

"MEDIA IMPUTATION" AS A DRIVING FORCE BEHIND THE CRISIS OF SYSTEM OF CRIMINAL GUARANTEES

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Abstract

Language, which has an axiological content, is present in human interactions. Full of semiotics, the way in which a given expression of meaning occurs can have the power to distance or bring its recipients closer together. The apparent inaccessibility of technical legal content, especially in the criminal sphere, makes it possible to strengthen Media Criminology, since journalistic language has, in its essence, a bias towards those who receive the information. In addition, the choice of certain criminal themes - which can be glimpsed through the *Agenda-Setting Theory* - is yet another media component for gaining the public's attention and guiding debates in the social sphere. As a result, it is not uncommon for "media imputation" to act as a driving force behind the crisis of Criminal Guarantees, especially in violation of the axiom "*nulla culpa sine iudicio*".

Keywords

Imputation. Criminal Guarantees. Media Criminology. Language. Semiotics. *Agenda-Setting Theory*.

Summary

1. introduction. 2. the axiological content present in the relationship between language and criminal law. 2.1. Typicality and the inaccessibility of the technical-legal content of criminal law. 3 The possible lack of knowledge of technical criminal criteria and the impact of Media Criminology. 4. the news as selected portions of reality: "media imputation". 4.1. Media Criminology strengthened by agenda-setting with the consequent weakening of Criminal Guarantees. 5 Conclusion

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1 INTRODUCTION

Considering the understanding that typicality does not fulfill its role in criminal dogmatics due to the crisis caused by the technical alienation of the politician with the technical-political alienation of the technician, according to the thinking of Cláudio Brandão,² this work aims to discuss the importance of language for criminal law and its relationship with media content from an interdisciplinary perspective.

The crisis, coupled with the possible lack of knowledge of technical criminal criteria which, according to Eugenio Raúl Zaffaroni, would be incident in people who are not in the academic sphere, supposedly leads human beings to live in the world of Media Criminology.

At this juncture, the media, being a second power in the Zafaronian understanding,³ possibly influences/mitigates Criminal Guarantees, especially regarding Luigi Ferrajoli's "*nulla culpa sine iudicio*" axiom,⁴ concerning criminal liability.

Therefore, in general, the aim is to understand if/how criminal imputation can be influenced by the media, becoming a "media imputation" with the consequent weakening of the guarantor axiom.

Specifically, the aim is to investigate the impact of the so-called *Agenda-Setting Theory*, based on the hypothesis that the prior selection and scheduling of content by the media is a driving force behind "media attribution".

As far as methodology is concerned, the research to be carried out belongs, in terms of what Miracy Barbosa de Sousa Gustin, Maria Tereza

² BRANDÃO 2014.

³ ZAFFARONI 2012.

⁴ FERRAJOLI 2002.

Fonseca Dias and Camila Silva Nicácio propose,⁵ to the great critical-methodological area, whose focus is to build a critical theory of reality.

As far as the methodological approach is concerned, we opted for the legal-sociological one.

The reasoning to be developed will be predominantly hypothetical-deductive.

2 THE AXIOLOGICAL CONTENT PRESENT IN THE RELATIONSHIP BETWEEN LANGUAGE AND CRIMINAL LAW

Under *civil law*, the law is considered the main source of law. It is no coincidence that the law contains pre-established rules and conduct, which are seen as paths to be followed.⁶

These paths can be glimpsed through language, since the creation of language and the creation of law are similar, since both arise as processes of social adaptation and are cultural objects that realize values.⁷

Values, moreover, are present in both language and law, the latter being manifested through the former.

Law, in turn, is made up of language. According to Pedro Rubens Ferreira Oliveira and Cláudio Brandão, "it is essential to pay attention to the fact that the general prescriptions of the law are expressed through language".⁸

However, language is not necessarily "linear". It is full of representations.

⁵ GUSTIN; DIAS; NICÁCIO 2020.

⁶ OLIVEIRA; BRANDÃO 2017.

⁷ NADER 2022.

⁸ OLIVEIRA; BRANDÃO 2017, 32.

To represent, according to Charles Sanders Peirce,⁹ means "to stand in such a relation to another that, for certain purposes, it is regarded by some mind as if it were that other".

There are different representations, which occur in different ways.¹⁰

A symbol is a Representamen whose representative character consists precisely in being a rule that will determine its Interpretant. All words, phrases, books and other conventional signs are Symbols.¹¹

Therefore, according to Charles Sanders Peirce,¹² a Symbol is a sign that refers to the Object it denotes by virtue of a law. This law is usually an association of general ideas that acts to make the Symbol interpreted as if it were referring to that Object.

Symbols grow. They derive their being from the development of other signs, especially icons, or from mixed signs that share the nature of icons and symbols. We only think with signs. These mental signs are of a mixed nature; their symbol parts are called concepts. If someone creates a new symbol, they do so through thoughts that involve concepts. Thus, it is only from other symbols that a new symbol can emerge. [...] Once a symbol exists, it spreads among people. In use and in practice, its meaning grows.¹³

⁹ PEIRCE 2005, 61.

¹⁰ PEIRCE 2005.

¹¹ PEIRCE 2005, 71.

¹² PEIRCE 2005.

¹³ PEIRCE 2005, 73.

In this respect, it should be emphasized that words have meaning and signifier.

The signifier is the Representamen, i.e. what is represented.

The meaning, or Interpretant, is the signified, that is, what it signifies.

It is possible to envision a semiotic relationship in which: i) the Representamen (or signifier) is an image and ii) the interpretant meaning resides in the interpretation of the image, while iii) the object (or referent) is the content of the image.

In other words, language in general is full of representations and interpretations and is shrouded in the veil of symbolism.

And since law is constructed through language, it also holds certain representations. Specifically, it can be inferred that language, which is the basis for criminal prescriptions, is full of symbols, in other words, of constructed interpretations.

2.1. TYPICALITY AND THE INACCESSIBILITY OF THE TECHNICAL-LEGAL CONTENT OF CRIMINAL LAW

It should be noted that criminal law thinks and reasons through types. Without typicality, the content of the type is emptied because for the postulates of its dogma it is necessary to have a strict delimitation of the type so that there is an unambiguous meaning of which actions are punishable.¹⁴

Typicality is a key concept for criminal law. It is important to emphasize that it does not play a

¹⁴ BRANDÃO 2014.

merely formal role, but, on the contrary, typicality is the support through which criminal law relies in order to build a path to the knowledge of the prohibition; and this is where its fundamental importance lies, because it will also reveal the content of that prohibition, that is, its substance.¹⁵

The principle of legality is fundamental to criminal law. And it's no coincidence that typicality is the inaugural element of crime theory, which aims to provide criminal law with scientificity through method.

According to Luigi Ferrajoli, the principle of strict legality is a regulatory model.

While the axiom of mere legality limits itself to requiring the law as a necessary condition for punishment and crime (*nulla poena, nullum crimen sine lege*), the principle of strict legality requires all other guarantees as necessary conditions for criminal legality (*nulla lex poenalis sine necessitate, sine injuria, sine actione, sine culpa, sine iudicio, sine accusatione, sine probatione, sine defensione*). Thanks to the first principle, the law is conditioning; thanks to the second, it is conditioned.¹⁶

However, for Cláudio Brandão,¹⁷ typicality does not fulfill its role in criminal dogma. If typicality is an inaugural element of the doctrine of crime, the theory of crime is corrupted, and the application of criminal law is full

¹⁵ BRANDÃO 2014, 66.

¹⁶ FERRAJOLI 2002, 76.

¹⁷ BRANDÃO 2014.

of contradictions. "This crisis is the product of the technical alienation of the politician with the technical-political alienation of the technician".¹⁸

This may be because the criminal type, as mentioned above, is made up of language, which is considered a key factor in understanding the meaning of the law. However, there is no linearity of interpretation.

According to Cláudio Brandão,¹⁹ controlled observation about the application of legal facts is not in line with the idea that typicality has the power to confer uniformity in the application of criminal law, since the "certainties" extracted from the assessment of "social customs" are as extensive as the number of enforcers of criminal types.

Thus, typicality does not provide the legal certainty that many defend because of this institution; but this is not exactly where the crisis of criminal law lies, because no institute of legal dogmatics provides this supposed legal certainty. The crisis of criminal law arises from two orders of situations that converge in typicality: firstly, as I said, the poor technique of the legislator, and secondly, the lack of technical and political preparation of the enforcer.²⁰

In the case of criminal law, the interpreter's role is to discover in the law the type corresponding to the case being examined, since typicality is the exact suitability of the fact to the type.²¹

However, even though clarity is an imperative stemming from the principle of legality, the language of the criminal type is - and not

¹⁸ BRANDÃO 2014, 62.

¹⁹ BRANDÃO 2014.

²⁰ BRANDÃO 2014, 61.

²¹ RODRIGUES 1996.

infrequently - inaccessible to the layperson. This ends up detracting from the requirement that the penal code be clear and comprehensible to all.²²

What's more, in this way, criminal law prevents the full exercise of the right to defense, which is constitutional and the cornerstone of any right that deserves the name, since everyone defends themselves against the imputation contained in a criminal type, which, if it is not immediately comprehensible to them, the full defense.²³

The far-fetched and formalist tradition of legal communication - unlike media communication, which is inherently more accessible - proves to be an obstacle even to access to justice, considering that language is the concretization of law.²⁴

In some ways, the language of the national judicial system is confused with the language of religions. The esoteric nature of both languages also brings them closer together in the sense that they supposedly deal with knowledge that cannot or should not be vulgarized and is restricted to initiates.

Among Westerners in particular, [...] many religious signs have migrated into the forensic liturgy without any difficulty, even though the separation of temporal and religious powers has been hailed as one of the greatest achievements of

²² RODRIGUES 1996, 11.

²³ RODRIGUES 1996, 11.

²⁴ MATOS 2021.

modern democracy. Scales and swords wielded by statues with angelic features are often taken as icons of both dimensions. These are profane versions of the Greco-Roman deities' archetypes of virtue. The signifier in both also coincides: the belief in equality between subjects and in a sense of justice above them. Justice imposes the sign of divinity to emphasize its power.²⁵

This legal-penal dogma, which is often inaccessible to laypeople, can facilitate certain misinterpretations of the language used in the criminal sphere.

This is because, unlike legal communication, media communication - considering journalistic language - is concerned with making communication effective, approaching orality, albeit with respect for the cultured norm of the language.

The basic text of journalism is the news story, which exposes a new or unknown fact, or a series of new or unknown facts about the same event, with its circumstances. The concept of the English word *news* is broader, encompassing other journalistic genres such as the report and the interview. News starts with the most relevant aspect of the information. The *lead* is the first paragraph of the news story in print journalism; it is typically a topical paragraph, which begins with the topic sentence. The origin of the *lead* is not related to literary tradition - the epic, the lyrical, the tragic, the dialectical - but to oral usage, i.e. the way

²⁵ SOUZA; ALVES; BRUTTI 2016, 130.

in which, in a conversation, someone relates something they have witnessed. Its nature is pragmatic, i.e. related to the conditions of communication and the intention to make it effective.²⁶

In this way, the aforementioned linguistic differentiation between legal communication and mass media communication possibly leads to understandings that are not in line with technical-criminal criteria and Criminal Guarantees, weakening the latter and strengthening a Media Criminology.

3. THE POSSIBLE LACK OF KNOWLEDGE OF TECHNICAL CRIMINAL CRITERIA AND THE IMPACT OF MEDIA CRIMINOLOGY

For a better understanding, it is imperative to highlight the meaning of the term "media", which is so widely used daily.

The media, the Latin plural of *medium*, will be understood here as the set of institutions that use specific technologies to carry out human communication. In other words, the media institution always implies the existence of an intermediary technological apparatus for communication to take place. Communication therefore becomes mediated communication. This is a specific type of communication that

²⁶ LAGE 2005, 73.

appears late in human history and is one of the important symbols of modernity.²⁷

The fact is that most people are unaware of technical criminal criteria and live in the world of Media Criminology, according to Eugenio Raúl Zaffaroni.²⁸

In fact, this couldn't happen any other way, according to Zafaron's thinking,²⁹ since people in general don't go to criminology institutes or read specialized works, since they perform other routine duties.

In this way, their view of the criminal issue is constructed by the media, in other words, they are nourished, or suffer, from a Media Criminology.

If the penal system's real function is to channel society's vengeance and diffuse violence, people need to believe that punitive power is neutralizing the cause of all their ills.³⁰

But why do people accept this or remain helpless in the face of this construction of reality? The predisposition to accept it is because in this way the level of anguish generated by diffuse violence is reduced [...] the rule is that when anguish is too heavy, through Media Criminology, it becomes the fear of a single human source.^{31 32}

²⁷ LIMA 2004, 50.

²⁸ ZAFFARON 2012.

²⁹ ZAFFARONI 2012.

³⁰ ZAFFARONI 2012.

³¹ ZAFFARONI 2012, 216.

³² *Why do people accept it or are they helpless in the face of this construction of reality? The willingness to accept it obeys to the fact that in this way the level of anguish that generalizes diffuse violence is lowered [...] the rule is that, when the anguish is very heavy, through media criminology it is converted into fear of a single human source".*

And for this reason, for Eugenio Raúl Zaffaroni,³³ Media Criminology has always existed and appealed to a creation of reality through information, sub-information and disinformation in convergence with prejudices and beliefs based on a simplistic criminal etiology based on "*magical causality*".

This idea of "causality" is used to channel revenge against certain human groups, who would be "scapegoats". It is no coincidence that the discourse of current Media Criminology is based on North American neopunitivism, which is spreading throughout the globalized world.³⁴

According to Craig Haney,³⁵ Media Criminology is more of a commercial product than "real" knowledge. It is obviously not based on a collection of systematically deduced theoretical propositions or on empirical truths carefully obtained through the study of crime and punishment. Its substantive lessons are designed to generate an audience rather than convey accurate information or provide a valid framework for understanding the nature of crime.

As a result, crime is transformed into merchandise precisely through media language full of symbols and devoid of technical criminal criteria. And, in this market logic, there are selections so that profit is amplified.

4. NEWS AS SELECTED PORTIONS OF REALITY: "MEDIA ATTRIBUTION"

News is an essential element of journalism. However, it doesn't exactly reproduce reality, since human limitations and language itself make

³³ ZAFFARONI 2012.

³⁴ ZAFFARONI 2012.

³⁵ HANEY 2009.

it impossible to achieve such an exact mirroring. "For this reason, the news is content to represent portions of reality."³⁶ and it is:

It is a linguistic artifact because it is a human construction based on language, whether verbal or of another nature (such as the language of images). News is born from the interaction between perceptible reality, the senses that allow human beings to "appropriate" reality, the mind that strives to apprehend and understand this reality and the languages that underpin and translate this cognitive effort.³⁷

Once again, language (re)appears as the springboard for understanding "reality".

However, media content is the result of interpretation by those who have a certain choice, since not all information becomes news. The editorial line of a given media outlet, for example, is a fundamental factor in this determination.

The information that will eventually be reported is therefore selected, and there are various ways of passing on this previously chosen content to the recipients. This sorting, however, is often not obvious and requires a more accurate critique.

According to Eugenio Raúl Zaffaroni, media interpretations can have implicit content. This is because political correctness prevents them from being explicit, as in the case of racism, for example. In this context, a certain theme is insinuated, generating (the already programmed) impression that the media is acting in an obvious way, which ends up flattering the intelligence of those who receive that content, as there is

³⁶ SOUSA 2005, 75-76.

³⁷ SOUSA 2005, 75.

supposedly a deduction from the implicit content. But the recipient is the victim of a communicational betrayal in the face of all the semiotic and selective content they receive.³⁸

In fact: communication through images necessarily always refers to concrete things because that's what the images can show and, consequently, the recipient of this communication is permanently urged to concrete thinking, which weakens their training for abstract thinking.

Abstract thought is the basis of the symbolic language that characterizes humanity.^{39 40}

The construction of the news and its imagery - especially that connected to alleged crimes - has a passionate character. Aury Lopes Júnior⁴¹ states that:

The emotional shock caused by images - especially those of affliction, suffering and death - is unparalleled by any other medium. It thus supplants photography and reports, to the point that when there are no images, they are created. The "re-enactment" of images that were not captured becomes fundamental to selling the emotion that was not grasped in time. Typical

³⁸ ZAFFARONI 2012.

³⁹ ZAFFARONI 2012, 218.

⁴⁰ Free translation of the passage: "*In effect: communication by images necessarily always refers to concrete things, because that is the only thing that images can show and, as a result, the recipient of this communication is permanently urged towards concrete thinking, which weakens their training for abstract thinking. Abstract thinking is the basis of the symbolic language that characterizes human beings*".

⁴¹ LOPES JÚNIOR 2023, 18.

examples are the sensationalist police programs that proliferate on Brazilian television, including even more dramatic re-enactments of the crimes that took place to "psychically capture" viewers. From the same perspective, there are publications and posts on social and communication networks, such as WhatsApp, Telegram, etc. In the age of social media, the situation is even more sensitive, and the damage caused by the speed with which *fake news*, for example, spreads is palpable.⁴²

Faced with a previously "filtered" representation of reality (and perhaps precisely because of this), the media shows itself to have great power to influence hearts and minds.

The hook of communication through images lies in the factor that impacts the emotional sphere. That's why it's not surprising that news services are more like summaries of catastrophes that impress but don't allow for reflection. What's more, such news doesn't provide much information, as it contains images without context. It's as if they edited out parts of a movie, leaving out the rest.⁴³

Media semiotics can create and/or modify perceptions, including in relation to matters concerning criminal law, criminal guaranty, and imputation.

As for the meaning of the term "*imputation*", Santiago Mir Puig⁴⁴ states that it can have various interpretations.

The linguistic meaning of "*imputation*" is more suitable for expressing a judgment of attribution made by human beings than for reflecting something previously created. It fits in better with a subjectivist viewpoint,

⁴² LOPES JÚNIOR 2023, 18.

⁴³ ZAFFARONI 2012.

⁴⁴ MIR PUIG 2003.

such as the Kantian one, than with a philosophy that aims to capture ideals or objective essences:⁴⁵

For Santiago Mir Puig,⁴⁶ the term "*imputation*" is connected to analytic philosophy because it underlines the distinction between "description" and "prescription", between being and ought-to-be, with analytic philosophy renouncing the search for essences, limiting itself to the analysis of language and understanding it as a contingent convention that attributes its meaning to words and the concepts they express.

From this perspective, we attribute meaning to things through words. This attribution takes place at each of the levels at which language is used, since there are various social uses of language. The legal use of language does not coincide completely with other non-legal social uses, and even within legal language we can distinguish different uses depending on the branch of law in question or even depending on the institution we are dealing with. Just as the ordinary meanings of language are attributed by society in general or by certain social subsystems, the meaning of legal terms is attributed by those who make up the corresponding legal subsystem (in criminal law, by legislators and by the legal-penal doctrine of authors and jurisprudence).

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⁴⁵ MIR PUIG 2003.

⁴⁶ MIR PUIG 2003.

⁴⁷ MIR PUIG 2003, 6.

⁴⁸ *From this perspective, through words we impute meaning to things. This imputation takes place at each of the levels at which language is used, since there are various social uses of language. The legal use of language does not coincide completely with other non-legal social uses, and even within legal language we can distinguish different uses according to the branch of law we are dealing with or even according to the*

Therefore, in this respect - and despite the very need to take into account the structures of empirical reality in the elaboration of the theory of crime, an idea defended by Santiago Mir Puig himself - the idea of "imputation" symbolically can undergo changes depending on its interpreter, which can even happen through the media's semiotic propagation of a certain case that was previously chosen as newsworthy.

It's no coincidence that Eugenio Raúl Zaffaroni⁴⁹ says it's a mistake to call the media the fourth power, because it's the second power. The first is financial power and the third is political power, with its laws and structures.

Given this, the media could symbolically conceptualize "imputation" in the context of Media Criminology, since it has enough power to do so.

4.1. MEDIA CRIMINOLOGY STRENGTHENED BY AGENDA-SETTING WITH THE CONSEQUENT WEAKENING OF CRIMINAL GUARANTISM

In this context of media power, Media Criminology targets the structurally excluded, the opponents and the troublesome, defending the existence of a world of "decent people" ("*us*") against a mass of "criminals" ("*them*") identified through stereotypes, who must be separated from the rest of society because they are different and bad.⁵⁰

institution we are in front of. Just as the ordinary meanings of language are attributed by society in general or by certain social subsystems, the meaning of legal terms is attributed by those who are part of the corresponding legal subsystem (in criminal law, by legislators and by the legal-penal doctrine of authors and jurisprudence)".

⁴⁹ ZAFFARONI 2021.

⁵⁰ ZAFFARONI 2021.

*It is possible to verify the use of this attribution through the so-called Agenda-Setting Theory - whose initial research was developed by Maxwell McCombs and Donald Shaw in 1968 and published in an issue of the journal Public Opinion Quarterly in 1972.*⁵¹

In order to understand the aforementioned scheduling, it is important to highlight the idea of "*public opinion*".

It was the American writer, journalist and political commentator Walter Lippmann, author of *Public Opinion*, released in 1922, who introduced this expression to scientific circles.⁵²

Agenda-Setting Theory is often related to Lippmann's thinking, since the intellectual influence of "*Agenda-Setting Theory*" dates to Lippmann's aforementioned work. In it, Lippmann suggested that the news media would construct a pseudo-environment for the public, extending the external world and the images in our minds. The theory proposed by Maxwell McCombs and Donald Shaw in 1972 has since been studied all over the world. *The Agenda-Setting Theory* considers that the prominence of objects and attributes could be transferred from the news media to the public. Or, in metaphorical terms, the media agenda sets the public agenda.⁵³

⁵¹ MCCOMBS; SHAW 1972.

⁵² FERREIRA 2023.

⁵³ FERREIRA 2023, p. 68.

The theory is of great importance when it comes to studying the impact of media content on society, since it aims to understand why people in different contexts discuss the same topics.

Consequently, the flow of information in interpersonal communication channels is mainly relayed from and based on the media's news coverage. This is especially true in the criminal sphere, since it is not uncommon for "imputation" to be leveraged by the media.

It is no coincidence that, *through the language applied by the media and the selection of news, we may even be facing an attempt to mitigate Luigi Ferrajoli's "nulla culpa sine iudicio" (guilt without justice) guarantee axiom, with the consequent and possible creation of an imputation that openly disregards technical criminal criteria and Criminal Guarantee. After all, there is constant media coverage of the existence of an "us" versus "them" war.*

As for the guarantee axiom "nulla culpa sine iudicio", it is worth noting that:

The principle of submission to jurisdiction expressed by axiom A7 *nulla culpa sine iudicio* does not only express the guarantee of the presumption of innocence of the accused. It also has the value of an organizational norm of non-derogation of the judgment when it is activated by an accusatory action that posits the existence of a crime and requires the imposition of a penalty.⁵⁴

For Eugenio Raúl Zaffaroni,⁵⁵ this conception of "them" is built on very simplistic foundations, which are internalized through the force of reiteration and the bombardment of emotional messages through images.

In this context, there is indignation at some aberrant acts, but not all, which only includes those committed by the stereotyped.

⁵⁴ FERRAJOLI 2002, 450.

⁵⁵ ZAFFARONI 2012.

There are also vindictive impulses due to the identification with the victim of these events.

However, there is no identification with all the victims, only with the victims of the stereotyped. And, if possible, when the stereotyped themselves are not among the victims, "pues en tal caso se considera una violencia intragrupal propia de su condición inferior (se matan porque son brutos)",⁵⁶ that is, because in this case it is considered an intragroup violence typical of their inferior condition (they kill themselves because they are brutes).

This thought dialogues with Franz Josef Hinkelammert's concept⁵⁷ about the creation of "monsters" who do not have the same rights as "non-monsters" in the context of a sacrificial policy.

In the field of human rights, sacrifice penetrates through the process of its inversion, given that the historical process of affirming human rights is political and not always in the interest of the hegemonic group. It is through this process of reversing human rights that the monster is projected. In this way, the person is projected as a monster, an enemy, the incarnation of evil that must be fought against and sacrificed. The projection of monsters aims to guarantee the maintenance of the hegemonic social order.⁵⁸

The construction of monsters would also be facilitated by "mirroring". In the words of Franz Josef Hinkelammert

⁵⁶ ZAFFARONI 2012, 220-221.

⁵⁷ HINKELAMMERT 2000.

⁵⁸ ALEIXO 2022, 180.

As a result, a form of information emerges that is only apparently direct information. It takes place through mirroring. [...]

The image in the mirror is only an image of reality, if you know that this image is a mirroring. Therefore, reality must derive indirectly from the image in the mirror, and the latter appears inverted. In fact, reality is only seen virtually in the mirror and not directly. So, if the image in the mirror is taken as reality, reality escapes completely. It doesn't even appear. Instead of reality, you only see monsters. The reality behind these monsters must therefore be derived. This reality can also be monstrous. However, the monsters that appear in the mirror are not the monsters that exist in reality. They are just their inverted images.^{59 60}

Considering that there is a mirroring of facts through the production of news, Franz Josef Hinkelammert believes that reality escapes completely, and that in this mirroring we only see monsters.

Therefore, the "imputation" can be different depending on the alleged perpetrator of the fact defined as a crime, and often the "media imputation" occurs without the existence of a criminal judicial process.

⁵⁹ HINKELAMMERT 2002, 33.

⁶⁰ Free translation of the excerpt: "*Consequently, a form of information appears that is only apparently direct information. In reality, it is realized by means of mirrorisms. [...] The image in the mirror only gives an image of reality if it is known that this image is a mirrorism. Therefore, we have to indirectly derive reality from the image in the mirror, which appears inverted in the mirror. In fact, in the mirror, reality can only be seen virtually, not directly. Then, if the image in the mirror is taken as reality, reality escapes completely. It doesn't even appear. Instead of seeing reality, you only see monsters. Consequently, you have to derive the reality behind these monsters. This reality can also be monstrous. However, the monsters that appear in the mirror are not the monsters that exist in reality. They are just their inverted images*".

The monstrosity of each person is known from the projections of the monster, not from those made about it. That's why the real monster that kills everything and projects itself onto the other is always the image of the one who does the projecting. Because through projection, hands are no longer bound by any human right. And that's the only monster that counts and that we should be afraid of: the one who declares that in the name of his goals he doesn't have to respect any human rights.

While direct information is almost arbitrarily manipulable, this information provided through the mirror image is not. But you must know how to read it.^{61 62}

Given this, it is possible to understand that the symbolic media construction of "enemies" or "monsters" ends up mitigating Luigi Ferrajoli's "*nulla culpa sine iudicio*" axiom, in favor of a market vision of criminal law and to the detriment of technical-scientific elements.

However, the mass media have efficient techniques for producing such effects, unlike the criminal law of guarantees, whose language apparently distances it from society.

⁶¹ HINKELAMMERT 2002, 35.

⁶² *"The monstrosity of each person is known from the projections of the monster that he carries out, not from those that are carried out on him. Therefore, the real monster that kills everyone and is projected onto the other, is always the image of the one who carries out the projection. Because by means of the projection it is achieved that the hands are no longer bound by any human right. And that is the only monster we have to be afraid of: those who declare that in the name of their goals they don't have to respect any human rights. While direct information is arbitrarily manipulable, this information, which is given via the image in the mirror, is not manipulable. But you have to know how to read it".*

5. CONCLUSION

Language is not devoid of axiological content. Present *in* and *for* human coexistence, it holds within itself evaluative aspects that are reflected in the ways in which a given theme is approached.

Words have a signifier and a signified, which depend on the interpreter. The symbolic bias is not limited to a strict meaning and can be interpreted in a variety of ways. Language is alive.

It should be noted that both law and journalism are sculpted by language. And both can dialog with each other, especially when it comes to criminal law.

This is because criminal law has an axiological substratum, with a position and power, and imputation is even in the linguistic sign. And this possibility - and power relationship - seems to especially seduce the media, considered to be the "second power" according to Zafaronian thinking.

However, while criminal law often seems to distance itself from people who are not in academia due to the probable inaccessibility, in general, to knowledge of technical criminal criteria, journalism carries in its essence the proximity to the receivers of information, including the choice of language adopted. It is no coincidence that many people only learn about criminal law through media criminology.

Journalism is present in the media, understood as a set of institutions that use specific technologies to carry out human communication. The mass media thus have the power to transmit news to the most diverse recipients.

However, unlike the Criminal Guarantees advocated by criminal law scholars, Media Criminology is devoid of a guaranteed bias, since it is guided by marketing issues. But, on the other hand, this same Media Criminology has a more accessible language due to elements related to news production itself.

"Media imputation" is not limited to and is not based on Criminal Guarantees and, in this context, an axiom such as "*nulla culpa sine iudicio*" is of little relevance. It is based on the profit that certain frameworks can make

by meeting newsworthiness criteria and also by selecting content, as can be seen in the *Agenda-Setting Theory*.

Simply disregarding the fact that the media can have a growing influence on contemporary criminal law is possibly one more way of distancing academia from society and encouraging the strengthening of Media Criminology in a feedback process.

This is because in a context in which information is previously selected, rapidly disseminated, and full of semiotic content, it is imperative to understand if/how the media can suggest today's criminal law, since elements dear to Criminal Guarantees can eventually be mitigated through the creation of a "media imputation".

By analyzing how the construction of the criminal agenda can be shaped by media influences, the research aims to reveal the implications of these influences on the selection and prioritization of cases that lead to "media imputation" and the weakening of the "*nulla culpa sine iudicio*" axiom.

This critical understanding can enable a more informed reflection on the challenges and consequences of this dynamic for society and criminal justice.

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