

Media, Images of Justice, and Brazilian Reality Television

Vicente Riccio, Getúlio Vargas Foundation, Brazilian School of Public and Business Administration, Brazil

Abstract

The main objective of this study is to understand how legal narratives are presented in a very popular Brazilian reality show. *Programa do Ratinho (Little Mouse's TV Show)* is characterized by a formula in which entertainment is mingled with social questions. It is possible to identify three kinds of discourses that are related with different perspectives of law in the Brazilian society, namely: the criminal law, the civil law and the welfare discourse. A reception study with two focus groups was performed with program viewers (poor or lower middle class) and legal professionals (judges, lawyers and prosecutors). Three samples for each discourse found in the show were gathered. Viewers' perceptions based on personal experiences indicate that this kind of show and the general media works as a very efficient accountability tool helping to counterbalance a class-biased legality. Legal professionals stress critically the way in which the issues are presented, but recognize the limits of Brazilian legal system. In sum, is possible to say that despite different interpretations between program viewers and legal professionals, they are critical subjects who are able to make pragmatic analysis of the show's contents that are related with serious problems in Brazilian society.

1. Introduction

The contemporary world is undergoing an increasing process of the judicialization of social relations that can be seen in various ways from political activity to private contracts, as well as ethical questions and behaviour. Since the law includes a considerable symbolic dimension containing subjective elements derived from individual cultural and social experiences, its presence in daily life is not restricted to the formal statist aspect of law. Television, for example, an important agent in the reproduction and diffusion of cultural and moral values, has proved to be a privileged stage for the expression of this phenomenon, whether through the constant presence of the question of law in news reports, soap operas and documentaries, or by putting official justice itself on trial, something very common in police programs and variety shows.

Taking into account the importance of the media in the contemporary architecture of the democratic process, this article seeks to discuss the social construction of legality through an unconventional locus of analysis: the *Ratinho* television show, one of the most expressive *reality shows* on Brazilian television. It starts from the principle that, due to its instantaneity and the need to captivate the public, the media, and especially this type of programme, tends to incorporate and diffuse a notion of justice constructed on the basis of popular perception of the law, opening space for a permanent confrontation with the official legal

world, in which due process is the rule, based on the principle of confrontation, the right to defence, and the hearing of all parties involved.

This paper grew out of the perception that this conflict is particularly explicit in *reality shows*, due to their tendency to privilege ordinary individuals and the daily experiences of these people. In their approach to the question of justice, this type of programmes tend to transmit a popular judgement of the role and efficiency of the law, bringing up notions of justice conceived externally to the logic of the official operators of the legal system. Parallel to this, the paper draws on an empirical research tradition that has been developed in the Sociology of the Media from the 1960s onwards. This involves the study of reception, based on the principle of the non-passivity of the public in relation to the mass communication, since those who receive the messages transmitted by the media give them their own particular interpretation, conceived on the basis of their own individual experience. This article, through a study of the reception of episodes of the *Ratinho* television show, seeks to understand how the operators of the legal system – judges, prosecutors and lawyers – and the spectators of the programme from the ‘popular’¹ strata of Brazilian society, interpret content about the question of fairness, or justice, presented in the media. It is also sought to analyse how the operators of the legal system negotiate their professional experience and training in the evaluation of the public situations transmitted during the programme, in the same way as the ordinary viewers. Finally, the programme and its social context will be looked at, hoping to detect possible tensions between official legal discourse and the discourse in the media.

The *Ratinho* programme was chosen because of its polemical and ‘popular’ nature, causing the presenter to reinforce the concept of justice based on common sense, in other words, different from that incorporated by the operators of the legal system in their professional culture. In addition, the programme is particularly interesting for the proposed discussion because it unites in a single attraction the four standard types of *reality shows* defined by Mehl (1994): 1 adventure, mixing reality and adventure; 2 intimacy, in which people expose their private problems; 3 society, in which the media tries to negotiate a solution to the problems of the community; and 4 the *show*, which tries to valorise the testimony of common individuals.

The article is divided into five sections. The first, ‘Media versus Law: the confrontation between the formal and informal’, tries to explain in what moments the discourse on television about fairness clashes with the professional logic of the operators of the legal system. The following section, ‘The question of fairness in the *Ratinho* television programme’, begins with the identification of three types of judicial discourse evident in the show – penal, civil and social, - which delimits the empirical research with the operators. In the third section, ‘The reception study and the empirical research’, explains the methodology, presenting the

¹ Translator’s Note: The word *popular* in Portuguese has much more significance than in English. When applied to large groups of people it conveys the idea of common, vulgar, or poor. As the translation to any one of these terms loses an important part of its meaning, I have opted to use the original here and elsewhere in the text.

characteristics of the focus group used in the study. The fourth section is concerned with the analysis of the research results, while the final section discusses the conclusions of the study.

2. Media versus Law: the confrontation between the formal and informal

The theme of judicial culture, especially in studies about the relationship between media and justice, is usually looked at from an official perspective, centred on formal law based on a set of attitudes of individuals in relation to judicial institutes, (Friedman, 1978). In this paper, however, the idea of legality is constructed from the point of view of authors such as Ewick and Silbey (1998), who try to work with the daily dimensions of justice. In this type of analysis, legality "is not sustained only solely by the formal law of the Constitution, legislative statutes, court decisions, or explicit demonstrations of state power, such as executions. Rather, legality is enduring, because it relies on and invokes commonplace schemas of everyday life," (*idem*: 17). In short, it can be seen that the idea of fairness also exists outside the formal judicial world, with the perception of the law as being built on expectations based on the common sense of individuals who, through their social interactions, criticise and reconstruct official law in daily life, (Ewick & Silbey, 1998).

This de-sacralisation of law is particularly evident on television, which, as a rule, looks at law through the intermediary of misdemeanours, irregular public actions, corruption and violent crimes, all conveyed as threatening elements in which the binomial relationship victim – aggressor is constantly repeated. To the exaggerated realism, adopted as a strategy to attract the public, is added the characteristic of the instantaneity of the medium, which operates with a logic of speed, breaking barriers of time and space. It is due to these characteristics that I decided to investigate the repercussions of the media's approach to justice on the operators of the legal system, who, while exercising their profession, must follow the language and codes of due process, marked by the rigidity of form, the correct time for speech, the presence of a physical event defined by the judgement of the issues in question. In the process, the principle of confrontation is fundamental, based on the premise that all the parties involved have an equal right to be heard. In contrast to this, the repercussions on the lay public, without any legal education, are also investigated. This guarantee of the right to speak at a set time, the mark of the democratic judicial system, is incompatible with the instantaneity of television, which

"(...) shows its wish to make amends, to reunite families, to make appeals to witnesses, to supervise the work of all institutions. In this way, we cannot talk about the 'de-localisation' of certain processes in the media: debates are not longer restricted to a physical jurisdiction – the courtroom – in which the rules are firmly established –

procedures; but rather develop outside walls; in other words, they do not have their own place, similar to certain financial markets ... (Garapon, 1996: 270).

However, it is important to highlight, as observed by Ericson (1996), that law and media also share common points: 1 – in both the question of morality is present; 2 – the two worlds are governed by rules, which define how and where something will happen; 3 – in both a hierarchy is respected that defines the status, quality and position of individuals and ideas. In summary, both the media and justice ensure a space of reproduction for the existing morality. In the two worlds there is also a commitment to objectivity. In the case of the media, especially when the printed press is involved, the credibility of the organization is directly related to its commitment to impartiality. Meanwhile, law is naturally associated with the idea of neutrality, (Ericson, 1996). However, while journalists build their objectivity on daily life, the operators of the legal system do so through codes and through technical instruments acquired through an academic education, in other words, through the socialization of a series of values typical of the function².

This process of the socialization of values can be observed in the institutionalisation of the legal professions, such as lawyers' organisations, responsible for the organization and supervision of the functioning of the profession. The operators of the legal system are guided by a vast system of professional obligations, marked by significant institutionalisation, with lawyers' organizations being an example of this, (Karpik, 1996). This institutionalisation is shown, for example, in the magistracy, with judges presenting themselves as the representatives *par excellence* of the legal values of society, (Werneck Vianna *et alli*, 1998).

The discussion of the characteristics of the relationship of media language with the question of justice, to be looked at in the next section, will be restricted to *Ratinho's* programme. The different judicial discourses in the show, which will be discussed afterwards, serve as a point of departure for the empirical investigation proposed in this study. Through the concepts revealed by these discourses the empirical evidence for the confrontation between formal and informal discussed in this section will be looked at.

3. The question of justice in the *Ratinho* television programme

The programme presented by Carlos Roberto Massa (*Ratinho*) is one of the most polemical *reality shows*³ of Brazilian television, aimed at the presentation of questions of a public nature, permeated by typical entertainment formulae. As in all similar programmes, the show emphasises the speech of common

² Carlsson and Baier (2002) discuss the internal self-image of the Swedish judiciary through images produced by the institution. After analysing 254 photographs from the National Centre of Administration and 117 judicial calendars, as well as 137 brochures, the authors show that these images are connected to the concept of formalism and transmit different ideas related to the majesty, coherence and authority of the legal system.

³ It is difficult to define a restrictive concept for *reality show*. However, there is a consensus among various authors that among its main characteristics include the fact that its main characters are ordinary people with their daily experiences, which in this type of attraction supplant questions related to politics, or to the business world, (Ehrenberg, 1993).

individuals, often creating, what is said by Garapon (1996) to be typical of this type of broadcast: tension with the speech of specialists.

Ratinho's programme uses a formula characteristic of television programmes that deal with crime. This type of show emerged in the United States during the 1960s, characterized by a nebulous zone between information and entertainment, though with the main objective being the description of reality. Another important characteristic of this type of programme is the emphasis on the social control role played by the media, especially its function as society's watchdog. A clear identification with the state, especially the results of policies, can be perceived in these programmes. This is because, at least to some extent, these programmes involve collaboration between state authorities and TV producers, showing a clear partisan vocation, (Cavender & Fishman, 1998).

Based on the survey carried out between 21 May 1998 and 25 February 1999, with an approximate total of 25 hours of programmes, it was seen that *Ratinho* looks at situations and arguments in which the idea of justice is constructed on the basis of different conceptions. Sometimes the idea of coercion and related punishment are the essence of the discourse. The criminal is not presented as a citizen breaking the law, but rather as someone who has broken the basic ties with the community. Criminals who commit barbarous acts are stripped of their citizenship. According to this logic, a rapist, for example, is someone without rights and deserving of the worst reprisals. He deserves the death penalty, or to be punished by the other prisoners as the victim of a crime identical to which he committed. The barbarity of the crime makes sexual violence against the criminal acceptable. Thus, prison is not presented as a space for re-socialization, but rather as a space for the punishment and expiation of the criminal. The idea of punishment in this discourse is typical of the Durkheimian horde, in which the mediation of law is unable to placate the community's desire for redress. This discourse, which has the aim of the recomposition of order and appears frequently on the show, is, for the effects of the analysis proposed here, classified as a penal law discourse. In it, the distinction between justice and morality appears in a diffuse manner and the moral authority supplants the authority of the state, because it is the popular (mechanical) conception of penal law that allows the effectiveness of justice, (Durkheim, 1999).

A second discourse observed on the programme is the civil. This appears when the questions of family, neighbours, formal or informal contracts and problems related to relationships of consumption are presented in the studio. In these situations, people seek the help of the programme to obtain, for example, a DNA exam, in order to resolve doubts about paternity. In the area of official law, these type of demands are resolved through the procedural code. In the television programme, however, compensation of injustice is looked for without any mediation from legal procedure. The presenter's discourses are adjusted to the dynamics of the interaction of the litigants in the studio and the public participates in the construction of

this scenario, constantly giving their opinion on the development of the questions being discussed. Individual questions take on the character of the spectacle, especially fights between those present in the studio. References to procedures occur in a negative way, though legal procedures are really the means to resolve these problems.

The third type of discourse identified in the shows presented by *Ratinho* – the social – is perhaps the most striking part of the programme. The situations revolve around something that has not been properly provided by the public power, despite the fact that the state has a duty to do so. The needs of the most disadvantaged parts of society are always present in the context of this discourse. There is a perception of justice based on the capacity of the law to adapt to the requirements of social reality. By showing cases of people who do not have direct access to basic social rights, such as health, justice, education and security, *Ratinho* resorts to a discourse about inequality and the incompetence of the state. In these cases, the discarding of the various forms of legal procedure becomes valid due to the urgency of social needs.

In short, the penal discourse that appears in the programme has the characteristics of a conflict resolution model based on very repressive aspects, in which the redressing of damage incorporates an idea of justice based on coercion and the stigmatisation of the criminal. The second discourse shows a civil law that is achieved by abandoning procedure, and, in this way, submitted to the logic of Brazilian social inequality, in which the 'elite', the 'rich' the 'politicians' and the 'privileged' always have a more favourable space in relation to the state. The social discourse is based on the denunciation of the economic needs common to the poor majority of the country, to which is added the deficiencies of the state in meeting these needs. These discourses, as previously stated, are central in the investigation proposed here, whose methodology is detailed in the next section.

4. The reception study and the research methodology

This paper consists of a reception study of how the operators of the legal system – judges, prosecutors and lawyers – deal with the treatment of the theme of justice in the *Ratinho* programme and among the general public. This type of study has, since the 1960s and 1970s, questioned the concepts previously accepted by one of the schools of research in sociology of the media that considered the public as a passive subject before the transmission of the means of mass communications (Lazarsfeld, 1978). In reception studies, the focus of analysis is relocated to the role of the public, to its capacity to read and interpret the message, giving meaning to the content, (Dayan, 1992). In other words, it is based on the concept that the media cannot be studied without taking into account how the message is interpreted by whoever receives it.

The contemporary understanding of reception tries to understand it socially, and does not limit itself to a simple reading of the content mediated by individuals (Alasuutari, 1999).

One of the instruments used in the qualitative analysis proposed in this work is the focus group, characterised by the introduction by a moderator of discussion topics related to the object of study to a specific set of people meeting in a specific location. As defined by Gaskell (2002:75), the objective of the focus group is "to encourage the participants to talk and to react to what the other people in the group say". In this methodology, meanings or representations are influenced by interactions within the group instead of being based on an individual perspective, as occurs, for example, in an in-depth interview⁴.

The first focus group was composed of ten people, aged between 18 and 45, of both sexes, mixed in terms of both gender and race and from the C, D, and E social classes. It met in a single session on 20 January 2001. The second group had seven members, three judges, one prosecutor and three lawyers, and met in a single session on 24 February 2001. Both groups met in Belo Horizonte (MG)⁵. All the participants worked in the same city and were shown video excerpts from the *Ratinho* programme covering the penal, civil and social discourses. The selected excerpts included 1- a brutal attempt by a husband to murder his wife, through which the reaction of the legal operators to the penal discourse was analysed; 2 – a medical error suffered by a woman called Sônia which highlighted the civil discourse; and 3. the removal of an illegal settlement in São Bernardo do Campo (SP), an example of the social discourse.

5. Research Analysis

The first observation to be made in relation to the research refers to the role of *Ratinho* himself, who, unlike other presenters of similar programmes, is not just there to entertain, but also to offer a public service. The public emphasise the fact that the programme is funny and, at the same time, makes strong social criticism. Proximity with daily programmes is mentioned by viewers as one of the reasons for watching the show. In addition, *Ratinho* is seen by participants as someone capable of denouncing the powerful, who often do not pay for their acts because of a legal system that establishes distinctions between rich and poor.

Another important factor emphasised by those who took part in the first focus group is that the presenter makes his feelings known, ignoring incomprehensible bureaucratic rules. His public role is recognized due to the influence of the media on society, which allows him to criticize politicians in general, the police and

⁴ "The group provides criteria on the emerging consensus and the ways in which people deal with divergences. In a group session, people can be creative, the researcher/moderator can explore metaphors and image and use projective stimuli. In the group situation, the sharing and contrasting of experiences construct a set of common interest and concerns that, in part experienced by all, are rarely articulated by one single individual. The group is, above all, more like a soap opera, a perspective on daily life shown only when the entire programme is watched and not just from the contribution of a single actor," (Gaskell, 2002:77).

⁵ Capital of the state of Minas Gerais.

inefficient public services. In this way it is possible to overcome the hiatus between the people and the state. On the other hand, viewers are aware that the media is a commercial institution and that the programme is shown because it makes profits. Viewers recognise this duality very pragmatically and deny that this has reduced the public character of the broadcast. The following tract illustrates the question:

Q - Well, does he represent the people? What do you think, Reginaldo? You're very quiet over there.

A - I think so, I think he really shows what is real, right? Sort of, how Brazilians really are, and tries to help them. When its fun, he shows the jokes, the fights. When its time to be serious, he shows the serious. When its time to speak the truth, he really does so, for everyone to hear, right? I mean, he's showing everyone that he can talk and if we were there we wouldn't be able to talk.

The question of language is a factor in the understanding of other public problems, such as agrarian reform:

"A - The question of agrarian reform is the same. For example, I read about it in the newspaper, I don't remember where, I don't remember where. When *Ratinho* explained it on the programme, I really understood what agrarian reform was. His language really makes a thing like that...

Q - More accessible?

A - More accessible for you to understand."

The legal professionals had, in contrast, a clearly negative perception of the programme. The emphasis given to the fact that they were not frequent viewers of the programme, which in their view was meant for people from "lower classes", is interesting. A judge who took part in the debate was annoyed that her brother, a doctor and, therefore, having a third level education, watches the *Ratinho* programme. In her view, through the impression of the legal system he gets from the show, her brother reproduces a distorted view of the legal system and its routines. In other words, she confirms the existing view that the public of this type of show are unable to be critical of possible television manipulations.

The fact is, whether they watch the program or not, all the legal operators showed a reasonable knowledge of the characteristics of the broadcast and were extremely critical of the behaviour of the presenter, especially his tendency to pre-judge facts, based solely and exclusively on a one-sided view of things. For the legal operators, *Ratinho's* behaviour distorts legal language and is disrespectful of human beings. The presenter does not respect authority. And not just the judge, the mayor, or the prosecutor; "he does not respect anyone". According to one of the interviewees, *Ratinho* "over-exaggerates in his discussion of law,

and with social and moral relations". The operators, perhaps because of their professional logic, resisted the discussion of justice from non-official perspectives, reaffirming the Jupiterian ideal of law⁶.

Opposition to the programme, with small variations among the different legal operators, reaffirmed the majestic idea of the law in opposition to the fickleness of the media. In the case in question the distance between the two worlds is expanded due to the format of the show, totally informal and which shows no mercy to any sacred cows.

However, it should be noted that, in some moments, the legal operators showed a pragmatic understanding of the law when it is shown on the TV. The characteristic of the media that disrespects human drama through the public exposure of personal wounds, for example, is relativised by the group when citizens resort to this type of programme to overcome gaps left by the state in relation to its role in providing health care, education, housing, safety and welfare. For the individual, the embarrassments of publicity are less than the continuance of the suffering and need. In this case, the legal participants identify the media as playing a healthy role in highlighting the vacuums left by the state.

"A - Some go there knowing that they will be made a fool of, that they will be exploited, but may through this they'll get some type of reward, a little money, or something similar. Others go because they really want to sort out their problems, since the ordinary and official ways to resolve problems are inaccessible to them (...) They know that there, everyone, millions of people will be listening. Then the problem is not so much. They know they're going there for this. (...) I think that they go for this reason, to some extent, to solve the problem, or because someone needs an operation, an implant (...) for which reason they expose themselves. Why? Because SUS⁷ won't do it for them. They don't have the money themselves. Then, why are they there. Since the state doesn't help, and society in a way doesn't help, what can they do? Go on one of these programmes, expose themselves a bit. This is the means of exchange. One exposes himself, the other get the ratings and then what happens? He gets the operation (...).

A - Resolves the problem.

A - Resolves his problem."

The image of the presenter discussed in the two groups shows two distinct understandings of this type of media broadcasting. For the public, *Ratinho* is a voice of the people and his presence in the media helps to supplant problems resulting from historic inequalities in Brazil. For the legal operators, to the contrary, the programme minimizes the functions of the state and the judiciary, since it disrespects the principle of

⁶ Jupiterian law according to Ost (1996) is marked by the idea of logical scientific coherence. Its way of operating in the social world is characterized by pyramid-based architecture, in which its commands, which emerge from the bottom up, do not incorporate contingent elements of social life.

⁷ Brazilian Public Health System.

confrontation. However, it should be emphasized that at some moments both the legal operators and the public show a pragmatic understanding of the programme. This occurs when citizens turn to this type of programme to overcome absences left by the state in its role to provide health, education, and housing, in other words, welfare.

5.1 – The Penal Discourse

The case chosen to present in this paper refers to a murder attempt involving great cruelty. The husband of Alzira, a city councillor in Tambaú (in the interior of São Paulo state), hired a city government employee (Márcio Azolla) to murder his wife, 27 years older than him. Azolla stabbed the victim more than 90 times and since he had not managed to kill her, shot her three times with his revolver as well as driving over her body with his car. Despite all this, the victim survived, and the murder attempt horrified the small community.

An interesting point is that after the exhibition of the tape both the group of viewers and the group of professionals thought the situation to be exaggerated and questioned its veracity. Viewers' criticisms focused on the fact that the city councillor, who ordered the crime, received little attention. The criminal politician highlighted poorer classes' traditional perceptions of politicians, seen as having special privileges and being dedicated to their own private interests.

The professionals, despite not believing that the crime was true, made strong criticisms of the way Ratinho presented the case, condemning in particular the theatrical exhibition and the pre-judgement of the facts, which were not treated with the prudence needed for a criminal question. They also again strongly emphasised the importance of academic education and the legal cultural since the principles of the penal area are more formal than the other areas of law.

In relation to this case, the viewers believed that punishment is different for different social groups. Despite this understanding, it was accepted that even though the councillor was in a special prison, he would pay for the crime he had committed. This is because of the visibility of the case and compelling evidence shown in the report. However, this certainty of condemnation was not considered sufficient punishment for the criminal, whose face should have been shown by Ratinho⁸. The observation about the picture reinforces the idea of punishment outside the legal system. By publicly exhibiting the criminal, his stigmatisation was completed and he could be socially 'branded':

“Q- You think there was a difference there because...

A- The one that did the killing, but he didn't show the other.

A - Because the other was powerful?

⁸ Ratinho showed a photo of the councillor with his wife.

A - Yes.

A - Do you think that is common in Brazilian court? Or not? The poor are treated differently?

A - Ah yes, certainly.

A - Certainly.

A - Certainly.

A - Only the poor go to jail. The rich don't. Jails are made just for the poor.

A - yes.

A - Even though the guy's in a special jail, he will pay for this crime.

A - But he didn't show his face."

An interesting point is that the viewers said that the death penalty would be appropriate for the case, but that in general the death penalty would not work in Brazil because it would not be applied in a fair way; only criminals from a poor social background would be so harshly punished. The debate clearly showed that, from the viewers' perspective, the role of television does not usurp that of the legal system. In reality, television is seen as a stimulus of official judicial power. In addition, the idea of the judge as the person with the power to judge was not unknown to the interviewees:

"Q- Hold on a minute. Do you know who is responsible for condemning someone?

A - The judge.

A - The judge.

Q - Why does Ratinho do it? Why do you think he does it and everyone...

A- Because our law is weak.

Q- The law is weak?

A- The law is weak.

Q - What do you mean by saying that the law is weak?

A - It's weak in the same way, same as I said before, it is only for the poor, because for the rich there is no law.

Q - Everyone else, what do you think of what he is saying?

A - I agree.

A - I agree fully with him.

A - I think that if there were a death penalty in Brazil many innocent people would die."

The professionals also discussed *Ratinho's* advocacy of the death penalty for those accused of the attempted murder of Alzira. Although they did not approve the death penalty, the participants did not find anything strange about Ratinho's opinion, considering it to be coherent with the values defended by the

presenter. Nonetheless, they saw the advocating of the extreme sanction as theatre, used as a strategy by the programme in the fight for audience ratings.

“Q – And when he asks for the death penalty, he makes his condemnation, he makes his judgement? What do you, as professionals from the area, think of this?

A – I think it is not so bad.

Q - Not so bad?

A- I think it is not so bad, because if he believes – and the problem is that we don't believe – in what he is doing, the death penalty is the obvious solution from his point of view, see? This I believe is not so bad, he says he agree of nor, that it would be the solution, the death penalty and whatever. This is an opinion he passes on to others.

A- It's a position that really agrees with his objective.

A – It's theatre.

A - It's theatre.

A - Exactly.”

In summary, in regard to the penal discourse, the professional culture of the legal operators appears to interfere in the reception of the message broadcast by the media. Even when they understand the demands of society, they do not let themselves be seduced by the moral appeal of arguments and situations presented on the stage. In this specific type of discourse, irrespective of the legitimacy of the demands related to the theme of justice, they make their analysis from the point of view of legal procedure.

5.2 – The Civil Discourse

The case included in this segment was that of a woman called Sônia, from Belém do Pará⁹, the victim of a medical error. She tells how her problems began when she was hospitalised in 1992 to remove a myoma. Her problem, however, was not solved and actually got worse because of a medical error, eventually developing into a gigantic abdominal infiltration. The camera shows photos of her abdominal region, which is in a terrible condition. The images are tough and shocking. Ratinho shows the videotape again and mentions the name of the institution what the woman was operated: *Hospital Adventista de Belém do Pará*. He criticises the incident and says that he is not afraid of the “owner of the hospital”. Ratinho attacks what has happened as asks: “How can this woman defend herself? How can the poor fight against the powerful without money to pay good lawyers?”.

⁹ Capital of the state of Pará in the Amazon region.

In the case in question the image is shown in such a way that emphasises the very strong content and mobilises the judgement of people, especially viewers. Another important fact is that Ratinho states that Sônia won a victory in court after the exhibition of the images. The judges, for example, disagreed with this statements, since they say the Judiciary is based on technical proof and in this case it must have proceeded in the same way.

The group of viewers emphasise the watchdog power of the press which allows the solution of problems of this nature:

“Q – What do you think of this case?

A – I think that it is a case that will be quickly resolved. Television allows what really happens throughout the whole country to be shown. Then, this is what makes things move. You saw what Ratinho said. After being shown here what happened? And then she said...

A – It changed, didn't it?

A – That's it then. The Ratinho show is more or less that.

A- That's what I said (Márcia). We can only manage to get them to listen to us, to get them to treat us some respect after you begin to act like this: 'I am calling the press'."

In this situation, the viewers state that the media does not usurp the space of the legal system and that there is no dispute between the two spheres. In addition, the need to attract an audience can exist alongside the wish to help people:

“Q – Do you think that television is disputing space with ordinary justice?

A – No

A - No

A – Ibope (television ratings) can also mean helping people who can't help themselves, don't they?

A - Sometimes it even makes the courts faster".

The professionals, on the other hand, criticise this type of posture. In their opinion, what is involved is not informal control on the part of the media, but ignorance of the routines and practices of the judiciary. Despite their criticism, the media is seen an element of pressure and social control and as an important instrument in discovering deviations and demanding solutions from public authorities. The discontent of legal operators is caused by the exaggeration in the situations shown in the programme and the ignorance of certain legal formalities. In this point, the professional culture is manifested with much intensity:

"A- I think that the media is completely ignorant in terms of justice; it knows nothing, doesn't even know how to speak.

A – It doesn't know how to speak. It is really crazy, sometimes we see one of these famous journalists making a mess of things. I don't think it is intentional, but is really due to ignorance. I think that the media, on the other hand, is a non-institutionalised form of control over the public authorities.

A – That's a technical question. If there is a condemnation, it is not because the judge saw the picture of the person. The doctor was only found guilty because there was technical evidence and this technical evidence must have said: 'Look, there was negligence, there was recklessness and a lack of skill. Because, if the technical evidence had said: 'Look, there was no recklessness, no negligence and the doctor took all the precautions he was able to, but there was a rejection, because no surgery is 100%, there is never any guarantee'. The judge would have found him innocent."

Because of its characteristics, the civil discourse indicates a greater distancing of the professionals in relation to the public. Despite recognising social problems, they do not question the logic of law or the legal institutions.

5.3 – The Social Discourse

A video was shown about the clearance of illegally occupied land in São Bernardo do Campo¹⁰ (SP), edited to fit into the session. At the end, there were 14 minutes of film, while the editing preserved the main aspects of the originally transmitted programme. The content showed the images of the eviction by the *Policia Militar* (gendarmarie) of São Paulo state in compliance with a court order. It involved a community illegally occupying a mangrove area. In the studio *Ratinho* spoke to some of the people who had their houses demolished and representatives of the city government and the state environmental secretary. The discussion of the question was intermixed with scenes of the *Policia Militar* carrying out the clearance.

After the tape was shown, the viewers discussed their opinions of the content. The first reaction of one of the viewers was to recognize the 'authentic' *Ratinho* in action. The reason given was the impartiality of the presenter, who had defended the truth and pointed out errors on both the part of the public authorities and the residents in the invaded area. The participants believed that the people had made a mistake in building houses in a mangrove area, since they should have known that they could not do this in this area. At the same time, the state was also seen as being responsible, since it should have offered space to the evicted families. This would have been the best solution, and would have guaranteed the preservation of the public

¹⁰ São Bernardo do Campo is an industrial city with 500,000 inhabitants in the metropolitan region of São Paulo (the largest city in Brazil).

order and the duty to help the most disadvantaged parts of society. The statement of one of the evicted women allowed the viewers to discuss citizenship rights in Brazilian society:

“Q – And when she goes on the *Ratinho* Programme, she shows a document and demands that the law be fulfilled. She uses an expression. Do you remember what she ...

A – The rights of citizens.

A - The rights of citizens. She spoke about citizenship.

Q – Is that a proper place to talk about that or not? What do you think?

A- I think that it is the opportunity to speak.

A- If she went there, they won't see her. If she went to Brasilia¹¹ to speak with the president, he won't give her a chance to speak. While there [on the programme] she can be certain that the president is also watching.”

The contradiction between “written” rights and “effective” rights is constant in the understanding of viewers. Thus, when asked about the enjoyment of rights, the answers varied from the right to liberty to the possibility to freely obtain a birth or wedding certificate. Difficulties in implementing these rights do not mean that there is a bottleneck in social action. “Fighting” for rights is seen as something necessary. In the decision to look for rights, the act of mobilizing the media is seen as something positive, even if satisfactory results are not achieved:

“Q - Do you think that these rights, from what I am hearing, you are talking about these rights and do not either believe in them or enjoy them.

A – From what I've seen, I only believe in two.

A – Birth and wedding certs, that you don't pay for.

A – Because you had to pay for birth certs. Previously you had to pay. Not now.

Q - For example, do you have any basic of the basic rights of Brazilians?

A - The only right I have is liberty.

A - You have to fight for it.

Q – Any, for example, these things, these rights written on paper, do they exist?

A – They don't exist because the same people that made the laws do not enforce them.

Q – And when one of these things happens on the TV, when a person tries to get their rights, what do you think? Are the people successful or not?

A - Not always.

A- Maybe she was successful, or maybe not, but she is trying to win this right for herself.

Q – Is it an easier place to be successful or not?

¹¹ Capital of Brazil

A- It is easier.

A - It's a means of communication. It's easier for people.

A - José Serra¹² himself appeared there because: 'Ah, I am going to ask Minister José Serra to donate medicine to children'. He went on the Ratinho programme because it was (election) campaign time, wasn't it? Then he got medicine for the kid, and I don't know what else. Now, go ask him for medicine. he won't even what to know".

The most interesting point in this discourse, in the case of the viewers, is the perception of the media, not as a substitute for the state but as something capable of pressurising it and making it fulfil its obligations. The images shown were related by the participants in the session to their own range of daily experiences. To the contrary of what was shown in the penal discourse, the legal operators, in their analysis of the case of the eviction of the settlement in the mangrove area, tended to relativise the illegal nature of the settlement involved in the question. Due to the content, they admitted that the presenter did not need the impartiality they had believed was necessary in the case of the previously criminal report. Although the legitimate use of force is a characteristic of state action, the participants defended that in situations such as shown on the video, the state should try to enter into dialogue and negotiate with the parties involved. The protection of the mangrove area involved the protection of a greater interest that had to be taken into account. Nonetheless, the social problem in question highlighted the difficulties in legitimating these type of judicial decisions.

For these legal operators, although coherent with the legal process, the removal of the families is not self-legitimating. In other words, the legal professionals saw the use of force to clear the land as correct, but also recognised the needs for a solution not strictly indicated by law.

"Q – I just want to mention one thing here. At the beginning of the presentation, Ratinho asked a question. He said something like: 'Who is guilty? The public authorities? Whoever sold the land?'. The people are not guilty. He does not blame the people.

A – The law is for the people and not the people for the law.

A- They are partially responsible since they knew that they couldn't go there, but they still went anyway.

A- Of course!

A – They took the chance. It's the same thing – anyone who buys a car or land, buys, signs and pays without looking at what is written down, without checking to see whether the guy has any debts. Afterwards, they discover that the guy is in debt and the house has been pledged as a guarantee. And then? I mean, they had taken the risk.

¹² Minister of Health in Brazil during the second mandate of President Fernando Henrique Cardoso (1998-2002). After important work in charge of this Ministry, especially the final against AIDS, Serra was recognized nationally and internationally for his work.

A – They should have asked whoever gave the ownership to them, you see? They should have asked: ‘This is in court. How long will it last there?’.

A – They really should have asked.

A - Absolutely.

A - Here, they are not innocent, no (...). Now, you’ve asked us a question, the first (...) what she was talking about, about the question of justice and people, right? What I think is the following: our model of justice is a model that serves the better off parts of society.

Why? First of all, the judge has no direct contact with the people.”

In the opinion of the legal operators, this type of question has implications for other spheres of state action, especially in the domain of public policies. In this way, they had a more ‘responsive’ understanding¹³ in relation to the case shown in the programme. The professionals’ understanding is that, in these situations, when the nature of the problem is eminently social, the state should not simply do what the law says. They acknowledge the complexity of judging this type of question, since the problem emerges from the confrontation between what is just and what is purely legal. Given this reflection, they showed themselves to be more flexible in their evaluation of the role of the programme and the presenter, who is seen as having the legitimacy to debate in public this type of question.

“A – I think that he made a good choice (...), since these situations are really very difficult. They are really concerned with this question, with social inequality, the promises of the government that every year are not kept, right? (...), distribution of income, public housing, etc. (...)

“- I used to ignore all this, but afterwards I thought about it: ‘Would a father, (...), in an amazing gesture of despair make his son live in those conditions there, on the side of the road, wandering around with a hand-cart day and night?’. That is utterly crazy! I think that a father would only do that out of despair. Now, the main failing is that of the public power. There hasn’t been any public housing programmes in Brazil for years. It has been decades since any public housing has been built.”

In summary, the legal operators acknowledged that there were problems in carrying out certain types of law, especially those that depended on public policies to be implemented. In cases like that in São Bernardo, the perception is that the law should be implemented taking into account the social impact of

¹³ The term responsive here is based on the model of law described by Selznick and Nonet (1978) that is not defined by a project with a definitive result. It looks for a judicial order firmly rooted in the historic and social context, in which the interest of the state is not *a priori* legitimated. The presence of a situation of tension is constant and the integrity of the system conflicts with its capacity to open itself up. The construction of this institution takes into account social dynamics as informative elements of action. The example of the clearing of the urban land being discussed here is symptomatic, since it highlights situations of conflicts, whose affects go beyond the spheres of jurisdictional accountability. A ‘responsive’ understanding of the problem opens the way to negotiation and the evaluation of circumstances of fact and the extra-legal affects of the judicial decision on the question being discussed.

decisions of the court system. In this point, since there is no a majestic vision of law, the prevailing view is that legality requires the management of social problems.

6. Conclusion

In comparing the perceptions of viewers and those of the legal operators it can be seen that the former consider the media, especially the more 'popular' media, as a facilitator in light of the bureaucratic barriers placed between the more needy parts of the population and the Brazilian state. The legal operators, on the other hand, probably because of their professional culture, characterise an attraction like Ratinho's programme as an improper interference in their professional space, also relating it to mercantile interests in the mass media.

However, when the discourse about justice and the experiences of the participants are taken into account, this distance becomes more relative. It is worth emphasising again that in regard to the penal discourse, the spectators believe that cruel crimes should be given harsher punishments. Punishment by the state is not enough by itself; the criminal should be socially branded. The discussion also highlights the lack of trust in the state which, in their view, only punishes the most poor. In relation to this aspect, professionals distance themselves from the spectators, reaffirming their professional culture through criticism of this type of pre-judgement made by television programmes when they discuss this type of question.

The reception of the civil discourse by the public points to the role of the media as a social watchdog, as shown in the literature about the question. For the viewers, the mass media has a strong influence on the judicial apparatus and constitutes an informal control over the official authorities. In this way, Ratinho is carrying out a public function. The legal operators, on the other hand, do not allow this interference in the judicial system's activities: for them, the magistracy does not make decisions based on images and pressure from the mass media, but on the basis of legal proceedings. In other words, the judiciary is portrayed as impermeable to possible pressures from the media, nonetheless its public role is emphasised when situations that breach legal or moral rules are shown.

When the social question enters into the discussion, this distance is reduced. The viewers recognised the mistake of those who invaded and encamped in the mangrove area, but also saw the state as being co-responsible for the problem, since it does not offer housing to those who need it most. The professionals recognise the difficulty and complexity in applying the law to these types of situations since the problem is not just juridical, it also involves the need for the state to develop public policies. In this area, the point of view of the professionals does not reproduce a majestic perspective of the law and approximates the opinion of the common viewers in relation to what should rule the principles of law.

Finally, it has to be taken into account that the media and the law share overlapped spaces and they also take part in a process of mutual influence, marked by approximation and distancing. The law assures the freedom of the media in contemporary democracies, which does not exclude a contradictory relationship between both.

Bibliography

Alasuutari, Pertti (1999). "Introduction: Three Phases of Reception Studies," in: P. Alasuutari, ed., *Rethinking The Media Audience*. London: Sage.

Carlsson, Bo & Baiez, Matias (2002). "A Visual Self-Image of Legal Authority: The Temple of Law", 11(2), *Social and Legal Studies*, 185-209.

Cavender, Gray & Fishman, Mark (1998). "Television Reality Crime Programs: Context and History," in: M. Fishman & G. Cavender (eds.). *Entertaining Crime: Television Reality Programs*. New York: Aldine de Gruyter.

Chambat, Pierre & Ehrenberg Alain (1993). "Les Reality Shows, Nouvel Âge Télévisuel?", *Esprit*, 188, 5-12.

Dayan, Daniel (1992). "Raconter Le Public," *Hermès*, 11-12, 5-12.

Durkheim, Émile (1999) *Da Divisão do Trabalho Social*. Translated by de Eduardo Brandão. São Paulo: Martins Fontes.

Ericson, Richard (1996). "Why Law is Like News". In: D. Nelken, ed., *Law as Communication*. Aldershot: Dartmouth.

Ewick, Patricia & Silbey, Susan (1998). *The Common Place of Law: Stories From Everyday life*. Chicago & London: The University of Chicago Press.

Friedman, Lawrence (1978). *The Legal System: A Social Science Perspective*. New York: Russel Sage Foundation.

Garapon, Antoine (1996). "Justice out of Court: The Dangers of Trial by Media". In: D. Nelken (ed.), *Law as Communication*. Aldershot: Dartmouth.

Gaskell, George (2003). "Entrevistas Individuais e Grupais" in: M. Bauer & G. Gaskell (eds.) *Pesquisa Qualitativa com Texto, Imagem e Som: um manual prático*, translated by Pedrinho Guareschi. Petrópolis: Vozes.

Karpik, Lucien (1996). "Dispositifs de Confiance et Engagements Crédibles", *Sociologie du Travail*, 4, 527-550.

Lazarsfeld, Paul (1978). "Comunicação de Massa, Gosto Popular e a Organização da Ação Social" .In: COSTA LIMA, Luiz ed. *Teoria da Cultura de Massa*, Rio de Janeiro: Paz e Terra.

Mehl, Dominique (1993). "La Télévision Compassionnelle", *Réseaux*, 102-121.

Nonet, Philippe & Selznick, Philip (1978). *Law and Society in Transition: Towards Responsive Law*. New York: Octagon Books.

Ost, François (1996). "Jupiter, Hercules, Hèrmes: Trois Modelés du Juge". In: Bouretz, Pierre (ed.) *La Force du Droit*, Paris: Esprit.

Werneck Vianna, Luiz *et al* (1997). *Corpo e Alma da Magistratura Brasileira*. Rio de Janeiro: Revan.