

The construction of the AIDS epidemic as a gay cancer by the media¹

A construção da epidemia da AIDS como câncer gay pelos meios de comunicação

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Abstract

Using Leonel Severo Rocha's pragmatic-systemic theory, the present work approaches society as communication. It was discoursed about the categories "communication", "mass media", "public opinion", and "protest movements". The respective categories of Luhmannian theory were applied taking into account the AIDS epidemic and the respective attribution of HIV virus contamination to homosexuality. In the first cases of the disease, the mass media used sensationalist information, causing misinformation about AIDS. Homosexuals who were already stigmatized by their own sexual orientation served as "scapegoats", and the disease for decades was called "gay cancer".

Keywords: AIDS; Gay Cancer; Homosexuality; Mass media; Pragmatic-systemic Theory.

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Resumo

Utilizando-se da teoria pragmático-sistêmica de Leonel Severo Rocha, o presente trabalho aborda a sociedade como comunicação. Dissertou-se sobre as categorias “comunicação”, “meios de comunicação de massa”, “opinião pública” e “movimentos de protesto”. As respectivas categorias da teoria luhmanniana foram aplicadas levando em conta a epidemia da AIDS e a respectiva atribuição da contaminação do vírus do HIV à homossexualidade. Logo nos primeiros casos da doença, os meios de comunicação de massa utilizaram de informações sensacionalistas, ocasionando a desinformação acerca da AIDS. Pois, os homossexuais que já sofriam estigma pela própria orientação sexual, serviram de “bodes expiatórios”, tendo a doença por décadas sido chamada de “câncer gay”.

Palavras-chave: AIDS. Câncer gay. Homossexualidade. Meios de comunicação de massa. Teoria Pragmático-Sistêmica.

Introduction

From the discussion "society" and "communication", using the pragmatic-systemic theory of Leonel Severo Rocha, the present work was divided into three chapters that will be presented in the next lines.

In the first chapter, it is about the idea of society as communication, in which social development needs communication as a means of enabling human coexistence and the formation of social systems. In this sense, when working the category "communication", it is necessary to highlight the importance of "media" as institutions of society, which produce, reproduce and spread communication.

The mass media are both books, magazines and newspapers, as well as radio, television and the internet. These institutions directly interfere in the formation of public opinion with their descriptions of the social reality. Starting with the idea of systems, the mass media operate under the binomial information/non-information.

The second chapter shows the relationship between the "mass media" and the so-called "protest movements". Then, using Niklas Luhmann's theory, an observation is made about the AIDS epidemic and the formation of public opinion around the disease in the first decade since the first case of HIV virus contamination.

The AIDS epidemic is marked by the strengthening of the stereotype that the disease was directly linked to homosexuality, although it was already known that the HIV virus did not only contaminate homosexuals. However, the mass media mobilized public opinion with sensationalist information, having placed homosexuals as "scapegoats" of the epidemic. This link between homosexuality and AIDS was worked

alongside Antonin Artaud's text entitled "The theater and its double", in which a dialogue was made between the "gay plague" and the history of the *ship Grand-Saint-Antoine*.

The work concludes by observing the influence of protest movements in the modification of public opinion regarding the AIDS epidemic, with the advance of science and the gradual disintegration of the idea that the HIV virus only contaminated homosexuals. The AIDS epidemic is observed in parallel with the essay "The disease as a metaphor", written by Susan Sontag.

1. Society and communication

The postmodern society has as one of its characteristics the speed of information, ensnare so in more and more communications. In order to develop systems theory, it is pertinent to conceive society as a social system capable of maintaining constant relationships between actions in a highly complex and contingent environment. Therefore, the system should be able to produce and organize sufficient selectivity to capture high complexity and reduce its decision-making bases of action. That is, the more complex the system, the greater the complexity of the environment in which the system itself is able to orient itself coherently.⁴

The complexity of the system is regulated by its structures, which operate in the prior selection of "possible states that the system can assume in relation to its environment". And it is for this reason that structural issues – inserting here, among others, the legal issues – are an important mainstay both for the relations between system and environment, as well as for the degrees of complexity and selectivity attainable in these relationships.⁵

The environment of society according to "the ancient European tradition of social philosophy and the philosophy of law", was a *locus* in which "man found his freedom and virtue, his luck and his right as a living part of living society also alive". Society was envisioned as an association of men, whose environment of society "could only be constituted of other societies – that is, social bodies formed by other men". As a result, "the boundaries of society were conceived as limits of descent or territorial boundaries that grouped men into the categories of belonging or non-belonging".⁶

⁴ LUHMANN, Niklas. **Sociologia do direito I**. Rio de Janeiro: Edições. Tempo Brasileiro, 1983 p. 168.

⁵ LUHMANN, Niklas. **Sociologia do direito I**. p. 168.

⁶ LUHMANN, Niklas. **Sociologia do direito I**. p. 169.

However, "the most recent developments of sociological theory of systems force disruption" with the ancient philosophical tradition. And, "the social system, as a structured system of actions related to each other through meanings, does not include, but excludes, the concrete man." Put another way, it is affirmed that man and society are mutually ambient. As provided by Niklas Luhmann⁷,

Each is to another too complex and contingent. And both are structured in such a way that they can still survive. The structure and limits of society reduce complexity and absorb the contingency of organic and psychic possibilities. They present mainly limits with respect to man himself. They thus ensure that the possibilities of men are mutually expectable.⁸

As Leonel Severo Rocha points out, "Society as a social system is possible thanks to *communication*. In turn, communication depends on language, functions, differentiation and structures. This makes social evolution possible; however, decisive is, in this sense, the *differentiation*".⁹ That is, society is functionally differentiated in the sense of reproducing its unity and observing, through distinction, the unity of what is different.¹⁰

The functional differentiation of each of the social subsystems has a "binary scheme of its own, through an information processing that is unique to it and that allows it a reality also of its own". It should be noted that "the functional differentiation of social subsystems is given not by the hierarchy, but by its function".¹¹

The code is what facilitates the recursive operations of the system, the function or the very fulfillment of its function. The function differentiates functionally and closely the subsystem. Still, it is the code that differentiates the system from the surroundings. The binary code relative to the function of a subsystem is unique and operates from its own elements.¹²

Therefore, in the complex and contingent society, the structures act and enhance a relief, as well as establish references from one selection to another, restricting the scope of the possibility of options.¹³ Among such structures is the law.

⁷ LUHMANN, Niklas. **Sociologia do direito I**. p. 169.

⁸ LUHMANN, Niklas. **Sociologia do direito I**. p. 169.

⁹ ROCHA, Leonel Severo. **Introdução à Teoria do Sistema Autopoiético do Direito**. 2. Ed., rev. e ampliada. Livraria do Advogado: Porto Alegre, 2013. p. 103-104.

¹⁰ MARIN, Jeferson Dytz. **Princípio da liberdade de orientação sexual: Gênero, identidade e democratização do afeto**. Curitiba: Juruá, 2015. p. 21.

¹¹ ROCHA, Leonel Severo. **Introdução à Teoria do Sistema Autopoiético do Direito**. p. 66.

¹² ROCHA, Leonel Severo. **Introdução à Teoria do Sistema Autopoiético do Direito**. p. 67.

¹³ LUHMANN, Niklas. **Sociologia do direito I**. p. 54-56.

Equally, it is affirmed that law stabilizes as a structure of the social system through generalization and institutionalization. Moreover, institutionalization not only assumes consensus, but also fulfills a role of stabilization of behavioral roles. Consequently, in a world of high complexity and contingency, social behavior demands "the realization of reductions that enable reciprocal behavioral expectations and that are oriented from expectations about such expectations".¹⁴

According to Luhmann, the "institutionalization of expectations about expectations can only be aimed at the best use of a minimum in simultaneous and anonymous experiences". That is, such experiences are distributed equally between the meanings and the socially relevant moments. And, if necessary, it makes the consensus expected and actionable, "expanding the predispositions to consensus, so that the "general social consensus" only needs to be covered by the current experience of some people, in some senses and in some moments".¹⁵

In *Sociology of Law I*, Niklas Luhmann defines law in three dimensions. In the temporal dimension, "these structures of expectations can be stabilized against frustrations through standardization", considering that the increase in social complexity requires a differentiation between cognitive expectations and normative expectations. Also, efficient mechanisms must be had to be carried out and that they are capable of processing disappointments/frustrations.¹⁶

Therefore, "in the social dimension these structures of expectations can be institutionalized, i.e. supported on the consensus expected from third parties." Luhmann then states that in the "practical dimension these structures of expectations can be fixed externally through an identical meaning, composing an interrelation of reciprocal confirmations and limitations".¹⁷

According to Rocha, the "achievement of this then lies in harmonizing the dimensions, through reductions that will take place in each of them, through own mechanisms, what Luhmann calls 'congruent generalization'".¹⁸ Therefore, "generalization generates a symbolic immunization of expectations against other

¹⁴ LUHMANN, Niklas. **Sociologia do direito I**. p. 109.

¹⁵ LUHMANN, Niklas. **Sociologia do direito I**. p. 80.

¹⁶ LUHMANN, Niklas. **Sociologia do Direito I**. p. 109.

¹⁷ LUHMANN, Niklas. **Sociologia do direito I**. p. 109.

¹⁸ ROCHA, Leonel Severo. **Introdução à Teoria do Sistema Autopoiético do Direito**. p. 30.

possibilities; its function supports the necessary reduction process by enabling a harmless indifference.”¹⁹

In "sociology, the concept of "symbolic" will vary from author to author, not excluding the variation of meaning in the work of the same author". For this reason, only an example reference to the model of systems theory will be made. In this sense, in Luhmann, the signs "truth, love; property/money; power/law; art; religious belief and 'core values' are examples of 'symbolically generalized media'".²⁰

And, the "symbol/symbolic concept must in this case designate the means of the formation of unity". Thus, in complex and contingent social situations, "the symbolically generalized means of communication would enable the continuity of communication, serving the continuation of the connection between selectivity and motivation”²¹. According to Marcelo Neves,

To the extent that the symbolically generalized means of communication are differentiated according to dichotomous codes of preference between a "value" and a "devalue", between a "yes" and a "no", which only have relevance to one of the media, they will distinguish themselves from the non-specialized natural language, then the specialized language of science, of law, economics, art etc..²²

Social development primarily needs the communication process, considering that it is through this "that relationships of exchange, interest, acceptance, repudiation, etc., are established, making a means of enabling human coexistence and the formation of social systems”.²³ It is communication that supports society as a social system, using language, functions, differentiation and structures.²⁴

The communication, for Luhmann, is articulated with the discussion about the so-called "Symbolically Generalized Media". Communication for Luhmann is a *synthesis between information, the act of communication and understanding*. This synthesis is possible depending on how the media allows the production of meaning. Thus, communication does not derive from its claims of consensual rationality. Such a stance allows us to affirm that the pragmatic functions of language in legal decision-making processes can and should be redefined only within the systems.²⁵

¹⁹ LUHMANN, Niklas. **Sociologia do Direito I**. p. 110.

²⁰ NEVES, Marcelo. **A Constitucionalização Simbólica**. Martins Fontes, 2011. p. 23.

²¹ NEVES, Marcelo. **A Constitucionalização Simbólica**. p.23.

²² NEVES, Marcelo. **A Constitucionalização Simbólica**. p. 23.

²³ PILAU SOBRINHO, Liton Lanes. **Comunicação e direito à saúde**. Orientador: Dr. Leonel Severo Rocha. 2008. Tese (Doutorado em Direito) – Programa de Pós-Graduação em Direito, Universidade do Vale do Rio dos Sinos, São Leopoldo, 2008. p. 17.

²⁴ ROCHA, Leonel Severo. **Introdução à Teoria do Sistema Autopoiético do Direito**. p. 34.

²⁵ ROCHA, Leonel Severo. **Introdução à Teoria do Sistema Autopoiético do Direito**. p. 35.

The media must be understood as all the institutions of society that produce, reproduce and broadcast communication. They are considered as media, both books, magazines and newspapers – printed or digital – as well as radio, television and the internet. The mass media highlight themes of relevance, which interfere in the formation of public opinion with their descriptions of social reality.²⁶

Therefore, the code of the mass media system consists of the information/non-information binomial. Information is the positive value. However, in order to have the freedom to see something like "information", one must be able to think that something is "non-information". In the absence of this reflexive value, the system would be at the mercy that "all information is information". It is clear that even the "information" that something consists of "non-information" is also information.²⁷

The function of mass media takes place in the direction of "self-observation of the social system", consisting of a separation between system and environment. This is a universal and non-object-specific observation. Mention should be made of the system memory function, which provides a background reality for all other communications that are used by mass media.²⁸

In this sense, Luhmann adds that:

It may be gathered from the preceding observations what kind of questions need to be asked about the 'function' of the mass media. They make a contribution towards society's construction of reality. Part of this includes a constant re-actualization of the self-description of society and its cognitive world horizons, be this in a form marked by consensus or dissent (for example, when the real causes of the 'dying of the forests' are at issue). The mass media may not have an exclusive claim on constructing reality. After all, every communication contributes to constructing reality in what it takes up and what it leaves to forgetting. However, the involvement of the mass media is indispensable when the point at issue is widespread dissemination and the possibility of anonymous and thus unpredictable uptake. As paradoxical as it may sound, this means not least, when it is a matter of generating non-transparency in reactions to this uptake. The effect if not the function of the mass media seems to lie, therefore, in the reproduction of non-transparency through transparency, in the reproduction of non-transparency of effects through transparency of knowledge. This means, in other words, in the reproduction of future.²⁹

²⁶ LUHMANN, Niklas. **The Reality of the Mass Media**. Stanford University, 2000. p. 07-08.

²⁷ LUHMANN, Niklas. **The Reality of the Mass Media**. p. 18.

²⁸ LUHMANN, Niklas. **The Reality of the Mass Media**. p. 81-84.

²⁹ LUHMANN, Niklas. **The Reality of the Mass Media**. p. 103.

This paradox is only solved with the distinction of past and present, as well as with the distinction between the mass media system and the public. To this end, one must introduce a concept of "public", which differs from the mass media system, and even from the concept of "public opinion". That is, in the classic legal discourse, "public" is defined as "something" accessible to all. For example, the information/non-information conveyed by the mass media is public because there is no control over who pays attention to them.³⁰

The very concept of "accessibility" focuses around the real or metaphorical understanding of space and action for observation. Also, the definition of "public" is as a reflection of the entire frontier of the internal system of society, or also as the internal environment of the system, social subsystems and even all interactions and organizations.³¹

It should be emphasized, as VIAL³² that, "Luhmann studied various social systems; however, the health system did not work, but the system of medicine."

In the specific case of the health system, such as public policies, based on the collectively binding decisions of the policy system, they organize health units, hospitals, outpatient clinics and also the techniques used. The limitation that we find (which is also a possibility) is that, every time we reflect on the medical system, we do not find the expanded concept of health. We find only health as a mere absence of disease, and this concept is not compatible with the proposal we are developing.³³

In this sense, "we can also affirm that health constitutes a functionally differentiated social system"³⁴ and, "Following the very definition of social system, we see that health fits perfectly well in the concept of social system, because it arises by "autocatalysis" of the problems of double contingency"³⁵.

³⁰ LUHMANN, Niklas. **The Reality of the Mass Media**. p. 103-104.

³¹ LUHMANN, Niklas. **The Reality of the Mass Media**. p. 104.

³² VIAL, Sandra Regina Martini. *Construção do Sistema Social da Saúde a partir da teoria sistêmica de Niklas Luhmann*. In: **Revista Direito Sanitário**, v. 16 n.1, p. 112-127: São Paulo, 2015. p. 114.

³³ VIAL, Sandra Regina Martini. *Construção do Sistema Social da Saúde a partir da teoria sistêmica de Niklas Luhmann*. p. 118.

³⁴ VIAL, Sandra Regina Martini. *Construção do Sistema Social da Saúde a partir da teoria sistêmica de Niklas Luhmann*. p. 120.

³⁵ VIAL, Sandra Regina Martini. *Construção do Sistema Social da Saúde a partir da teoria sistêmica de Niklas Luhmann*. p. 120.

2. AIDS and the mass media

When discussing the mass media, it is also necessary to deal with so-called "protest movements". For, "today, protest movements hold characteristics of heterogeneity, contemplating all sorts of complaints".³⁶

The cries communicated by the protest movements include from "the fight against exclusion, with groups defending blacks, women, homosexuals, Indigenous"³⁷, hiv (Human Immunodeficiency Virus) to the protection of the environment. In this sense, protest movements can be described as autopoietic systems, being the protest – the form – and the theme is the content. The form and content together set in motion a reproduction of the communication that allows systems to distinguish between activities inherent to and outside the respective system.³⁸

The relationship between protest movements and mass media is in the fact that such movements can use mass media to attract the attention of spectators to so far little-known agendas.³⁹

In this context, "protest movements reflect the impulse, motivation, encouragement and influence to the systems of organization, these rather endowed with decision-making legitimacy".⁴⁰ For these reasons, Jeferson Dytz Marin describes that:

The mass media, in turn, end up interfering in the repercussion of the themes elected by the protest movements, it is worth remembering that they are also not systems of interaction. As is the case, the role of mass communication is to form opinion and interfere in interaction and organization systems. Thus, the media and protest movements represent forms of substantial interference in organizations and interaction systems, which constitutes public opinion.⁴¹

In this sense, Liton Lanes Pilau Sobrinho mentions that "mass media constitute public opinion as recurrent descriptions of social reality, influencing and enabling the observation of second order by society". Therefore, the themes considered to be

³⁶ MARIN, Jeferson Dytz. **Princípio da liberdade de orientação sexual**: Gênero, identidade e democratização do afeto. p. 51-52.

³⁷ MARIN, Jeferson Dytz. **Princípio da liberdade de orientação sexual**: Gênero, identidade e democratização do afeto. p. 52.

³⁸ LUHMANN, Niklas. **Sociología del Riesgo**. Universidad de Guadalajara: México, 1992. p. 99-100.

³⁹ LUHMANN, Niklas. **Sociología del Riesgo**. p. 105.

⁴⁰ MARIN, Jeferson Dytz. **Princípio da liberdade de orientação sexual**: Gênero, identidade e democratização do afeto. p. 52-53.

⁴¹ MARIN, Jeferson Dytz. **Princípio da liberdade de orientação sexual**: Gênero, identidade e democratização do afeto. p. 53.

relevant are highlighted so that they are effectively operationalized by functional systems.⁴²

And, in a close summary, it is stated that the mass media are institutions that must be understood as all the institutions of society that produce, reproduce and spread communication. However, for the mass media to communicate a given theme, it is necessary that the theme be assimilated as a fact of social relevance. For if a given theme is not assimilated as relevant, there will be no communication.

If there is no communication, there is no formation of public opinion on the relevance of a given theme. And the protest movements with their respective complaints, with the help of the mass media, attract the attention of the spectators to themes so far not communicated so that they are (or not) operationalized by functional systems. In other words, protest movements operate as a beacon that illuminates themes left in the exclusion zone of functional systems.

Therefore, in order for information to be the object of the mass media, it is necessary that this information is a socially relevant fact. Health communication, for example, needs to be socially relevant in order to become an object valued by the mass media and, consequently, to constitute public opinion.⁴³ In the same vein,

Health communication should be analyzed from the perspective of the possibility of its dissemination in the social environment: communication is always the product of previous communications and a requirement for new communications. Therefore, the communicative interest reaches considerable levels only when the conditions for the dissemination of this communication are presented.⁴⁴

This is the case of examining the AIDS epidemic and its relationship between public opinion and the mass media. However, before entering the analysis of the theme, conceptual differentiation between the human immunodeficiency virus (HIV) and the so-called human immunodeficiency syndrome (AIDS) must be made. The first is a retrovirus that, when not diagnosed and treated correctly, attacks the immune system – which is responsible for defending the body from diseases. On the other hand, human immunodeficiency syndrome is nothing more than hiv infection. That is, having HIV is not the same as having AIDS, considering that the subject infected with

⁴² PILAU SOBRINHO, Liton Lanes. **A relação (não) comunicacional do direito à saúde**. CONPEDI: Salvador. p. 2265.

⁴³ PILAU SOBRINHO, Liton Lanes. **A relação (não) comunicacional do direito à saúde**. p. 2265.

⁴⁴ PILAU SOBRINHO, Liton Lanes. **A relação (não) comunicacional do direito à saúde**. p. 2266.

the HIV virus, when diagnosed and handled correctly, may not develop human immunodeficiency syndrome and have a healthy life.⁴⁵

The first cases of HIV virus contamination began to appear at the turn between 1980 and 1981. In the United States of America, in 1981, specifically in the cities of New York, Los Angeles and San Francisco, men began to die extremely quickly from a disease that was then mysterious. In this period, the mass media – which operate under the binomial information/non-information – did not give prominence to the theme.

It was only in 1982 that the disease began to have a name and began to be identified as AIDS, while the HIV virus spread across the Atlantic, reaching Spain and the United Kingdom. The disease is now called "gay plague" and "gay cancer", which had been mainly affecting male homosexuals in the United States and in several countries on the European continent.

Soon, the mass media began to disseminate communications and influence public opinion with non-information, considering that the communications conveyed by the media had no scientific basis and were loaded with prejudice against homosexuals. In fact, even the increase in the number of infected did not make the U.S. government deal with the issue, and when urged to speak out, he responded with jokes.

The following year, scientists discovered that HIV virus contamination was the true cause of the development of human immunodeficiency syndrome (AIDS). In 1983 HIV spreads all over the world and terror becomes part of people's lives. The mass media attributed AIDS to promiscuity and homosexuality. The misinformation was so much that health workers began to refuse to treat HIV victims, as well as funeral services refusing to bury victims of the disease.

In Brazil, as João Silvério Trevisan narrates,

⁴⁵ BRASIL. MINISTÉRIO DA SAÚDE. Doenças de condições crônicas e infecções sexualmente transmissíveis: O que é o HIV. Disponível em: <<http://www.aids.gov.br/pt-br/publico-geral/o-que-e-hiv>>. Acesso em: 27 jan. 2021.

It turned out that, in fact, the disease had already begun to make Brazilian victims since 1982, without the deaths having attracted public attention. For the most part, the sick (all homosexuals) had passed through New York. Pressured by members of the gay community, the São Paulo Health Department – until then the only state in the country to present aids cases – appealed to the ministry in Brasília. Evasive answers: no one knew anything. In pharmacies, it has brutally increased the sale of medicines to strengthen organic defenses. Among homosexuals, monogamy began to be indicated as the only possibility of survival – and with it, in a way, the return to closeness. But the rumors continued. *IstoÉ magazine* published the news that the famous film director Glauber Rocha, mysteriously deceased in August 1981, would have actually been the first Brazilian victim of AIDS.⁴⁶

The Homosexual Movement began distributing pamphlets in saunas and gay nightclubs. But, "how do you reach that large number of homosexuals outside the ghetto, i.e. statistically invisible?". In this case, it was started to require that, within the state of São Paulo, aids cases be reported to the Health Department, which resulted in the installation of a program to diagnose, control and treat the disease in 1983.⁴⁷

Here the first negative reactions arose in relation to the program created by the government of São Paulo. *Veja magazine* published an article mocking the measures incorporated by the São Paulo Department of Health, on the grounds that "the 'diseases of poverty' should have priority care in the country: and concluded by saying that an AIDS care center would be 'more suitable for New York than São Paulo'". For, it was argued that the state aids control program did not have as much relevance and that they had more serious health problems to be solved.⁴⁸

The medical-academic community itself resisted protests before the Health Department, under the same argument related to the absence of thematic priority in a poor country. "And even the Ministry of Health, in Brasília, came pressures against 'this luxury' of spending time and money on a disease that affected so few people".⁴⁹

It is observed that the AIDS epidemic is a global epidemic. In this sense, Gunther Teubner inserts another point of observation about the catastrophic HIV epidemic in South Africa, with regard to the fundamental individual right to life of South

⁴⁶ TREVISAN, João Silvério. **Devassos no paraíso**: A homossexualidade no Brasil – Da colônia à atualidade. Rio de Janeiro: Objetiva, 2018. p. 394.

⁴⁷ TREVISAN, João Silvério. **Devassos no paraíso**. p. 394.

⁴⁸ TREVISAN, João Silvério. **Devassos no paraíso**. p. 395.

⁴⁹ TREVISAN, João Silvério. **Devassos no paraíso**. p. 395.

African patients against the individual property right of transnational companies in legal proceedings – with regard to access to medicines for hiv treatment.⁵⁰

In the institutional dimension, the conflict needs to be set in its social context, which means to note that the AIDS catastrophe is ultimately due to a clash of incompatible logics of action. The critical conflict arises in the domain of patent rights to medicines and is the contradiction of norms of economic rationality with norms formed in the health context. In this case the point is not, then, to impose price controls on particular pharmaceutical firms, but to develop abstract and general rules on incompatibilities between the business sector and the health sector, and prepare WIPO, WTO and UN law, as part of a transnational patent law, to respond to destructive conflicts between incompatible logics of action by building health concerns into norms of economic rationality. Since there is no paramount court for the conflict, it can always only be solved from the viewpoint of one of the conflicting regimes, here the WTO. But the competing logic of action, here the principles of the health system, has to be brought into the economic-law context as a limitation.⁵¹

In a survey conducted in *the United States and published by The Los Angeles Times*, it indicated that 50% of the U.S. population agreed that those infected with the HIV virus should be quarantined; 48% of respondents expressed favor for HIV carriers to use a different national identification card with information about hiv-positive status; also, 15% of the population was favorable for AIDS victims to be tattooed with the information that they were infected with the HIV virus. It is recorded that this article was published in 1985.

AIDS as a disease attributed to promiscuity, also called "gay plague", has a thought-provoking relationship with the art of the French poet Antonin Artaud. An essay written by Artaud in 1933 deals with a historical fact that occurred between April and May 1720 in the sardinian city of Cagliari. It is the story involving Saint-Rémys, viceroy of Sardinia and the ship *Grand-Saint-Antoine* that had departed Beirut a month ago. Therefore, Saint-Rémys some time before the ship passed, he dreamed that a plague would devastate his State.⁵²

It was then that *the Grand-Saint-Antoine*, when requesting permission to dock and disembark in Sardinia, was denied the request by the viceroy, and he ordered the ship to immediately turn away from the city, under penalty of being destroyed by cannon fire. The order emanating from Saint-Rémys was based on his respective

⁵⁰ TEUBNER, Gunther. **The anonymous Matrix**: Human Rights Violations by "Private" Transnational Actors. In: Manuel Escamilla e Modesto Saavedra (eds.) *Law and Justice in a Global Society*, International Association for Philosophy of Law and Social Philosophy, Granada 2005, 547-562. p. 17.

⁵¹ TEUBNER, Gunther. **The anonymous Matrix**: Human Rights Violations by "Private" Transnational Actors. p. 18.

⁵² ARTAUD, Antonin. **O teatro e seu duplo**. p. 09-10.

dream and rumors that a plague would be coming from the East. The *Grand-Saint-Antoine* commended the order, making its way to Livorno, having been allowed into the port of Marseille.⁵³

The *Grand-Saint-Antoine* didn't take the plague to Marseille. She was already there. And in a period of particular recrudescence. But i'd already been able to locate their focus. The plague brought by *the Grand-Saint-Antoine* was the eastern plague, the original virus, and it is from its arrival and its spread through out of the city dating the particularly atrocious side and the widespread spread of the epidemic. And that inspires some thoughts. The plague, which seems to reactivate a virus, was capable of causing on its own appreciably egalitarian devastation, because of the entire crew, the captain was the only one not to contract the plague and, on the other hand, it seems that the newly arrived pestiferous have never been in direct contact with the others, kept in closed areas. The *Grand-Saint-Antoine*, which passes within the reach of Cagliari's voice in Sardinia, does not deposit the plague in this city, but the viceroy receives, in a dream, some fumes from it. It cannot be denied that between him and the plague a ponderable, although subtle, communication has been established, and it is very easy to accuse, in the communication of a disease like this, contagion by simple contact.⁵⁴

In his essay, Artaud states that it would be foolish to determine the geographical origin, considering that "the plague of Egypt is not that of the East, which is not that of Hippocrates, which is not that of Syracuse, which is not that of Florence, the Black Death, to which the Europe of the Middle Ages owes its fifty million dead." The meaning of the Artaudian essay was also held in the idea that "no one can say why the plague strikes the coward who flees and spares the dissolute that is satisfied on the corpses", and that not even remoteness, chastity, and loneliness can do nothing against the effects of the scourge.⁵⁵

Although polemic, Artaud's essay is relevant in particular when it adds to the plague certain characteristics of the theater – *and* theater, here, in the Artaudian sense of *deflagration of truth*, in a time of crisis in which all barriers arise and only the gratuitousness of the human gesture moved by the absolutism of its inner motivations, of his personal *mystery*. The plague would then sprout as this rare moment of truth, simply because it causes the rational/moral motivations to fall apart, when the delirium/paroxysm triggered by panic comes into play. (...) the plague is that moment of truth when "the conflicts in us asleep are restored to us with all their strength. Then occur "acts by nature hostile to the life of societies, precisely because the compressed unconscious, this dark side of domesticated (or doped) collectivities, such as modern societies."⁵⁶

⁵³ ARTAUD, Antonin. **O teatro e seu duplo**. p. 10.

⁵⁴ ARTAUD, Antonin. **O teatro e seu duplo**. p. 11.

⁵⁵ ARTAUD, Antonin. **O teatro e seu duplo**. p. 17.

⁵⁶ TREVISAN, João Silvério. **Devassos no paraíso**. p. 399.

For Artaud, as well as the plague, theater is produced in the "image of this carnage, of this essential separation. Unrestify conflicts, unleashes forces, triggers possibilities, and if these possibilities and these forces are black, it is not the plague or the theater's fault, but of life." It seems that through the plague, "and collectively, a gigantic abscess, both moral and social, is leaked; and just like the plague, the theater exists to leak abscesses collectively".⁵⁷

It is possible that the poison of the theater, when cast into the social body, disaggregates it. He does it as a plague, an avenging scourge, "a saving epidemic in which gullible times intended to see God's finger and which is nothing more than the application of a law of nature in which every gesture is compensated by another gesture and all action by its reaction".⁵⁸

It should be highlighted the fact that the AIDS epidemic was immediately associated with the plague. "Throughout history, the collective imaginary has always regarded mass diseases as imposed punishments. Such an idea fell like a glove in the case of AIDS".⁵⁹ For example, even after science discovered that AIDS was a disease caused by a virus and its transmission was through sexual intercourse, blood transfusion and breastfeeding, AIDS continued to be related to homosexuality.

The obscurantism surrounding the disease has caused rulers not to take quick action to contain the spread of the virus. It took nearly a decade since the first case for the President of the United States to speak publicly about the disease that had already claimed the lives of thousands of Americans. However, Ronald Reagan spoke out about the AIDS epidemic in order to create a policy of control against immigrants, who, if infected, should be prevented from entering the U.S. The president's demonstration caused outrage because, while AIDS victims and bereaved family members expected positive action from the U.S. government, the president did nothing more than elect scapegoats to be fought.

⁵⁷ ARTAUD, Antonin. **O teatro e seu duplo**. p. 28.

⁵⁸ ARTAUD, Antonin. **O teatro e seu duplo**. p. 28-29.

⁵⁹ TREVISAN, João Silvério. **Devassos no paraíso**. p. 399.

As if the discourses that fueled the construction of a sick body allied to social/police repression that restricted affection or sociability were not enough, for most of the 20th century (GREEN, 2000), the LGBT population was tattooed with other brands, now those from the epidemic. The aggression of the disease to religious discourses deepened the idea that homosexual love was a sin and that, therefore, AIDS would be God's punishment.⁶⁰

In summary, it can be affirmed that in the first 10 years of the AIDS epidemic, the mass media influenced society with prejudiced, sensationalist and unscientific information. Between the years 1980 to 1990, the information communicated by the mass media did not aim at the information in order to emphasize prevention and clarification measures on the ways of contamination of the HIV virus.

On the contrary, a stereotype was reinforced that AIDS was directly linked to homosexuality. Although the first records of the disease were diagnosed in homosexual men, shortly after the HIV virus had no more "face", that is, it was not a virus that only infected homosexuals, but men, women, transsexuals, heterosexuals, bisexuals, homosexuals and etc.

The misinformation generated resistance around the debate on the AIDS epidemic, and said period was marked by the absence of government programs and funding for scientific development and to combat the spread of the virus.

3. Protest movements and public opinion

Between the years 1960 and 1990 there was a period of sexual freedom. This period of liberation from sexual anxieties, in which erotic experiences opened the doors to pleasure reunions, preceded one of the greatest health crises in global society.

The stigmatized information that AIDS would be linked to homosexuality came in time to interrupt the sexual freedom of that time. The AIDS epidemic served as a "strong argument for a new sexual prohibition and, at the same time, for the establishment of new behaviors in sexual relations"⁶¹.

⁶⁰ CAETANO, Marcio; NASCIMENTO, Claudio; RODRIGUES, Alexsandro. *Do caos re-emerge a força: AIDS e mobilização LGBT*. In: James N. Green; Renan Quinalha; Marcio Caetano; Marisa Fernandes (Orgs.). **História do Movimento LGBT no Brasil**. 1. Ed. São Paulo: Alameda, 2018. p. 286.

⁶¹ RUSCHEINSKY, Aloisio; GADEA, Carlos A.; PINHO, Carlos Eduardo Santos Pinho. *Os paradoxos sociais e culturais ante o covid-19: campo de imprevisibilidade e incertezas*. In: **Covid e seus Paradoxos**. (Org.) PILAU, Liton Lanes; CALGARO, Cleide; ROCHA, Leonel Severo. Itajaí: Univali, 2022. p. 55.

Friedman⁶², uses the work of Steve Johnson citing the so-called "butterfly effect", exemplifying that, some events trigger a chain reaction, with cascade effect, that modifies the world in which one lives. It is the example of the adoption of modern habits of cleanliness, public health and personal hygiene. Here, you can talk about communication.

In this sense, Friedman⁶³ writes

Until the 19th century people did not understand the true causes of diseases such as cholera; they had no notion of "germs", bacteria, microscopic organisms that were the source of these diseases; or the role of polluted water in epidemics. A man named John Leal dumped chlorine on a reservation in New Jersey. Johnson says, at one point, that "exposing the thighs of female bathers was not in the foreground in John Leal's mind" when he did so, but "like the wings of the hummingbird, a change in the field triggers a seemingly unrelated change in a different order of existence: a trillion bacteria died at the hands of calcium hypochlorite, and somehow, twenty years later, basic attitudes of exposure of the female body are reinvented" (JOHNSON, 2014, p. 150).

From the example of water chlorination, which caused changes in sanitary habits and behaviors, such as the beating of a butterfly's wings – as cited above – Friedman exemplifies using the idea of the "box shower". "The idea is this: chlorination, and the invention of modern sanitation, including the shower, modern bathrooms, and even the greatest use of the bathtub, played an important role in bringing the naked body out of the closet"⁶⁴.

In the 18th and 19th centuries, people rarely bathed. In fact, the bath was considered dangerous to health —the opposite of what it is now. And, with the exception of the very rich, people did not have access to bathing facilities, as they lived in populous cities, or rural shacks. The bathroom is an innovation of the late nineteenth century. People washed their hands and faces and cleaned themselves with sponges when they could, but what today we consider a bath, in which you take off all your clothes and wash the whole body at once, it was impossible for the vast majority of people.⁶⁵

The "invention of the shower" caused changes in society, in which diseases that were once prevalent and exterminated populations were eradicated (or almost), because of the cascading effect of the adoption of hygiene practices from the invention of the shower.

⁶² FRIEDMAN, Lawrence M.; **Direito, tecnologia e o efeito borboleta**. Canoas: Unilasalle, 2015. p. 111.

⁶³ FRIEDMAN, Lawrence M.; **Direito, tecnologia e o efeito borboleta**. p. 111.

⁶⁴ FRIEDMAN, Lawrence M.; **Direito, tecnologia e o efeito borboleta**. p. 116.

⁶⁵ FRIEDMAN, Lawrence M.; **Direito, tecnologia e o efeito borboleta**. p. 117.

Just as Lawrence mentions the butterfly effect, using the "metaphor" of the invention of the shower, which generated communication and altered hygiene and health behaviors. An "analogy" is made to the AIDS epidemic and the change in sexual behavior. In the same sense, the AIDS epidemic provoked communications that significantly altered the care and protection of the sexual act, resulting in the analysis of the risk of sexual relations.

The health incommunicability during the first decades of the AIDS epidemic caused thousands of deaths from HIV infection, in which sexual practices did not follow a certain sanitary order of prevention and risk analysis.

The AIDS epidemic, as it was treated by society and the mass media in the 1980s, is in line with the book "Disease as a Metaphor", written by philosopher Susan Sontag. The philosopher inaugurates her book with the idea that "DISEASE is the dark side of life, a kind of more costly citizenship. All living people have dual citizenship, one in the realm of health and the other in the realm of disease"⁶⁶

Although everyone prefers to use only the good passport, sooner or later each of us will be required, at least for a short period, to identify ourselves as a citizen of another country. What I intend to describe is not a real emigration into the kingdom of the sick and whatever lives there, but the punitive or sentimental fantasies forged around this situation; not the true geography, but the stereotypes of the national character. I do not intend to approach the physical illness itself, but the use of the disease as a symbol or metaphor. My point of view is that *the disease* is not a metaphor and that the most honest way to face it – and the healthiest way to get sick – is one that is more debugged of metaphorical thoughts, that is more resistant to such thoughts. For now, it is very difficult to settle in the country of the sick and remain immune to the prejudice stemming the sinister metaphors with which their landscape is described.⁶⁷

The mysticism of the disease when placed against a scenario of expectations, the pathology alone causes the awakening of some types of dread entirely obsolete. Still, "Any disease seen as a mystery and feared very acutely will be regarded as morally, if not literally, contagious".⁶⁸

⁶⁶ SONTAG, Susan. **A doença como metáfora**. Rio de Janeiro: Graal, 1984. p. 04.

⁶⁷ SONTAG, Susan. **A doença como metáfora**. p. 04.

⁶⁸ SONTAG, Susan. **A doença como metáfora**. p. 05.

In the premodern view of the disease, the role of character was confined to the behavior of the person after the attack. Like any extreme situation, terrible diseases put on the scene both the worse side and the better side of people. However, what is most commonly known about epidemics is that the disease has mainly a devastating effect on character. The softer the prejudice that disease is a punishment for evil, the more likely the idea that accentuates the moral corruption manifests in the face of the spread of the disease. Even if the disease is not considered a judgment in the community, it becomes a trial – retroactively – to the extent that it sets in motion an inexorable collapse of morals and customs.⁶⁹

In this sense, João Silvério Trevisan notes that, "In the case of AIDS, an element of guilt/punishment is added – the same one present in syphilis and, in a certain way, in tuberculosis, characterized as sexual diseases or, even indirectly, linked to profligacy".⁷⁰

Thus, rejection of the disease as dirt (physical and moral) is expressed through an extreme need for purification. [...] infectious diseases associated with sexuality [...] refer to moral guilt, "always give rise to the fear of easy contagion [...] by non-venereal means in public places."⁷¹

The fear of easy contagion driven by ignorance and prejudice around AIDS victims sparked a controversy involving the Princess of Wales in 1987. While visiting Middlesex Hospital, Princess Diana went to the hospital ward where aids patients were. However, the fact that generated great international repercussion was because the Princess had squeezed a patient's hand without wearing gloves.

The paradigmatic act involving the Princess of one of the oldest monarchies in the world was a message to society. In an interview, Diana stressed the importance of giving emotional support to patients infected with the HIV virus, with a clear goal of attracting the attention of the mass media.

In the concept of the stigma that was created, "contracting AIDS is precisely equivalent to discovering [...] that one is part of a particular risk group, a community of outcasts. That is, the idea of punishment linked to sex is very relevant here, especially since, at first, in the West, the physical illness of AIDS was directly associated with the "moral disease" of homosexuality, in the opinion of so many contemporary conservatives. Considered unruly, dangerous and abnormal, the "behavior that produces AIDS is deranged as [...] irresponsibility, delinquency – the patient is addicted to illegal substances, or his sexuality is considered divergent."⁷²

⁶⁹ SONTAG, Susan. **A doença como metáfora**. p. 27.

⁷⁰ TREVISAN, João Silvério. **Devassos no paraíso**. p. 399.

⁷¹ TREVISAN, João Silvério. **Devassos no paraíso**. p. 399-400.

⁷² TREVISAN, João Silvério. **Devassos no paraíso**. p. 400.

In this sense, after governments failed to fight AIDS, social movements – here called as protest movements – began to mobilize and organize themselves for action to be taken. For example, "The foundation of ACT UP/NY in 1987 was directly linked to the new wave of anti-AIDS activism that emerged in the late 1980s in the United States".⁷³

This wave generated a series of innovative experiences within the social movement working alongside scientific research and built a diagnosis in which the lack of a global governmental plan to combat the epidemic and the existence of discriminatory legislative actions that prevented the implementation of effective educational programs was vigorously criticized.⁷⁴

"HIV/AIDS produced complex resonances in social behaviors, the initial time of the epidemic was of excesses. The bonfire of the inquisition had been rekindled in the pass of the years." Moralists disseminated the information that the epidemic was a response to the sexual revolution and the weakening of the family nucleus.⁷⁵

This scenario produced other movements and other discursive networks of control and modulation of sociability and affective-sexual practices. With imperative phrases, such as "Use condoms", sexualities have gained a discursive and deeply pragmatic and interventionist centrality in public policies of HIV prevention. The re-emergence and strengthening of the then homosexual social movement from the 1990s onto it was one of the consequences of the policies adopted to combat AIDS. However, it is important to note that the rapprochement between the AIDS agenda and civil rights organizations in the 1980s and 1990s was not automatic. Even with the fact that the epidemic reached the entire LGBT population, either by hiv contagion or social and political (self)repression, emblematic organizations, such as Triângulo Rosa, led by João Antônio Mascarenhas, had internal tensions when it came to the community response to the epidemic.⁷⁶

The discursive proliferation of the AIDS epidemic, the revolt of non-governmental organizations, the appearance of new anti-HIV financing policies, the market's interest in the "gay niche" at the end of the 1990s, and the turn of media discourse were the factors that, when added together, contributed to the dislocated discourses about the LGBT population from its stigmatized markers. It must be said

⁷³ GÓIS, J. B. H. 'Reabrindo a caixa-preta: rupturas e continuidades no discurso sobre Aids nos Estados Unidos (1987-98)'. **História, Ciências, Saúde** – Manguinhos, vol. 9(3): 515-33, set.-dez. 2002. p. 516-517.

⁷⁴ GÓIS, J. B. H. 'Reabrindo a caixa-preta: rupturas e continuidades no discurso sobre Aids nos Estados Unidos (1987-98)'. p. 517.

⁷⁵ CAETANO, Marcio; NASCIMENTO, Claudio; RODRIGUES, Alexsandro. *Do caos re-emerge a força: AIDS e mobilização LGBT*. p. 286.

⁷⁶ CAETANO, Marcio; NASCIMENTO, Claudio; RODRIGUES, Alexsandro. *Do caos re-emerge a força: AIDS e mobilização LGBT*. p. 289.

that these new movements of society have contributed to dissociate homosexual identity from HIV disease. That is, the narrative that the virus only came to homosexuals, began to lose strength.⁷⁷

By questioning public policies to combat AIDS, it is easily possible to observe the importance that LGBT-led social networks have assumed as elements of conflict processes and political-administrative coalition in the execution of actions against the epidemic.⁷⁸

In summary, it is observed that in the first years of the AIDS epidemic, the mass media, with its sensationalist and stigmatizing discourses, contributed little to the formation of a public opinion based on truth. The non-information communicated by the mass media promoted sanitary incommunicability, with regard to the health system.

The lack of reliable information contaminated public opinion and gave strength to the epidemic silence that for years maintained the incommunicability of the health system.

AIDS is the subject of multiple and plural communicative events. By becoming the subject of communication by the mass media, communication regarding HIV infection ends up shaping a strong and massive public opinion, promoting observations and descriptions of society, as well as translating the need to promote specific public policies. [...] The communicative possibilities are immense. It is enough to analyze the Brazilian case of the construction of a public opinion focused on the social mazela of the abandonment of individuals in cases of HIV virus contamination; with the constant pressures exerted by public opinion – mirror of real needs and way of building the social reality – communication returned to operate through its specific binarity.⁷⁹

The virus causing AIDS never had borders. Although the disclosures of the first cases of AIDS have been stamped on the bodies of homosexuals, it is important to have the wisdom that the virus does not exclude and does not select the subject. On the other hand, the information established in relation to HIV patients was selective and excluding.⁸⁰

The memories of the AIDS epidemic are astounding, because with them, he inevitably recalls the "images that were disseminated in dealing with people living with

⁷⁷ CAETANO, Marcio; NASCIMENTO, Claudio; RODRIGUES, Alexsandro. *Do caos re-emerge a força: AIDS e mobilização LGBT*. p. 291.

⁷⁸ CAETANO, Marcio; NASCIMENTO, Claudio; RODRIGUES, Alexsandro. *Do caos re-emerge a força: AIDS e mobilização LGBT*. p. 292.

⁷⁹ PILAU SOBRINHO, Liton Lanes. **Comunicação e direito à saúde**. p. 192-196.

⁸⁰ CAETANO, Marcio; NASCIMENTO, Claudio; RODRIGUES, Alexsandro. *Do caos re-emerge a força: AIDS e mobilização LGBT*. p. 294.

AIDS". And, there "was being put into circulation extremely prejudiced teachings that for decades mediated the actions of LGBT social movements".⁸¹

This is understood that in the first years of the AIDS epidemic, the mass media operated with non-information. Public opinion cooled with prejudice and there were few actions to combat the disease.

However, with the actions of social movements (protest movements) and LGBT engagement, the narrative around the AIDS epidemic took another form. The mass media began to convey information and remake public opinion to reality. As a result of these pressures exerted by protest movements, one can perceive a social evolution. In fact, it was these pressures that made it possible to implement government programs to combat AIDS, and gave the necessary outline for funding agencies to seriously research aids treatments and medications.

⁸¹ CAETANO, Marcio; NASCIMENTO, Claudio; RODRIGUES, Alessandro. *Do caos re-emerge a força: AIDS e mobilização LGBT*. p. 294.

Final considerations

Society is communication, as well as social development depends on the communication process. In this process, relations of exchange, interest, acceptance and repudiation are established, resulting in a means that enables human coexistence and the formation of social systems.

Mass media are institutions that produce, reproduce and spread communication. It can be said that the media can be identified as both books, magazines and newspapers, such as radio, television and the internet. The encoding of the means of communication consists of the information/non-information binomial.

Through this codification of the mass media, there is the formation of public opinion around a given theme. In this sense, when the first cases of AIDS appeared in the world, the mass media dissected sensationalist information that provoked a link between HIV virus contamination and homosexual relationships.

Public opinion was taken by a prejudiced discourse and the persecution of homosexuals intensified. Although it is already known that the HIV virus misunderstands subjects regardless of sexual orientation and gender, the social stigma still remains.

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