Structural dissonance in the communication of the Judiciary in Brazil: questions[a]

Dissonâncias estruturais na comunicação do Poder Judiciário no Brasil: perguntas

EUGÊNIO BUCCI[b]
University of São Paulo, School of Communications and Arts, Graduate Program in Communication Science.
São Paulo – SP, Brazil

ABSTRACT

This study is part of Public Communication studies paired with Language studies. Based on the distinction between the Symbolic Order and the Imaginary Order, it analyzes the institutional communication of the Brazilian Supreme Court (Supremo Tribunal Federal) and the TV channel owned by the Brazilian Judiciary (*TV Justiça*), investigating whether it is possible to combine the function of Justice with the function of entertainment, especially with regard to the *Society of Spectacle* (according to Guy Debord). Finally, the article presents a brief diagnosis of maladjustment symptoms in the communication of the Judiciary in Brazil and proposes guidelines for its reform.

Keywords: Public communication, symbolic, imaginary, Judiciary

RESUMO

Este artigo se inscreve no subcampo dos estudos da comunicação pública, em diálogo com as ciências da linguagem. A partir das distinções entre a Ordem do Simbólico e a Ordem do Imaginário, procura levantar questões sobre a comunicação institucional do Supremo Tribunal Federal e sobre a TV Justiça, investigando se é possível compatibilizar a função da Justiça com a função do entretenimento e, especialmente, com o Espetáculo. Ao final, o artigo apresenta breve diagnóstico dos sintomas de desajuste na comunicação do Poder Judiciário no Brasil e propõe diretrizes para que ela seja repensada.

Palavras-chave: Comunicação pública, Simbólico, Imaginário, Poder Judiciário

[a] This article is the result of a brief lecture named "Judiciary and transparency: public life and private life – are media appeal and Judicial exposure democratic requirements?", presented during the Seminar "The Judiciary's role in today's democracy", organized by Tercio Sampaio Ferraz Jr., in Ilha Bela, from November 30 to December 2, 2018. My talk occurred on December 1st, 2018. Translated by Mariana Setti.

[b] Full Professor at the School of Communications and Arts (ECA-USP). Orcid: https://orcid.org/0000-0002-5745-0171. E-mail: eugeniobucci@uol.com.br

Structural dissonance in the communication of the Judiciary in Brazil

THIS ARTICLE, INCLUDED in the field of Public Communication studies[1] and in dialogue with Language studies, seeks to inquire about the communication of the Judiciary in Brazil, having as its main focus the *Supremo Tribunal Federal* (STF), which is the supreme court of the Brazilian Justice. This is not a case study or a detailed analysis of an institutional communication strategy. Instead, this study starts with the malaise generated by the impertinences of communication by the STF, particularly its excessive use of television images, to reflect, instead, on the problems of a branch of the Republic that suffers with communication towards society, for which distinctions of what is conventionally called in Language studies as Imaginary Order and Symbolic Order are crucial – or even deadly. Before answering, therefore, this article intends to inquire as its main means of reflection.

That is so because the separation between the licit and the illicit, between the legal and the illegal, between what the law consecrates and what the law prohibits results from operations of language that have a clear place in the Symbolic Order. The law manifests itself by words, and likewise the interpretation of law converts, in court, to a judicial decision. Finally, the Judiciary operates by word, inherently being opposed to the Spectacle. This is the starting point of this reflection. If law and Justice are so close to the Symbolic, what happens to the social perception of law and justice when they both adhere to the whims of image tyranny and seek to impart demeanors of entertainment, imaginary lightness, or advertising performance to themselves? Would this not jeopardize the very primary function of Justice in contemporary society? To what extent can Justice join the Spectacle?

We shall ask another question, this one of a more deontological nature: to what extent would Justice not have the task of seeking to stay outside the circus of the Spectacle? If the question deserves an affirmative answer – and perhaps it does deserve it, at least in terms – then we deduce that the Justice mechanism and the bureaucratic and institutional framework of the Judiciary would have to be vigilant not to embrace the plots of the Imaginary and the Spectacle, that is, not to be confused with the communication of spectacular images. The reason for this caution is very simple: by allowing to be absorbed – subsumed – by the Spectacle, Justice itself may lose its linguistic independence or its independence from the Symbolic Order, and consequently lose one of the cores of presenting itself to society as a branch capable of being perceived as an autonomous branch.

Of course, being an article, this text will not fully answer the question. Far from it, all it can aim for is to shed light on the continuation of this necessary reflection. Even so, for starters, this attempt will be worthwhile.

[1] I have presented studies in this field on several occasions. Among others, it is worth remembering a book that makes direct references to the communication of the Judiciary (Bucci, 2015).

On the evening of November 30, a Friday, at his opening conference at the 2018's *Seminário da Feiticeira*, Professor Tércio Sampaio Ferraz Jr. addressed the subject of the meeting: *The Judiciary's role in today's democracy*. The title of his talk included a question: "Government of laws or government of judges?"[2]. Two moments whose contribution ended up resulting in this article will be reproduced here.

[2] In a report published in Caderno Ilustríssima, from the newspaper *Folha de S.Paulo*, journalist Marco Rodrigo Almeida (2019) reported the main moments of the seminar.

1. The first moment is when the professor reminded us that we are living a time of aging or overcoming the space determined by the nation. The concentric points of national public opinion, he noted, would be in diffraction. The power of the State is no longer what it used to be.

2. The second moment raised questions about the STF's communication in a context in which networks, based on digital technologies and platforms, are besieging traditional technological standards. The professor asked if "TV Justiça will be outdated, if not harassed by this other media, in the middle of a fragmented reality".

As for the decline of the nation-state, a brief note borrowed from Alain Touraine is worth adding. Still in the late twentieth century, Touraine (1998) wrote: "The state is no longer at the center of society, but at its the borders"[3] (p. 49). He had in mind the expansion of the specific weight of foreign policy over domestic policy, in which diplomatic negotiations and the successes and failures between countries become more central to the national public spheres. Whether in migrations that sweep continents or in the flow of capital that breaks national economies in two or three days, the nation-state struggles unsuccessfully. Recently, the national state's powerlessness to control and regulate the global monopolies of the technology, digital commerce, and communication conglomerates provides further evidence of its loss of power. The same could be said about the rise of digital currencies, which, without having any central bank behind them, are valuable exchange currencies that circulate without the help of the state.

[3] In the original: "El Estado no está más en el centro de la sociedad, sino en sus fronteras". This and other translations of the author.

Besides Touraine, we could also recall the name of Octavio Ianni (1998), who, also in the late twentieth century, detected the appearance of what he called "global civil society":

> Contemporary societies, despite their diversity as well as internal and external tensions, are articulated within a global society… What begins to predominate or present itself as a basic, constitutive determination, is global society, the totality in

> which gradually everything else begins to look like part, segment, link, moment. Those are singularities, or particularities, whose physiognomy has at least one fundamental trait conferred by the whole, by the movements of the *global civil society*[4]. (Ianni, 1998, p. 39)

Thus we have, in addition to the global monopolies, this global civil society, which is expanding amid the weakening of the nation-state[5].

In the opening lecture, Tércio Sampaio Ferraz Jr. noted that the current challenges of the Judiciary are not Brazilian, but global challenges. He is right. We are dealing with structural factors that cross or even surpass national boundaries.

As for Brazil, we constantly wonder: does transparency in the communication of the Judiciary exist? Or, more precisely, is the existent transparency enough? One also wonders about the summit of this power, that is, if the STF had not gone too far giving in to the pressures of the media. Was STF communication neglecting the boundaries between public and private? The question intensifies when the focus is TV Justiça. Would it be too spectacular? Is its communication outdated or inadequate?

This article does not intend (and could not intend) to answer all these questions. The objective of this paper is only to propose a reflection on what is meant by this expression in Brazil, namely *Judiciary communication*, but on a broader or less topical horizon, even if, over the next few pages, we will not miss the point of the TV Justiça case.

The approach adopted here, however, will evolve in a manner akin to digression, tangentially, as if approaching the subject from the edges. In this onslaught, seemingly lateral, accessory symptoms will eventually interest us and serve as passageways for the truly structuring aspects. Essence can only be touched by appearances.

Firstly, we highlight the three words that concern us so much in Brazil when it comes to the communication of the Judiciary and, in particular, the communication of STF: *transparency*, *public* and *private*. We will soon deal with the first one. Regarding the *public-private* binomial, it may not be the most fertile key to address the issue. The duality, that is, the pendulum balance presented by this binomial, would lead us to debates already traced. Therefore, instead of the alternation (or promiscuity) between the spheres of what is public and what is private in the manner the Judiciary is projected into the public sphere, thinking of another antinomy would be more enlightening in the present case: one that is articulated between two distinct orders, the word order and the image order.

[4] See references to "cidadão do mundo" on page 107 of Ianni's same work.

[5] In this regard, I return to a passage from John Keane (1996), also from the late twentieth century: "The old domain of territory-limited and state-limited public life, mediated by radio, television, newspapers and books, is ending. Its hegemony is rapidly being eroded by the development of a multiplicity of communication network spaces, which are not immediately related to territories, and which therefore flank and fragment anything that previously resembled a single, spatially integrated public sphere within the nation-state structure" (p. 14).

The two orders mentioned, word and image, refer to two other orders that contain them and are bigger: The Symbolic order (proper of the word) and the Imaginary order (proper of the image). The word (as the letter) takes roots in the Symbolic order. But the image – visual or representative, such as the television screen or a billboard, whether it is erected through words bonded to the senses (a simple, spontaneous metaphor in the vulgar language, although formed of words, builds an image of meaning, a *figure of speech*, and therefore we must also think of it as an image, that is, the current wording has an imagetic effect) – will be inscribed in the Imaginary order. In short, the Imaginary is not only constituted by visual images, those that surrender to looking outside the alphabet mediation, but incorporates everyday speech and other significance modes.

The objective of this article is not to delve into Symbolic and Imaginary conceptualizations, which are abundant in the literature (and not only in the specialized literature). Let us define them lightly, with the sole purpose of remembering that: 1) the Symbolic function is determined by the law (in the broad, non-legal sense), which, by language, by transit or by barring the signifier, defines differences, establishes prohibitions and limits, laying the ruled bases that enable civilization[6]; and 2) the Imaginary function, which is also weaved by the meanings that are presented as completeness, as meanings that are sufficient in the fantasies of each one of us[7]. Beliefs, amusements and psychic pleasures are most noticeable in the realm of the Imaginary, and this is precisely where the entertainment industry, so characteristic of our era, markets its endless attractions. We live in a time of industrialized and therefore hypertrophied imagination.

More than a hypertrophy, the Imaginary order has possibly been going through a cycle in which, besides expanding, it occupies fringes that would be originally in charge of the Symbolic order[8]. If this distrust that the Symbolic loses space for the Imaginary is true, the function – function of the Symbolic order – of marking the limits to violent drives (either of individuals or power) would be losing ground to the affirmation function of limitless *jouissance*, characteristic of the superindustrial imaginary.

That said, let us now return to the notion that in the Symbolic, word and letter operate, while in the Imaginary, images operate. The Symbolic challenges the thought; the Imaginary challenges the desire. The Symbolic argues, challenges and concludes, the Imaginary seduces, caresses and fuels fantasy. Taking some (excessive) freedom from the game of these concepts, it may be pertinent to suppose that the Symbolic activates Freud's Reality Principle, while the Imaginary unveils and gives new mandates to Freud's Pleasure Principle (Laplanche, 1992, pp. 364-371).

[6] I use the term *Symbolic* in the ordering sense given by Claude Lévi-Strauss (1943/2003): "Every culture can be considered as a set of *symbolic* systems, at the head of which language, matrimonial rules, economic relations, science, art, and religion are" (p. 19). I also draw from the lessons of an astute, carefully reserved, psychoanalyst.

[7] The connection between Symbolic and Imaginary was thought by Jacques Lacan, among others. According to Lacan, while the Symbolic, by the signifier, bars and bans, since it differentiates and demarcates, the Imaginary would be the plane of identity with the similar, the plane of the Subject's fantasies. See, in particular, the origins of his thinking on the Imaginary order in Lacan (1998).

[8] I have dealt with this in several studies, including my doctoral dissertation (Bucci, 2002). I detailed the production of *jouissance*-value in the imaginary industry in a more recent book (Bucci, 2016).

Of course, the Imaginary does not exist without the Symbolic, and vice versa. The two orders are inseparable. They are entangled. In fact, one is no better or worse than the other. However, if the distrust related to the Imaginary advancing over the Symbolic order – something which is inherent to this article – is truly pertinent, and as such serve as superego imperatives which, instead of intervening, authorize and glorify transgression, which leads to civilization facing challenges. If things are like this, it must be questioned: what will be the place of the law?

In these terms, the questions that accumulate in these paragraphs become dramatic. What do we have here? Firstly, Justice has the task of enforcing the law, thus turning law a part of life, and, moreover, that this task can only be woven by the word (every court ruling is necessarily a declaratory judgement, which changes names for things, and these names draw normative consequences), even though it can only be done by a monopoly of force. If this is what we have, we raise another question. Could justice communicate through images and, more specifically, make itself seen and understood through the repertoires of the entertainment industry? Could Justice translate into images and not words anymore? Could this translation not harm the very nature of Justice? By being seduced into the realm of images, does Justice not lose its symbolic essence just as it loses the rigor with which it pronounces – or should pronounce – its words?

Let us, for the time being, keep these questions. Before answering them – and, be warned, answering them all transcends the ambitions of this paper – let us look a little further at the implications of the image empire on the civilization framework in which we find ourselves. The image sediments the plane on which narcissistic affections occur, between the poles – which is about what characterizes our era –, exhibitionism and voyeurism. The Symbolic, which would bring a stronger impersonal marker, loses ground. The neurotic gives space to the perverse, said the gauche psychoanalyst.

Some speak of image civilization. Regis Debray commented on the subject. He was a Frenchman who, after surviving the massacre that struck the Che Guevara guerrillas in Bolivia, which he served as a youth volunteer, Debray (1993) decided to change his life and preferred returning to France to study communication. He was a good scholar and said: "Visible = Real = True. A ghostly ontology of the unconscious mind's desire order" (p. 354). In the same passage, he states that "we are the first civilization that can deem itself validated by its apparatus to believe its eyes" (p. 354).

Putting aside the words *ontology*, *ghostly*, *desire*, and *unconscious*. Each of them has yielded seminars, books, and plentiful courses. Let us talk for a

moment about *believing the eyes*, to emphasize that *believing the eyes* means to stop doubting the eyes. Believing in the eyes is saying no to Plato's Episteme. Believing in the eyes is to let being informed only by the senses. Renouncing reason. Believing in the eyes is a very curious form of blindness. And I am not the only one to say that. The writer José Saramago, in the Brazilian documentary *Janela da Alma* (Jardim, Tambellini, & Carvalho, 2001), presents a claustrophobic fabulation:

> What I believe is that we have never lived as much in Plato's cave as today… It took all these centuries for Plato's cave to finally appear at a time in the history of mankind, which it is today. And it will continue being Plato's cave, even more so than now.

This is what it means to live in a civilization that believes to be "validated by its apparatus to believe its eyes" (Debray, 1993, p. 354). According to another Frenchman, Guy Debord (1997), the name of this civilization is not *society of the Image*, but *society of the Spectacle*. For him, "all life in societies wherein the modern conditions of production reign is characterized as an immense accumulation of spectacles". And: "Everything that was experienced in a direct manner now has become a representation". Moreover: "the spectacle is not a set of images, but a social relationship between people mediated by images" (pp. 13-14).

What happens, then, when law authorities convey their messages through a spectacular image? Don't the authorities, insofar as they integrate without restraints to the imagetic language of the Spectacle, strengthen an industrialized Imaginary order which in itself renounces the episteme? When the law authorities follow this path, do they not lose their place? Should not law authorities try to distinguish themselves from the Spectacle, which in essence means the Imaginary order enhanced by the cultural, entertainment, and technology super-industry at its service?

Assuming that it is impossible to for anyone this world to avoid having connections with the super-industrial imaginary. No one, not even the most circumspect or reserved of the circumspect, nor reserved judges of the United States Supreme Court is able to avoid being held by image's tentacles. Even so, being smeared by this phosphorescent and fluorescent syrup may not be the best way out. A little awareness of the spectacular Imaginary order would not hurt the magistrates. It would be reasonable if they tried to maintain a critical distance in this regard. Not distancing themselves due to personal reasons, but in a critical and *institutional* manner.

Let us move on, now with some (scarce) considerations about the word *transparency*. The idea of transparency is often elicited as a (preventive) vaccine or as an antidote to the systemic malaise of opacity. This idea leads us to Jeremy Bentham's Panopticon invention, which would later be recovered by Foucault (1987), with some subversions, and would yet undergo successive inversions, notably those precipitated by the silicon anacondas of the Imaginary industry. The ingenuity of the panopticon precisely demonstrates the issue of transparency between rulers and ruled, between watchers and watched, between judges and defendants, between executors and convicts.

But here, the noun *transparency* is convenient for a simple reason: it helps us distinguish democracy and tyranny. Depending on the transparency vector, namely the side to which this vector points, we have one or the other. In democracy, the business management of public interest is transparent, while the private (or intimate) life of individuals is entitled to protection: it is impenetrable. In democracy, intimacy is inviolable, and this is based on a fundamental right. In tyranny we have the opposite (the vector of transparency changes direction): the State is opaque, the power (including non-state power) is opaque, while the privacy of individuals can be violated at any time by the agent acting in the name of the state (or power, regardless of the conceptual form of that power).

At the time we live in, of (possible) hypertrophy of the Imaginary order, a very intriguing phenomenon occurs: by action of the masses, social networks made the walls of intimacy compulsively transparent, and even as a somewhat hysterical initiative of subjects themselves (in what is called privacy *evasion*, much more usual than innocent *invasion* of privacy). On the other hand, the power of big technology and entertainment conglomerates, which are global monopolies (beyond the reach of national states), is perfectly opaque: this power operates through proprietary codes, secret algorithms, closed software, hiding decision-making processes – all unreachable by citizens.

It is disconcerting, but the transparency vector seems to indicate that we live in tyranny. Let us not take this clue literally, of course, because the world order is more complex than that. Still, something is, in fact, wrong in contemporary democracies. To complicate matters further, the accumulation of images (and spectacles) does not make governments and powers more transparent. What happens is exactly the opposite. The excess of images does not clarify, it overshadows. Too many lights, translated into blinding spotlights, seem to ignite a paroxysmal enlightenment. Democracies would collapse not by light shortages but by dazzling profusions of blinding performances.

If this is the case, we ask: In this world, can law authorities behave like a performative *pop star*, getting flattered by the lenses that seek them? Voices hasten to state their pledge to wisdom, even the authorities who revel on the illuminated stages of media would say this is not good. But let us stop and think. Why is it that in Brazil, the Supreme Ministers became celebrities, similar to soccer players, television actresses and socialites? Can Justice embrace the spectacular language of celebrities without losing the meaning of their democratic function?

That is why, more than the opposition between public and private, the opposition between word and image interests us most urgently. We need to talk about appearances. They are now everything – or almost everything. It is due to appearance that there is now a disparity between Justice and its essence.

In the case of Justice, appearance *performs* essence. It is due to appearance, to symbology, to the *liturgy* of their ways of saying, naming, and ordering that Justice in general, and the Supreme in particular, will fulfill or fail to fulfill their role. How can the STF act as a brake on the possibility of Executive exacerbations? From what place can it be a guardian of the fundamental freedoms and guarantees expressed in the Constitution? In what language and in what plane of representation can it limit agency?

If Justice is at the level of the spectacular image of all other agents of universal entertainment, how can it be the instance that breaks the endless thread of interpretations? We all know that to function satisfactorily, this instance – this institution to which those who claim for justice resort to – must be more reserved, some exteriority from the generalized imaginary view. We all know that, but many of us have forgotten. Has this exteriority been observed by law authorities? Is its impersonality, which is only materialized by the impersonal use of the word – the letter of the law – and by the distance to the totalitarianism of the image – from the super-industrial imagination – has actually been observed?

Let's now think about TV Justiça, which was launched in 2002. We wonder: has it increased the transparency of the legislative sector or exacerbated the routes of extravagant and inappropriate theatrical protagonism? Is TV Justiça a channel for accessing Justice-related content or a channel in the service of an *eccentric* jusbonapartism[9]?

During part of the strong inflection of the summit of the Brazilian Judiciary towards becoming a broadcaster, that is, towards mass communication with their own equipment and exclusive frequencies, the author of this article worked in Brasilia, as president of Radiobrás, and, in 2003, he had the opportunity to meet the then president of the Supreme Court, Maurício Corrêa, during the

[9] I suggested the notion of *jusbonapartism* as category in a recent article (Bucci & Silva, 2018) in partnership with journalist Carlos Eduardo Lins da Silva.

setting of an STF radio station in the Distrito Federal, Rádio Justiça. At the time, several of the actors involved in the process considered the provision of radio and television a right, fair, and even necessary action, a position shared by this researcher. Indeed, it was reasonable to believe that it would be a didactic means – especially for judges, regardless of their degree of jurisdiction. Seeing themselves speaking to larger audiences, I assumed, ministers would feel compelled to be clearer. Mentioning a meaningful, however anecdotal analogy, one could compare that perspective (of the Judiciary's entrance in television language, striving to be well understood by the public) with the *Second Vatican Council*, which, for the Catholic Church in the twentieth century, represented a factor of simplification of words used during rituals by the priests. Similar to these priests, then, the judges would no longer speak Latin and begin to excel in the Portuguese language.

Time has passed and now it is time for a balance. Of course, TV Justiça freed new ways so that the people (let us not forget that word) could take a closer look at law activity. From this perspective, TV Justiça played a positive role. Still, it brought serious concerns. Certainly, it was already known that broadcasting live, on free-to-air television, the full-court sessions of the Supreme Court would be a risky step. If nobody does this all over the world, well, it was not simply because they never had this idea. Yes, that would be a very risky step. Soon, I also knew that problems could arise. Originality and innovation come at their price. What has supervened, however, is an extremely worrying picture.

Lawyer Márcio Thomaz Bastos, who was Minister of Justice during Lula's first term (the same period I worked in Brasilia for the same government), was strongly against broadcasting the sessions of the Supreme Court. Especially with regard criminal matters. He was against it until the end of his life. Then, as if conceding its presence, he would say that turning back would not be an option anymore. Brazil would have to learn to live with the Supreme Court during prime time, at the same time it would have to work to reduce the damage. As for the author of this article, who thought TV Justiça would help to increase the degree of transparency of the institutions, he now has doubts: old doubts, which should have been there before but were not, and new ones, which could not have been anticipated before, and they in fact were not. At times, the feeling is that performative vanities have gone to the head of the Honors, of all instances. Everyone felt the urge to start attending interviews, appearing in social columns, attending talk shows when it was late at dawn. I really am in doubt. Which won, after all, transparency or stridency?

In a great article about TV Justiça, Luiz Armando Badin (2018), a lawyer and Law PhD from the USP Law School carefully and sensibly indicated the distortions caused by the high visibility of Supreme Ministers. Those are:

a. wearing the court image out;

b. encouraging the affirmation of individual positions to the detriment of the collegiate;

c. having prejudice to spontaneous debate and to the quality of the reasoning used during decision-making;

d. the spectacularization of judgment itself;

e. abusing of rhetoric;

f. inhibition of the role of asserting constitutional rights even against the will of the majority or of prevailing trends of opinion;

g. harm to independence and impersonality;

h. increase in trial duration;

i. excessive exposure of defendants to the detriment of their dignity.

On our part, we added to this list three disturbances that undermine the primary function of law authorities, not being restricted to the Supreme Court:

a. Public, live misunderstandings between magistrates, often with personal offenses, during the full-court sessions, in addition to defiling the court's reputation, contribute to exacerbate personalism, which, at extreme levels, is incompatible with the function of judging;

b. The overflow of judges' personal opinions on various matters, sometimes on matters indirectly connected with cases pending judgment, also contribute with sabotaging the principle of impersonality, as well as reinforcing an aura of celebrity around law authorities;

c. As such, the trivialization of out-of-court statements on issues that will be or are being judged undermine the reliability of the judicial process.

When one indulges in the narcissistic pleasures of mass communication – or, rather, when one embarks on the labyrinths of pleasurable enjoyment provided by social networks and their variants that produce celebrities for mass or tribal consumption – law authorities gain fame and lose nothing less than… authority itself.

Everything is implied. Everything, including the toga. Let us reflect for a minute on this garment. It is representative of what draws the dividing line between the body of a particular human being and the act of judging (an act that implies not the drive of the body but the will of the law), the toga, the poor toga, even it has been changing in aspect, figure and image. Formerly a concealment device, an attire that took the judge's body off the spotlight to replace the impersonal figure of the judge, the toga, which has been redesigned over the decades, now seems to be a superhero ornament. At this point, we resort to the report signed by journalist Gisele Vitória (2018), for *Revista de Jornalismo ESPM*, based on a subject prepared by the author of this text[10]. Personal vanity is not barred by the toga. On the contrary, it frames the adorned body, accentuating narcissistic traces. Today, the toga behaves not as austere clothing, but as a cape, a garnish for Batman, Zorro, or even worse, Darth Vader. The toga flails.

[10] The relationship between the toga and the cape, suggested by me, was brilliantly deepened by Gisele Vitória (2018) in a retrospective that explores the symbology of the talar robes in the historical course.

Some wear the toga, hold their sidebar by hand, and as they move their arm forward, well stretched, it unfurls as a flag in a supreme ballet. In the popular imagination (and thus we return to the Imaginary), this is the costume not of an impartial referee, but of an avenger. It is not a sign of blind, haughty, unshakable, free-of-passion Justice but the sign of redemptive impetuosity.

The toga that was a brake against human vanity, a limit against extreme individualism, a symbolic and disciplining component, essential for an environment where vanity has no place, is gradually becoming a decoration for parades of fluttering lines. The togas cling to the shoulders of the ministers' suits by very thin straps similar to bikini straps. The straps are visible. The STF ministers, *data venia*, without any teratology, wear their togas as if they were badges of fearless vigilantes. They walk confidently under the spotlight of the Spectacle and under the breeze of Brazil, the same one that, finding a light fabric in front of it, kisses and swings its weave.

Vanity, image, narcissism, exhibitionism: imaginary affections of civilization. What is to be done? Surely the answer is complicated. Nevertheless, we could, in an unarmed spirit, risk suggestions.

The summit and full body of the Brazilian Judiciary should elaborate and develop a deeper understanding of what means to act as a fortress to reason in democracy. They should reflect on the invisible architecture of the Symbolic that shelters the law. They should meditate on the Symbolic's connections to the material plane of human facts, the facts that vertebrate our insignificant biographies. They should devote themselves to understanding the purposes of thought that make the word the irreplaceable record of the conception and expression of Justice.

At this level, the way in which Justice is expressed should not be planned on a different plane from that in which Justice proclaims its decisions. Justice communication should not be a separate department from Justice itself. On the contrary, Justice communication only has meaning as an extension of its way of being. Made of words and not images, impersonal and non-personalistic Justice, it is clear because it is fair in the hearts of men and women, not because it has less restraints. It can only be understood when it is what it is. When it simply is. Justice only appears when the judges themselves refuse to show up. The judge who appears in the place of Justice overshadows it.

In conclusion, we offer five small proposals to those who, when touched by the subject, are inclined to pay attention to it.

1. Act by the word, never show off because of image. When it is irreversibly necessary to speak out of the case, an ultra-exceptional circumstance, the judge should avoid performances in front of the cameras.

2. Reduce contact with the press, not to conceal the information that the citizen is entitled to receive, but to reflect the *celebrity effect* on men and women responsible for judging as it once was. Judges should only be news when they evade. In addition, it would not be advisable for them to leave behind their toga (the judge behind the toga plants the feet in the Symbolic; the toga behind the judge, unfurled in a cape, projects the judge to the Imaginary).

3. Strengthen the collective identity of the courts, which is done by communication, less about particular opinions and personal styles

of magistrates, and more by what is established as an impersonal resolution, as an expression of the institution.

4. Strengthen the reference to the collegiate in favor of a clearer and more effective jurisprudential standard that requires inhibiting the expansive impulse of individual manifestations.

5. Establish a collegiate pact so that disagreements between judges, which are natural, cease once and for all of boasting bloody disputes on a live reality show. The wheels of Justice, when turning slowly, are not grinding fine. When Justice hurries to provide the public a spectacle, it is not fine either.

From these suggestions, we can see no distinction between the institutional solution to obstacles of the Judiciary and the solution that some believe to be a mere *communication* hit. The communication issue of the judiciary is not, in fact, a communication issue. It is rather a matter of the institution – its purpose, its principles, and its administration. Justice communication should be conceived as the extension of Justice, not as a marketing graft on the symbolic organism of Justice. Nothing is more simple.

Otherwise, things can get worse. By the day the ministers of the Supreme Court join this fad of having a Twitter account, as Trump, Bolsonaro, and talk show hosts are doing, what is no longer going well will only get worse.

Finally, the still pending matters regarding TV Justiça. Should it be eliminated? As one interlocutory voice observes in the preparation of this article, TV Justiça, like other state television and public television vehicles, rarely exceeds the audience ratings point. Should public money continue to be invested on such disclosure? Or would it be more productive for a STF center to generate images to be distributed – as is already the case – by open-air TV, pay-tv and internet channels that reproduce, edit, comment on and aggregate interpretations to their content. Other than that, when considered an independent channel, would TV Justiça not be imprisoned by personal or corporatist strategies of propagandistic visibility, as described in critical tones by this text?

Let us now return to a matter presented in the first paragraphs of this article: Would Justice not have the task of seeking to stay outside the circus of the Spectacle? It seems that the affirmative answer is imposed. Yes, among many attributions of the Judiciary branch and especially of the STF, the affirmative answer is what should be present, ensuring uninterruptedly that these representatives – magistrates of all instances – are not confused with political

public agents who dispute space in the arena of public debate mediated by advertisement language. Law authorities are stronger when they rest on the register of the word, in the Symbolic order.

As for the conclusion, a final aspect to stress would be the impersonality imperative and its relation with the media process involved in the communicative instance of TV Justiça. Indeed, an incompatibility of frequencies or communication records should be noted: either the magistrate, in particular Supreme ministers, relinquishes stardom in terms of the entertainment industry, the super-industrial imagination or the Spectacle, enforcing its decisions through the word of the law translated into legally grounded and *impersonal* legitimate decisions, that is, decisions in which the factor of authorship is lateral and not of central contingency, or Justice will be small within the vanity fair that establishes the Imaginary common denominator in the Spectacle era. This is what is meant when referring to when the impersonality imperative, already contemplated in the previous pages, presents itself to Justice as a partition that acts contrary to the Spectacle. M

REFERENCES

Almeida, M. R. (2019, January 12). "É hora de o Judiciário se recolher", afirma Dias Toffoli em casa de praia. *Folha de S.Paulo*. Retrieved from http://bit.ly/2NoGxcy

Badin, L. A. (2018). Qual é a justa medida da publicidade dos julgamentos? *Revista de Jornalismo ESPM, 7*(22), 18-21.

Bucci, E. (2016). *A forma bruta dos protestos: Das manifestações de junho de 2013 à queda de Dilma Rousseff em 2016*. São Paulo, SP: Companhia das Letras.

Bucci, E. (2015). *O Estado de Narciso: A comunicação pública a serviço da vaidade particular*. São Paulo, SP: Companhia das Letras.

Bucci, E. (2002). *Televisão objeto: A crítica e suas questões de método* (Master's thesis, School of Communications and Arts, University of São Paulo, São Paulo, SP, Brazil).

Bucci, E., & Silva, C. E. L. (2018). O jusbonapartismo contra a imprensa. *Revista de Jornalismo ESPM, 7*(22), 12-17.

Debord, G. (1997) *A sociedade do espetáculo*. Rio de Janeiro, RJ: Contraponto.

Debray, R. (1993). *Vida e morte da imagem*. Petrópolis, RJ: Vozes.

Foucault, M. (1987). *Vigiar e punir: Nascimento da prisão* (27th ed.). Petrópolis, RJ, Vozes.

Ianni, O. (1998). *A sociedade global* (6th ed.). Rio de Janeiro, RJ: Civilização Brasileira.

Jardim, J. (Producer & Director), Tambellini, F. R. (Producer), & Carvalho, W. (Director). (2001). *Janela da alma* [Motion picture]. Rio de Janeiro, RJ: Tambellini Filmes e Produções Audiovisuais.

Keane, J. (1996). Transformações estruturais da esfera pública. *Comunicação & Política, 3*(2), 6-29.

Lacan, J. (1998). O estádio do espelho como formador da função do eu. In J. Lacan, *Escritos* (pp. 96-103). Rio de Janeiro, RJ: Jorge Zahar.

Laplanche, J. *Vocabulário da Psicanálise / Laplanche e Pontalis*. São Paulo, SP: Martins Fontes, 1992.

Lévi-Strauss, C. (2003). Introdução à obra de Marcel Mauss. In M. Mauss, *Sociologia e Antropologia* (pp. 11-46). São Paulo, SP: Cosac Naify. (Original work published 1943)

Touraine, A. (1998). Comunicación política y crisis de la representatividad. In J.-M. Ferry, & D. Wolton, *El nuevo espacio publico* (2nd reimpr., pp. 47-56.) Barcelona, Spain: Gedisa.

Vitória, G. (2018). A toga e a capa. *Revista de Jornalismo ESPM, 7*(22), 26-29.

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