

# The biological-mechanistic justice system in poetic-linguistic hermeneutics

## *O sistema de justiça biologizante-mecanicista na hermenêutica poético-linguística*

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**ABSTRACT** The present text analyzes the biological-mechanistic justice system, understood as the hegemonic by Heideggerian poetic-linguistic hermeneutics. For that, it is used the critical essay, a more far-reaching form of thought than the dogmatic one of a methodology, as Adorno says. First, poetic-linguistic hermeneutics is presented, which demonstrates that on some occasions sedimented thoughts prevent the opening of perspectives for the radical reexamination of an issue. Not infrequently, Western thought is shaped by the perspective of conceptual metaphysics, which limits a given research to the localization of essences and the search for categories to satisfy such cosmology. Next, it is showed that the conventional justice system is a medieval heritage with no solution of continuity in its conceptions to the present day in all its structuring formulations. In Modernity, it is permeated by vitalist and mechanistic theses with pretensions to justify it from a rational point of view. Such modern theses, although surpassed by science, continue to constitute an active paradigm of the contemporary justice system. Thus, it has been constructed as an algorithm, restricting human activity, creative and chaotic, to a mechanical function. The repercussion for the health-disease process is appreciable and should be investigated appropriately.

**KEYWORDS** Human rights. State. Hermeneutics. Health.

**RESUMO** O presente texto analisa o sistema de justiça biologizante-mecanicista, assim entendido o hegemônico pela hermenêutica poético-linguística heideggeriana. Para tanto, é utilizado o ensaio crítico, forma de pensamento de maior alcance que a dogmática de uma metodologia, como diz Adorno. De início, apresenta-se a hermenêutica poético-linguística, que demonstra que, em algumas ocasiões, pensamentos sedimentados impedem a abertura de perspectivas para o reexame radical de uma questão. Não raras vezes, o pensamento ocidental encontra-se moldado pela perspectiva da metafísica-conceitual, que limita a investigação à localização de essências e à busca de categorias para satisfazer essa cosmologia. A seguir, demonstra-se que o sistema de justiça convencional é herança do medievo sem solução de continuidade em suas concepções até os dias de hoje em todas as suas formulações estruturantes. Na Modernidade, é permeado por teses vitalistas e mecanicistas com pretensões a justificá-lo de um ponto de vista racional. Tais teses modernas, embora superadas pela ciência, continuam a constituir paradigma ativo do sistema de justiça contemporâneo. Assim, vem sendo construído como um algoritmo, a restringir a atividade humana, criativa e caótica, a uma função maquinal. A repercussão para o processo saúde-doença é apreciável e deve ser investigada apropriadamente.

**PALAVRAS-CHAVE** Direitos humanos. Estado. Hermenêutica. Saúde.

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## Introduction

To intend to analyze in a radical way the conventional justice system of contemporary States imposes exuding all insuperable conditioning of thinking from inside the language, to promote an original thinking, in the sense of surpassing the way of thinking that seeks essences, categories, and predicates to explain, define, and catalogue human institutions. The challenge is perhaps how to effectively question the issue<sup>1</sup>.

Maybe it is indispensable to assume this way of thinking, which is to poetize: the most innocent of all occupations<sup>1</sup>, assuming the anguish of dealing with the most dangerous of all goods, the language, for we are a dialogue and listen to one another<sup>2</sup>, as poets provide, in the analysis of Nunes<sup>2</sup>. Thus, in the poetic-linguistic hermeneutics, one says poetically what can only be interpreted by a thinking mode<sup>3</sup>, i.e. one escapes from the conceptual metaphysical fate and, using the work of art as instrument, one seeks to formulate questions to investigate the issue in an acute manner.

Especially in the field of Law there is a strong resistance to Heideggerian hermeneutics, both the initial (of facticity), which sought the 'Being of things', and the late (poetic-linguistic), seen as precipitated, not strictly accurate, at times enigmatic, and that could hardly be used in the juridical sphere, which would require a rational discourse<sup>4</sup>.

Accepting something from poetic-linguistic hermeneutics would be – drawing on this critics – something even less appropriate, as rendering into the antirational discourse, an anathema to the conceptual metaphysical form that delimits the current justice cosmology, which commonly uses the rational discourse. By cosmology I understand the model of comprehension of the world that expresses the necessarily mutable (and diverse) human thinking<sup>5</sup>. Hence, there are cosmologies.

Seemingly there is always a ravenous need to present conclusions, certainties, realities,

and truths. However, it is necessary to counterpoint these discourses: the rational and the poetic are not mutually exclusive; they belong to human in an inseparable way.

It may be propitious to present a diverse perspective of thinking, as a way to provide trails for a thinking that seeks to experiment more originary situations. I cannot speak of conventional justice if not poetically, as I am a dialogue. I cannot speak of health-disease process without the poetic discourse. If I do it in a rational way, I will produce concepts. If I do it in a poetic way, since I should not extract poetry from things<sup>6</sup>, I will permit that the truth of the Being flourishes in the language, in this most dangerous of all goods. This is not the truth of certainties, a creation of the conditioned thinking. The poem here, and as Heidegger<sup>7</sup> has emphasized, is an equally possible form of art, as a becoming and historical happening of truth and it only happens insofar as it is poetized, i.e. when it allows truth to flourish, truth not as an expression of 'that which is', of the scientific construction of 'truths', but the not-being-concealed of the entity<sup>7</sup> as entity and whose beauty is the appearing.

Creating a dialogical instance, thus, is the path of the poetic discourse, the 'consequence' of the poetic discourse, since the poem is a form of language manifestation, such a strong form of language that it 'shows' the Being<sup>8</sup>, by consequence, in its essence, dialogical<sup>9</sup>.

This is the key of thinking, assuming the anguish of the consciousness of human finitude, with the opening of the Being to existence, to escape the determination of the conceptual metaphysical discourse that dominates the rational thinking, of a representative kind and, thus, not capable of following the track of the non-thought and develop what remains to be thought<sup>2</sup>.

What poetry? The idea of finitude, necessary to anguish, so well poetized by Drummond, maybe enables, as Pöggeler<sup>10</sup> says, not to reduce notion to category, principle to judgment, sentence's link to end:

*And the matter sees itself come to an end: adieu, composition that was once named Carlos Drummond de Andrade. Adieu, my presence, my regard and my thick veins, my grooves on the pillow, my shadow on the wall, the mark on my face, myopic eyes, personal belongings, [idea of justice, revolt and sleepiness, adieu, life to others bequeathed]<sup>11</sup>.*

Concepts, categorizations, predications, prison structures of the language, are insufficient, from any angle, not only to the minimum understanding of a question but especially to permit the production of knowledge through the path of the analysis of the question.

In the hypothesis development, this key of thinking was used when proposing investigation paths not trailed in an original form, adequate for experimentation, for the originary rise of questions, for the construction of knowledge by poiesis of thinking as language, which in the Voloshinov's linguistic keyword is dialogue: there is language only where there is the possibility of social, dialogical interaction. In the qualified dialogic action the human person is being.

It could be that the painting Abaporu by Tarsila do Amaral<sup>12</sup> has greater potentiality to unveil a posed question, such as the conventional justice system, than any other scientific explanation attempt. Being *abá-pora-ú*, which swallows the mental colonization of the conceptual-metaphysical thinking in the analysis of the conventional justice system, 'justice codification of vengeance', one operates against the reversible world and objectivated ideas. Cadaverized. The stop of thinking that is dynamic. The individual victim of the system. Source of classic injustices. Of the romantic injustices. And the forgetfulness of the previous conquests<sup>13</sup>.

In this perspective that a justice system is not reducible to a mechanistic formula, one can neither objectify the human being nor propose the total solution of the conflict, but one can necessarily indicate a path for the experience of justice itself.

## Problematics

The conventional justice system in its structuring form is a system of procedures closed to pragmatic conflicts solution and it is a historical heritage, without solution of continuity, of the medieval justice system, and perhaps earlier, which in Modernity gains scientizing airs to legitimate it.

When speaking of a justice system, one discusses all ideology involved in the conflict approach (so delimiting the social fact 'conflict') with the intent of promoting its unveiling and treatment.

Often, however, one mistakes the 'system of justice' for the 'system of legal justice', or 'system of conventional justice', which though hegemonic does not, absolutely, represent the totality of possibilities of a conflict approach.

The conventional justice system, in the hegemony that is presented in contemporary societies, is an apparent heritage of Modernity, a historical period beginning with the 'conquest of individual freedoms' in the successful liberal revolutions in Europe and the United States of America.

It is imperative to observe, however, that there has been no rupture between medieval and modern projects regarding the cosmo-vision of what is conceived as conventional justice system.

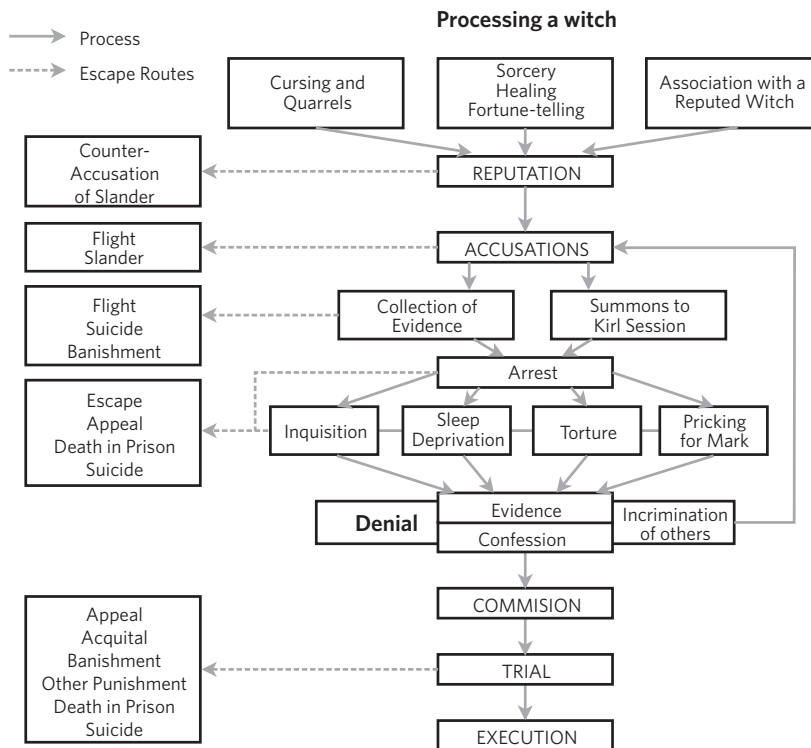
Such justice system has always been based on the biologizing fallacy of the justice system's premise of free will, by which the human person would have the free choice between adopting or not a given conduct, which finds no support in any scientific analysis. There is no freedom to decide in the human mind. It is a construct, not a fact<sup>14</sup>.

Several hypotheses, such as Reich's theory of mass psychology of fascism<sup>15</sup>, demonstrating the limitation and relevance of another theory, that of social conditioning from economic class, environmental influence, evolutive parallels between the great primates etc., show that free will is unsustainable as a premise of a system that is based on the fulfilment or not of a norm by human wish.

If there is no science to sustain the freedom of choice as presupposition to the justice system, how does it maintain itself? We continue in the historical path of the linguistic-poetic hermeneutics.

Thus, it is proposed that the mechanist-biologizing system of justice, conventional, sounds logical in the reduction created by conceptual metaphysics, as expressed in *figure 1*.

Figure 1. Algorithm of the medieval procedure of sorcery accusation



Source: Christina Lerner drawing on Steven Box<sup>16</sup>.

Note: The figure was adapted by Christina Lerner in her pioneer analysis of the prosecution of witches in Scotland.

*Figure 1*, adapted from the model of Box<sup>16</sup>, presents the diagram of the medieval legal process and describes the many social interactions involved in the judgement of a woman accused of sorcery, which are not relevant here<sup>17</sup>.

From the medieval period, this diagram continues intact in all its structure through the modern project, receiving and shaping the mechanist (and modern) Newtonian logic: a world that is predictable, calculable, ordered, ready to be described in laws that inexorably subject it.

This cosmovision led to the search of the truth of all things<sup>18</sup> that still today, arising from this insuperable conditioning of thinking, is disseminated in the decisions of Brazilian tribunals in the presentation of a truth.

The ideal design – the justice system as a category – no longer matters. The idea that it exists to apply the law to concrete situations and ensure the fulfillment of legal obligations deriving from the law or usage, juridical decisions and private agreements,

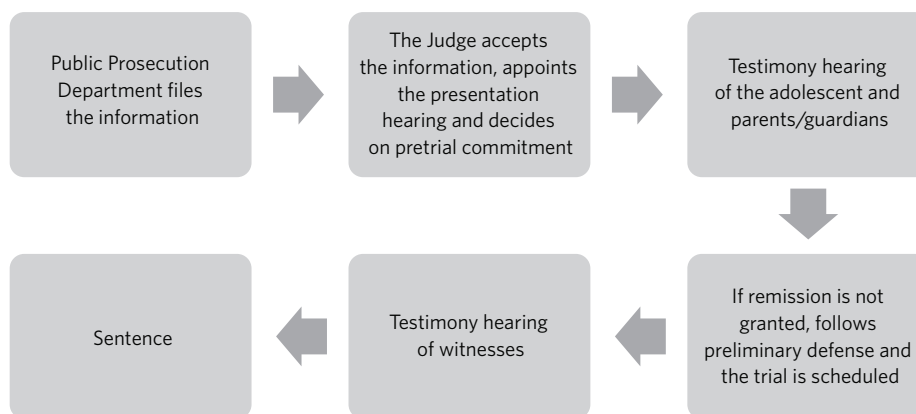
and as the locus of contestation of public decisions by means of mechanisms of constitutionality control or injunction of diffuse and collective interests<sup>19</sup>.

It matters as a founding structure of an artificial, imposed, idealized rationality. Then it can be described as a system in which an individual, neutral, keeping authority and knowledge, presents himself as a judge, distant from the parties in litigation, or from the individual who is accused of an unlawful action, and with the production of evidence will render judgment with coercive force subject to appeal.

Roughly speaking, these characteristics were already present in the Late Middle

Age, as it was practiced, for example, in the Kingdom of Valencia, by means of the so-called books of '*Denunciacions*' (Denunciation): accusations presented before the criminal court, in some cases followed by a petition for the judge to verify the truth of the presented facts, and in other cases followed by the development of the process until the promulgation of the sentence<sup>20</sup>. This structure is common to the Inquisition Tribunal, as observed in its historical records<sup>21</sup> and official documents<sup>22</sup>. *Figure 2* shows the hypothetical procedure, without variables, of the Brazilian children and youths justice.

Figure 2. Hypothetic procedure of an adolescent in conflict with the law

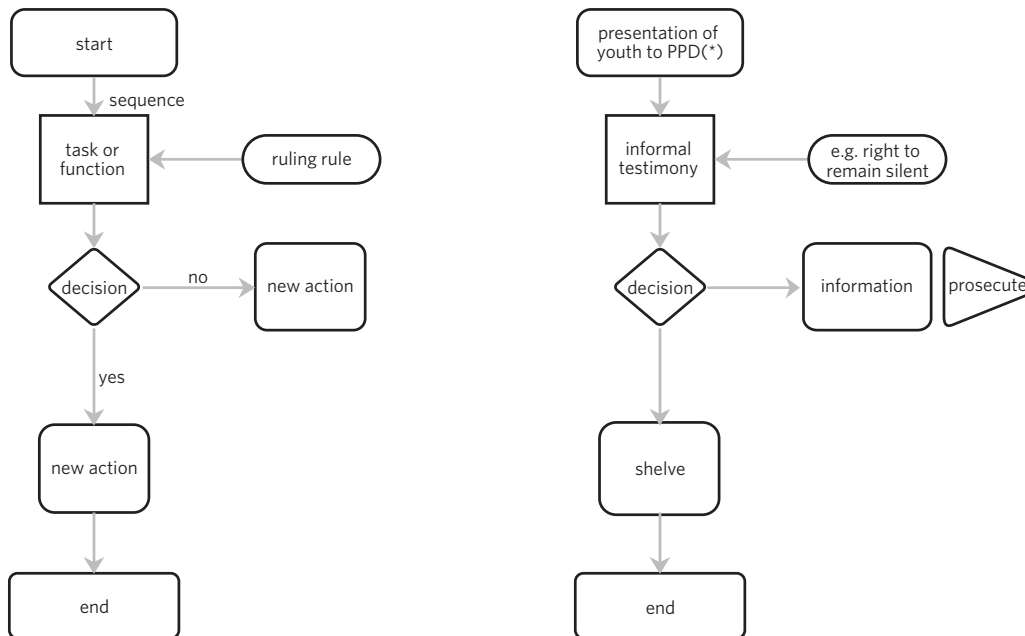


Source: Own elaboration.

If expressed by an algorithm, a word derived from the Latinization of the name of the Persian mathematician Mohammad ibn Musa al-Khwarizmi (c. 780 – c. 850), conceived as

a process or set of rules as instructions to be followed for operations of solution to a given problem<sup>23</sup>, especially by a computer (*figure 3*), we have:

Figure 3. Algorithm of the preliminary phase of verification of juvenile proceeding



Source: Own elaboration.

\*PPD - Public Prosecution Department.

Note: On the left side of the figure is the algorithm design in its hypothetic possibilities, and on the right side the transposition to a real juvenile court proceeding and its continuation after the representation of a new algorithm.

This 'programmable mode' represents the logic of the process, here sketched in its preliminary phase, with the conventions indicated on the left and phases represented on the right. Such a model replicates on the other graphic representations of any procedure of the conventional justice system and its mathematic expression in algorithm.

Transposing this world to the 'real' world, we have, there, in the geography of the hearing room, the almost universal archetypical configuration of power – the 'third element', the reference of an idea (universal rule) of justice and a decision with execution power –, encountering in the ideology of judgement, this 'civilization anecdote':

A table; behind this table, which makes them distant of both parties at the same time, the judges; the latter's position first indicates that

they are neutral in relation to one and to the other; second, implies that the judgement is not previously determined, that it will be established after the inquiry by the hearing of both parties, according to a certain norm of truth and a certain number of ideas about the just and the unjust; and, third, that their decision will bear the weight of authority<sup>24(45)</sup>.

In theory, in the entire world, and considered as a civilization landmark, the conventional justice system is founded on rules, values, and principles that are outlined in a process to promote the analysis of a conflict and is directed to a solution – potentially subject to appeal – by an impartial and previously existing court.

The conventional justice system is entirely based on the construction of the need of a technical staff of judges, accusers, and

defenders, distinct from the figure of the governor, in the classical conception of the tripartition of powers and its mitigations and relativizations, both theoretical and factual throughout history.

This technology would ensure the application of these rules, values, and principles to enable the ideal of what is understood as a 'fair trial', always endowed with the huge load of the 'truthful': *'the process should be useful for the presentation of the truth and not have a pedagogic character'*<sup>25</sup>.

However, perhaps the difficult issue is the truth as a concept, as universal, and as eternal. The idea of a truth of this stature is typical of the conceptual metaphysics. Nietzsche already opposed against this idea of 'truth' when considering that: *'The truth is the untruth to which we consent'*<sup>26</sup>, i.e. not that 'all is allowed', and then nihilism, or that there are multiple truths, but truth is on another statute. A possible way out is to try to escape this European Modern truth, the 'positive model of truth': words change their meaning to construct a mode of thinking.

We propose the unveiling of language in this hermeneutics. If reality is 'a recent European event', within this 'transformation' of Latin words through history, namely: from 'res' ('thing') of Roman Latin to Medieval Latin (scholastic), *'realis'* ('real') and *'realitas'* ('reality') of discussion to embody the idea of 'power and property', one can speak of the model of adequation of propositions and the reality (truth), in a mode by which the word can operate both for the control of language and social control<sup>27</sup>.

This reality, detached from dialogue and social life, this independent and unique reality, is the (apparent) reality of science. The test of all knowledge is experience, notes Feynman, but the source of knowledge and laws to be tested requires imagination to create, question, criticize, and rebel against<sup>28</sup>. Hence, *'to combat the truth of power it is necessary to raise doubts about the power of truth'*<sup>27</sup>.

The problem about the conceptual

metaphysical thinking lies in that 'the only truthful truth' is the 'truth of power', mixing the word 'truth' with similar ones in the era of communicative and informative ('objectivity') globalization, 'reality', 'certainty', and others, according to Larrosa<sup>27</sup>.

The Heideggerian way of renouncing to the control of the Other has arrived, from the depletion of the justice system based precisely on this order of ideas. *'Perhaps the time has come to learn another kind of honesty'*<sup>27</sup>, that honesty required to dwell with the maximum dignity as possible in a World permeated "by the plural character of truth, by the constructed character of reality and by the poetic and political character of language"<sup>27(206)</sup>. Reality is not reality, but the question. Truth is not truth, but the problem.

We must learn to live in another way, to think in another way, to speak in another way, and especially to teach in another way and here the lessons of Guàrdia<sup>29</sup> and Freire<sup>30</sup>, "leading to the non-authoritarian authority and to the non-licentious freedom" to "seek a more human face that does not become hardened in the authority"<sup>27(165)</sup>.

If this is an unveiling of the language, let us unveil how this absurd structure apparently manages to maintain and obtain the adhesion of the human person who, in so doing, renounces her/his autonomy, freedom and private life.

From the radicalization of the Foucaultian theory of power made by Mbembe<sup>31</sup>, I do not hesitate to point that it is not only the control of bodies that the conventional justice dispositive, imbued with this truth/reality, seeks to establish. It directs toward the very existence, establishing the power as management of life and distribution of death<sup>31</sup>. The selection of those who will remain alive and those who should be eliminated, among those who are privileged due to race, class, and gender, and those who are disposable in the logic of the segregation that is essential to the capitalist economic system.

When deepening the analysis, one verifies the phenomena of the systemic collapse of

justice, both in the patrimonial matter, from the judicialization of life, and in the criminal matter, from its pathological spectacularization<sup>25</sup> and policies of mass incarceration, preceded by the neoliberal pulsion of model management, always directed to total control and physical elimination.

For Garapon<sup>25</sup> cited by Oliveira and Carvalho Neto<sup>32</sup>, the evolution of the democratic society has transformed the performance of justice, which means that:

[...] the social bonds, tradition, costumes, religion, were deconstructed by democracy ideals of equality and freedom. As they retained the natural control of conflicts, the very democratic society had to substitute them, handing to justice the attribution of monitoring freedom and applying sanctions to the excesses<sup>32(15)</sup>.

For this reason, according to the author, it was transferred to the Judicial Power the mission to solve conflicts that previously did not concern it, and that are now its object, due to this 'social control maximation'. In this capitalist structure, there is the need to mechanize and reduce the human artistic, chaotic and unpredictable, into the logical, efficient and controllable.

There is no space for the Nietzschean *amor fati* [love of fate]: the mechanist-biologizing justice system wishes to be scientific as the 'science' upon which it is based. All the structure is purely conceptual metaphysics, with severe tendencies to totalitarianism in the ideation of a future to be constructed or the illusion of a correct, truthful and real.

In many countries, the conventional justice system is being 'reformed' not to humanize it, but to meet criteria such as expenses control, performance indicators, merit-based remuneration of judges, generalization of real-time processing of criminal processes, introduction of typical institutes of the North-American system such as plea guilty, delation,

plea bargain, judgment and execution of persons with mental disorder, etc.

These innovations are not an authoritarian caprice or a passing fashion. They mark the advent of a new model of justice: the neoliberal justice. The development of this new 'form' of 'justice' is in two levels. One is in the name of the 'judicial struggle against political corruption', seen as the 'greater evil' of these nations, which takes to a judicial activism that has been leading Latin America to an increasingly spectacular and public 'increasing intensity of actions' in this area, establishing what Santos calls the 'democratic test of tribunals'<sup>33</sup>.

The other is the obsession of international agencies linked to the international capital with the reform of the judicial system in the sense of making it more efficient and accessible, promoting, actually, technocratic reforms in detriment of the need of a radical reform to respond to the democratic aspirations of citizens, subjected to the abuses of the State and the holders of economic power<sup>34</sup>.

The neoliberal justice is the obvious consequence of a political-juridical system that is no less than a support to the economic system and the instrument of the war of classes. If neoliberalism influences the justice system more than any other social institution, it produces an entrepreneurship justice as a motor (economics language) and as target (justice management), according to Garapon<sup>35</sup>.

Thus, it is worthy of note the emblematic study published concomitantly with the reform of the Brazilian Judiciary Power<sup>36</sup>, produced in the ambit of the Court of Justice of the State of Rio de Janeiro, in which the fundamentals of a frontline-rearguard model are related to the vision of systems organization, applicable to the public service drawing on a 'consensus' produced "among the most representative authorities of the Judiciary Power"<sup>37(86)</sup>.

For this management 'model', whose maximal canon is 'efficiency', drawing on the computation industry and "consumer products packed by producers and sold on retail, as food, cigarettes, and cosmetics"<sup>37(85)</sup>, who are the



typical clients of this organizational model, it is presented the model that inspired the neoliberal management of the conventional justice system: people performing orderly and obediently almost like machines (appealing/accusation machine, defense machine, and judging machine), the judicial procedure as assembly line, and the solution of the litigation through judgment as the product.

There is something perverse in equalizing the jurisdictional activity of solving a conflict with the assembly line of the capitalist industry whose main objective is the maximization of profits and minimization of costs, in an utmost broad sense, which is ruled by the dehumanizing logic of primitive Fordism and the current tendency to the total flexibilization of labor<sup>38</sup>.

In this pace, there is an increasing bid for the strength of algorithms that, though apparently efficient, reveal an immense load of the programmer's<sup>39</sup> crypto power and with strong tendencies to increase the State's repressive power in detriment of the critical capability of the human being who occupies the magistrate position.

An important report by the University of Cambridge<sup>40</sup> demonstrated that judges who are more judicious in maintaining the provisional detention of individuals under criminal investigation are not as 'efficient' as judges who maintain the accused individuals in detention without criterion, being the last ones preferred by the algorithm as substitutes, because they increase the detentions, even if this does not proportionally reduce crime rates.

This algorithm was well evaluated because it did not incur the racism of another algorithm that intended to 'foresee' the possibility that an individual would commit crimes<sup>41</sup>, obviously incarcerating mostly black and Hispanic people<sup>42</sup>, which could be 'corrected' by reprogramming the algorithm.

With the sole objective of producing profit or serving its production with the lower possible cost, one sees the option for an antidemocratic solution that *'seeks an entirely rational decision, prescinding of all word'*<sup>35</sup>.

In Garapon's remark one verifies that the

change from a retributive model to a restitutive model, as he names it, is an indication of the anthropological overturn of justice, since, in his opinion, it renounces an 'educative horizon proposed to someone who infringes a law to maximize the interests of the victims'.

If on the one hand it represents the possibility of obtainment of the Democratic Rule of Law, which is the right to a judgement drawing on preestablished rules, in a development by means of a process permeated by principles historically constructed as resistance to authoritarianism (due process of law in a reasonable term, understandable language, *par conditio*, impartial judge, distinct accuser, opportunity to be heard, adversarial hearing etc.), on the other hand, it cannot be taken as a system that intends to comprise the totality of conflicts and achieve the resolution of the reality of human disputes.

## Methodology

It is understood that Heidegger's key of thinking is not exactly a method, since as he says<sup>43</sup>, 'method' here is the way the entity, as the justice system, is thematized, but a radically diverse way of thinking and by existentiaries, structures as portals, pathways or trails. To point paths before presenting essences, truths and realities.

Conjectures as how such a system sustains itself, a negation of life, is something to be investigated. Some paths have already been pointed here. And how does such a system reflect on human health? In my field research on the influence of the conventional and the restorative systems on the health-disease process<sup>44</sup>, some clear answers may have possibly been identified. I have proposed to compare the conventional justice system with the restorative justice system, on the 'influence' that one and the other could have on the health-disease process of their users. I sought to interview them through interviews with semi-structured guides.

In the guide constructed in this way, in the poetic-linguistic hermeneutics, there is the search of a poet who, as Hölderlin, thinks in a more originary<sup>45</sup> manner, in connection with his people and his people's history, as, for example, Drummond<sup>6</sup>, poets who in their work present necessary elements to attend to such a turn in thinking.

The form below shows a model to promote hermeneutics, in successive phases, in which it is possible to destroy significations,

concepts and categories of words, then seek their deepest meaning, and afterwards make a verification of the area that the poem has opened, the place where the World reveals itself, since the interpretation is understood in the face of the text that the poetic speech brings to the World. It is sought that which is most concealed in the poem, the origin of what is hidden and unveiled in the entire poem (*chart 1*).

Chart 1. Exhibition of the poem to the interviewed by the Heideggerian poetic-linguistic hermeneutics

Excerpts with highlight on unities of significance	Lexicon	Etymological root	Propositional ordering	Explication of senses	Remarks
Verse 1	Entry as found in the dictionary. Verify polysemy. Search of a meaning through the edifice of words, to reveal the Being of the poem.	Exam of the etymology of the word <sup>46</sup> . Verification of the area in which the poem opened (where the World is revealed). Interpret how to 'understand oneself in the face of the text'.	Propositional ordering of the poetic text.	Question: what is the sense of this verse for you? Senses that the poetic word brings to the World. One seeks what is most hidden in the poem, the origin of what is hidden and unveils in the entire poem.	Impressions of the interviewed.

Source: Own elaboration.

From this point, from these unveilings, the respondent may often find a space to promote an experience with the articulation of our intimate presence, and we can transform ourselves from these experiences, according to Heidegger<sup>47</sup>.

In Drummond<sup>6</sup>, we have an example in the poem 'Procura da Poesia' ['Search of poetry', free translation] which in the proposed hermeneutic line starts with the verse 'Don't make verses about happenings' and goes on escaping from the categorical with universal pretensions: 'Don't sing your city, let it be in peace'; then he suggests: 'Penetrate deafly the reign of words. There are the poems that await to be written' [free translation].

The poetic-linguistic hermeneutics employed in these interviews intends to enable this 'behavioral opening' and flourishing of the Being, in harmony with this vision of human health, since, as understood by Silveira<sup>48</sup>, art is a direct form of expression, the most revealing of the Being, capable of making the Being shine in the direction of freedom, the non-control, to permit the truth of the Being in the history of the Being, the appropriative-happening, in which the words 'history' and 'happening' are differentiated from their common sense, to represent the search of the Being for a speaking that is hidden in the language and the poetic essence of language, attempting to clear the way so that the entity appears<sup>3</sup>.

By this hermeneutics, for example, the interviewed Karaxim – name of a wizard, Hilda Hilst's character –, when exposed to Chacal's<sup>49</sup> poem 'Rápido e Rasteiro' ['Quick and Fast', free translation], unveils the metaphor of a disease. It is unnecessary to say that he is a middle-aged man, severely affected by a disabling disease, father of a young man involved in a transgression act.

Oh, in this case, it is as if it were a disease. You catch a disease, then it has no cure. For your whole life you will be fighting against it. To be able to vanquish it, but you don't manage. (Cora).

His daily struggle against the hindrances does not represent the 'disease' as hindrance, as 'evil', as opposed to 'health', but the tragic of existence, and, in this way, Karaxim does not 'accommodate' to his condition; rather, he has the control over his situation and accepts it as *amor fati*.

As a good description of the state justice system, there is the statement of Américo, judiciary professional, narrating the mechanization of the individual, seen as an object of an approach named science of law. Here, theoretically, there is a time, a mode, speeches, characteristic of the verticality of power:

A: The client, whom you accompany in the court of general jurisdiction, politician... Higher education, all that... In a public function... Perhaps. Does he tell you, when entering the court room, does he report distress, anxiety? On the eve? Do you feel that?

A: It's interesting. It depends on the client. The more inexperienced client, right? The individual who is starting, you notice that anxiety... A certain respect. But the one who is used to it, he goes there, it seems that he already wants to lead the procedure [laugh]. He already knows what he will do there, so he goes very naturally, and rather cool. This, at times, is even...

P: It impresses, right?

A: It impresses. The way that he deals, the

coolness with which he deals with those issues. It is as if: 'It's one more, one less. If possible, we will do that'. And this is, it seems that it goes somewhat out of reality and goes to a question of Cartesian logic. 'I will do this, that.' Very...

P: I understand.

A: Sometimes, scary [laugh].

P: I imagine what you are talking about.

A: It goes, it seems that the individual divests himself of all humanity. He is there to solve your problem, right? The way he thinks is the most convenient, right?

The mechanistic logic of the process, conceived as a conquest of the juridical science, represents ultimately the denial of the human – transformed into an object –, which is incompatible with any experience that one may have of justice.

## Final considerations

A justice system designed to produce truth, i.e., according to Derrida, the justice dimension of performative utterances, which has a certain quality of violence, falls in a 'statute of truth'. Paradoxically, it is because of this performative overflowing, because of this always excessive advancement of interpretation, because of this urgency and this structural precipitation of justice that it has no expectation horizon (regulatory or messianic). However, for this very reason, perhaps it has a future, a time to come that we must distinguish from the future. Justice remains a time to come. Maybe it is because of this that justice, insofar as it is not only a juridical or political concept, opens to the time to come the refoundation and recasting of Law.

Devised and ideated as simile to the capitalist mode of production, it constitutes a social determination of health, negatively impacting the health-disease process: before simply perpetuating iniquities, characteristic of a society in a war of classes, now it becomes an inhuman machine, no longer directed to the solution of litigations, but rather to the production of

numbers, data and outcomes, in a rational and inhuman efficiency.

How will the human being be able to develop under a neoliberal justice other than, once again, alienating, oppressing and denying her/himself? In the algorithm of the conventional justice system there is no space for the deviant, chaotic and unpredictable.

If it is evident that in the model of a broaden concept of health, multiple factors will, in one way or another, ultimately influence the health-disease process, it is clear that iniquities are important characteristics of anti-vital repercussion, which require elimination.

Justice – freed from conceptual-meta-physical analysis –, far from pretending to see nothing or see everything with clear-sighted eyes, as Nietzsche says, unveils itself as an impossible experience and therefore requires perception, collective construction and dialogicity, uncommon attitudes in a classic investigation on the theme, that I will experiment

by provoking the thinking to its limits.

If it is not reformulatable, if it will always incur imperfections for it is human, excessively human, the conventional justice system will not improve or a formula will be found as to make it efficient, perfect, completed. Perhaps it requires to be seen as a path, among many possible and desirable paths.

## Collaborators

Tredinnick AFAC (0000-0001-8753-9129)\* contributed to the study conception and planning, data collection, analysis and interpretation, article elaboration, and approval of final version of manuscript. Oliveira MHB (0000-0002-1078-4502)\* contributed to the study conception and planning, data collection, analysis and interpretation, article elaboration, and critical revision of contents. ■

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