

CAPÍTULO 16

THE JUDICIARY AND POLITICAL CHANGE IN BRAZIL

PODER JUDICIAL Y EL CAMBIO POLÍTICO EN BRASIL

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Abstract

When we previously analyzed Brazil's recent socio-political deterioration, we used the term "anembryonic democracy" to designate the absence of institutional values and practices which might avoid the collapse of democracy, which was accelerated by what we then characterized as "the 2016 parliamentary coup" (Sousa, 2019). However, the parliamentary coup would not have been possible without the production of a climate of social hatred and criminalization towards the political left instigated by some parties that had lost the 2014 presidential election, in association with the big corporate media and a part of the judiciary, all of whom used the narrative of fighting corruption for political ends. By infringing rites, acting in a selective manner and neglecting the due process of law, the so-called Operation Car Wash, in which the judiciary was a protagonist, has recently taken the role of an active player in the political game. As a result, the far-right rose and won the election, an outcome of a process in which the spectacularization of corruption was used for sabotaging democracy and captivating the consciousness of a substantial part of the population. After the first six months of the far-right government, with the main judge in Operation Car Wash having been nominated as the Minister of Justice by the new President of Brazil, the country is astonished at facts recently revealed by the online news publication *The Intercept Brasil* — Brazilian version of the original American site —, edited by Glenn Greenwald and a team of Brazilian journalists. With material provided by an anonymous source, the site released private messages exchanged in groups of an instant-messaging application by members of Operation Car Wash, thus exposing what happened backstage during the task force's investigations and evidencing suspicions about the political use of the judiciary and its influence on the change of power. This article analyzes the content of the first 10 (ten) news stories published based on text messages and audio material disclosed in the first month of the leaks, in view of which we study contexts, meanings and effects of the communicative interactions among those agents of the State. We interpret the functioning of juridical institutions and their political repercussions mainly by resorting to Bourdieu's (2010) sociology of the juridical field. We have verified that the interference of a part of the judiciary in the political change in Brazil involved, among other distortions, illegalities, partisan bias and lawfare. The results of the analysis carried out here may contribute to disclosing the relationships, interests and forces which, under the design of liberal democracies' standard institutionalism, have hindered the maturation of democracy in Brazil.

Key Words: Democracy, Judiciary, Media, Political change.

Resumen

Cuando analizamos el deterioro sociopolítico de Brasil, usamos la expresión: "Democracia Anembrionaria" para nombrar la ausencia de valores y prácticas

institucionales que pondrían evitar el colapso de la democracia, acelerado por lo que caracterizamos como “el golpe parlamentario” de 2016 (Autor, 2019). Con todo, el golpe parlamentario no sería posible sin la creación de un clima de odio social y criminalización de la izquierda política, promocionado por los partidos perdedores de las elecciones de 2014 en asociación con los principales medios de comunicación y parte del Judiciario, que utilizaban una narrativa para combatir la corrupción, enmascarando fines políticos. Atropellando procedimientos judiciales, infringiendo ritos, actuando selectivamente y sin considerar el debido proceso legal, la llamada “operación Lava Jato” protagonizada por el poder judicial, asumía el papel de agente activo en el juego político. Como consecuencia, la extrema derecha ascendió y ganó las elecciones, resultado de un proceso en que la espectacularización de la corrupción sirvió para sabotear la democracia y capturar la conciencia de gran parte de la población. Ahora, después de seis meses del gobierno de extrema derecha, con el juez principal de la “operación Lava Jato” asumiendo el Ministerio de Justicia, el Brasil está sorprendido por las revelaciones del portal de noticias *The Intercept Brasil*, conducido por el periodista Glenn Greenwald. Partiendo de fuentes anónimas, dicho sitio ha divulgado conversaciones confidenciales en chats de una aplicación entre los miembros del Lava Jato, que expuso los bastidores de las investigaciones de este “grupo de trabajo” y confirmó la evidencia sobre el uso político del poder judicial y su influencia en el cambio de poder. Este trabajo se fundamenta en el análisis de contenido de los primeros diez informes publicados, que contienen mensajes de texto y de audio. Estudiamos contextos, significados y efectos de las interacciones comunicativas entre estos agentes estatales. Interpretamos el funcionamiento de las instituciones jurídicas y sus repercusiones políticas, especialmente utilizando la Sociología del campo jurídico de Bourdieu (2010). Comprobamos que la interferencia del poder judicial en el cambio político brasileño involucró, entre otras distorsiones: ilegalidades, partidismo y *lawfare*. Los resultados del análisis pueden contribuir a la visibilidad de las relaciones, intereses y fuerzas que, bajo la imagen de una institucionalidad estándar de las democracias liberales, impiden la maduración de la democracia en Brasil.

Palabras clave: Democracia, Poder Judicial, Prensa, Cambio Político.

1. Introduction

When we analyzed Brazil’s sociopolitical deterioration in course since former president Dilma Rousseff’s impeachment, we used the term “anembryonic democracy” to designate the absence of such values and practices in Brazilian institutions that could avoid the collapse of democracy, which was accelerated by what we then characterized as the 2016 parliamentary coup and its political and social consequences (Sousa, 2019). Among the latter, an ideological turn gradually inflamed by the elites stood out, aimed at influencing citizens’ behavior and giving rise to a shift of government, seizing it from the hands of the Worker’s Party (PT). The production of a climate of social hatred and criminalization towards the political left then turned out to be a result of the radicalism fostered by those who had lost the 2014 elections, in association with other social actors. Such actors, who had common and interrelating interests, started using the narrative of corruption fighting as a political strategy aimed at paving the way for the return of a conservative government to power. The 2016 impeachment, justified by both alleged criminal administrative misconduct and disregard for the federal budget, and legitimized by its apparent legality, has recently indeed been shown to be a result of some opposition parties’ flagrant plots, which counted on the interference of a part of the judiciary in the way investigations of corruption were being carried out, a process that the corporate media, on their turn, have used to hit some of their political targets. In fact, in addition to serving as a channel for the opposition, Brazil’s big corporate media, always committed with deconstructing left-wing government’s policies, have used corruption episodes involving members of parties in the government’s coalition to

interfere in political processes, acting in collaboration with a part of the judiciary. In our previous analysis of that phenomenon, we identified in such a partnership between the media and the judiciary the main mechanism of persuasion and influence on citizens' political behavior.

By infringing rites, acting in a selective manner, and neglecting the due process of law a part of the judiciary, in an abuse of judges' legal prerogatives, has played the role of an active player in the political game by choosing its targets, occasions and methods so as to strengthen the deconstruction of PT, contributing to both its removal from power and the damaging of the party's image until the 2018 elections. Such a phenomenon, which has been the object of some scholars' and jurists' analyses, was invisible to most of the population in Brazil, who were subjected to the impact of charges of wrongdoings, police operations and arrests that almost on a daily basis received news coverage in a — let's say — “theatrical” manner, which turned out to be effective in generating indignation and anger.

In such a setting, as we have previously pointed out as a possible outcome of it, the far-right ascended and won the elections as a result of a process in which the narrative of corruption fighting has served to sabotage democracy and captivate the consciousness of a large part of the population. Now, half a year into the new far-right government (when this paper is written), the main judge in the ongoing Operation Car Wash (*Operação Lava Jato*, in Portuguese), central to the abovementioned process begun in 2014, has been nominated Brazil's Minister of Justice. In the meantime, scandalous facts have been revealed by the online news publication *The Intercept Brasil (TIB)* — the Brazilian version of the original U.S. website —, edited by Glenn Greenwald and a team of Brazilian journalists. In a news series yet to be completed, *TIB* has ever since June 9 leaked private messages exchanged in groups of the instant-messaging application Telegram by Operation Car Wash authorities. Their content, to which *TIB* has had access via an anonymous source, has exposed what happened backstage during the task force's investigations in the past few years, thus evidencing suspicions about the political use of the federal police, the *Ministério Público Federal* — i.e. Brazil's public prosecutor's office at the federal level —, and the judiciary. It has also shown how that has had an influence on the recent change of power.

In view of this new fact, whose proportions are still incalculable, but which has clearly had a considerable impact in Brazil's democracy, we propose to point out and analyze in this paper the role played particularly by the judiciary in the country's political dispute, which we intend to do by interpreting a part of the documents revealed by *TIB*. Based on the material that has been made public so far, we aim at expanding the comprehension and elucidation of intentions, strategies and meanings behind some members of Operation Car Wash's actions and decisions, as well as behind those of the then-judge and now Minister of Justice Sergio Moro, in the context of the political-ideological dispute that has undergone a radicalization over the past few years.

For the purpose of this paper, we are going to focus on the first ten pieces of news published by *TIB* until July 10, 2019, nine of which have leaked text messages exchanged by Judge Moro and the task force's coordinator Deltan Dallagnol, or among the prosecutors themselves in different Telegram groups, whereas the tenth piece of news has leaked an audio with similar content. The interactions between those authorities, the context in which they happened, their meanings and effects are all object of analysis here. Based on the study of these elements, we interpret the way the juridical institutions have been functioning in Brazil and some effects this has recently had in the political arena.

According to Greenwald, the whole material *TIB* has had access to, whose data are said to date back to 2015, has generated over 1700 pages of research, which makes it much larger a file than that of the polemic and notorious case of Edward Snowden. The magnitude of all that information — something already historic in its dimensions and implications — may not only shed light on the judiciary's role in Brazilian democracy, but it may also contribute to disclose relations, interests and powers that, under the design

of an institutionalism that is standard in liberal democracies, prevent the exercise of collective learning, political citizenship, and civic virtue in Brazil.

2. The judiciary comes from behind to win the game

Our previous analysis of the deterioration of democracy in Brazil ever since the 2016 parliamentary coup described the spiraling movement of ultraconservatism towards its becoming a hegemonic political force in the country. In the gaps between the series of loops of that spiral we then highlighted certain actions of major actors — such as the corporate media, a part of the judiciary, and a part of the Congress — which have helped restrain our democratic evolution and bring back authoritarianism, while aiming at removing the left from the government. As for the judiciary, we chose expressions that denote our assessment of the role played by that actor on the Brazilian political stage on the pretext of fighting corruption, namely: 1) illegalities; 2) voluntarism (referring to the notion of acting exclusively according to one's own will); 3) partiality; 4) punitivism (which denotes an emphasis on punishment, incarceration and the denial of rights); 5) lawfare, and 6) judicial protagonism (a reference to how important the judiciary was then becoming in social life) (Sousa, 2019).

Our inference was that agents of the State (judges and prosecutors) had carried out investigations under the emblem of the corruption fighting Operation Car Wash in a way that turned out to be instrumental in the political dispute. As such, they acted in tune with the big corporate media, which helped give them the legitimacy necessary so that they could commit irregularities that, albeit promptly denounced by scholars and jurists, were made invisible to most of the population. It is within such a context that two episodes in 2016 would end up evidencing the simultaneous presence of illegalities, political aims and the spectacularization of judicial process under Operation Car Wash, that is to say: former president Lula's bench warrant to present testimony before Brazil's federal police — even though legal conditions required for such a violent procedure were not present — as well as the processes that barred him from taking office as one of the then-president Dilma Rousseff's ministers in her last attempt to articulate political support and avoid the parliamentary coup.

The unlawful bench warrant issued by judge Moro was executed at an unusual time — Lula answered his apartment door to the investigators at 6 a.m. on March 4, 2016 —, and it took place under intense media coverage, with camera operators and reporters waiting nearby since the day dawned. The action had the effect of making the social environment still tenser and magnifying the public perception of the former president's guilt. Later, in a second occurrence deserving mention, Lula's nomination as the Chief of Staff was suspended after the same judge Moro leaked an illegally intercepted telephone communication between the former president and the then-president in office Dilma Rousseff. The audio recording, which was made public through the country's largest TV channel, stirred reactions in society, as a result of the scandalized tone with which the corporate media received the nomination.

Brazil's Supreme Court (STF) was intimidated into barring Lula's nomination, even though he still had full political rights back then. As a result, the main lawsuit against the former president remained under judge Moro, as was the latter's undisguisable intent, while the political crisis worsened, which contributed to the impeachment inquiry launched a few days later. Messages just leaked through *TIB* have shown, however, that the then-judge Moro and Operation Car Wash lead prosecutor Deltan Dallagnol, have discussed the subject and withheld information to the STF which could have led to quite a different interpretation of Lula's nomination as a minister in Dilma's government.

Trough Telegram *messages*, Moro and Dallagnol discussed in brief the disclosure of the telephone call between President Dilma and Lula and agreed to release it to the press, although it was illegal. A few days later, while commenting on the repercussions of it, they both agreed that was "the best decision", despite their worries about the negative responses to it. Moro has received no punishment for the leak, despite his apologizing

publicly to the Supreme Court justice responsible for the case at that court — and even so the messages now disclosed show he has no real regrets about it.

Since the beginning of Operation Car Wash, coercions, “preventive arrests”, and plea bargain agreements have been too often on TV news programs, where the defendants’ guilt has been taken for granted beforehand. Such a narrative has largely turned public opinion against the targets of Car Wash-related operations, which have generally been legitimized in an acritical manner by supposed politically neutral media outlets. That is how the latter has been able to hit people who are also their political targets while resorting to the judiciary’s authority and alleged impartiality.

Such a symbiosis between the corporate media and the judiciary has indeed been essential not only to legitimize all judicial decisions in the Car Wash corruption case, but also to produce an environment of political hatred. As Santos (2017, p. 181, our translation) points out: “A blend of rigorous investigation and a strategy for seizing power, Operation Car Wash and its spin-offs have had a partnership with the press with a common goal: the annihilation of PT’s political legitimacy”. That may help to understand why so many arbitrary decisions in the Car Wash corruption case have either been defended or gone unnoticed on TV news and newspapers committed to a consensus on a single narrative.

The power of the actors involved in the construction of such a single discourse has been greater than that of the opposition to it, which has not had sufficient resources to prove the existence of such a smoke curtain being set up to facilitate political change. As Bourdieu (2010) emphasizes, the judicial body exercises an authority that is the form of legitimate symbolic violence *par excellence*, the monopoly of which belongs to the State. The fair view of the social world is consecrated by law, which, under the illusion of its autonomy in regard to external pressures, simultaneously comprises both the positive logic of science and the normative logic of moral, while capitalizing on the rhetoric of neutrality and impartiality. Yet, the same author reminds that the written rules of law, which are aimed at reducing behavioral variability, do not prevent in the conduct of agents the existence of arbitrariness, which is not subject to the requirements of law.

In this sense, another symbolic moment of political use of justice against Lula takes place in the third act of 2016: the bringing of corruption charges against him by the Federal Public Prosecutor’s Office (MPF), according to which the former president had received a beachfront triplex apartment as a bribe for facilitating multimillion dollar contracts of the construction company OAS with Petrobras, Brazil’s state-run oil company. However, at that time, several analyses were written identifying weaknesses in the criminal complaint, from the steps taken to force the transfer of the case from São Paulo state to Paraná state so that it could be tried under Moro’s jurisdiction in Curitiba, to the fact that Lula’s wife had acquired in the real estate cooperative Bancoop, in 2005, a share of an apartment in one of the then-still-under-construction buildings where the aforementioned triplex apartment would be built — therefore, long before the Petrobras scandal —, to the noted lack of any material proof that Lula had ever used, let alone owned, the triplex. In spite of that, the complaint was filed by the Car Wash prosecutors.

In September 14, 2016, the Car Wash lead prosecutor called a press conference in which he resorted to an amateurish — albeit sensationally striking — PowerPoint slide presentation in which Lula was shown as the central figure in what was, as the prosecutors alleged, a real crime organization. According to the complaint, there was an indication that reconstructions in the aforementioned triplex apartment — now associated with the share acquired by Brazil’s former first lady, of which there was a declaration for fiscal reasons — had been carried out by OAS, a company that got many contracts with the government under Lula and which had been assigned to finish the construction of the apartments after Bancoop delayed in doing so. As a result, the former president ended up convicted in a quick trial and had his sentence increased by the court of appeal, with his subsequent arrest happening in time to prevent him from running in the 2018 presidential elections. Even though this entire process received, among other examples, the critical analyses by over a hundred jurists cited in the book by Proner *et*

al. (2017), we must point out that such critical positions have not been actually discussed by the corporate media.

The recent leaks through *TIB*, however, have helped to shed a light on what really happened backstage while the complaint against Lula was being prepared. For instance, on Part 3 of the Car Wash scandal series, published by *TIB* on June 9, 2019, the messages leaked show that Dallagnol felt the complaint was not so convincing as he wished it to appear, especially because of the difficult-to-establish connection between the triplex apartment and the Petrobras corruption case. In a group Telegram chat with his colleagues on September 9, 2016, he wrote: “They will say that we are accusing based on newspaper articles and fragile evidence ... so it’d be good if this item is wrapped up tight. Apart from this item, so far I am apprehensive about the connection between Petrobras and enrichment, and after they told me I am apprehensive about the apartment story. These are points in which we have to have solid answers and on the tips of our tongues.” Four days later, they would be filing their indictment against Lula.

Soon after the PowerPoint presentation, judge Moro congratulated Dallagnol and encouraged him in a chat message. “Stand firm,” he wrote. As a matter of fact, judges are prohibited by the Brazilian law from getting involved in any investigation, acting in tune with prosecutors or investigators. The Constitution, in Article 5, imposes the respect to the due process of law, assuring the defendant’s right to reply and an ample defense, while the Code of Penal Procedure, in Article 254, prohibits judges from advising either party in the lawsuit, a fact that may lead to an incident of suspicion against the magistrate and even result in the nullification of the lawsuit. The Organic Law on the Judiciary, on its turn, in Article 36, forbids any judge from “manifesting, through any means of communication, his or her own opinion concerning a lawsuit still pending, whether it is under his or her jurisdiction or that of another judge, or depreciating judicial decisions, votes or sentences, save with respect to criticism in the course of lawsuit proceedings, in technical publications or in the exercise of teaching.”

Despite that, as the leaks on *TIB* have shown, Car Wash investigations, operations and procedures have been contaminated by: 1) lawfare (when a prosecutor recommends that, “for symbolic reasons,” a search and seizure warrant at the house of a just-elected senator be executed a few days before the second turn in the presidential race); 2) partiality (in the moments when the task force prosecutors showed concern about both a left-wing party’s electoral performance at the time and investigations being carried out against politicians who were opposed to it); 3) illegalities (when a judge provides the Prosecutor’s Office with the name of a potential witness, and the latter shows to be willing to use intimidation to get that person to testify); 4) punitivism (when prosecutors show their inconformity with the imminent release of a prisoner and are willing to speed up the proceedings to request a new arrest warrant); 5) voluntarism (when prosecutors show a personal interest in being in charge of lawsuits against certain defendants); 6) protagonism (when prosecutors are willing to extend the magnitude of their influence in society).

Judge Moro, as the leaks now evidence, has covertly collaborated in the writing of a press release replying to Lula’s defense lawyers’ arguments and criticisms, has also made suggestions regarding the order of phases in Operation Car Wash, has recommended that one prosecutor be replaced at specific hearings, has advised Car Wash prosecutors about mistakes made repeatedly, and has suggested a witness to the Federal Prosecutor’s Office then agreeing with the chief prosecutor’s plan to make the supposed person of interest show up to testify under a fake anonymous complaint. And these are not the only instances of judicial misconduct in the Car Wash corruption case that have now been disclosed.

This whole scenario alludes to what Bourdieu (2010) called the “neutral place,” in reference to the judicial realm. That is, in the case of a judge, the “neutralizing distance” is an imperative of his or her office which must be incorporated into his or her own *habitus*, into the ascetic attitudes and duty of reserve without which a judge’s behavior and decisions become condemnable. A judicial verdict is a logical synthesis from two

opposing theses and requires impartiality so as to give a legitimate solution to an irreconcilable conflict of interests.

Yet, in the case of Sergio Moro, the judge's selectivity and partisanism become even more evident when he learns that the name of former president Fernando Henrique Cardoso, a.k.a. FHC, the then most important figure in the opposition to PT, had surfaced in the Car Wash investigations under the suspicion of corruption. According to the messages disclosed on June 18, 2019, in the series Part 7 on *TIB*, Moro rushed to try to persuade Dallagnol not to proceed with such investigation in order not to lose FHC's political support for Operation Car Wash. The chief prosecutor then explained that the news story that Moro had read in fact referred to a procedure taken by some members of the task force who had selected some documents about a "weak" case against FHC. It was a supposed crime whose statute of limitations had already expired anyway, as Moro immediately noted, and Dallagnol promptly agreed (even though not all mentions of FHC in testimonies in the Car Wash corruption case referred to criminal practices whose statute of limitations, were they then investigated and proved to be true, would have expired, too). The task force's selective investigation of a "weak" case against FHC was, in any case, as Dallagnol himself puts it, probably just a strategy of his colleagues "to pass on the message of impartiality."

The relationship between Moro and the Car Wash prosecutors was so close that the judge felt comfortable even to ask for an assessment of his performance during the hearing with former president Lula. That was indeed an event that caused tension and anxiety among the prosecutors concerning its repercussions, the media coverage of it and the effects that Lula's declarations might have. In the messages then exchanged among them there was the evaluation that the effects had been favorable to Operation Car Wash and that the media's approach to it had been really helpful in that sense.

In fact, the mainstream media did not provide the necessary coverage for the event, maintaining the attitude of withholding information that contradicted Operation Car Wash's plot. In the terms of Bourdieu (2010, p. 237, our translation), we might say that the "magical effectiveness" and the "transcendent" viewpoint of the judiciary prevailed, since "Law is the par excellence form of active discourse, which by its own strength is able to produce effects. It is not too much to say that it makes the social world, provided that one does not forget that it is also made by it." Former president Lula was able to speak to the population again only when he was already in prison, and through an interview that took more than six months to take place since the initial authorization granted by the court.

On September 28, 2018, an STF justice authorized former president Lula to give an interview to two newspapers outlets, namely *Folha de São Paulo* and *El País*. It was nine days before the first round of the elections, and PT candidate Fernando Haddad already ranked second in the polls. Apparently, Lula's transfer of votes had been enough to secure his party's candidate in the second round. According to conversations leaked by *TIB* in Part 2 of its news series, published on June 9, 2019, as soon as they became aware of the STF decision, Operation Car Wash prosecutors expressed their concern on the possible electoral repercussions of the interview. One of them writes: "There goes the guy to turn the jail into a political hustings." She adds: "I don't know... but a press conference before the second round can elect Haddad." The reaction of these authorities to Lula's upcoming interview denotes their fear of the possibility that the impact of his voice might turn the direction of the electoral wind.

Another prosecutor then writes: "I'm very worried about a possible return of PT." The statement, besides making clear the partisanship of some of them, reflects the sentiment that guided a part of the population during the elections. It was essential that PT did not return to power. Any alternative to that would be palatable. The irrationality of that electoral process — in which hatred was absorbed as its main component by countless people who believed the neutrality of Operation Car Wash — finds in the words of a prosecutor the expression of their not admitted albeit aimed-at goal: to prevent PT's return to power.

Prosecutor Isabel Groba did react to news about the interview with an insult to the STF, followed by several exclamation marks indicating her indignation: “Mobsters!!!!!!.” Such an aggressive tone denotes despising towards a divergent view, intolerance to opposition. In a sense, it represented what was happening in the Brazilian society at the time, which had been contaminated by a political hatred that made it impracticable to put up with views diverging from the predominant narrative. Likewise, prosecutor Athayde Costa, upon learning that the general prosecutor had not appealed to the STF, accused her of an unethical and self-serving behavior: “She is already thinking about the appointment to the Supreme Court in case Haddad wins.” “What a joke [...], she wants to win media support for her name,” added another prosecutor. Nevertheless, the Car Wash prosecutors’ slandering the head of the Brazilian Federal Prosecution Office for apparently trying to get public and media support is contradictory, since it was a factor that judge Moro himself (2004) considered to advance the fight against corruption, which largely depended on the clear media consensus around Operation Car Wash, which legitimized everything done by authorities associated with it.

Such a reaction to the permission granted for Lula’s first interview in jail evidences the partisanship existing within Operation Car Wash. Back then, it was already known that the electoral race would not be about party programs, since the candidate leading the polls denied politics itself and demonized PT. In line with this, private interactions among Car Wash prosecutors indicate that, in Lula’s case, it was not just about arresting someone allegedly guilty of a crime. It was about preventing the former president’s party from winning the election. In order to do so, shutting him up was essential.

As for a prosecutor’s mentioned concern about the “possible return of PT”, another point must be highlighted. Subsequently, in that very group Telegram chat, she also wrote: “but I’ve prayed a lot for God to illuminate the Brazilian people so that a miracle can save us.” The statement denotes the messianic character that can be seen in the behavior of some of them and which greatly results from the incorporation into their role of elements from their own religiosity. On April 1, 2018, for example, Operation Car Wash lead prosecutor Deltan Dallagnol, in view of the STF’s upcoming decision about a habeas corpus plea for Lula, declared on social networks that he would be “fasting” and “praying” against the granting of it. Speaking at a Baptist church in July 2015, he had already said: “Within my Christian worldview, I believe there is a window of opportunity that God is opening for change” — a reference to the political outcome of what was seen as their mission. In those prosecutors’ worldview, as can be easily inferred, *good* would be in their fight against corruption and *evil* — only on the left, though, especially in PT. Not surprisingly, the far-right assimilated such a discourse during the 2018 campaign and ended up finding in the Evangelical Christian segment the social group that supported it most, with some influential Christian leaders even presenting presidential candidate Jair Bolsonaro as someone sent by God, being seen as such by most Brazilian Evangelical Christians.

In addition to this messianic religiosity underlying the Car Wash prosecutor’s views and actions, the messages leaked with their interactions in group Telegram chats also show that there was an ideology inspiring their work. When a prosecutor said that she was praying for PT not to return, Dallagnol immediately emphasized: “we need [prayers] as a country.” It suggests that the chief prosecutor had such a conception of the functioning of society and political order that was quite different from the one associated with PT. The point is that the concept of justice can therefore be very elusive in subjectivity-based processes, such as these in which authorities incorporate religious values and ideological preferences into the exercise of their functions. This is how the trajectory of Operation Car Wash has produced the three elements for the script of the political drama as described by Charaudeau (2016), that is: a situation of crisis, a source of evil and a saving solution. In this case, the solution implied not to let the “evil” speak. Only the saving solution could have a voice.

In the messages disclosed by *TIB*, still concerning the prosecutors’ disappointment with respect to Lula’s interview, the excessive cohesion of the group stands out. It is the

triumph of what, from a sociological viewpoint, is called corporatism, a phenomenon widely studied in the Brazilian public administration environment. In view of the possibility of the former president's speaking to the press, one of the Car Wash prosecutors compares the nation's political scenario to a "runaway train" and adds: "I don't know what awaits us, my only certainty is that we will be together." The presumed consensus and uniqueness of the group, compatible with the motto "One for all, all for one," may have made the task force impervious to criticism in such a way that discourages objections and increases the risks of arbitrary decisions with no questioning, especially while dealing with processes of complex and serious consequences.

These decisions have actually always been in agreement with the expectations of the economic and political powers that have dominated the establishment, which reminds us of Bourdieu's remarks about judicial, prosecution and law enforcement agents, their social relations, and the development of a common *habitus* among them. As the French sociologist writes: "It is true that the practice of agents charged with producing or enforcing the Law owes much to the affinities that unite the *par-excellence* holders of the form of symbolic power with the holders of temporal, political or economic power, regardless of any conflicts of jurisdiction that may oppose them. The proximity of interests and, mainly, the affinity of their *habitus*, whose correlation is greatly due to their similar family and education background, contribute to the kinship of their worldviews" (Bourdieu, 2010, p. 241, our translation).

From our perspective, the worldviews shared by the members of Operation Car Wash have led them to be lenient regarding decisions and behaviors against the legal principles they were supposed to protect. They formed a collusion in whose view the ends justified the means. While still discussing Lula's just-authorized interview, for instance, the prosecutors considered delaying complying with the Supreme Court's decision or even turning it into a press conference with other media outlets included, all with the sole purpose of creating "confusion" and making it unfeasible. That is a situation in which such authorities reportedly submit a court decision to their own wishes and discuss alternatives to diminish its effects with dirty and covert moves. In this sense, Bobbio (2014) has already drawn attention to the problem of an influential bureaucracy with political power, over which there is no efficient control or the type of accountability required from such power in democratic regimes, which is also called a verification of consensus.

In any case, another STF decision called off Lula's inconvenient interview in response to an appeal by liberal, right-wing party Novo. It was celebrated by Car Wash prosecutors, although they also have the responsibility to ensure constitutional rights, including that of freedom of the press. The interest in keeping Lula unheard during the elections was much more important. However, if the former president could not speak, the corruption fighting task force and the judiciary, on the other hand, were able to express their political choice through alternative maneuvers.

A few days before the second round of the presidential race between PT candidate Fernando Haddad and far-right candidate Jair Bolsonaro — who was running for the right-wing Liberal Social Party (PSL), which he had recently joined —, the then-judge Sergio Moro made public the terms of a plea bargain agreement. A former minister under both Lula's and Rousseff's governments who was then in jail had accepted to collaborate with the Car Wash prosecutors in exchange for benefits and presented a testimony containing charges against the party. Many critics immediately identified in Moro's decision a way to interfere with the electoral process, although it found no negative repercussions in the mainstream media. After the election, judge Moro accepted the invitation to be the new Minister of Justice under the just-elected president Jair Bolsonaro.

At that time, the nation did not know it yet, but, according to some of the *TIB* leaks, in Part 8 of its series, published on June 29, 2019, Car Wash prosecutors were disappointed with what they thought might be considered by critics as a proof of the task force's political aims and that Moro's conduct followed a personal project of power. In a

group Telegram chat, a prosecutor even mentions that the judge had a trajectory in which violations of the law were frequent and that, with his entering politics, the partiality of his decisions could hardly continue being denied — a fact that supported former president Lula's defense lawyers' request to the United Nations to have the case against him annulled.

Other prosecutors then pointed out that not only the judge, but also the task force itself, had shown a preference for Bolsonaro, since they had never opposed any speeches made by the far-right candidate which showed no appreciation for the Constitution. They also commented on their omission regarding judicial decisions authorizing intervention in some federally funded universities where there had been protests against what were considered authoritarian, fascist views of the far-right candidate during the elections.

One of them states: "Moro helped bring down the left, his wife supported Bolsonaro and he now takes a political office." Another prosecutor then points out: "It's clear that he saw Lula as a trophy." In fact, a trophy that helped Moro rise. To the task force, however, that might mean the decline of Operation Car Wash, which, in the opinion of one of them, "besides being a symbol, is a method of action by our institutions, which has so far allowed us to surf together an excellent wave."

Operation Car Wash's focus on PT was interesting because it could be profitable. After all, if some prosecutors still expressed dismay at the possible dismantling of the task force as a result of judge Moro's joining the Bolsonaro government, the fact is that their work had already put them in the spotlight for quite a while. And as we learn from Part 10 of the series by *TIB*, published on July 14, 2019, some celebrity-like prosecutors have recently been much competed for and well-paid in the lecture market. It is admitted by the task force's coordinator, Deltan Dallagnol, in an enthusiastic conversation also leaked that he kept with his wife: "We will organize congresses and events and make a profit, ok? It's a good way of capitalizing on our networking and visibility." While those new Car Wash stars have been making a lot of money — as representatives of this mindset and practice of interpreting the legal and political system according to personal criteria, and of manipulating and violating the rules if necessary for defending a conservative moral code and promoting biased punitivism —, democracy itself has been going downhill. On the other hand, in view of what has been disclosed by *TIB* and amplified with their subsequent partnership with other media outlets, it seems that the tables may be turning on the Car Wash celebrities. Brazil must now decide whether it prefers democracy or fake heroes.

3. Conclusion

There is no democracy without the rule of law and without a public space for discussion through which citizens can make their political choices. Recently in Brazil, the judiciary and the mainstream corporate media have joined forces to sabotage both that very former institution and the possibilities for Brazilians to have access to reliable information in order to develop genuine collective learning. Intoxicated by a political hatred of PT and the political left as a whole, these forces have aligned themselves with each other in order to use the rhetoric of corruption fighting as their weapon of ideological dispute.

As a result, a parliamentary coup was carried out, a popular leader was arrested and reputations were destroyed, with strong indications that the due process of law has not been respected in any case. Much of the population, unaware of the ways of producing news and believing the legitimacy of institutions, was influenced by daily exposition to hatred-arousing narratives in a stage play in which "Good", represented by the judicial forces, has won over "Evil", with the support of those who help form public opinion.

As a result, Brazil had in 2018 one of the most irrational elections in its history, in which political choice was based on moral appeals that united religious fundamentalism and political conservatism around a candidate with open contempt for democracy and obsessed with attacking ideological enemies and social minorities. As worrying as it sounds, all of this would have been legitimized by a single narrative had these *TIB* leaks not come out. It is, therefore, no exaggeration to say that this is one of the most important

facts in Brazilian republican history, since it has exposed crimes against democracy committed by the power that is the most immune to accountability: the judiciary. At the same time, the strategy of the major media groups, which had always behaved as tutors of democracy in Brazil, has been exposed. Their behaving as if they had the right to indicate who should be elected, how to govern and until when.

In 2016, a federal judge, eager for self-promotion and power, staked all his chips on the breakdown of democracy by illegally leaking a private talk between an incumbent president and the country's largest popular leader, assuming that there were condemnable intentions in such a conversation. His assumption became "the truth," and from then on his actions were all legitimized by Brazilian elites at a high cost: people's loss of belief in politics, and the deterioration of democracy. Now, ironically, another leak, supposedly the result of an illegal practice (hacking), can rescue democracy, thanks to journalists' right to keep their sources anonymous. Freedom of the press must thus be preserved so that, even if through originally illegal means, Brazil can resume its democratic trajectory, with the rule of law, and plural spaces of communication.

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