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THE MEDIA, THE FLASHBULB MEMORIES AND THE CRIMINAL PROSECUTION: THE ISABELLA NARDONI CASE (BR)

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ABSTRACT

This essay analyzes the media interferences in the constitution of social memories about the murder of the child Isabella Nardoni and its eventual consequences in the jury trial. To understand this relationship, we resort to the field of social memory studies, Ricoeur's triple mimesis (1994) and flashbulb memory approaches.

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INTRODUCTION

One of the primordial values of the modern social order is that the State, in the mission of punishing the individual, would not be exercising strict vendetta on behalf of the victim, as was already affirmed Ricoeur (2008), that in no sense the word revenge should compose the meaning of the word justice. The purpose of the figure of the judge in the criminal trial is to supplant revenge in order to establish justice by promoting a "just distance" between the crime, that causes deep pain in the victim, and public indignation and subsequent punishment (RICOEUR, 2008). Until then, the accused are presumed innocent, they must enjoy all procedural rights that allow them freedom, dignity and privacy, as even though defendants in criminal proceedings, all people have fundamental rights and guarantees in this condition. In addition of this, in a free and fair society, it is also essential to exercise press freedom, as it provides public access to government acts, wide dissemination of laws, the illegal confidential proceedings and access to facts that occur in society. In this way, living in a society with such values, that is, the fundamental rights of the accused and press

freedom, is to commit to the defense of these essential prerogatives, so that they do not oppose (BARATA, 2009). In this paper, therefore, based on previous research on several criminal cases that occurred in Brazil and was intensely explored in the media, using as references the media narratives about the murder of Isabella Nardoni, we seeking to demonstrate, through the studies on flashbulb social memory, how criminal news, laden with emotionalism and emotional appeals, can compromise the rights of the accused in criminal proceedings.

MATERIALS AND METHODS

Initially, we raised, in the most accessed media, about 20 reports, written and televised, and a special TV program, in order to examine how the murder was spread among the main newspapers and news programs in the country. Then, we recompose the media narratives, identifying the subjects involved - murderers, relatives and organs of criminal persecution - and the content of their speeches. The methodological support to identify how the case was absorbed by the Brazilian public opinion was in charge of the social memory, theorized by Halbwachs (1999, 2004), the Triple

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Mimesis (RICOEUR, 1994) and the flashbulb memories or *memorias destello* (BELLELLI; LEONE; CURCI, 1999; CONWAY, 1995; JEDLOWSKI, 2005; PENNEBAKER; PÁEZ; RIMÉ, 1997). On this, we could see that the intense media exploration of the Isabella Nardoni murder allowed the constitution of a social memory formed from the narratives coming from the mass media. The information transmitted by the medias allows to represent the events of life with a very intense degree of realism, especially those transmitted live, to the point that the receiving public come to consolidate a memory of the episode as if they had lived it directly, making the reported criminal fact becomes an opportunity to provoke a high impact collective emotion, is to say:

The valuation of events is strongly influenced by the narrative modes adopted by television and the emotional content they that they normally transmit. Information is also communicated in multiple forms, both visual and auditory as well as semantic, and this provides a sensory enrichment of our memories that was previously only possible for lived experiences (BELLELLI; LEONE; CURCI, 1999, p. 106, our translation).

In this point of view, the media environments provide a favorable space for the constitution of social memories with quite special characteristics, calling *flashbulb memories/memorias destello*. These memories impregnate in such a way people's minds that they allow them to remember details, including the situations they were in when they saw, heard, or read the news (CONWAY, 1995). Based on neuro and psychosocial studies, it was perceived that flashbulb memories are a kind of social memory built from a special mechanism of individual memory, involving the amygdala in the limbic system, which is highly excited during events that create flashbulb memories. (SPANHEL; WAGNER; GEIGER; OFER; SCHULZE-BONHAGE; METTERNICH, 2018). The amygdala is a part of the brain that is extremely implicated in emotion. So, this mechanism is activated in mass-mediated events that provoke surprise, emotion, or are traumatic or even of great personal relevance (CONWAY, 1995). Such emotional answers would be operating in a supra-individual context (BELLELLI; LEONE; CURCI, 1999), given the close relationship between emotions and social interaction, as already stated with Barata (2007) about a diffuse social feeling and, at the same time, confused:

It does not matter that there is the reality or the imaginary projection, because, in the end, everything becomes collective feeling. The clarity of experience merges with the clarity of the meaning of experience. From this complex process arises something more than the fear of the offense, the fear of fear appears (BARATA, 2007, p. 28, our translation).

This manifestation is connect, according to Conway (1995), with the role of feelings and affective impulses aroused at the moment when someone receives the news, so that the person, in evoking it, has the impression of experiencing it. Although Halbwachs (1990) had already established that memory keeps affectivity in itself, it's important to keep in mind that there are intertwined roles between the emotional and interpersonal processes that shape collective memories:

Both laboratory and real world investigations have long demonstrated that it is difficult, if not impossible, to

experience intense emotions without sharing them with others. [...] The more intense the personal emotions, the more likely that people will talk with others about them. Further, those who later hear about the emotional experiences from others will, themselves, share the events with yet others. (PENNEBAKER; PÁEZ; RIMÉ, 1997, p. 8)

Even though in everyday life people invariably faced with news about crime, only a fraction of them remains vivid in their collective memories and become authentic flashbulb memories, we should say that this is due to the intensity of the emotions and feelings that are shared from the narrative expressions of the news, like fear, revenge, victimization, empathy, insecurity, proximity to violence, etc. So, in general, by the criminal news, the media has instigated and fomented a social memory in whose lines are inserted a vindictive and simplifying penal system that simplifies the role of punishment, where it is seen only as retribution for the committing of the crime, capable of to interact and reinforce legitimizing discourses of criminal expansion policies (LEITE, 2017). It is in Ricoeur's (1994) hermeneutics, in the *Hermeneutic Circle (Hermeneutic Arc)* in the triple mimesis, that we can observe how the narrative of criminal events allows us to open the way for the formation of flashbulb memories about criminality, crime and their potential developments in society. Our memories are narrative expressions and are objectified in reality by a procedure called *inscription* (RICOEUR, 2003), through the occurrence of its registration, in reports, artworks, to be transformed into a memory archive (RICOEUR, 2012). The inscription of the memory in a narrated archive puts in perspective the *Hermeneutic Circle* (RICOEUR, 1994), which develops in three stages: the *mimesis I* or *pre-figuration* of the practical field, thus understood, the world of lived in which the narrative work is *pre-figured*; the textual *configuration* of the lived, represented by the text itself, in *mimesis II*; and the *refiguration* of the experience, given by the effects that reception of the text has on the reader through the reading, in *mimesis III*, also called *application* (RICOEUR, 1994). Like Farroq (2018) summarily defined:

While it is not possible to transfer the lived experience of the original author it is possible to transfer (via appropriation) the meaning of the experience (CHARALAMBOUS et al., 2008). Ricoeur (1981) describes appropriation/understanding as a three-phase process involving pre-configuration, configuration, and re-configuration. At the pre-configuration stage the reader approaches the text with a set of pre-understandings, which support the reader in understanding the text. During the configuration stage the reader does not project his/her pre-understandings onto the text but rather allows the text to open up its hidden world and inhabits this world, leading to a better understanding of oneself (LEONARDO, 2003). "To understand oneself in front of a text is quite the contrary of projecting oneself and one's own beliefs and prejudices; it is to let the work and its world enlarge the horizon of the understanding which I have of myself ..." (RICOEUR, 1981, p. 178). This requires removing unproductive pre-understandings through critical reflexivity, allowing the interpreter to receive (appropriate), as opposed to distancing

himself/herself from the text (RICOEUR, 1981). Additionally, the reader must use critical reflexivity to remain alert for language in the text that supports certain power structures and dominant ideologies. Finally, at the re-configuration stage, meaning is acquired through re-configuration of the text, resulting in the interpreter acquiring new horizons of understanding. This not only manifests itself in the form of the reader gaining an understanding of the phenomena described within a text (i.e. epistemology) but also gaining a self-understanding. This is referred to as understanding the other through understanding the self (i.e. ontology) (FAROOQ, 2018).

In terms of a triple mimesis, the text (*mimesis II*), which for us is the criminal news, accomplishes a mediating role between the receiving public reader (*mimesis I*) and the experiences of life acquired by the text (*mimesis III*). As explained by Barros (2012):

In other words, the author, through 'mimesis 2' (text configuration) establishes a mediation between the depths of the Living ('mimesis 1') and the reader's own Life (which at the time of reading or hearing a text it is found in 'mimesis 3'). Then the circle is completed because, learning to live through the comprehension of the narrative, the reader returns it to the living itself. (BARROS, 2012, p.18, our translation).

So, the memories of a criminal fact or any other event, which will reach the narrative condition, have their source in the world of the lived - the world of pre-figuration (RICOEUR, 1994) - which is a common world for both the author and the reader, thus, it is this very world of life that portrays the potential narratives of the news. This allows that the narrative author have the confidence that the news receiver will identify all structural elements of the narrative: agents (who), their aims (objectives), means (how), circumstances (where, when, why) and affective meanings (surprise, fear, joy, apprehension, revulsion, evil, good, revenge, etc.), for, before the existing of the text, there is the language that is the common element of sharing living throughout society. In the condition of texts or journalistic reports, stage of mimesis II or textual configuration, the crimes gain a configuring textual dimension, in the sense that they are an agency of several events given by reality, making them a story to be followed. At this point, the media uses various narrative strategies to impact the receiving audience (RICOEUR, 1994 apud LEITE, 2107). The content of criminal news, consequently starts to deal with the description of events that carry deeply rooted values and feelings of social memory: the seriousness of the crime, necessary imprisonment of the accused, immediate protection of life and physical integrity, maintenance of peace and order, preservation of freedom and property, repudiation of crime and violence, and especially the (bad) quality action of criminal prosecution agencies. At the reception of the news, in mimesis III, the public promotes the "unarchiving" of those narrated memories, being susceptible to the affective impacts that the text promotes by remodeling their personal experience, so, the world of the text starts to be inserted in the world of the reader. At this stage, the refiguration (RICOEUR, 1994), we find the formation of flashbulb memories, it's a kind of memory built from the media narratives. So, we can specifically say in this study, a production of a flashbulb memory about criminal

events and their interference with the institutions of punishment.

DISCUSSION

On Sunday night, March 29th, 2008, the Brazilian society received the shocking news of the murder of the girl Isabella Nardoni. Viewers from all over the country were absorbed by reports announcing the death of the 5-year-old child who was thrown out, still alive, of the 6th-floor window of the London Building, where her room was located, after a robbery occurred in her father's apartment, Alexandre Nardoni. Said the news:

Girl dies after falling from SP building

Police affirms five-year-old girl was thrown out the window; there were bloodstains in the room and a hole in the safety net

Isabella's father said that had left daughter in the room sleeping, while he went to the garage to pick up the other two younger children

The girl Isabella Oliveira Nardoni, 5, died the night before yesterday after falling from the 6th floor of a middle class building in the Carandiru region, north of São Paulo. Police are claiming murder. There were blood marks and a hole in the window's safety net from which she would have been thrown. Isabella did not live in the building, but every 15 days spent the weekends at the place where her father, the legal advisor Alexandre Alves Nardoni, 29, and his current wife Anna Carolina Trota Peixoto Jatobá, 24, live.

In a statement to the police, the girl's father affirmed that he had left Isabella in her room, sleeping, while he went down to the garage to pick up the other two children, a three-year-old and a ten-month-old, children of her marriage to Anna Carolina, because they were sleeping in the car in mother's company. He also stated that the family had spent Saturday at Anna's parents' house, in Guarulhos. As the three children slept when they arrived at the building, Nardoni said he decided to take Isabella to the apartment first and then help the wife to go up with the other two children. The legal adviser said he put the girl in the bed and locked the apartment's door. But while returning, five to ten minutes then, he found the door open, the light on, and a hole in the bedroom window's safety net. According to the police, there were no signs of forced entry into the apartment.

The Precinct Chief Calixto Calil Filho, of the 9th DP (Carandiru), said yesterday he has no doubt that this is a crime, but still does not know the author. "She [Isabella] didn't fall accidentally. Someone cut the window's safety net and threw that child. It's impossible for a five-year-old to cut the safety net and throw her own self."

To the Precinct Chief, the perpetrator could be linked to the child or have invaded the apartment when she was left alone. There were blood marks on the bed where Isabella slept, on the floor and the window screen from which she would have been thrown, according to Calil Filho. Also according to the Precinct, the girl's shirt was torn on the back and there are evidence that she was beaten before

being thrown. "The examiner said she was in the process of dying," he said, without providing further details. (FOLHA DE SÃO PAULO, 2008, our translation).

Immediately, the media pointed out to Isabella's father and stepmother as the main suspects, so on national network the couple argued in their defense the possibility of having a third person in the apartment that would have thrown Isabella out. Besides, they stated that they felt judged by the behavior of the police and the media in treating them as guilty of the murder, like they said in an interview given at the FANTASTICO program:

ZECA CARMAGO (ZC): Now, you will see an exclusive report with the Isabella's father and stepmother, the child who was thrown out of the 6th floor, in Sao Paulo, on the 29th of March. It is the first time that Alexandre Nardoni (AN) and Anna Carolina Jatobá (AJ) give interview about the crime.

PATRICIA POETA (PP): To talk to FANTASTICO they made a request, that we record a DVD with their answers and give this DVD to them.

The interview took place this afternoon, in an apartment of friends of the family, in the building where Anna Jatobá's parents live. To a reporter Valmir Salaro (VS), both claim innocence and are thrilled. Now you, viewer, can value the sincerity of Isabella's father and stepmother.
VS – How are you feeling after Isabella's death, such a tragic death?

AJ –It hurts a lot, with everything, with what the people say about us, with the prejudice, by the public opinion itself has condemned us, and we are totally innocent.

[...]

VS –You are being accused of a serious crime, how is it to support this accusation?

AN – Look, it is very hard, because knowing how we are with our children and our family too and our friends, knowing how we are, we act, we were always united, always get together on weekends to lunch...

[...]

AN – People are talking some things that they don't know as we are, understand?

AJ –They know about our spectrum through the media that is everything, everything they say about us, most things are all made up, because nobody knows our family deeply. Because nobody knows how we really are.

[...]

AN – Yeah...It's very difficult because people are not leaving us alone, like, we have no way to go to the cemetery, we would like to go to the cemetery, or order a pizza... We're not being able to do that, okay? People are judging, prejudging us without even knowing.

VS –From the police itself, to clarify the case, isn't it? I mean, you are suffering from all sides.

AN e AJ – From media.

VS –Is the responsibility more of the press, for you?

AN – I don't say anyone's responsibility, got it? I think, well, yeah, I can't say it's the responsibility of the media as much as the responsibility of the police. We can't be

saying that because we're making a judgment too. But that's how they are showing me and my wife in such a way, exploring our image in such a way on television that they don't know us to be talking about what they say. [...] They had to know, at least a little, to be making this judgment. If they knew what our life was like, we always lived in harmony, always happy, everyone playing [...]

VS –How do you see this police accusation, saying that you killed Isabella?
 [...]

AN – It ends with us, because our life is over, right? They ruined our lives, destroyed our family and these accusations like that, there's no way to explain it... They destroyed our lives practically.

VS –Your position is that they are only investigating your life to explain what happened that Saturday, isn't that it? They don't investigate a third hypothesis, or a second, a fourth?

AJ – To the police there were only the two of us inside the apartment.

VS –And you two do affirm and reaffirm that a third person entered and killed Isabella?

AJ – Certainly.[...] (FANTÁSTICO, 2008, our translation).

As investigations progressed, not long after, the media brought to light the surprising fact that Isabella, on that day, had been physically abused by her father and her stepmother, Anna Carolina Jatobá. Thus, to cover up the violence against the girl, the couple simulated a robbery in their apartment. Then, Alexandre Nardoni threw out Isabella, still alive, through the window. The wide and intense coverage of the homicide allowed the Brazilian society to have access to testimonies of Isabella Nardoni's mother, of the murderous couple, and especially of the prosecutor responsible for the process, which provided the most possible detailed criminal's reconstitutions. The television media rebuilt the crime scene from the moment Isabella Nardoni was beaten by her father and stepmother in the family car, in front of her two younger siblings, after leaving a supermarket. On arrival at the apartment, Isabella was passed out, being carried by her father and blood drops stained the floor. Then the girl was placed on the bed of her bedroom, while her father tore the window safety net. Next, Alexandre Nardoni threw out Isabella, alive, from the 6th floor window. All the medias talk about the case:

Understand the case of the death of the girl Isabella

Oliveira Nardoni: In the late evening of the 29th of March, the girl Isabella Oliveira Nardoni, 5, was found lying in the garden of the building where her father lives, in the northern area of São Paulo. She was in cardiorespiratory arrest. The fire department was triggered and tried to revive the girl for 34 minutes without success. Isabella's father, Alexandre Nardoni, 29, and her stepmother, Anna Carolina Trotta Peixoto Jatobá, 24, were taken to the 9th DP (Carandiru) to testify, shortly after the girl's death. Isabella lived with her mother, but visited her father every 15 days. In testimony, the father stated that, on that night, he arrived at the building by car, with his

wife and three children sleeping. He said he took Isabella to the apartment, put the girl to bed and left her sleeping, with the lamp on, to go back to the garage and help his wife to go up with the couple's two children.

According to Nardoni's version, when he returned to the apartment, he realized that the light in the room next to Isabella's, where her brothers slept, was on; that the window's safety net had a hole, and that the girl had disappeared. Next, he said he realized that the girl's body was in the garden.

[...]

Experts from the Forensic Lab, when analyzing the body of the girl, found lesions incompatible with the fall. They then suspected that Isabella had been beaten before falling out of the window, or even if she had not fallen, but was left in the garden after being beaten.

Neither of the two hypotheses will be confirmed until the final necropsy report is released.

Prison

The Precinct Chief Calixto Calil Filho, of the 9th DP, responsible for the investigation, heard more than ten people before ask Isabella's mother, Ana Carolina Cunha de Oliveira, 23, to give a statement. Oliveira reached the 9th DP around 10h30 AM on April 2, and left around 2h30 PM. A few hours later, the temporary arrest request against the girl's father and stepmother was filed in the São Paulo Court. Judge Maurício Fossen, of the 2nd jury of the Santana forum, decreed the arrest of the two for 30 days. He also decreed secrecy about the investigations.

The reasons for the arrest, therefore, could not be disclosed. (FOLHA ON LINE, 2008, our translation).

Alexandre Nardoni and Anna Carolina Jatobá were immediately arrested, the process proceeding occurred confidentially, despite the excessive visibility given by the media to the prosecutor of the case, Francisco Cembranelli, and the police action, in the collection of forensic evidence:

Zeca Camargo – Exclusive, a computer animation reproduces, minute by minute, the circumstances of the death of the girl Isabella Nardoni.

The images are a simulation of the police version that accuses the child's father Alexandre and stepmother Ana Carolina Jatobá. [...]

Witness testimony, forensics and expert conclusions, traces found at the crime scene. All this official information about the death of Isabella Nardoni was gathered for the first time in this video, it reconstructs what, for the police, happened that night of March 29th. What you will see, exclusively, is an animation made by a specialized company at the request of the São Paulo's criminal institute.

In addition to the computer simulation, the material also features photos of the girl and the crime scene. In the editing, we removed the most shocking images. The original video has no sound.

Early on, the experts make a caveat: "Some characters were omitted for a better view of the actions relevant to understanding the case. The characters present do not have identical characteristics of those involved, the witness and the victim.

[...]

The experts also ruled out the possibility of a third person committed the crime, a thesis defended by the couple. According to the report, the alleged intruder would only have 1 minute and 55 seconds to keep the knife and scissors partially clean the blood stains, wash the diaper, turn off the lights, lock the door and disappear without a trace.

- I am a prosecutor and I work with facts. So far, what we have incriminates the couple. (Prosecutor Francisco Cembranelli - FC)

Prosecutor Francisco Cembranelli's conviction is based on evidence. At FANTÁSTICO's request, he analyzed the animation:

FC – It is a sequence of facts and based on what has been obtained so far. It is the dynamics of Isabella's death and gives a very panoramic view of everything that happened. (FANTASTIC, 2008, our translation).

On TV screens, through the criminal reconstitutions, forensic reports, and demonstrations by the prosecutor anticipating the guilt of Nardoni and Jatobá, Isabella's murder had the ability to take on the closest form possible to the experience itself, and this was the flashbulb memory constituted by the society with this fact.

An exposition with this nature begins to underpin, in the collectivity, a memory of a vindictive justice in which the individual rights and guarantees of the accused must be supplanted in the name of public opinion, where the accused are necessarily guilty and the social isolation of those involved is the only measure capable of restoring peace in society.

Final Considerations

The spectacularized narrative form is quite evident in the criminal news. Usually, it is accompanied by intense dramatization of violence, making the crime drama a point of instigation for a collective demand for a more severe institutional response, and this is often the version that is absorbed by the population. Frequently, the news of a criminal episode is intended to communicate to people the serious and harmful events to the balance of life's society, it occurs, however, that this alleged information, not rarely, have consolidated, before the public opinion, a social flashbulb memory about the serious problem of violent crime, in the sense that media exploration, around certain crimes in Brazil, allows us to observe that it enhances, fosters, and activates in society an environment of panic and fear favorable to the adoption of measures to expand criminal control. Portrayed in this way, the crime would evoke various collective emotions capable of consolidating a flashbulb memory that would sediment a vision of public commotion of total disgust to the couple Alexandre Nardoni and Anna Carolina Jatobá and,

without a doubt, anticipating an unforgivable guilt. It is as if the media space was able to call upon itself the role that the trial jury should play in the penal process and, thus, would act as a parallel judgement. The repetitive sensationalist exhibition of criminal events creates an environment encouraging to penal repressive postures, especially for the crimes judged by the Jury Court, given that the jury, most likely, were subject to their emotional evocations and the memories constituted from. When confirmed as the only suspects in the murder, Alexandre Nardoni and Anna Carolina Jatobá were arrested immediately, all bail requests, habeas corpus, provisional release, allowing them to await trial on trial were denied by the courts. After 5 days of trial, at dawn on March 23, 2010, about two years after Isabella's murder, in a record time for a trial in Brazil, the couple were convicted of qualified murder, a heinous crime. Alexandre Nardoni was sentenced to 31 years, 1 month and 10 days, aggravated by the fact that Isabella was his descendant, and Anna Jatobá 26 years and 8 months, by decision handed down by Judge Mauricio Fossen. It was a very controversial conviction, since the defendants were primary and had a good record and, however, were sentenced to maximum limits and, in the case of Alexandre Nardoni, above the maximum penalty.

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