 1975): 204 (paragraphs 235-236).

The more rules and regulations,
The more thieves and robbers»[38].

But taking into account that there is no necessary relation between normative overproduction and material inefficacy of law (although, for many, both the one and the other constitute threats not only for law but also for social system[39]), it could well be noted that it would not be such an easy task –although not impossible– to reach the concept here proposed of *normative syndrome* by means of studies about normative overproduction.

So, this question emerges: is it pertinent to make a psychoanalytic analysis of the topic if this one has already been identified in some way by a great variety of authors? Furthermore, is it possible to reach similar judgments by means of other reflective ways? This is related to the methodological reflections that Feyerabend[40] well debates, in the sense that there is not a single way to achieve scientific knowledge. However, the aforementioned allegory permitted using conceptual scales that are very detailed in other disciplines, allowing understanding inherent elements of the studied phenomenon (such as the matter of the relationship between the idea and the repetition in the road normative), which possibly would have not been perceived if other means have been chosen to achieve what is here proposed. Consequently it would be more relevant, in this case, to indicate whether that concept (*normative syndrome*) helps us or not to understand the constant emission of ineffective juridical norms about roads issue, than to discuss the pertinence of the chosen method of discovery.

Thirdly, it is necessary to distinguish between general and special normative syndrome. The former remits to a particular juridical system (a national one, or the Colombian criminal law, etc.) which, in some cases, can reach a state called «juridical stagflation» (excessive production coupled with a devaluation of the binding value in that juridical system s social circuits). The latter, the especial one, refers to a more limited body of norms attached to each other in the reproduction of a fixed idea (as, for example, the regulation of construction and maintenance of roads in the Colombian nineteenth century).

In the special normative syndrome it is much easier to notice the existing relationship between, on the one hand, this series of norms repeated to thus ful-

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38 Lao Tse, *Tao te king* (on line), http://www.wussu.com/laotzu/laotzu57.html (consulted September 21th, 2016).

39 For instance, Thomas Simon studies the critics of modern law which are based, among other reasons, on the negative effects it brings to the social system (as well as legal) regulations bulky production. Thomas Simon, «Was ist und wozu dient gesetzgebung? kodifikation und steuerungsgesetzgebung: zwei grundfunktionen legislativer normsetzung», in Gerald Kohl, Christian Neschwara and Thomas Simon (eds.), *Festschrift Für Wilhelm Brauneder zum 65. Geburtstag. Rechtsgeschichte mit internationaler Perspektive* (Wien: Manz, 2008): 635-648.

40 Paul Feyerabend, *Against Method* (3th ed., London & New York: Verso, 1993).

filling the fixed idea and, on the other hand, the material inefficacy of the norm (both in its mandate and in its juridical consequence). However, nothing prevents the thinking that, for media purposes, the State repeats (issues in several opportunities over relatively short time periods) effective norms. For example: a conduct is devalued in society and State, if in a moment of institutional weakness, the government decides to issue again the norm that prohibits such conduct, in order to revitalize itself before public opinion. Another case would be when it is issued a norm that gathers previous normative approaches, but such norm is presented as a «juridical Adam»; that is, as a norm that starts from scratch, breaking in two the history of regulation on this subject (which remits to the studies about how law participates in the construction of founder myths). It would also fit into this list of examples that one which is produced when several norms of a code are changed and the legislator decides to re-issue the complete code with all changes made.

However, there are so many study hypotheses that the researcher must limit the object. This paper proposes for this case to assume as the central object of inquiry about the concept of *normative syndrome* the continuous issuance of identical or similar juridical norms, over relatively short time periods, which are materially ineffective. The motive of this process may vary depending on the case, but in most cases it is reduced to two: a) Believing that law, by itself, solves social problems (juridical fetishism); b) Generating positive opinion for the norm issuer, giving the impression that, with the expedition of the norm, that one faces decisively the social problem.

Fourthly, once the precision of normative syndrome central object is made, it is noticed that this one is associated with the symbolic efficacy in a restricted sense, as well as with the juridical fetishism that this group of norms may represent with such progressive normative improvement, that well could be applied in this case, allegorically, the reflection made by Borges in his story: «*Tlön, Uqbar, Orbis Tertius*»[41], in which he narrates how a group of people decide to create a world different from the real one, so perfect that such new world became something stronger than reality. Likewise, in the case that was studied in this paper, it is possible to observe how roads regulation, despite its widespread material inefficacy, achieved such perfection in its normative formulation that it could be regarded as proved the *autopoiesis* presented by Luhmann[42] and that was illustrated by Borges. Antioquian lawyers, by example, faced a juridical corpus that, with time, became more complex, prompting all sort of studies and dogmatic interpretations, where it could be more relevant something said, in the normative or dogmatic discourse,

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41 Jorge Luis Borges, *Labyrinths: Selected Stories & Other Writings* (New York: New Directions, 1964): 3-18.

42 Niklas Luhmann, *Social Systems* (Translate by John Bednarz Jr., Stanford (CA): Stanford University Press, 1995): 12-59.

in France about roads than the reality in which these norms must have been applied. This subsystem, the more complex it became, the more separated to its immediate application context it was, turning in almost a world built with different rules and which requires its own studies and specialists.[43]

In fifth place, *normative syndrome*, as its name suggests, is a dysfunctionality of norms, independently they emanate from the Executive, Legislative, Judicial, Control or Electoral branches (public power organs according to the articles 113, 117 and 120 of Colombian Constitution of 1991). It is not easy to think that other sources of law, as custom, may present such dysfunctionality.

In sixth and last place, *normative syndrome* presents an interdisciplinary advantage of great value: this concept allows understanding some normative phenomena from multiple contexts which unite their horizons for that purpose. *Normative syndrome* studies require, at least, knowledge inherent in dogmatic, juridical sociology, philosophy of law and, specially, legal history. But the important thing in this case is how the different contexts that are handled in these juridical disciplines converge in the studies related to *normative syndrome*. All knowledge requires a context. In the case of dogmatic, that context is clear, for example, when the dogmatic associates a norm with others equally valid for the extraction of a conclusion, a process called, from the kelsenian perspective, interpretation[44].

Talking about juridical sociology, the context is shown when one refers, for example, to the efficacy of a norm or to the socio-political processes that prompted or conditioned a juridical institution. In the field of philosophy of law, the context is determined rather by the reading frameworks established by classical authors and systems that interact with each other (even outside their immediate historical contexts, which explains the ease with which the philosophers of law make authors from different periods dialogue to each other) for the interpretation of a juridical phenomenon. In the field of history of law, the context is defined in other methodological senses, much more concrete compared to the professional historian or to the philosopher of law[45], but much broader compared to the context which the dogmatic considers valid for his reflections. Consequently, inquiring about the normative syndrome of a group of norms or of a juridical system involves taking into account various contexts of the norms (as the context existing within *normative syndrome*, the one existing in relation to the socio-cultural environments of

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43 Gratitude to the Professor Antonio Manuel Hespanha (Portugal), for his important insight that leads part of the claims of this research.

44 Hans Kelsen, *Pure Theory of Law* (Translated by Max Knight, Berkeley (CA): University of California Press, 1967): 348-356.

45 Eternal gratitude to the Professor Carlos Petit (University of Huelva, Spain), mostly for help to lead the claims of this research (in interview electronically on February 9, 2006): for whom philosophers over texts, and historians are both dealing contexts over a pedal on the plain and others are rather climbers.

promulgation and application of the norm, the one existing in relation with authors and schools which are relevant for thinking formation in some specific field, etc.), making clear the urgency of interdisciplinary communication, both within and outside the juridical discipline.

In the case of this paper, the different contexts were the ones which permitted describing the *normative syndrome* in roads regulation. The reading of a concrete norm would have contributed little to our investigative interest; it would even have meant little for the juridical discipline itself. But relating this norm with others in the same topic and in the same periods, allowed establishing repeated series that challenges the researcher s imagination. But, when these norms related to each other are put in their historical and social contexts of promulgation and application, phenomena such as the *symbolic efficacy in a strict sense* and the material inefficacy appear clearly, offering to the history of law readings which are more cultural than institutional. Likewise, when these norms are put in contact with theoretical reflections, which are not necessarily immediate to the social context of such norms –as the case of psychoanalysis– it emerges the possibility of designating, allegorically, the studied phenomenon as a syndrome. This paper was, then, a reading of contexts to the history of law.

## ATTACHMENT:

In this time, taking the «ordenanzas» of the Cámara Provincial de Antioquia[46], we have these rules refers to the roads[47]:

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[46] For this time, the limits of «provincia de Antioquia» were: «La cima de la cordillera que separa la hoya del Cauca de la del Atrato, desde el punto en que por la parte del Sur empiezan para el lado del Cauca las vertientes del río de San Juan de Caramanta; siguiendo dicha cima, hasta donde parte de ella el contrafuerte que, dirigiéndose al occidente, separa las vertientes del Panderizco y del Pavón de las de Bebaramá y otros afluentes del Atrato; desde aquel punto, siguiendo la cumbre principal al de este contrafuerte hasta el sitio en que pueda tirarse la recta más corta en la dirección de naciente a poniente a la confluencia de los ríos Ocaidó y Arquía; de dicha confluencia, siguiendo la línea recta más corta a la cabecera principal del río Mandé; de allí la corriente de éste hasta su confluencia con el Panderizco; la corriente de éste hasta su reunión con el Murrí y la de éste hasta el Atrato. De la confluencia de estos dos ríos la corriente principal del Atrato hasta el golfo de Urabá. De este punto la banda oriental del golfo hasta el cabo Arboletes, y de allí al interior, la cordillera occidental de los Andes». Decreto de 15 de julio de 1848. Cfr. *Codificación Nacional de todas las leyes de Colombia desde al año de 1821, hecha conforme a la ley 13 de 1912. Obra publicada bajo la dirección del honorable Consejero de Estado Doctor Ramón Correa* (Tome XIII, Years of 1848 and 1849, Bogotá: Imprenta Nacional, 1928): 255.

[47] It is analyzed from 1847 until 1851, well the May 15th of 1851 was sanctioned the law that divided the Antioquian province in three: Antioquia, Medellín and Córdova. Santa Fe de Antioquia return to be Capital of «Antioquia» during three years and 11 months. Vid. Fer-

| NUMBER OF THE ORDE-NANZA[48] | DATE | TITLE | NORMATIVE BASE FOR EACH ORDENANZA | NUMBER OF ARTICLES OF EACH ORDE-NANZA | COMENTARIES |
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| | 18 de septiembre (firmado por el gobernador el 22 de septiembre) de 1847. | | | 7 | Se concede a José María Villegas y socios el privilegio exclusivo por 20 años para la apertura de un camino de herradura desde el alto de Venancio Aguirre hasta un punto navegable del río Mata. |
| | 24 de septiembre (firmado por el gobernador el 29 de septiembre) de 1847. | | Atribución 20 del artículo 124 de la ley 1.ª Parte 2.ª, Trat. 1.º, Recopilación Granadina. | 7 | Se concede a la Casa de Mejía Gaviria y Compañía, privilegio exclusivo por el término de 15 años para construir y mantener un puente sobre el río Arma |

nando Vélez, *Datos para la historia del derecho nacional* (Medellín: Departamento de Antioquia, 1891): 234. The «ordenanzas» of 1847 were consulted in the Archivo Histórico de Antioquia (AHA), Tome 1777, folios 110-140. The «ordenanzas» of 1848 were searched in the AHA, Tome 1610, folios 99-196. The «ordenanzas» of 1849 were read in the AHA, Tome 1778, folios 1-105. The «ordenanzas» of 1850 were consulted in: *Ordenanzas espedidas por la Cámara Provincial de Antioquia en sus sesiones de 1850* (Medellín: Imprenta de Jacobo F. Lince, por Rafael Piedrahita, 1850). As well, it's can be search in the AHA, Tome CG 2268, folios 1-178. The «ordenanzas» of 1851 were read in the AHA, Tome CG 2270, folios 192-310. I must to grateful to prof. Julio Gaitán by show me a compilation of these «ordenanzas», which I have confronted with the original version, and for encourage me to study them.

Finally, we take advantage of this opportunity to complement and affirmation of Santiago Londoño («El establecimiento de la imprenta en Antioquia: largo camino hacia la industria editorial en el siglo XIX*», Revista credencial Historia* 95 (1997)) in the sense that Jacobo Faciolince «in 1854 printed a recompilation of «Ordenanzas Provinciales de Antioquia» approved among 1851 and , because equally he made it with the «ordenanzas» of 1850.

48 It should be noted that the number of each «ordenanza» depends of the normative compilation viewed. The «ordenanza» was identified by the date of approbation.

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| | | | | | en el camino que va desde esta provincia a sur, en la dirección denominada de Arma viejo. «El puente deberá ser construido de madera buena y estable y techado de teja».<br>Se modifica mediante ordenanza del 26 de septiembre (firmado por el gobernador el 17 de octubre) de 1848. |
| | 25 de septiembre (firmado por el gobernador el 30 de septiembre) de 1847. | Presupuesto de gastos para el año económico de 1848. | | | Se establece para pagar al señor Manuel Corral por la construcción de un puente sobre el río Fomosco en el camino provincial que gira de esta provincia a la del Chocó 3961 reales. Para la apertura del camino de Cáceres a Yarumal 500 reales. |
| | 25 de septiembre (firmado por el gobernador el 1 de octubre) de 1847. | | | 7 | Se concede a los señores Manuel Corral y Andrés Londoño el privilegio exclusivo por 20 años para la apertura de un camino de herradura por la banda occidental del Cauca para la provincia de Cartagena, pasando |

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| | | | | | por el distrito parroquial de Ituango, hasta tocar el camino que se concedió en privilegio al Pbro José Pío Miranda y Campuzano. |
| | 25 de septiembre (firmado por el gobernador el 2 de octubre) de 1847. | | Atribución 18 del artículo 124 de la ley 1.ª Parte 2.ª, Trat. 1.º de la Recopilación Granadina. | 3 | De los fondos comunes provinciales y con el carácter de empréstito a los de vías de comunicación se tomará la cantidad de 396 pesos un real para pagar al señor Manuel Corral la suma que se le adeuda por gastos de su peculio invertido en la construcción del puente sobre el río Fomozco en el camino provincial que gira de esta provincia a la del Chocó. De los mismos fondos y con el mismo carácter se tomarán 500 pesos para auxiliar el camino que gira de Yarumal a Cáceres y los cuales se habían mandado entregar de los fondos de caminos por decreto de 25 de septiembre de 1844. |
| | 24 de septiembre | | Atribución 22 del artículo | 5 | Se establece un director de caminos |

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| | (firmado por el gobernador el 9 de octubre) de 1847. | | 124 de la Ley 1.ª Parte 2.ª, Trat. 1.º de la Recopilación Granadina. | | en cada uno de los distritos parroquiales de la provincia, cuyas funciones son asistir a los trabajadores, dirigir la composición de caminos, llevar una lista de los trabajadores por ser servicio personal, llevar las cuentas y custodiar las herramientas. Se establece el procedimiento de designación y remuneración a cargo de los jornales recolectados en dinero entre los vecinos. |
| 9 | 29 de septiembre de 1848. | Destinando la cantidad de mil pesos de las rentas de peaje y pontazgo del Cantón de Santarosa para auxiliar la apertura del camino que conduce de Yarumal a Cáceres. | Atribuciones 1.ª y 8.ª del artículo 3.º de 3 de junio de 1848. | 2 | Otorga amplias facultades al gobernador. El primer artículo repite lo señalado en el título de la ordenanza, y el segundo deja todo en manos del gobernador. |
| 27 | 23 de septiembre (promulgada el 10 octubre) de 1848. | Declarando los caminos provinciales y estableciendo las reglas para su apertura, conservación y mejora, y | Números 8 y 9 del artículo 3.º de la ley de 8 de junio de 1848. | 18 | Reforma la ordenanza del 15 de octubre de 1834, además establece un impuesto. El artículo primero hace una descripción de los |

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| | | estableciendo una contribución para este objeto. | | | caminos provinciales[49], estableciendo como sistema de financiación los peajes, así como el servicio personal que pagarán todos los habitantes de los distritos por donde pasen los caminos provinciales , según dos categorías (una que pagará en dinero dos días de trabajo anualmente, y otra que laborará personalmente un día al año). Ordenanza reformada mediante ordenanza del 30 de septiembre de 1850. |
| | 29 de septiembre (firmado por el gobernador el 6 de octubre) de 1848. | Fijando los gastos provinciales en el próximo año venidero. | Atribución 1.ª del artículo 3.º de la ley de 3 de junio de 1848, orgánica de la administración y régimen municipal. | 2 | Destina en la partida decimoséptima la suma de «hasta cien pesos» para la refacción de las herramientas para apertura de caminos, y «la cantidad necesaria para los gastos de mensura de los caminos |

[49] This normative raised as a system of alternative founding (this is, when the government revenues could not pay it) to create and maintain the roads, the personal service of the neighbors, established from the Colony, following the Spanish normative, that was ratified for the republican law by the laws of May 19th of 1834 (articles 207 and followings) and June 3th of 1848 (article 34, 8th). It's was pointed in this norms that no one was obligated to work more than the two leagues of distance from his residence. This work is paid for himself or pay to another one. Clearly, this community practice, picked constantly by diverse republican rules, permitted the most part of the public works in roads, but only in the areas with human settlements established.

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| | 26 de septiembre (firmado por el gobernador el 17 de octubre) de 1848. | Reformando el decreto de 24 de septiembre de 1847 concediendo privilegio exclusivo a la casa de Mejía Gaviria y compañía para construir un puente sobre el río Arma. | Atribución 6.ª del artículo 3.º de la ley de 3 de junio de 1848. | 1 | «El puente que la casa de Mejía Gaviria y compañía debe construir sobre el río Arma, deberá ser cubierto de teja, zinc o paja». |
| | 1 de octubre (sancionada por el gobernador el 8 de octubre) de 1849. | Señalando los gastos que de las rentas provinciales deben hacerse en el año de 1850. | Atribución 1.ª del artículo 3.º de la ley de 3 de junio de 1848, orgánica de la administración y régimen municipal. | 1 | En la partida o cantidad 28.ª hasta la 32.ª señala los gastos para vías de comunicación. Para la refacción de las herramientas destina hasta cien pesos, para auxiliar la apertura del camino de Yarumal a Cruces seiscientos pesos, y de Neira a Peladeros mil |

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| | | | | | pesos. En los demás ítems señala que se destinará la cantidad necesaria para apertura de caminos y puentes, pero no indica la cantidad. |
| 33 | 27 de septiembre de 1849, sancionada por el Gobernador el 10 de octubre. | Derogando la de 9 de octubre de 1847 que estableció directores de caminos. | Inciso 8.º del artículo 3.º de la ley de 3 de junio de 1848. | 6 | Señala la necesidad de elegir sobrestantes (capataces) entre los jornales que construyen o arreglan caminos, y en caso de ser más de 20 peones se nombrará un director de caminos. Expresa, además, que los caminos parroquiales deben ser a cuenta y riesgo de los distritos y no de la provincia de Antioquia. |
| 1 | 20 de septiembre de 1850, sancionada por el Gobernador el 24 de septiembre. | Destinando la suma de trescientos pesos para la construcción de un puente sobre el río Buei (Buey). | Leyes de 3 de junio de 1848, 30 de mayo de 1849 y 20 de abril de 1850. | 2 | Se ordena la construcción de un puente sobre el río Buei, «en el camino que por Envigado, Retiro i la Ceja conduce de esta ciudad al distrito de Abejorral». Se señala que si el camino que conduce de la Ceja a Abejorral fuese declarado parroquial, estos dos distritos reintegrarán de por mitad la suma |

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| | 27 de septiembre de 1850, sancionada por el Gobernador el 30 de septiembre de 1850. | Reformatoria de la 27 de 10 de octubre de 1848 declarando los caminos provinciales. | Inciso 8.º, artículo 3.º, de la ley de 3 de junio de 1848 orgánica de la administración y régimen municipal. | 4 | Hace un listado de nueve caminos provinciales. Señala que los restantes caminos son provinciales. Deroga el artículo 1 de la ordenanza 27 de 10 de octubre de 1848. |
| 9 | 30 de septiembre de 1850, sancionada por el Gobernador el 2 de octubre de 1850. | Determinando los bienes y rentas municipales de la provincia. | Leyes 1.ª, parte 2.ª, tratado 1.º de la R.G., de 3 de junio de 1848 orgánica de la administración y régimen municipal y la de 20 de abril último sobre descentraliza-ción de algunos gastos y rentas. | 3 | El artículo segundo señala que son rentas municipales de la provincia: «4. Los derechos de peaje, pasaje o pontazgo que se impongan en las vías de comunicación provinciales y en las obras construidas en ellas». |

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| 16 | 7 de octubre de 1850, sancionada por el Gobernador el 9 de octubre de 1850. | Destinando la cantidad de tres mil doscientos reales a la conclusión del puente de Malpaso. | Atribución 8.ª del artículo 3.º de la ley de 3 de junio de 1848, orgánica de la administración y régimen municipal. | 2 | Se destina la terminación del puente mencionado en la vía provincial que de esta capital conduce al puerto de Remolino sobre el río Nare así como de la formación del camellón anexo al puente[50]. |
| 17 | 8 de octubre de 1850, sancionada por el Gobernador a 9 de octubre de 1850. | Destinando la suma de 4,800 reales para la conclusión de la apertura del camino provincial que conduce a Cáceres. | Inciso 8.ª del artículo 3.º de la ley de 3 de junio de 1848, orgánica de la administración y régimen municipal. | 2 | Se ordena la apertura del camino que de Campamento conduce a Cáceres. El personero provincial queda facultado para determinar la forma de hacer la inversión autorizada. |
| 21 | 10 de octubre de 1850, sancionada por el Gobernador el 14 de octubre de 1850. | Concediendo privilegio exclusivo para establecer una barca que se mueva por el vapor o por medio de ruedas o cadenas para hacer la travesía del río Cauca. | Atribución 8.ª del artículo 3.º de la ley de 3 de junio de 1848, orgánica de la administración y régimen municipal (en "Fe de erratas" del texto consultado se indicaba que es la | 6 | Se autoriza con privilegio exclusivo organizar el transporte fluvial sobre el río Cauca, durante un período de 15 años si la barca es a vapor o de 10 si es de ruedas o cadenas. Establece además que si ningún particular, en los seis meses siguientes se |

[50] Said Vélez about this road: «La ruta más importante de Medellín, para su comercio exterior y buena parte del interior, se dirigía a Nare, donde confluía con el río Magdalena, la más importante arteria del comercio de Antioquia». Juan Vélez, *Los pueblos allende el río Cauca,* 21.

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| | | | atribución 6.ª). | | presenta para hacer uso de este privilegio, la Junta provincial o la corporación que la subrogué podrá contratar la construcción de la barca para hacer la travesía entre Anzá y Sacaojal, por un monto de 24000 reales que sacará del tesoro provincial. |
| 22 | 7 de octubre de 1850, sancionada por el Gobernador el 7 de octubre de 1850. | Destinando ocho mil reales para la exploración y apertura del camino provincial que pasando por Titiribí y la Concordia va a la provincial del Chocó[51]. | Atribución 8.ª del artículo 3.º de la ley de 3 de junio de 1848, orgánica de la administración y régimen municipal. | 3 | Se trata de un camino provincial que partiría de Medellín, pasando por los distritos de Itagüí, la Estrella, Caldas, Amagá, Titiribí y la Concordia, llegando a la capital del Chocó. Se solicitó al Gobernador que invite a la provincia del Chocó para que abra la parte del camino que a ella le corresponde. |

[51] About this road, told Carlos de Greiff (Febraury of 1852): «Además de estos caminos, los cantonales i parroquiales, se hallan en abundancia i regularmente sostenidos; i por esfuerzos patrióticos de particulares o de sociedades industriales, se construyen diariamente nuevas vías de comunicación, sea en poblaciones o nuevas esplotaciones mineras en lo interior: sea para las provincias limítrofes; entre las de esta clase debe mencionarse con elojio, el nuevo camino de Titiribí i Concordia con dirección al Chocó». Carlos de Greiff, «Apuntamientos topográficos i estadísticos de la provincia de Medellín», p. 74. It's must be said that this road was assumed, among Concordia and the limits with Province of Chocó, by Mr Agapito Uribe with another partners, just like clearly shows the progress report presented to Governor, June 20th of 1852; at the time was object of a privilege to the person that finish the road through an «ordenanza» of October of the same year. Cfr. *Ibid.,* 103-104. A study about this road that by many difficulties (especially with the Province of Chocó), it took until 1865, in: Juan Vélez, *Los pueblos allende el río Cauca,* 35-41.

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| | 16 de octubre de 1850. | De presupuesto provincial para el ejercicio del año económico de 1.ª de enero a 31 de diciembre de 1851. | Artículo 20 de la ley de 20 de abril de 1850. | 11 | El artículo 1.º calcula rentas por peajes y pontazgos por 16900. Para la apertura de caminos provinciales, y construcción y reparación de puentes se calculan 18000 reales (para el sostenimiento del culto se destinan 184783 reales y para la justicia 51424 reales).<br><br>Además, el artículo 10 de la ordenanza del 16 de octubre del mismo año, se ordena adicionar a los créditos autorizados uno «para construcción del puente sobre el río Buey en el camino provincial que iría para la provincia del Cauca». |
| 29 | 19 de octubre de 1850, sancionada por el Gobernador el 19 de octubre de 1850. | Aclarando la de 29 de septiembre de 1847, en que se concedió privilegio a la casa de Mejía, Gaviria y compañía para construir un puente sobre el río «Arma». | Atribución 6.ª del artículo 3.º de la ley de 3 de junio de 1848, orgánica de la administración y régimen municipal. | 1 | Aclara que la autorización de cobrar medio real por cada cabeza de ganado mayor o menor que pase por dicho puente, comprende la facultad de cobrar esta misma cuota por cada bestia (caballo o mula) que pase por el puente. |

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| | 22 de octubre de 1850. | De créditos adicionales a los presupuestados de gastos de 1850 y 1851. | Artículo 2.º de la ley de 20 de abril de 1850 sobre descentralización de algunas rentas y gastos públicos. | 6 | Establece en el artículo 3 que la cantidad de 3200 reales para la conclusión del puente de Mal Paso se imputará al presupuesto de 1850. El artículo 6.º indica: «se abre igualmente al ordenador un crédito de ocho mil reales imputable al presupuesto del presente año económico, para la apertura del camino que pasando por Titiribí y la Concordia va a la provincia del Chocó». |
| 35 | 23 de octubre de 1850, sancionada por el Gobernador el 30 de octubre de 1850. | Declarando que las obras que se hayan construido sobre los caminos provinciales que se hayan costeado con los recursos de las localidades continuarán perteneciendo en pleno dominio y propiedad a los distritos donde se hallen. | Artículo 64 de la ley de 3 de junio de 1848, orgánica de la administración y régimen municipal. | 1 | Señala que todos los puentes y demás obras que se hayan construido sobre los caminos declarados provinciales que se hayan costeado con los recursos de las localidades, continuarán perteneciendo a los distritos, por lo que además queda a cargo de estos últimos su reparación, conservación y mejora. |
| 44 | 23 de octubre de 1850, sancionada | Concediendo privilegio exclusivo a Rafael Llanos y | Inciso 6.º del artículo 3.º de la ley de 3 de junio de | 8 | Se da un plazo de dos años para la construcción del camino, y se les |

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| | por el Gobernador el 31 de octubre de 1850. | socios para la apertura de un camino de herradura que ponga en comunicación directa la cabecera del distrito parroquial de Amalfi con la aldea de Sanbartolomé en la ribera izquierda del Magdalena[52]. | 1848. | | autoriza por un plazo de 10 años cobrar derechos de peaje según una tabla señalada en el artículo 3. Se señala: «Si los individuos que han solicitado este privilegio no lo aceptaren en los términos en que está concebido, la Gobernación de la provincia dispondrá su publicación convocando a los que quieran optarlo, y lo adjudicará al que ofrezca más ventajas exigiendo las seguridades que estime convenientes y que aseguren su realización». |
| 9 | 1.º de diciembre de 1851. | Autorizando al Gobernador para prorrogar el tiempo que se señaló a Henrique Hansler para construir una barca para la travesía del río Cauca. | Artículo 3.º atribución 6.ª de la ley de 3 de junio de 1848, orgánica de la administración y régimen municipal. | 1 | Autorización para prorrogar hasta por 18 meses para construir un barco para la travesía por el río Cauca en virtud de lo establecido en la ordenanza de la materia del 14 de octubre de 1850. |

[52] About this road, A. Codazzi wrote in June 12th of 1852: «Antes de salir de esta capital (Medellín) me cabe la satisfacción de anunciar a su ilustrado Gobernador que la provincia de Medellín puede tener dos vías de carros de suma importancia. De Medellín a Amalfi, de Amalfi al Puerto de San Bartolomé». Carta de Agustín Codazzi, comisión corográfica, al Gobernador de la provincia de Medellín, 12 de junio de 1852. En: *Decretos, resoluciones, etc., de la Gobernación de la provincia de Medellín en ejercicio de las facultades preceptivas de la Cámara de la misma provincia en los años de 1851 i 1852* (Medellín: Imprenta de Jacobo F. Lince, por Isidoro Céspedes, 1852): 85-92. En this letter, Codazzi details widely the importance of this public work.

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| 12 | 2 de diciembre de 1851. | Determinando los caminos provinciales y estableciendo juntas para su conservación y mejora. | Atribución 8.ª del artículo 3 de la ley de 3 de junio de 1848. | 14 | Cita el artículo 34 de la ley de 3 de junio de 1848, que en sus incisos 7 y 8 establece las funciones de los cabildos en materia de caminos parroquiales. Establece en el artículo 1.º cuáles son los caminos provinciales. Establece una junta de caminos integrada por el Gobernador, con el fin de incentivar la construcción y el mantenimiento de los mismos, integradas por ciudadanos de «notorio espíritu público y de recto juicio, declarándose patrióticos los servicios que prestan en tal calidad» (art. 5). Habrá, igualmente, juntas subalternas de caminos en las cabeceras de cantón. Establece como principal sistema de financiación un rubro presupuestal destinado para el efecto por la Cámara anualmente. Se ordena la contratación de un ingeniero para la apertura de caminos de herradura. |

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| 20 | 9 de diciembre de 1851. | Estableciendo una contribución directa para la apertura, conservación y mejora de los caminos provinciales. | Inciso 9 del artículo 3.º de la ley de 3 de junio de 1848 orgánica de la administración y régimen municipal. | 19 | Establece un nuevo sistema de financiación de los caminos fundado en una contribución en dinero de todos los habitantes de la provincia, según tres categorías establecidas. Los de primera clase pagarán lo correspondiente a cuatro días de trabajo anualmente, los de segunda dos días y los de tercera un día. La construcción de caminos se hará mediante contratas. No menciona las juntas de caminos. Señala como función del personero de la provincia velar sobre la conservación y mejora de los caminos provinciales. |
| 21 | 9 de diciembre de 1851. | Declarando que no deben observarse en la provincia las expedidas por la antigua Cámara de Antioquia. | Artículo 2.º de la ley de 3 de junio de 1848. | 3 | Se derogan todas las normas expedidas por la Antigua Cámara provincial, salvo algunas excepciones. Del año 1848 y 1849 no se excepcionó ninguna norma de caminos ya indicadas, por lo que fueron derogadas. De 1850 |

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| | | | | | se declara vigente la ley del 21 de octubre que concede privilegio exclusivo para establecer una barca de vapor o ruedas en el río Cauca; las demás normas de dicho año se entienden derogadas. |
| 30 (32) | 15 de diciembre de 1851. | Destinando cierta cantidad para el establecimiento y mejora de los caminos provinciales. | Atribuciones 8 y 9 del artículo 3.º de la ley de 3 de junio de 1848 y cumpliendo con lo que dispone el artículo 30 de la ley 30 de mayo de 1849, adicional a la anterior. | 3 | Destina la cantidad de cien mil reales para la atención de los caminos provinciales y parroquiales que sean de interés según las juntas de caminos respectivas. |
| 38 | 23 de diciembre de 1851. | Estableciendo el presupuesto de gastos y rentas. | Artículo 20 de la ley de 20 de abril de 1850 y la de 1.º de junio de 1851, adicional y complementaria de la del 20 de abril sobre descentralización de rentas y gastos. | 31 | En el artículo 1 se indica que las rentas por peajes y pontazgos se calculan en 1685 reales. El artículo 15 establece como gastos la suma de 8000 reales para la apertura, mejora de los caminos provinciales, construcción y reparación de puentes (para comparación, en dicha norma se establece 126128 reales para los |

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| | | | | | gastos de administración de justicia, 105770,48 para los gastos del culto católico, y 14400 para el pago de los jueces letrados de circuito, para señalar tres ejemplos). |

But the profusion of the road rules (that they add to the others, as the building of jails, holding of poor prisoners and sick people, extension of the educational coverage, authorization to dispose the lands by side of indigenous people, etc.) it is not only a provincial problem, it is also national. Observing the laws and decrees of the constitutional government of the Nueva Granada in 1849, to show a only case, we have the following schema:

| TYPE OF NORM | DATE | TITLE | NORM BASE | NUMBER OF ARTICLES | COMENTARIES |
|---|---|---|---|---|---|
| Ley | 28 de marzo de 1849. | Sobre concesión de tierras baldías a los pobladores de los caminos nacionales. | No informa. | 1 | Se autoriza al poder ejecutivo adjudicar tierras baldías a condición de que se cultiven. Esta norma tenía como intención, promover la población de estas zonas, lo que garantizaba la seguridad de los caminos, mano de obra para reparaciones, etc. |
| Ley | 15 de mayo de 1849. | Creando fondos para el establecimiento de un fanal en el puerto de Santamarta. | No informa. | 1 | Se faculta a la Cámara de la provincia de Santa Marta cobrar una contribución a los buques para la construcción de un |

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| | | | | | fanal en el Morro situado a la entrada del puerto. |
| Ley | 24 de mayo de 1849. | Declarando no ser nacional el camino de San Juan de Cesar a Riohacha. | No informa. | | El artículo único reproduce el título de la ley. |
| Ley | 25 de mayo de 1849. | Declarando no ser nacional el camino de Túquerres a Barbacoas. | No informa. | | El artículo único reproduce el título de la ley. |
| Decreto | 12 de junio de 1849. | Autorizando al Poder Ejecutivo para ampliar i reformar el contrato celebrado para la construcción de un ferrocarril por el Istmo de Panamá. | «Vista la comunicación documentada en que el Poder Ejecutivo manifiesta el estado actual de las negociaciones entabladas en Washington, con tan patriótica solicitud como ilustrado celo, por el Ciudadano General Pedro Alcántara Herrán para la construcción de un ferro-carril al través del Istmo de Panamá»[53]. | | Se trata de un contrato con la «Compañía del ferro-carril de Panamá» para conectar por medio de un ferrocarril los dos océanos. |

[53] This action of the Diplomatic Minister in Washington was acclaimed in its time. Nevertheless, P. A. Herrán was dismissed few time later, it was one of the many detonators of the civil war of 1851.

So that in the national or federal normative were registered four laws and one decree. Nevertheless, the social pressure about the building and maintenance of roads was much bigger in the provincial authorities than national ones. This was because, besides other things, to the fact that not all the roads were in charge of the national central authorities of the Republic, and clearly they search to reduce public spending, for the economic crises, in general, and tributary, in particular, which explain for example the negation of became in national some roads, letting them in charge to provincial governments.

This explain the profusion of the provincial normative, more than national, about the roads in this period of time. Taking into account the limited number of «ordenanzas» issued every year (that in general terms did not overcome the fourth tens per year) and the grand variety of regulated topics, it is important to the high average of this rules that was focused directly to the roads (and without mentioned the other ordenanzas that referenced in theirs contents, but not in theirs title, to the road in widely sense).