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## **IMAGES OF THE JUDICIARY, LAW, JUSTICE AND TRUTH IN BULGARIAN PUBLIC CULTURE (1878 – 1900, 1944-1956, 1989 – 2005)**

### **NOTE**

The project results are part of future book which is 70% ready  
It will have the following structure

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#### **1 part**

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### **First Introduction and Formulation of a Hypothesis**

On 30 April 2004 the Bulgarian TV channel *Evropa* broadcasted a commentary discussion hosted by the TV journalist Chobanov and featuring the jurist Valeri Dimitrov, chairman of the parliamentary economic committee as well as the voices of *Dnevnik* journalist Petya Vladimirova and a number of viewers on the telephone. As usual, the program tackled various pressing problems of the juridical power in Bulgaria (the lack of transparency regarding its budget, the suspension of legal proceedings, the problematic ‘equality before the law’ - disproved by counterexamples where the juridical institution unscrupulously evades its duty to indict obvious perpetrators like Bokov-Junior and the like). However, our focus here will be not the details of the said TV program but the generic clash of the social roles: the conflict between the public roles (varying from the professional journalist to the citizen taking a public stance on topical problems) and the professional role of “the jurist”, defending the point of view of the legal profession and – indirectly – of the juridical power. As usual, the journalists charged and the jurist was on the defensive: the former attacked in the name of public truth, the right of citizens to information and the so-called ‘transparency’, while the jurist quoted laws, bylaws and procedures of the juridical system itself. The notion of ‘transparency’ seemed self-evident to the journalists, while from the legal perspective the public enunciation of the truth did not suffice to make it ‘transparent’ and unproblematic – it needed to be determined by legally regulated rules and procedures before being properly and timely reported by the investigation to the prosecutor’s office which, following a similar procedure, must initiate legal proceedings the court must examine in due course; only the court, if it has enough facts, evidence and testimonials, can finally determine the truth and give the sentence envisaged by the law. The clash of axioms between the two social roles was symptomatic for the current situation in Bulgaria: just a day earlier, on 29 April 2004 the daily *Sega* published a short article commencing with the rather strong statement that ‘Yesterday the High Judicial Council for the third time refused to follow the law’, meaning that the High Judicial Council did not admit the journalists Bogdana Lazarova (Darik Radio), Elena Encheva (*Sega*), Kanna Racheva (bTV) and Vassil Chobanov (radio Nova Evropa) to its supposedly – by virtue of law - public meeting. The author ironically reported that the High Judicial Council had appointed a committee to “speculate on the meaning of ‘publicity’”. Isn’t this clash between two types of ‘truths’ directly related to the axioms of certain institutional and public roles strangely reproducible and typical for the history of Bulgarian culture: despite their various historical metamorphoses?

On 31 December 1907, in issue 378 of the newspaper *Balkanska Tribuna* we read:

#### *Justice or inquisition?*

*We have often divulged the unbecoming doings of the organs entrusted with the administration of justice. We have repeatedly given a tribune to complaints against investigators, prosecutors and judges who have used the power of laws to crush their opponents.*

*Other epochs have also had their share of squabble and complaint, but in the last five years the misuse of justice – instead of becoming ever rarer with the passage of time, as people become more cultured and conscious of the consequences brought by misuse – we have witnessed just the opposite development. Day after day the Bulgarian citizen is trampled and morally and materially slaughtered by everything clad in administrative or state power. As a provincial journalist the author of these lines has personally experienced what an upstart investigator, a prosecutor and a*

*judge can do for personal revenge. The prosecutor for example has toyed with the honor of a well-known lady. The journalist reproves this debauchery which has outraged an entire city. Enraged, the prosecutor – with the help of the unscrupulous and callous investigator – uses every means to crush the journalist for performing his public duty. Using the judicial system and misusing the laws, the journalist is indicted for dozens of made-up charges. The prosecutor writes petitions to himself and orders the investigator to arrest the hated journalist who one year later leaves the province with a bail of 50 000 leva and 30-40 criminal trials he has been acquitted of. An epoch ugly and distasteful, which only Bulgaria can endure...*

*Below we have published an appeal to the prince, from which the readers of this article will get a tasting of the disgraceful doings of an investigator who uses his power to crush his adversaries.*

*(This introduction is followed by at least 10 appeals to His Royal Majesty the Prince of Bulgaria).*

*After reading through this, the indignant reader is asking himself: which place do we inhabit: constitutional Bulgaria or Patagonia?...*

*Whether the ruling coterie is right in using these laws, only the people can say – when the time is right.*

*Yurgeb*

The differences between the contemporary clashes between the jurists and journalists and the lamentation of the unknown “Yurgeb” published in *Balkanska tribuna* are clearly discernible. In the modern case the dialogue is far more refined; it is a public discussion of principles rather than concrete instances with the personal participation of the journalist in question, the charges to the juridical power are formulated in this ‘discourse of principles’ and journalism maintains a much clearer distinction between public spheres, institutions and roles. In 1907 the ‘honest journalist’ from *Balkanska tribuna* naively and moralistically fulminates against the ‘presumptuous’ juridical power, the ‘personal revenge’ and the ‘debauchery’, the ‘rage’, the ‘trampling’ and the ‘moral and material slaughtering’, populistically conflating juridical power, its institutional roles and administration, transforming ‘today’s Bulgaria’ into an unspecific monster of ‘the state’. The Balkan journalist from 1907 fails to notice even the fact that juridical power did serve some purpose as it ultimately acquitted him of the fabricated 30-40 criminal charges...

And yet, isn’t there a common trait shared by the two cases, even as they stand a century apart? Can we suppose that the Bulgarian public culture cultivates the steady conviction that the initiative and the moral credit for the manifestation of ‘truth’ belongs to the public role rather than the juridical (expert-procedural) one? Despite the temporal distance in both cases the journalist seems confident by default that he is the one performing ‘his public duty’, whereas the judges, prosecutors and investigators would hardly do so – and that this duty consists in offering to the public a ‘transparent truth’ which doesn’t need too much pondering. One more thing is obvious for this public role: for the truth in question the various juridical procedures like investigation, indictment, court hearing, etc., are somewhat superfluous and irrelevant; both public discourses even seem to hint that such juridical procedures are either a misuse of power (a malicious serving of personal interests under the guise of the law) or an effect of the inherently vicious mechanism of the juridical system – the postponement, pondering, callousness, automatism and unscrupulousness of its procedures in the face of ‘obvious truths’.

Our point here, of course, is not to take sides but to formulate a hypothesis about the public image of juridical power in one national tradition. This hypothesis is still too generalized and unspecific, but our modest objective is just to find an approximate sense of direction among the vast historical data.

### **Truth, Discursive Production of Truth, Institutions (a second theoretical introduction)**

And yet the historical investigation cannot start without a prior elucidation of my use of some basic notions like ‘truth’, ‘institution’, ‘role’ and ‘identity’ connecting this study to the framework project ‘Roles, Identities and Hybrids’.

I will start with the most troublesome notion – the concept of truth. In 20<sup>th</sup> century European philosophy the problem of truth is tackled in two ways. On one hand, it is the subject of a number of specialized logical, semantic and pragmatic theories (built by authors from different paradigms like Russell, Carnap, Strawson, Kripke, Hintikka, etc.); this huge logical and philosophical tradition is somewhat beside our point here. There is, however, a different philosophical approach, viewing truth as a cognitive behavior with a special ethical and political function in European societies. The grounding presumption of this philosophical line is that truth *transforms* – that it has the power to transform the individual and society. An good example of that is Husserl’s position in *Die Krisis des europäischen Menschentums und die Philosophie*. There he argues that the disposition for truth (for the objective, universal, reflexive and in-sightful truth of knowledge, the *episteme*, rather than the fortuitous, arbitrary, pre-reflexive and local ‘truth’ of opinions *doxal*, proves to be a normative power transforming all the other human practices: *This* (the theoretical disposition of the philosopher to the discovery of the objective truth for the Whole – my note, A.K.) *is not just a new cognitive position. The requirement that every empiricism be subjected to ideal norms, namely the norms of unconditional truth, has recently brought the sweeping change in the overall practices of human existence and respectively all cultural life; this practice must now be normalized not but the naïve empiricism of routine and tradition but by objective truth. So the ideal truth becomes an absolute value which in the course of the educational movement and through its continuous effect on the upbringing of children brings about an universally transformed practice. If we meditate further on the nature of this transformation, we will immediately grasp the inevitable: if the general idea of truth in itself becomes an universal norm for all the relative truths appearing in human life, for real and presumable situational truths, then this also affects all traditional norms, the norms of law, of beauty, of expedience, of the predominant individual values, of the values of personal character, etc.*<sup>1</sup>

The conviction that truth is one of the powerful motors of the ethic, political and ultimately historical transformation of the individual and society is shared by

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<sup>1</sup> Das ist aber nicht nur eine neue Erkenntnishaltung. Vermöge der Forderung, die gesamte Empirie idealen Normen, nämlich denen der unbedingten Wahrheit zu unterwerfen, ergibt sich daraus alsbald eine weitgreifende Wandlung der gesamten Praxis des menschlichen Daseins, also des ganzen Kulturlebens; sie soll sich nicht mehr von der naiven Alltagsempirie und Tradition sondern von der objektiven Wahrheit normieren lassen. So wird ideale Wahrheit zu einem absoluten Wert, der in der Bildungsbewegung und in der ständigen Auswirkung in der Kindererziehung eine universal gewandelte Praxis mit sich führt. Überlegen wir etwas näher die Art dieser Umwandlung, so verstehen wir sofort das Unvermeidliche: Wird die allgemeine Idee der Wahrheit an sich zur universalen Norm aller im menschlichen Leben auftretenden relativen Wahrheiten, der wirklichen und vermutlichen Situationswahrheiten, so betrifft das auch alle traditionellen Normen die des Rechts, der Schönheit, der Zweckmässigkeit, der herrschenden Personenwerte, Werte von personalen Charakteren etc.

many, but the courses taken by the philosophical and cultural-historical analyses from the middle of the 20<sup>th</sup> century diverge from here.

Husserl's student Jan Patočka interprets truth not only as a cognitive practice ensuing from the philosophical *thaumazein* but also as a kind of personal, everyday asceticism practiced by the individual – from this perspective truth is closer to the Platonic *care of the soul*. *This care of the soul*, writes Patočka, *means that truth is not given to us once and for all, nor is it a matter of mere scrutiny and consideration (i.e. it is not a matter of a cognitive attitude only – my note, A.K.), but an investigation engaging us all our lives, a self-controlling, self-uniting life practice*. According to Patočka, this self-controlling and uniting life practice has a powerful historical trail of effects and transformations, it is *an European heritage, identical in all its metamorphoses* – it creates the Greek polis as *the spirit of unity of argument*, fighting in the name of a truth greater than the contestants: that's why truth is the fusion of politics and philosophy in the life of the polis. Truth, according to Patočka, created the Roman Empire as well which tried to transform the *care of the soul* into just pedagogical and juridical institutions (*in the Roman Empire the care of the soul takes the form of an effort at legal relations in the sphere of the whole universe...*). Later, with the spread of Christianity, Patočka postulates the appearance of an European community whose unity is based on an attempt to live directly in truth – this time interpreted as transcendental rather than belonging to this world. Thus, according to the Husserl-Patočka tradition, from Ancient Greece by way of Rome to the European Middle Ages *life in truth/ care of the soul* was the force generating ascetic rules for personal behavior, for polemic public and sovereign spaces, empires, educational, juridical and clerical institutions – and ultimately for Europe as an integral civilisational model. *The care of the soul has created Europe* – writes the Czech philosopher – *and this can be claimed without any exaggeration*.

This was the background for the appearance in the 1970s and 1980s of another powerful philosophical thematization of truth: the philosophical oeuvre of Michel Foucault. In the introduction to the first volume of his *History of Sexuality (The Will to Knowledge, 1976)* Foucault gives this formulation of the focus of his philosophical interests: *sexuality here is merely an example of the general problem I have pursued and been pursued by for more than fifteen years. This is the problem informing almost all of my books: how is in Western society the production of discourses charged with the value of truth related to mechanisms and institutions of power?*

Foucault inherited and transformed the Nietzschean concept of truth<sup>2</sup>, relating it to notions like discourse, discursive practice, power, institutions, institutional production

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<sup>2</sup> In Nietzsche truth is *Wahrheitstrieb* – i.e. it has the status of one drive among many. This drive does not have any qualitative or hierarchical differentiation from physicality and its other drives, it is not interpreted as a *differentia specifica* of the “paragon of nature”, or Man. On the contrary, Nietzsche's early texts (*Über Wahrheit und Lüge im aussermoralischen Sinn*) interpret it as simply inferrable from the highest form of mimicry of the intellect. The drive to truth is born by the overmastering desire of the weak man clashing with a world created in a non-anthropomorphic measure and proving to be unbearably fortuitous, movable, unsettled, non-human, multiple, unintegral, aimlessly becoming, meaningless and large. In this world anxious questions like *What is the point? Why, what is the last reason? What is the integrity, the order?* – cannot receive an answer. The irresistibility of the longing for safety, security and stability gives birth to what Nietzsche calls „the illusion of the human perspective“ – the frighteningly movable, large and meaningless world-becoming without any hard and fixed identities is transformed beyond recognition. The desire of the weak, supported by the consensus omnium of the collective body, fixes /Festmachung/ the continuous flow of becoming (Werden) into being (Sein), which in its turn is articulated in hard, ontologized essences (objectivities, identities, things). Yet Nietzsche's articulation has a reverse origin – it's not the words and notions that

of discourses. Foucault's speculations are related not only to the general theoretical argument about the transforming nature of truth but also to very concrete studies of how this 'truth-production' has affected specific historical, social and institutional contexts like the emergence of the modern hospital, prison, police and army service.

Power (Foucault always means the micro-powers of various institutions) and knowledge (again in the plural, designating the specific, different knowledges of various disciplines) are inseparable, the two sides of one and the same coin – they are knowledge/power. *It must be accepted that power produces knowledge (instead of merely requiring, applying and using it; that power and knowledge are immediately included into one another; that there are no relations of power which do not simultaneously constitute a field of knowledge, and there is no knowledge which does not premise and constitute knowledge relations.* From a Foucauldian point of view 'truth' is precisely this socially valid knowledge which is also a social force: it is used by society and the institutions (the prison, the court, the clinic, the school, the madhouse, the army, the administrative authorities, the state as a superinstitution, etc.) labels, disciplines and 'allocates' the individual into standardized behaviors and standardized relations with other individuals, groups and institutions. 'Truth' is what the institutions 'adjudge' and 'adjudicate', i.e. impose on the individual – the objective-normalizing, external knowledge of subjects as objects (citizens, statistical entities, creatures classifiable by their sex and age, sick, suable, conscribable, undergoing education, etc.). It interns them into their allocated social slots, simultaneously 'disciplining' them to the measure of those slots, produces and moulds them according to its models. This is exactly what power and social efficacy are based upon: truths are produced by the institutions in the form of discursive practices (truth statements), which are not only inseparably intertwined but often normatively related to other, non-discursive<sup>3</sup> practices. This is why, although truth statements are by far not the only form of discourse, according to Foucault they take a special place in the constellation of all semiotic practices. As a bridge between the discursive and the non-discursive they are the very epicenter of the universe of various discourses. It is precisely through the modern sciences, producing alienated, objective and neutral 'truths', that the human being emerges as objectified, muted, rationalized, described and classified. Foucault calls this process 'normalization' – a process where the human individual becomes fit for manipulation by the institutions which impose on him a certain 'hard' identity so they can inscribe him in their registers of knowledge, analytical rasters, normative prescriptions and regulated sanctions. Yet control, discipline and sanction do not represent the whole picture. According to Foucault, the individual who has been brought under a certain institutional truth is not just an object of control, discipline and repression but also an active, interiorizing agent: under the social pressure of authoritative institutions he

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correspond to the truth of already articulated and determined things, but vice versa – things and identities are cut to the measure of language; their boundaries and stability are guaranteed by the very words and notions, instruments of the weak, in order to stop the unarticulated and frightening flow of becoming; by language which is their social contract for the symbolic fixation of the world. Thus the drive to truth appears inscribed in a biological revolutionary order – it is not a quality of 'pure reason', but is even inferior to the mighty instincts of life – power, love, imposition, creation – the drive to truth is the drive of the weak and an adoration of the instincts of the community which serve to ensure its survival.

<sup>3</sup> i.e. disciplining, molding and surveillance of the bodies, or the establishment of institutional standards, setting the form, rhythm and placement of work operations, regulating professional interactions, etc.)

interiorizes the truth of knowledge/power and only thus constructs himself as a mature, socially acknowledged being with a clear private identity (commensurate with the 'normal' one imposed-imputed-acknowledged from without). Thus the knowledge/power turns out to be a productive as well as repressive instance: simultaneously a social compulsion and an ostentatiously internal, creative impulse of the individual<sup>4</sup>: In short, it is a constitutive pressure, simultaneously external and internal, on the human being to match what is claimed about it, to accept as its own identity what is imposed by the knowledge/power, to reproduce this truth-power as its own truth.

This is precisely the reason why Foucault accentuated the discourse of truth. It is the force which classifies, describes and normalizes the non-verbal practices – simultaneously disciplining and constituting 'from within and without' the agents of these practices. This makes it a normative principle exerting a pressure on all the other discursive practices in the West, - a peculiar 'political economy of the discourse', governing it as an *ensemble of regulated techniques for the production, legitimation, circulation and methods of influencing the utterances*.

As we can see, Foucault shares Husserl's idea that truth effectively influences society. And yet their value perspective differs so radically that we can hardly place the two of them in an integrated tradition. The 'transformation' in Husserl was purportedly positive – as part of the big rationalization and 'Europeization' of the world. For Foucault truth is at the very least an ambivalent discursive process: it is a constitutive part of the institutionally disciplinary procedures, simultaneously a constitutive and repressive agent of the categorization, typization and homogenization of differences. It is also inducing – in Foucault as well as Husserl the discourse of truth exerts a normative pressure on all other discourses. But this is the pressure of power, with all the ambiguity of the notion of 'power' for Foucault.

Let me make an attempt to draw these philosophical positions nearer to my concrete topic, which is related to the cultural history of the images of juridical power in Bulgarian public space. This can happen only by successive steps to make these general philosophical categories methodically operational.

One way of doing that could be by relating the notion of knowledge/power to the theory of institutions and institutional roles – something Foucault seems to do only partially. On the other hand, we have to ask ourselves whether truth – as part of the practice of 'caring for the soul'<sup>5</sup> can be in any way related to the institutional production of truth-knowledge-power, disciplining and normalizing the identities. To make matters even more complex, we have to make a third operationalizing step, related to the specific topic of the present inquiry – to a more specific examination of the juridical institution, its way of producing truths and its relationship to the roles and identities of the individual.

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<sup>4</sup> This impulse, besides everything else, urges the human being to make continuous confessions, to speak 'truthfully' of itself in personal conversations, testimonies or psychoanalytical sessions, to interiorize the classifying discourses. A typical example here are the testimonies given at court, where the witness is forced by the institution to pledge that he will say 'the truth, the entire truth and nothing but the truth'.

<sup>5</sup> The latter, by the way, is not explored by the phenomenological tradition only. In the late period of his work Foucault also turned to the art of self-creation, following the ancient Greek principle of care of the soul' – something he calls 'technologies of the Self'

## **‘Outward’ and ‘Inward’ Functions of the Institution: Identities and Roles**

Examining the microphysics of power, Foucault has paid more attention to the function of modern institutions-organizations as a knowledge-power applied outwardly – i.e. to the free-floating extra-institutional individuals who must be defined, fixed, disciplined and normalized so they can be governed by the institution. In order to perform this function, however, many institutions are necessarily transformed into administrative or professional organizations comprising many individuals into their own ranks. The individuals in question are not just the object of normalizing influence, the human material processed by the institution, but also employees with specific functions, agents of the institution itself. As a consequence, at least ostentatiously the institution must define their roles rather than their identities: it must set models for professional/routine behavior, conventional interactions and role expectations; sometimes even codifying all that into written regulations and instructions. The institution is even capable of presetting a compulsory outlook through its classificational-cognitive patterns, founded in base assumptions about the world and the human kind (Mary Douglas). I.e. what individuals represent within the institution is normatively fixed in a more straightforward manner – not through any ‘objective thoughts’ used by the institution to classify/discipline the population without, as through direct normative prescriptions - or as they are routinely called, job descriptions<sup>6</sup>. To put it otherwise, the employees not simply “*are*” (i.e. they don’t just have a certain ‘normal and objective’ identity), but they ‘fill in a post’, perform certain duties. The Bulgarian word for ‘post’ (“*dluzhnost*”), appropriated as a borrowing from Russian, is openly derived from the normative principle of duty. The distinction between normalized identities and normative roles is most visible in the difference between the figures of the doctor and the patient: while the patient is presented by the knowledge-power as ‘objectively sick’, he *is* a patient, the doctor cannot have any ‘objective’ medical quality: the identity of the former seems ontologically given, whereas the role of the latter is a direct consequence from his qualification and the observance/non-observance of certain institutional standards and obligations. To become an authorized employee of the medical industry, the doctor must have met certain educational and professional standards] if he hasn’t followed these **normative** prescriptions<sup>7</sup>, he wouldn’t be authorized to practice his role (his post, his profession). Therefore within the organization phrases like ‘discipline’, ‘normal functioning’ and ‘standards’ are not Foucauldian metaphors but quite literally formulated norms, fixed professional hierarchies, technological procedures, codified standards, circumscribed roles. This means that within the institution-organization the production of ‘truth’ in the sense of normalizing identity-imposing techniques is comparatively marginal as it has been displaced by direct obligatory prescriptions (institutional norms and codifications, job descriptions.)

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<sup>6</sup> It is worth noting here how even in this case the normative is represented as descriptive – i.e. as normal and normalized in Foucault’s sense of the word. The descriptions in question are of course prescriptions – but even in this obvious case the norm prefers disguising itself as a statement of fact. The rhetoric of the organization would phrase ‘this is how things must be’ as ‘this is how things are’, ‘this is how you must behave’ as ‘this is the normal behavior of the employee’. I.e. the pressure of the ‘discourse of truth’ is palpable even where it is completely unnecessary.

<sup>7</sup> Of course, behind the institutional codes there always are the unwritten laws of the organization, its ‘common law’, so to say – the established customs and the shared mutual expectations, the professional etiquette, as well as the ability of the organization to produce security, a shared sense of purpose and a feeling for personal satisfaction, a shared attitude to the ‘outer world’, etc.

### **A Model of Possible Combinations between Institutions, Roles and Identities**

The above speculations imply that in the ideal case within its own organizational system the institution/organization should only be concerned whether the employee performs his duties within working hours – in the remaining time he is seemingly free to be whatever he wants; the job description ostentatiously concerns only his professional role rather than his personal, extra-institutional identity. There are, however, so many deviations from this ideal norm that even an abstract model of the relationships between institution, roles and thought-production must take them into account. The register of possible combinations between the roles, identities and behavioral strategies prescribed to the individual by the organization must be presented not as a one-dimensional linear axis but a two-dimensional co-ordinate system<sup>8</sup>.

1. The x-axis of this co-ordinate system describes the variables of the relationship between the individual and the roles. One of its extremes is the full concurrence between the identity and the role, the ultimate conceivable case where the individual has fully internalized the institutional role. If identity was nothing more than a repertory of roles, this particular repertory would consist of a single item – ‘the man-cover’ in Chekhov’s phrasing is fully concurrent with his professional role: he ‘is’ [solely] a clerk, a judge, a policeman. Even after working hours, in his ‘unregulated’ life he has fully identified with his role and profession, the ‘ethos’ of this profession fatally transfixes him.<sup>9</sup> If the person experiences himself as, say, a judge, then the

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<sup>9</sup> It is well known that the hermeneutic tradition of the concept of *Bildung* describes in exactly the same way the formative educational process which creates both professional competence and personal identity. Gadamer comments on Hegel’s argument according to which *Bildung* is a way of overcoming the original rupture from the natural and the immediate, the way up to the universal. This way goes through the as-similation of the alien: the reconciliation of the historical spirit with itself as it recognizes itself in the Other; removes its otherness and makes it an aspect of its own identity. This process of raising the mind to universality includes an important moment – the choice and learning of a profession by the individual undergoing education. In the profession a person works, obeys the essence and meaning of the discipline which is the subject of his activity – and with that bridges over immediacy, removing the Otherness of the subject in itself, as-similating the profession in its entirety – including those aspects which initially seem totally alien (i.e. identifying himself in its otherness – therefore the profession is the destiny of the person who has risen to universality). Assimilating the alien, he learns (is educated to) value and presume its validity, its point of view which contains other points of view, overcomes the limitations of his subjectivity. Thus the alienation from the self proves to be the road to the essential, universal Self. At one point the development has lagged behind, leading to a state of harmonious maturity (here Gadamer actualizes an old meaning of *Blildung* as a constitution of the body, the harmony of its members), where the **educated** has transformed the alien, the subject-matter, the mechanical *eruditio* into a feeling, a flair and tactfulness, into learnedness and a peculiar internal cultivation of memory and discernment. Gadamer, Hans-Georg, *Wahrheit und Methode*, J.C.B.Mohr (Paul Siebeck), Tübingen, 1990, s. 15 - 24. Of course, in Gadamer (and even more in Hegel) the empirical character of the institutions supplying the education in question is fully ignored: the institutional and organizational details are not acknowledged because the abstract philosophical terminology of the Same and the Other allows one to soar high above the actual functioning of the professional training organizations. Thus the hermeneutic rhetoric judges irrelevant everything which disciplining, sanctioning and homogenizing about them. Therefore the hermeneutic point of view, taking for granted and inviolable the original personal identity, overlooks the possibility Foucault finds so frightening – the likelihood that the Other (the profession, the institution, the role, the imposed identity) might fully substitute, replace, discipline the Same.

conscientious execution ('conscientious execution', what a typical coupling of moral and institutional categories!) of his professional tasks would simultaneously serve as a care for the ('judiciary') soul, his 'job description' would give him the feeling of successfully knowing himself. Here the role fully subordinates the identity; the care of the soul coincides with the performance of professional tasks. Perhaps the most typical example of that are the employees of Japanese companies who develop a special kind of feudal loyalty to the company and become personally and biographically related to it.

The opposite pole of the x-axis is the [also ideal] case where personal identity fully subordinates and incorporates the role. The norm of the latter have no independent validity – the role is not played according to the normative prescriptions of the institution but is **used** in the name of personal principles in order to meet individual interests and requirements, to fulfil personal wishes. It is ostensibly cut to concrete qualities and characteristics of the individual; it is used not according to the 'job description' but in 'care' for the person who uses it for his own purposes. For the ultimate abstract case here it is irrelevant whether these purposes are moral or immoral; whether the role is used for the 'platonic care of the soul' or misused for personal benefit. What matters here is that the role is entirely a function of the reflexive attitude of the person to himself. What determines the performance/non-performance of professional 'duties' is this personal moment when one 'takes care of himself', looks into the truth about himself, into his biography, asks whether he is 'true to himself', whether his interests and desires have been satisfied. It is this personal self-searching, rather than the official job descriptions, which determines the extent and manner in which the role is performed (if at all). Indeed, the latter case – when the role is not performed due to specific character of the identity – is the clearest. There are countless examples where certain individuals refuse to perform the duties of a certain institutional role because it contradicts their 'inner convictions' (i.e. the constitutive moral self-attitude which constructs us as self-identical individuals) – from soldiers refusing to kill out of religious or moral scruples to Adventists unwilling to follow the institutional prescription of working on Saturday or Jehovah's Witnesses whose religious identity does not allow them to play the role of 'patients in need of blood transfusion'. The history of the Bulgarian judicial system knows such cases – when in 1878 the Rousse governor-general dismissed the young Stoyan Mikhailovsky from his post for '*unwillingness to take the oath in its established form*' (Mikhailovsky's principles did not permit him to take the oath in the name of the Russian Emperor as required by the provisional Russian judicial rules)<sup>10</sup>. What's more interesting for the historical analysis, however, is how the real personal or group [cultural] identities use the role for their own purposes, while still partially performing it – how real people with their own biography and identity learn to adapt or familiarize certain professional duties or institutional roles, adjusting them to their image of themselves or their culture. In fact this case will be the focus of the whole historical analysis below.

2. The y-axis of our co-ordinate system describes the possible attitudes of the institution to the fact that its agents are divided between their roles and identities. I.e. in this case the institution plays the role of the 'Abstract Other' requiring or not requiring identity as a necessary condition for 'playing' a certain role; acknowledging

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<sup>10</sup> See Inna Peleva, *Judges*, in her book *Места от концепта*, Literaturen Vestnik: Sofia, 2000, p. 135

or not acknowledging the right of the individuals of a certain identity to take up a specific role.

One of the poles here is when a certain type of identity is an obligatory requirement of the institution before it allows the individual to take up a certain institutional role<sup>11</sup>. For example, in the first years after the Liberation jurors were only chosen among Christian Bulgarian men; other national, religious and gender identities were not admitted to this post; several years later this discrimination was removed and in 1897 jurors could be chosen among all nationalities on the territory of the Bulgarian Principality. It might seem that in the logic of modernization, globalizing markets and political correctness this is a tendency towards the gradual abandoning of identity requirements in favor of a free market access of everyone meeting the conditions, i.e. having the necessary qualifications, to the professional role. yet this is only ostensibly so. In fact for the politics of modern management and human resources certain characteristics of the candidate are a necessary condition for taking up some professional roles: good learning abilities, communicative skills, tractability and a certain degree of conformity (for some positions there are other requirements – ‘creativity’, ‘leadership abilities’, etc.). These requirements are usually formulated to mimic the role requirements for professional competences and qualifications but are in fact related to the ‘character’, ‘biography’ and ‘interpersonal relationships’ of the candidate – i.e. they refer to his ‘extra-professional identity rather than his education and professional training.

4. The opposite pole of the y-axis was already mentioned – when the institution assumes that any individual, of any identity, can take up the role: such is the case e.g. of seasonal unqualified jobs where qualification is irrelevant, just as gender, religious or ethnic identity, ‘communicative skills’, ‘learning abilities’, etc.

From the point of view of our analysis it is important to notice that the complex distinction we introduced with this register are not only a ‘sharper’ discerning instrument of the future analysis but also an opportunity to see that ‘truth’ is involved in both the function and the organization of the institution and in the distribution and usage of roles within them. Within the internal limits of the organization it is manifested not so much as the normalizing truth of ‘knowledge-power’, but as a ‘technology of the Self’, i.e. a reflexive truth of the biographical identity. The way the individual relates to himself exerts a powerful influence in the performance of the codified or non-codified roles he assumes: so powerful, that sometimes the organization itself is forced to take it into account and include it into the description of the roles. The truth of identities is capable of hybridizing the formal structure of the roles and role expectations, allegorizing their institutional meaning, assimilating it and using it for its own purposes. This is important because it can give the individual a sense of ‘self-attainment’, a realization of his own identity through the profession and the professional duties (this is particularly important in professionals with any sort of disinterested mission like teachers, priests, judges, etc.)

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<sup>11</sup> The extreme case here is the merging of role and identity characteristic of pre-modern societies: the role of the monarch can only be played by a person of a certain ‘royal blood’, i.e. with an identity interpreted in a feudal, essentialistically-biological way.

## **Law and Culture**

Here we must make a short detour to a comparatively recent trend in cultural studies, dedicated to the relationship between law, jurisprudence and culture. It looks into the interaction between culture and law, with the forms of cultural life of the law, with their material and communicative vehicles, etc. Ostin Sarat and Thomas Kearns, authors of an influential study in this area, write the following:

*Treating law as cultural reality means looking at the material structures of law, to see it in play and at play, as sign and symbols, fantasies and phantasm... focusing on the production, interpretation, consumption and circulations of legal meaning suggest that law is inseparable from interests, goals and understandings that deeply shape and compromise social life*<sup>12</sup> pp'6

The focus of the new cultural studies falls on the peculiar dialectics between the two variables of the equation – law and culture. Almost all authors share the idea that besides producing forms of cultural signification, law (like other sub-spheres of social life like religion, art, sport, etc.) also produces norms regulating cultural production as a whole. However, they are usually quick to point out that the reverse process is also taking place: law functions in the context and the channels of what it tries to regulate; it is formulated, applied and ‘employed’ in all sorts of ways in a much broader, unregulated and fluid cultural framework. That is, culture simultaneously makes law possible, feels its influence and continuously exerts a secondary influence on it – changing it, adapting it to itself, transforming it into a public event or, on the contrary, makes it more intimate and inscribes it in the life of groups and individuals. Therefore there are no universal legislations and judicial system: according to one of the interesting cultural theoreticians, Rosemary Coombe<sup>13</sup>, the concepts and norms of the law contain a measure of inevitable fortuity, an inevitable inscription into contextually specific ideological and social processes: the establishment of the laws is always in covert complicity with certain political projects which must lay the asymmetries between the civilized man and the savage, between the rich and the poor, between races, genders, etc.

This contextual inscription of law has prompted cultural analysts to claim that the true power of law does not lie in its direct and sanctioning binding force. Writes Robert Gordon: *The power exerted by a legal regime “consists less in the force that it can bring to bear the against violators of its rules than in it capacity to persuade people that the world described in its images and categories is the only attainable world in which a sane person would want to live”*<sup>14</sup> The already quoted Sarat and Kearns add that *From that perspective of law’s cultural lives, law operates largely by influence modes of thought than in determining conduct in any specific case*<sup>15</sup>.

The subject matter of studies of law and culture is rather vast: they look into the legal dimensions of cultural production, studying the way in which agents of culture interiorize law or the image of ‘the social contract’ in the public imagination, etc. Another branch of cultural studies focuses on the construction of the ‘subjects of law’, the role of the state in this process as it tries to set down the boundaries of ‘the

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<sup>12</sup> Sarat, Austin and Thomas Kearns “The Cultural Lives of Law”, In Sarat, Austin and Thomas Kearns *Law in the Domains of Culture*, Michigan, University of Michigan Press, 1998, 2000, p. 6

<sup>13</sup> “Contingent Articulations: Critical Cultural; Study of Law” in pp 21- 64 –

<sup>14</sup> Gordon, Robert “Critical Legal Histories” *Stanford Law Review*, 36. (1984), 108

<sup>15</sup> Sarat, Austin, idem, p'7

judiciary’ – and why these boundaries always fail, provoked by the fluid cultural significations. Many scholars are interested in the problematic character of these boundaries. Some researchers analyze the way in which the state uses the law to pass and support cultural identities – e.g. the institutions of authorship, copyright, the work of art and the respective ideas of creativity, genius, classic, etc. (Martha Woodmansee). Others are not as interested in the state territorialization of cultural identities through the law as in the way the boundaries of central legal categories are questioned by forms and norms of popular culture. A central problem of this new branch of cultural studies can be formulated like that: how are the formalized codifications of law related to the possible existence of different or alternative notions of truth, justice or sentence – notions created in other, non-legal contexts? These notions might be in conflict with the legal concept of justice – but they could also interpret themselves as some kind of mass-media supplement alleviating the unsatisfactory formalism of the law. According to some studies, a similar figure of ‘cultural’ or ‘alternative’ justice is the ‘avenger’ in various popular films which, without explicitly denouncing sentence, law and justice, meet the unsatisfied archaic mass expectation of revenge as a peculiar form of justice.

Many American studies are dedicated to a problem specific for the United States: the poetics of mass films about courts, proceedings, prosecutions and defenses – i.e. they study the popular genre of the ‘legal thriller’. Some of these researchers have concluded that not only the mass film production continuously stages the legal proceedings, but the reverse is also true – the film can acquire a certain ‘procedural narrative structure’. To quote Carol Clover’s phrasing, “the court and the process are fantastic generators of the form of Anglo-American popular narratives”.

One of the central problems of cultural studies is the complex relationship between the media and the court. One among many examples here is the medialization of the court proceedings: the court perceives itself as visible, as if taking place on a world stage<sup>16</sup>: the jurist absorbs populist media rhetorical devices into his speeches, reproducing popular narratives, working with mass values. The opposite, however, is also possible: court decisions might be capable of setting in motion serious public and media debates, changing the usual ‘legal disposition’ of a mass audience. Another example of the relationship between the media and the legal institution which is often studied by the new ‘kultur-jurists’ is the relationship between the law and legal narratives (in testimonies, indictment or defense speeches, etc.) and the poetics of mass culture: all in all, law turns out to be constantly intertwined with popular narratives it is not fully capable of controlling.

A shared principle of cultural studies of the law is that the cultural life of the law is not and cannot be peaceful and non-conflicting: this life is always a realm of tensions, clashes and renegotiations of norms and meanings – and therefore it can only be studied concretely and in context. The court exists in the context of culture – yet it is always local and concrete, divided into social and group layers, torn by the tensions between the elite and the popular cultures, between individual ethnic and religious cultures, between debating positions, etc.

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The present analysis shares the basic common principles of the «Law and Culture» school of thought. It is also informed by the conviction that law always functions in a

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<sup>16</sup> – the example of the judge who said that the sentence he passed (forbidding Darwin’s theory in American schools in 1925) in the so-called Scopes Trial (studied by Marjory Garber

cultural and social context, that it is, on one hand, capable of producing significations and norms for the whole cultural production, while, on the other hand, in the coining of its norms and their application it is continuously influenced by cultural production outside the sphere of jurisprudence. I see as particularly productive the line of study focusing on the relationship between law and the media, on the role of social imagination for the construction of ‘public juridical consciousness’ and ‘the images of the court’ as well as the potential conflict between ‘juridical justice’ and ‘cultural justice’.

On the other hand I hope it is clear why the instrumentarium of the project ‘*Roles, Identities and Hybrids*’, working with notions like ‘truth’ (production and circulation of truth statements), roles and identities, is more precise and appropriate than the rather vague and all-inclusive notion of ‘culture’ used by the abovementioned brand of cultural studies<sup>17</sup>. The concepts preferred here give a much greater opportunity for microanalysis, like the circulation of cultural forms ‘within’ a specific procedurally regulated cultural field (an institution-organization) and its rather specific interaction with the greater public and cultural world ‘without’. The distinction between institutional roles and biographical identities permits the study in greater detail – based on concrete cases, on examples involving the social agents and their concrete behavior in a certain cultural field, not just on anonymous ‘systems of representation’- potential conflicts, tensions, contaminations and hybridizations of the cultural forms. In other words, a greater degree of discernment and, respectively, concreteness of the analysis. Now it can juxtapose and oppose different cultural models and their concrete applications in a more articulated and concrete cultural context. By the way, this lays a bridge between the general notion of ‘culture’<sup>18</sup> and such reified cultural forms like institutions<sup>19</sup> with their established power, organizational and communicative structures, as well as the opportunity to relate the theory of institutions simultaneously to, on one hand, media and publicity theory, and to personal identities and biographical narratives on the other.

### **The Judicial System: Preliminary Considerations**

We can expect that within the judiciary institution there will be a mutual influence between the nature of the institution (and the judiciary roles it envisages) and the specificity of the truth it produces. The judiciary ‘production of truth’ and the functioning of the judiciary roles and identities are probably involved in rather characteristic interactions which deserve some further preliminary distinctions.

### **The Distribution of Judiciary Labor: The Roles in the Production of Truth**

The specific judiciary roles (prosecutors, witnesses, attorneys, defendants, judges, etc.) have different obligations in respect to truth. Prosecutors are obligated to

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<sup>17</sup> In the American cultural studies the latter is rather easily identified with two things: the analysis of power asymmetries and their representations – the images of certain genders, classes, ethnicities and cultures, relationships of the type inclusion/exclusion, repressed/ repressors, admission/non-admission, centre/periphery, etc., or with popular culture, which is in turn associated with phenomena like blockbusters, soap operas, television series, etc. )

<sup>18</sup> Related to its abovementioned tendency of getting reduced to popular culture and the systems of representation..

<sup>19</sup> As we know, institutions are currently rather unfashionable for cultural analysts who prefer leaving them to the ‘boring and conservative’ sociology. This leads to the separation of discursive practices (representations) from the non-discursive ones, as well as the disengagement of social production from its institutional and disciplinary frameworks – something Foucault would strongly oppose.

‘sincerely’ uphold the charges – i.e. only when they believe they are based on fact. The defense is partially relieved of this obligation: its job is to defend the interests of the defendant rather than truth. Unlike prosecutors and attorneys, the relationship of witnesses to truth has no performative aspect; their truths are pure statements: witnesses don’t have to charge or defend but only to say ‘the truth, the whole truth and nothing but the truth’. The defendant, on the other hand, is legally permitted to hide the truth and even lie to the court; even though this is condemned by the intuitive moral feeling, it is not persecuted by the court. The audience in the courtroom has the right to hear everything, including the sentence, but cannot comment upon or criticize the truthfulness of the charges or the fairness of the sentence.

### **The Formalized Structure of Truth-Production.**

As we demonstrated above, judiciary truth is complexly produced by many people with specific roles and distribution of labor according to a certain procedure. In this hierarchy and procedure only the last **authorized role** – that of the judge (and the analogous collective roles of plenary courts, jurors, etc.) is authorized to pronounce the final truth: the truth attained by the court as it becomes an integral part of the sentence (usually introduced by formulas such as ‘the court has found that...’ or ‘for want of sufficient proof...’). The different kinds of truth of all other roles in the judiciary hierarchy are auxiliary and subordinate to the final truth-sentence that must be ‘implemented’. The falsifying (disproof, refutation) of a charge or a sentence also follows an established procedure – defense speeches, appeals, deadlines, instances, cassations and a final judgment.

### **The Contingent, Integrated and Subordinate Character of Judiciary Truth**

The above observations demonstrate that truth statements are only a non-autonomous element in the actions of the court. As an institution the court does not exist solely for the purpose of producing truths – unlike science for example. In court proceedings truth is not established for its own sake but as inseparably integrated in the function of the court to bring justice and take preventive measures against crime through the system of punishment. Unlike other types of institutionally produced ‘knowledge-power’, judiciary truth never ends with its statement (the establishment of an exact correspondence between truth statements and factual situations). In court, the establishment of the truth is just a stage that must lead to the passing of a fair and lawful sentence. That is, truth exists in a specific judiciary constellation of practices governed by a triple correspondence: not just the establishment of congruence between words and facts but also the matching of the criminal act with the sentence envisaged by the law and finally the correspondence between the sentence passed and its execution. However, the second kind of correspondence retroactively means that the court can only establish a certain type of truths – it can describe correctly and judge fairly only the facts law has already classified, provided for, pigeonholed. Truths that don’t fall within the paragraphs of the law or don’t lead to the clarification of amenable deeds are irrelevant for the court and it makes no effort at establishing them (witnesses are often urged to ‘avoid digressing’ into ‘unnecessary’ detail but speak ‘to the point’, although they could be saying ‘the whole truth’).

### **The Specific Character of Judiciary Roles**

Just as any other institution, the judiciary one provides for two basic types of roles – ‘internal’ (those employed by the institution: judges, jurors, prosecutors, investigators, attorneys) and ‘external’: individuals falling under the jurisdiction of

the institution – plaintiff and defendant, witness, etc. The latter are not obliged to know the codifications of the law (yet this does not free them from guilt – ignorance of the law is no excuse), neither the internal rules of the court, but they are still governed by them. As a result of their institutional incompetence they are often represented by judiciary roles (counsel for the defense, attorney) cognizant of the laws and the court regulations.

The roles of the plaintiff and the defendant are closely related to the motives underlying the deed – i.e. to the biographical record, the biographical narratives and ultimately to the identity of the specific individual cast in that role. The connection with personal identity is reinforced by the fact that courts pass sentences related to the property, citizenship, guilt and innocence, life and death of the person – all of them social phenomena closely related to the formation of personal identity. Therefore the individual in the position of plaintiff or defendant is seen in this role by the institution of the court, but he still sees himself as an integral person with an integral life, as a biographical trajectory preceding and succeeding the roles of ‘plaintiff’, ‘defendant’, etc. In other words, those temporarily cast in the position of ‘external roles’ are inevitably involved as persons transcending those roles, as lasting identities. From the outside this could seem an inevitable formalism necessarily caused by the judicial institution – a set of internal formal institutional roles – prosecutor, judge, attorney and jurors – involved in the production of truth and justice for ‘real people’, for whole personal identities, thus determining their future biographical routes. Which necessarily leads to a discrepancy between the ‘truth and justice’ of the law and the unique truth and notion of justice of the individual person.

The above statement, however, can only have an auxiliary, ideally-typical character. In fact the roles of court officials are rather peculiar: there is a widespread and age-old intuition that the administrators of truth and justice must themselves be wise, just and truthful. I.e. there is a presumption that besides perfect professional knowledge of the law these roles require specific personal qualities: wisdom, analytical thinking, ‘truthfulness’ (in the Nietzschean sense of *Wahrhaftigkeit*), an inborn moral criterion but also a sense of responsibility, disinterestedness, steadfastness, etc. These prerequisite personal and biographical qualities are often guaranteed by the law through special measures for the protection of judiciary roles. The role of the judge is usually well paid and sometimes permanent, which allows the individual to have a long-standing, biographical casting in this highly prestigious role. I.e. the individual can not only ‘sojourn’ in this permanent and prestigious role but also identify with it, invest it with its life-long existential project. And the role itself is construed to ‘meet’ this possible identification. It is not accidental that the appointments to this position often require the taking of special judicial oaths: thus the role is invested with an additional moral (and sometimes religious) binding norm which prescribes the processes of identification and requires the investment of personal energy. Through the oath the individual seems to sign a ceremonial sacred contract to ‘be worthy of’ his position: he binds his *Superego* with the role. This often leads to a paradox related to the nature of the judicial role. Just as everybody else, the judge is capable of going through a conflict between his personal notion of truth and justice and those prescribed by the law: his role, however, requires him to make his choice in a very explicit manner. Paradoxically, if he is a good judge, he must sacrifice his personal notion of fairness and judge by the law – on one hand, because this is required by his role, on the other – because as a person he already strongly identifies with the Law and his own role in it. It is so definitive that the episodic personal feeling related to

the concrete instance must necessarily and consciously be sacrificed in the name of the systematic judicial duty.

Another judiciary role requires a different specific contamination of judiciary roles/procedures with extra-judiciary identities. I am referring to the jurors (only included in some juridical traditions). They represent a peculiar ‘importation’ of extra-institutional (whether personal or common-law) notion of truth and justice within the court. The judiciary institution expects (and that is a role expectation) that the intuitive, informal and non-institutional notion of truth and justice of the jurors will be in voluntary and productive cooperation with the formal codifications, roles and procedures of the law, thus counterbalancing its formalism. In other words, in the definition of truth and justice the modern judiciary institution ‘transcends itself’; it is never solely responsible for the establishment of truth/justice but includes external agents as well. I.e. it presupposes the productive cooperation of external, biographical people, representatives of the national sovereignty and the notion ‘of the Sovereign’ of truth and justice. In their turn these external and biographical identities are still playing a role – the hybrid role of the jury. And the latter, while allowing for informal truth and justice, still has its clearly stipulated functions and limited powers (e.g. the jurors can only judge the defendant guilty or not but they cannot determine the penalty, which is a prerogative of the judge).

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To sum up, in its proceedings the institution of the court brings together two types of attitudes to the judiciary roles: people inclined to invest their identity in the role (court officials, mostly judges or jurors) and people who painfully endure the discrepancies between role and identity – the ‘external’ participants in the proceedings, especially the defendants.

### **Law, jurisprudence, court of justice, public culture: the dialectic of truth, roles and identities**

It is impossible to describe exhaustively the full spectrum of types of interaction between a legal institution, publicity and public culture in the preliminary categories designed to assist the future analysis. The variety of their possible interrelations seems impossible to encompass for several reasons. First, the publicity becomes involved unexpectedly and unforeseeably “inside the institution” – in the form of

pressure from the expectations of the public (inside and outside the courtroom) and the extent to which this pressure influences or does not influence the judges. The random and contextual element in these expectations is always a factor that influences the formalized application of the law. This influence may also acquire other dimensions when public pressure leads to scandals or to public discussions on principles: it may prevent certain verdicts due to considerations and circumstances outside the courtroom (and thus block or render pointless the actions of the court). It may even force the law-makers to change laws and procedures, through which, seeing itself as “the will of the People” public pressure may display its sovereignty over the judiciary power.

However, the intervention of the public culture in the legal institution does not take exclusively the form of outside pressure. As a series of studies of Law and Culture show, certain figures of the mass-culture industry (narratives, chains of argumentation, conflict models, and even models of “criminals”, “judges’ styles”, “just verdicts” may be internalized back by the court, and thus it may become part of the “society of the spectacle”. There are many examples showing how mass-media expressions become part of the rhetoric of prosecutors and lawyers, and are even capable of influencing the judges’ verdicts, which, as mentioned before, may feel on a public “stage”, on display, and be aware that their words resonate well beyond the courtroom.

Yet the most important “condition of possibility” of mutual influence between courts and the public sphere is based on a distinction in principle: the legal and the public truths are radically different, being inscribed in different economies. “The truthful statements” in court and in the public space are the product of different roles, they are made in different ways, in different contexts, for different reasons.

Public space is not an institution-organization, although it also has written and unwritten rules. Despite the fact that it is created by various institution-organizations (newspaper groups, media companies, TV channel groups, publishers of newspapers and magazines etc.) it is an imaginary field outside or among these: according to its mission, or ideal norm, it has to provide civil society with access to information, freedom of speech, discussion of interests and problems, disputes on the general good; to summarize, public space has to be a space of universal visibility and audibility. This norm does not allow it to have strict organizational codifications, and the roles, as far as they exist, are peculiar and are distributed in a different way compared to the institutional roles. At one end of the scale are the relatively clearly distinguished “public roles” of journalists, show hosts, stars or media intellectuals (different from their possible professional duties – in this sense the word “role” is misleading here). At the other end of the scale is the completely un-articulated and obscure figure of the reader-viewer-consumer. In the most extreme abstract case this is an anonymous, universal and homogeneous public, which does not allow us to speak of roles (the real-life cases – with real “focus” or specifically contextualized audiences, which are the targets of existing and local media, complicate the problem but do not offer a solution). The truth – for instance the truth produced by a journalistic investigation is produced in a regime of “bifurcation” between the one who makes it (say a journalist) and the undefined reader (or viewer, or listener). It has to be produced in accordance both with the normative duties of a “good journalist” (professional conscience and sense of duty, which drive the journalist to provide

quick information, authentic news, truthful analyses and comments) and with the real ability of the media consumer to consume it (the newspaper info is offered to consumers as a product so that they can understand it, accept it, like it, and demand it again, etc). Unlike the judiciary, which deals only with norms and their application, the media publicity is also a market. That is precisely what produces its main principle: to use Freudian terms, it has a “personality split” between the production of Truth and the production of media products as objects of Desire. “The fourth power” of public media is ambivalent in its attitude to the truth: on the one hand its business is to provide information, to inform correctly, to scrutinize things critically, to investigate and find out facts, to produce analytical commentary etc.<sup>20</sup> But parallel to that, there is a demand for something else in the media market: mass phantasms, populist imagery, hypnotic rhetoric, sensational headlines and sexy images which have nothing to do with determining the truth about anything, but relate to the phantasmic reproduction of a populist mass identity. The journalist (and the public personality in general) as a producer of public critical truths and the journalist as producer of mass images of Desire are not two different roles: they are the two sides of one and the same role, completely different from the roles within the judiciary system.

Therefore, in the future analysis we have to keep in mind this important distinction – the “truths” of the courtroom and the “truths” of the public-space-cum-media-market do not coincide in principle, because they are produced in different economies, they circulate and are consumed in a different way, they have different social prestige and different social consequences. That is precisely what makes the conflicts, tensions and hybridizations between these “truths” a singularly exciting object of study.

### **State of the Bulgarian judiciary system in the period 1878 – 1900: the conditions of a future discursive conflict**

In the period 1878 – 1886-7<sup>21</sup> in Bulgarian society there was a feeling of anxiety and confusion concerning laws, the judiciary and the practical functioning of the courts of law.

There were plenty of objective reasons for that. Although the war of liberation had implicitly cancelled some pre-existing laws and legal procedures, it had let others remain effective as they were judged “satisfactory” for the period of initial construction of the future state. Together with the Turkish legal norms that were inherited and left in force, the provisional Russian government adopted Temporary rules for the construction of the judiciary in Bulgaria, modelled largely on Russian laws. There was a need for regulation of at least some of the newly-appearing social

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<sup>20</sup> This type of truth production is no longer an end in itself – it relates to the truth as a value in itself, but it also relates to the market – information and critical truth are offered in media publicity only as far as they are in demand on the media market.

<sup>21</sup> The historical data in the two following paragraphs are taken from: Odzhakov, Petar, *Istoriya na bulgarskoto pravo* [History of Bulgarian Law], Bourgas, Rotonema, 1993, 2<sup>nd</sup> edn (1<sup>st</sup> edn 1910, 1993); Andreev, Mihail, *Istoriya na bourzhoaznoto pravo 1878 – 1993* [History of Bourgeois Law 1878 – 1993], Sofia, Sofi R, 1993; Manolova, Maria, *Istoriya na darzhavata i pravoto, Treta bulgarska darzhava* [History of the state and of law, the Third Bulgarian State], Sofia, Ciela, 2001; Tokoushev, Dimitar, *Istoriya na novobulgarskata darzhava i pravo 1878 – 1944* [History of the Modern Bulgarian State and Its Law 1878 – 1944], Sofia, Sibi, 2001.

realities: new types of markets, economic (therefore also contractual) relations, new, non-feudal forms of ownership etc. Third, in the period after 1880 there was a massive effort at making new laws, which had to build upon, and be based on, the approved fundamental law – the Turnovo Constitution (the only text treating the subject of the judiciary power, still undistinguished from the other powers, that it contained – Article 13 – said: “The judiciary power in all its scope is invested in the judiciary places and people, acting on behalf of the Prince”). Thus several laws from the field of civil law were adapted from French models (Napoleon’s Code civil 1804) but with the intermediation of the more modern Italian Codice Civile 1865; in the period between 1890 and 1900 they were specified through laws on obligations, commerce, sea transport, inheritance, trusteeship, property and ownership etc.<sup>22</sup> In 1880 the Second Ordinary National Assembly (Parliament) approved the first act for the setting up of courts of law, based on the Russian judiciary code of 1864, and created the following levels: Justice of the Peace, District Courts, Courts of Appeal and a Supreme Court of Appeal: the judiciary functions were in turn divided into judges, court investigators and prosecutors.

*It is of extreme interest to the history of Bulgarian law, writes Mihail Arnaoudov, to know why the Bulgarian law-makers turned to the system of Romance law (French and Italian) and why in creating the commercial, penal and procedural law they left this system and adopted the German, respectively Russian, model.<sup>23</sup> To this analysis, however, the problem that historians of law are concerned with is secondary. To us it is not so important to know why this happened, what the causes and reasons of the law-makers were, but rather what the consequences of that were. To use a legal term, the many and eclectic sources of legal models (Turkish, Russian, French, Italian, German, combined, to top it all, with the active uncodified Bulgarian common law and with the incompletely abolished Ottoman law (for a long time the Civil Law collection Mecelle and the relatively modern Turkish penal law of 1858, developed on the model of the French Code penal,<sup>24</sup> remained in force) hardly created a feeling of clarity, security and order in the population’s “legal consciousness”.*

We may assume (and as we shall see later, there are proofs of that) that people were not reassured regarding the legal regulation of their everyday lives, interests and potential conflicts. The mess was deepened by the fact that according to the Turnovo constitution, besides the state courts, there were also military and religious courts – each with its own competences; it was deepened further by the fact that many innovations were introduced in a hurried and makeshift manner, following the preferences of one or another Bulgarian graduate of a foreign law faculty. The intra-institutional division of services, departments, hierarchies, bodies and powers was also complex and almost completely non-transparent for the average Bulgarian of the time.<sup>25</sup>

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<sup>22</sup> Tokoushev, *ibid*, p. 176.

<sup>23</sup> See Andreev, *ibid*, p. 116.

<sup>24</sup> See Tokoushev, *ibid*, p. 224.

<sup>25</sup> The prosecution, for instance, although “assigned to the courts” as a “guardian of the law” is separate from the other organs of the judiciary, has its own institutional hierarchy, and is ultimately subordinate to the Minister of Justice, who combines executive and judiciary power.

The rhythm with which laws were approved was also problematic. Description of the rising tidal wave of new laws, the lack of unity, the emergence of the need for codification (unification). Still not done, remains to be completed in the final part of the study.

In a state and an economy that were being constructed and simultaneously modernized, the legal realities that had to be regulated were themselves extremely confusing. On the one hand they were new indeed: the incoming new capitalist economic relations in which people with practical economic and legal experience were too few. On the other hand, there was a burdensome and messy heritage, organized according to other, non-modern principles: the exodus of a huge number of Turks from the new state and the desire of the state to “provide” land to the peasants led to problems with the smooth regulation of the transition from feudal land holding, which works with several traditional types: “full title/ownership”, “right to use the land” and “right to be in possession of the land”, to the simple modern concept of “full title/full property rights”. Usually the law-makers didn’t worry too much about the subtleties of translating the inherited feudal realities into modern legal concepts and gave full title and full property rights to the new owners – the Bulgarian peasants.”<sup>26</sup>

Yet another reason for the obscurity and lack of order was the absence of legal professionals that were adequately trained and up to the legal requirements. According to data by Tokoushev, *in 1887, out of 342 judges and prosecutors, only 67 had law degrees. The opening of the Law Faculty at Sofia University created some opportunities for appointing legal staff with degrees into the judiciary. In 1907, out of 408 prosecutors, judges and court investigators that worked in district and appeal courts and at the Supreme Court of Appeal 117 were not law graduates. In spite of that, half the court investigators and ¾ of the justices of the peace in the country hadn’t the necessary education level.*<sup>27</sup>

Tokoushev points out also that the situation with lawyers (trustees) was even worse: first, the law itself allowed lawyers to act as legal defence counsel even if they had not passed exams (jurists), or had passed examinations before a special state committee – as a result of this legal loophole, in 1899 in Bulgaria there were 256 lawyers and 102 assistant-lawyers, only 35 of whom had higher-education degrees. The law-makers tried to stop the debasement of qualifications for judiciary positions in the Judiciary Regulation Act of 1880. The justices of the peace and district judges had to have a law degree and to have served at least two years as secretaries, under-secretaries or candidates for a judiciary post; for appointments to the Supreme Court of Appeal this experience was at least three years, for higher appointments – five years. This practically meant that there were not enough judges with the required competence: the latter explaining why for a long time judges in Bulgaria could be replaced and were not appointed for life.<sup>28</sup>

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<sup>26</sup> See Tokoushev, p. 210.

<sup>27</sup> Ibid, 144.

<sup>28</sup> Ibid , p. 138.

For this reason, in 1887 another law was passed – concerning the village community courts, to which the 1880 Act was specifically not applicable. The purpose of these community courts was to facilitate the population in minor cases, in the absence of sufficiently well-educated justices of the peace. The shortage of law graduates led to incompetence in trivial matters when judges fulfilled their courtroom duties and other legal functions. It created a multitude of tragicomic incidents, ridiculed in Ivan Vazov’s novella “Mitrofan and Dormidolski” (1881) – where a judge called Daki takes his role of a judge so much to heart that he sentences his political opponent to death for “cutting off a cherry tree”. The satire, however, boomeranged back onto its author, since Vazov himself, in 1884, as a justice of the peace in Berkovitsa passed judgement on a dog (a case also satirized in literature, this time by Aleko Konstantinov).

But even a good education and hands-on experience were not enough to make the image of the ideal “judge”. As early as 1880, the Judiciary Regulation Act stated that no persons undeserving of public respect, i.e. convicted persons, persons under investigation, people dismissed from religious institutions for vice, etc., could be appointed. A Sofia newspaper wrote in 188... *In ordinary life the organs of fairness and justice are the courts; the judges declare in favour of those who are right, and pass sentences on those who did wrong, who committed injustice. How awful the evil in a society where judges are not themselves inspired by such virtues, where they are not saturated with the feeling of the holiness of their mission in society.*<sup>29</sup>

The later, 1889, version of this law, that also introduced the job for life for judges having over 15 years’ experience<sup>30</sup>, assumes that the performance of the judges’ specific professional duties has to be guaranteed not only through an ordinary employment contract, but by a solemn judges’ oath. (I have commented above that the oath for judges and prosecutors envisaged by this law mixes in a singular way the adherence to the “roles” with moral and even religious props of identity.) This judges’ oath says: *I swear in the name of God Our Lord to be faithful to His Royal Highness the Bulgarian Prince, to uphold solemnly and faithfully the laws of the Principedom, to perform honestly and in a bona fide manner my professional duties in the post I am entrusted with, and all rules, regulations and orders pertaining to these duties, not to exceed the power I have been given, not to cause wilful damage or loss to anybody, to keep confidentiality concerning the cases I am entrusted with and assigned to hear, as prescribed in my duties, all the while remembering that for all this I am to be held accountable before the law and before God. Amen.*<sup>31</sup>

However, the oath seems not to have been sufficient either, for in 1894 Peter Odzhakov wrote in the Preface to the first history of Bulgarian law: *We can see [now]*

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<sup>29</sup> *Bulgarski glas* newspaper, Issue 3, p.3 (date missing), 188.

<sup>30</sup> Dimitar Tokoushev comments on the impossibility to change judges in the following way: *The development of judiciary legislation shows that judges are not guaranteed their posts with the impossibility to change them. If it protects the judges for life from the vagaries of the judiciary, the legislators themselves have always changed the status of the judges when it suited them, without supporting this with arguments of any kind. Thus the appointment and dismissal of judges and their promotions are the prerogative of the Minister of Justice.*

<sup>31</sup> Quoted after Tokoushev, Dimitar, *Istoriya na novobulgarskata darzhava i pravo 1878 – 1944* [History of the Modern Bulgarian State and Its Law 1878 – 1944], Sofia, Sibi, 2001, p. 137.

*judges, prosecutors and ministers of justice of similar rank both with and without law degrees, not only in Bulgaria for the present time due to circumstances, but also until recently in foreign countries as well. This was required, actually, by the period and the needs: better an ethical experienced elderly non-jurist than an inexperienced, haughty and half-educated teenage law-graduate.*<sup>32</sup>

## **Critical Reactions**

Was Bulgarian society in the first decades after the founding of the third Bulgarian state able to imagine and understand what a modern court of law was about? Did it develop a coherent legal self-consciousness, did it identify with the law? As we have seen, in the period considered, the very judiciary of the new Bulgarian state with its specifically-confused legal inventory and institutional culture did not offer favourable conditions for that. Of course, there were elite micro-environments where the grammar of this legal and institutional culture was known to some extent: the Law Faculty of Sofia University, the higher ranks of the judiciary, and some party headquarters. But even these elites saw clearly that the new legal system would not be digested easily by the Bulgarian society, which had an Ottoman heritage with respect to its notions of justice, ways of determining the truth, judicial procedures and judgements. That is why these elites often wanted to adapt the new laws to the existing traditions and studied, to that purpose, the traditional Bulgarian law and notions of the judiciary that the average Bulgarians had. So in this area, a whole school of thought critical towards the present situation emerged, thanks to the work of Dimitar Marinov, Peter Odzhakov, Stefan Bobchev, and many others later. It studied Bulgarian common law, old legal documents, the legal codes of the two medieval Bulgarian states etc. It was characterized partly by a moderate cult of the motherland soil (a typical recurring patriotic worry is whether “Bulgarian law is really Bulgarian, whether it has ‘authentic’ roots in the popular tradition”) but the more important thing here is that behind the moderate soil-cult ideology there was a discernible, clear and practical critique of the present situation of the legal and judiciary system. Bulgarian lawyers, ethnographers and historians quickly realized there was a problem that could be sensed in the atmosphere of the 1880s and 90s: the hastily imported, patchwork laws and judiciary institutions, that were part of the specific Bulgarian “modernization from the above”, could not adapt well (these commentators themselves used the phrase “could not be grafted onto”) to the messy Bulgarian problems and the Ottoman heritage, nor to the traditional legal consciousness of the Bulgarian peasant, arising from another, pre-modern, culture. People like Shishkov and Bobchev were absolutely clear about the fact that the new laws seemed obscure and confusing. Bobchev writes about this: *To us, work on the history of Bulgarian justice may also have a practical function. We have been too quick to translate foreign codes and laws without any scholarly examination or critique; we have gone too far in this, and Bulgaria needs new, critical approaches to our existing law, which should lay the first national foundations of all our legislation. That is why the history of Bulgarian law may serve a purpose by attracting attention above all to the needs of the Bulgarian people in future legislative reform.*<sup>33</sup>

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<sup>32</sup> Odzhakov, Petar, *Istoriya na bulgarskoto pravo* [History of Bulgarian Law], Vidin, 1894, p. 5.

<sup>33</sup> Bobchev, Stefan, *Istoriya na bulgarskoto pravo* [History of Bulgarian Law], Bourgas, Rotonema, 1993, 2<sup>nd</sup> edn (1<sup>st</sup> edn 1910, 1993), p. 14.

Before we move on to an analysis of the dominant journalistic and literary images of the law, of judiciary roles and identities, let me note the response in yet another sphere (actually, it also contributed in important ways to the publicity, and the boundaries between it and the newspaper publications are pretty thin). I have in mind the attitude of politics, politicians and party programmes to the new legislation and judiciary. Politicians were in a sense forced to examine critically the makeshift and eclectically adopted laws, because they were under constant electoral, public and intellectual pressure. Accordingly, most political parties in their programmes, among other policy principles, promised almost always reform of the system of justice and the judiciary, as well as a change in the place of judges, lawyers and jurists in public life; of course, such reformist intentions had as their background the awareness of the existing system's imperfection. In the period from 1878 to the 1910s these programmes, written in varying degrees of detail and elaboration, were usually split between populist responses to public opinion and the electoral mood on the one hand, and political philosophy about the judiciary institutions and their place in society on the other.<sup>34</sup>

Populism is easily visible; with it, parties attempted to “instruct and educate” the electorate in matters of the judiciary. Irrespective of the rest of the party programmes, the chapters on the “working of the judiciary system” repeat very similar statements, which were evidently rooted in the mass expectations or mass discontent of the judiciary. Almost all parties proclaimed similar clear and accessible principles – independence of the judiciary, equality before the law and the revoking of “legal privileges” for the military and the civil servants (the military were tried by military courts, and in order for civil servants to be indicted, their superior had to give permission), they promised quick, efficient and cheap justice with streamlined procedures. Almost all intended to somehow create a solid layer of well-paid, independent, authoritative, incorruptible judges that could not be replaced, who would serve the people like missionaries.

The idea of travelling justices of the peace appears in almost all party programmes; in them the role of the travelling judge is likened to that of the travelling doctor-pharmacist; i.e. party programmes tried to take into account the economic position of the people and wanted to assign the judge a missionary role, as a mobile carrier of justice, the same way the doctor had a duty to serve the people with respect to their health. There is often a populist demand for a “simple” system, understandable and accessible to all.

The clearest evidence of the “principles shared in common”, i.e. the populist, non-institutional character of these repeated diagnoses of problems and promises for them to be fixed is the simple programme of the Liberal Party (Radoslavists), Sofia, 18 December 1894, publ. Central Historical Archive. It is so short that it may be quoted in full: “Article 9. *Gradual elaboration of laws and ordinances concerning the independence of the judges. Cheap and quick justice.* Article 10. *Penal Code based on the latest humane and democratic principles accepted in forensic science and*

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<sup>34</sup> The analysis is based on documents from the book by Georgieva, Veska and Dimitar Sazdov, eds, *Programi, programni dokumenti i ustavi na bourzhoaznite partii v Bulgaria 1879 – 1918* [Programmes, Programme Papers and Constitutions of Bourgeois Parties in Bulgaria 1879 – 1918], Sofia, Naouka i izkoustvo, 1992.

*practice.* These trivial principles were evidently shared in common by all of Bulgarian society and were thus unproblematic: probably the Radolsavist Party simply masked behind such phrases their lack of original ideas in jurisprudence. The same conclusion is suggested by the fact that the quoted article is repeated without any changes in the versions of the party programme for 1897, 1904, 1907 и 1910. In 1910 the Liberal Party congress adopted 10 new resolutions about educational policy, industrial policy, financial policy etc., including one for forestry, but these resolutions do not say anything about the judiciary – evidently it was thought that the truisms quoted were sufficient.

Some party programmes, however, featured also more specific party promises, concerning rather the institutional culture than populist expectations. Such were the suggestions concerning the improvement of institutional aspects of the judiciary – for instance, the promise for legally allowing the defence lawyers to participate in the preliminary investigation, for codification of all laws in a single system, for a hierarchy of, and procedure for, the election of judges.

A real legal philosophy, concerning justice as well as the specificities of the judiciary institutions and the link between them may be found only in two cases: that of the Democratic Party and to a certain extent that of the Radical-Democratic Party. In a letter, Petko Karavelov made a series of recommendations on a judiciary reform, which may be defined as unpopular, yet taking into account to a much greater degree the court's own institutional logic as well as its positioning in a concrete context.

## **Battles and Hybrids in No Man's Land**

### **Images of the court in the Bulgarian Press 1878 - 1912**

Let us start by drawing the most general outlines of the public images of the post-Liberation Bulgarian court and press. We will fill in the details later.

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At the beginning of the investigated period the idea of the key importance of the supremacy of law and the role of the judicial system for any modern state was clearly popular both in the Principality of Bulgaria and in Eastern Rumelia. As the editorial of the Liberal party's newspaper *Nezavisimost* stated as early as August 1880,

*In our social and economic situation justice plays a major role in our national, social and particularly our private life. The economic development and progress of our citizens depends upon the structure of our judicial system.*

Parallel to this clear normative notion, however, several other images of the court existed. In the beginning of the period the publications in the press represented the judicial system in 'infantile' metaphors yet hastened to add that things are not progressing well:

*Everybody remembers when the organization of our area (Eastern Rumelia, A.K.) started. At that blessed time, with the self-confidence of a young nation that had not yet tested its powers, we set about to engineer the political machine faster and better, we created immediately all institutions required by our Organical Statutes, we appointed officials and gave them high salaries, we set up all our courts, filling them with all kinds of judges, and to what avail? The numerous administrative power,*

*which we hoped would lead the people as it consisted of all intelligent citizens we could find, did not gain strength and progress but grew weak, worn and weathered*<sup>35</sup>.

As we already mentioned, there were objective conditions for this type of negative representation – the overcrowded yet weak, non-functioning and ‘non-progressing’ court; the scarcity of educated jurists and the plentitude of dilettantes who constituted the legal manforce and brought comic confusion to the legal process; the financial misuse of the legal ignorance of the population; the parallel functioning of country courts where unschooled judges and mayors judged by their ‘conscience’ and local interests; the constant compromises that the official judicial system was forced to make with the widespread common law. Other complications included the disordered multiplicity of different types of court (military, religious, local, central, etc.), the continuous changes in the hastily formulated laws borrowed from foreign examples and the lack of a unified legal codification which created many contradictions within the legal norms.

The young juridical power was far from its legal ideal and was correspondingly incapable to create a real public authority. The historians from this period noted the lack of respect for law<sup>36</sup> and the universal tolerance to half-legal activities stemming both from ignorance and the competitive common law idea of justice, on one hand, and from the powerful temptations of the ‘muddy waters’ in the first post-Liberation years (the forceful methods for imposing political influence, the profiteering, the channeling of state resources into private hands, the misappropriation of cattle or real estates left behind by the Turks upon leaving Bulgaria, etc.) The law was sometimes breached even by its own representatives, and the press promptly pointed that fact out<sup>37</sup>. In addition, the judiciary power itself was slow, ineffective and expensive, and not sufficiently separated from the other powers, thereby often confused with the public images of ‘Power’, i.e. with the partisan activities of the concrete government. The ordinary man made little difference between a policeman and a bailiff, and often perceived judges and prosecutors as nothing but government officials or even part of the gangs organized by the government to physically eliminate their opponents.<sup>38</sup>

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<sup>35</sup> В. Южна България, бр. 1, 6 януари, 1883

<sup>36</sup> Цитат от Иречек, читат от Румен Даскалов

<sup>37</sup> В рубриката Дневни новини на в-к “Правда” от 06. 05. 1886г.; бр. 10; стр. 2, четем: *В неделя гражданите на Пловдив според едно по-предишно решение, бяха решили да се съберат в Панаир Хан, дето имаха да чуят имената на одобрените от комиссията кандидати за предстоящите избори, както и да ся съвещават върху необходимото единодушно – дествување в полза на народните кандидати срещу правителствените. Това обаче невинно събиране не им ся вдаде: освен това биде заменено с разбойнически побойничества, които преведоха в ужас и трепет целия град. Да опишем отвратителната тази сцена, ще трябва да напълним целий лист. ... На площада пред Хотелът, дето щеше да ся събере народа, ся установили градските шайкаджии, на брой около 15 души, въоръжени и имающи на чело субститютът на Апелативний Прокурор Неделев, писарят на Окр. Прокурор, писарят на Търновский Прокурор, адвокатът Тончев и учителите Караджов и Кесяков. ... И така всичко бе приготвено, за да не допуснат на народът да ся събере. Щом ся зададеше някой гражданин, биваше погнат от разбойниците и пребиван до смърт. ... По този начин тероризирани еснафите, на купове бягаха назад, като че ги гонеха черкези... И така парализираха събирането няколко пияници и безделници, които имаха явното съдействие на властта. ...*

<sup>38</sup> В горния цитат трябва да се отбележи и смесването на прокурорската и политическата роля,

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17 years after the publication in *Yuzhna Bulgaria* (*Southern Bulgaria*), Eastern Rumelia and its organic statutes no longer existed, yet the flaws of youth did not seem overcome: the picture was even darker than before. In issue 48 from 1897 the newspaper *Zakonnost* (*Legality*) published the following article:

*In a letter to the editors of Zname the former member of the Sofia district court Mr. N. Popov, whose letter of resignation was published in the previous issue of our newspaper, after describing in detail the pressure and violence exercised upon him by the Ministry of Justice in order to influence his judiciary conscience made the following just remarks to Mr. Todorov:*

*‘How, by Lord, can a Minister of Justice, the Chief Prosecutor of this unfortunate country stoop so low as to degrade the conscience of a judge and turn him into an instrument of his partisan passions? I could not possibly conceive that. Was that not the same minister who had as a lawyer pleaded before the court in the infamous Kliment case, experiencing for himself how unbearable it is for the defense to find out that the judges have no notion of conscience and honour. If the rogue Stambolov regime introduced this judge-recruiting for the salvation of Bulgaria, should we in our supposedly lawful regime repeat the same misuses in the name of Justice? When will the violations of judge consciences stop so Themis could stay calm in the temple of Justice?’*

We see that the images of key figures of the court like ‘the Minister of Justice’, ‘the prosecutor’ and the ‘judge’ are represented as the foci of the moral failure and political corruption of the court (they represent the *lack* of basic human virtues – of honour and conscience, they *stoop low*, they are *recruited*, etc.) The image of the court, composed of such ‘fallen’ people, is on the whole tragically ironic, identical with its opposite – ‘supposed lawfulness’, ‘misuses in the name of Justice’. The undertones of this image suggest even sexual disgrace – the Minister of Justice ‘degrades’ the judges, turns them into instruments of his low ‘passions’ as if they are virgins susceptible to the seduction of an old lecher. This image is so unbearable that the author declares: ‘I could not possibly conceive that’, i.e. such degradation is unthinkable and incompatible with the basic human ideas of honour and conscience.

From this, we can draw the following preliminary conclusion: the prestige of judiciary power was problematic for a long period of time. The representations ranged between two extremes: the European civilizational norm of justice and the dark image of the corrupt court in one ‘unfortunate country’.

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The normative idea of the press and the public opinion was similarly confronted with the reality of Bulgarian periodicals. In the abovementioned first issue of *Yuzhna Bulgaria* (6 January 1883) we read:

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което се извършва както на равнище реални действия, така и на равнище вестникарска реторика – журналистът от “Правда” очевидно не прави кой знае каква разлика между съдебната фигура и “властта”. За това има достатъчно ясни причини – и най-ясната е, че политическата власт наистина назначава свои хора за съдии и прокурори, мести и уволнява непокорните, създава си свой континент от юридически чиновници – което прави за публичното мнение така актуален въпроса за несменяемостта на съдиите.

*'Taking up journalism, we do realize both the huge task before us and the heavy burden we are carrying. This is all complicated by the situation of Bulgarian press today. Newspapers are a power within society. They provide leadership, political and moral education. They can guide public opinion, but they can also mislead their readers and hide the truth, thereby becoming society's greatest affliction. The task of the press is to educate the people about the situation and the essence of what is happening, to guide public opinion. But the press cannot exercise this task if it has not investigated the situation... How many of our compatriots set out to enlighten the world without knowing the situation well and without offering the necessary cure? How lightly do such journalists and public figures do this – now, when we are laying the foundations of our political existence and the smallest mistakes could have a negative or even fatal impact on our future.'*

The complaints about the state of the Bulgarian press – both on its own pages and outside them – are plentiful and continue for decades. They are also prompted by fairly objective conditions – the state of the press was no less dynamic and chaotic than the state of the judicial system. In this period the press grew rapidly; newspapers and magazines multiplied, the technical and transportation conditions for their mass printing and distributions improved, the literate public grew, as did the need to be informed on a daily basis. Three simultaneous processes were under way – the fragmentation and specialization of the press, its politization and its commercialization. The number of mixed 'enlightenment-encyclopedic' editions diminished, the sectors of the political and party press were formed, as were the purely news-oriented editions, the cultural periodicals, the specialized scientific periodicals and, by the end of the century, the tabloids. The freedom of speech declared in the Turnovo constitution was quickly replaced by the Press Law of 1887 (with several later revisions), which allowed for both partial censure through libels suits for the defamation of public officials and for different manipulations of its spirit (the appointment of puppet figures as chief editors so the actually responsible persons could evade prosecution). The official dailies and the tabloids quickly constituted a market at the expense of the earlier mostly altruistic and patriotically motivated press of the National Revival. New figures emerged – the professional newsman, the editor or the newspaper owner who set the journalistic policy of his edition. News became a commodity and journalism became a paid profession – a fact that on one hand stimulated its practitioners to develop their abilities but on the other commercialized their professional ethos. The increasing literacy of the mass audience formed a mass taste for coarse language, political intrigues, aggression, sensationalism, scandals, etc.; those things also became a press commodity that was produced promptly and sold rather well.

Just like the case of the judiciary institution, this dynamic of the press and the journalist profession jarred with the normative idea of the 'high mission' of journalism, creating an extremely negative, hyperbolically gloomy contemporary image. The best and uttermost example here is Aleko Konstantinov:

*'The Bulgarian Press! What wretched irony in these two words! ...we will say with the 'Deputy of the people' from the newspaper Mir ... . A traitor press that applauded the tyrant for eight long years! (Razni 'drebolii' (Odds and Ends))*

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In fact the judiciary and journalistic realities were confused, contradictory and dynamic, but hardly so hyperbolically dismal; why this hyperbole was taking place is

something we will discuss shortly. Despite the whole disorganization in the young Bulgarian state from the late 19<sup>th</sup> century, besides the ignorance, the misuse and the corruption the two spheres nevertheless did function. As institutions for the production of ‘equity’ (perceived here as a combination of truth and justice) they already had the traditional mechanisms for control over this kind of production. The Court of Appeal and the Court of Cassation often repealed the decisions of lesser judicial institutions; in the public sphere, newspapers and journalists often accused each other in lies, frauds, partisanship, misleading rhetorics, partiality, etc.

And yet there is plenty of evidence that the division of competences between the third and ‘the fourth’ powers was not very clear. Although the elites shared clear civilizational norms regarding the courts and the public opinion, the two spheres of ‘equity’ often lacked a clear demarcation line and overlapped in a kind of ‘no man’s land’.

This is best illustrated by the conflicts and the attempts of both powers to control each other. This is still nothing specific for the Bulgarian situation. As in any poorly organized country, the judicial system often attacked the lies published in the press; between 1878 and 1910 there were a number of libel suits against journalists. The newspapers, on the other hand, attacked the Press Law for curtailing the freedom of speech, going as far as to accuse a concrete court of a misapplication or even poor knowledge of the law.

As in any modern society, in Bulgaria the question of truth as legality was not merely a juridical problem but one of the most important public issues – so important that in the Bulgarian case it defined a whole lexical register in the names of many newspapers and magazines published in a period of 20 years. Besides the different variants of the traditional ‘voice’, ‘thought’, ‘tribune’, ‘courier’ and ‘news’ the Bulgarian press included periodicals like ‘Truth’, ‘Truth lover’, ‘Justice’, ‘Equity’, ‘Legality’ or ‘Turnovo Constitution’. These editions existed besides the specialized juridical press (‘Jurisprudent’, Plovdiv (1880), ‘Court Daily’, Plovdiv, (1885) ‘Juridical Magazine’, Sofia, (1885) and ‘Juridical Review’, Sofia (1892)) and strange half-popular half-specialized editions like ‘Rights Daily’ which described itself in its subtitle as a ‘juridically-social’ newspaper.

More specifically for the national context, the legal and the public spheres shared certain common and obviously painful for Bulgaria topics. In parliamentary debates, in political party programs, in the specialized juridical press and the popular press the central issues were the role of the *cadii*, the lack of laws, the imperfect division of powers, the lack of organization, codification and qualified personnel, foreign interference in the forging of Bulgarian laws, the immovability of judges, the procedures in transactions with Turkish real estate, the lawlessness in election times, etc.

Another shared thematical field were the ‘famous lawsuits’ that were almost daily discussed in the press – the Kliment case (Vasil Droumev), the Svetoslav Milorov case, the major Uzunov case, the attempted murder of the Prince, the case against the murderers of Stambolov, the murder of Aleko Konstantinov, the Dimo Syarov case, etc. In 1890 there were a series of various contradictory publications on the Panitza plot, the case against Panitza and his accomplices and, finally, the execution of the death verdict; in all of this, the newspapers seemed to hold a second trial to question the guilt, the verdict and the prerogative of pardon.

\* \* \*

Besides conflicts, the shared interest to truth as legality and the shared thematic fields, the judiciary and public spheres overlapped on deeper structural levels that seem specific for the Bulgarian context of that time. We can call that ‘interchanging’ and hybridization of the roles of the free journalist and the state-employed court official. Its external manifestation looks ordinary enough – jurists write in the newspapers, journalists discuss subtle juridical issues. But the diffusion is deeper and more symptomatic; it involves a confusion of the instances and authorities as well as the styles and genres of the discourse. Newspaper articles often spill into genres that today look simultaneously judiciary and public: they combine naïve public appeals to the natural feeling of justice with legal ‘pleadings’ or the philosophical criticism of legislative texts - with political feuilletons and legal case studies.

Let us illustrate this point with an article on the ‘Cadii courts’ from *Bulgarski glas* (Bulgarian Voice), issue 73 from 5 August 1881:

*‘This principle is accepted all around the world: ‘Spiritual power should not be mixed up with secular power’, i.e. each should pursue its own goals. With this principle educated Europe issued laws to limit the rights of both powers, so that each would operate within its own realm even though they jointly rule the world. Is this principle preserved in our country? Can it be found in our Temporary court rules, in the second section of the religious courts?’*

*The cadii law does not envisage the right of the losing party to appeal to the Court of Cassation; i.e. once the cadi issues a verdict, it should be considered final and unerring and be presented to the governor for execution. We would also like to ask the cadii in whose name do they try secular disputes? As we could not solve this mystery... we leave it to the Ministry of Justice to find an answer.*

*To avoid all disorder and injustices on behalf of the cadii, we must undertake the following measures: to allow them to hear cases of divorce, of birth legitimacy and invalid marriages, while the right to judge all other issues like property disputes between parents and children or inheritance disputes between spouses should be moved to the respective District Courts. Only then each power, the religious and the secular, by operating within its limited rights, can progress accordingly; only then will the peaceful government of this country be possible.*

*A Lawyer*

The above text falls within the genre of the short press note – it does not presuppose the discussion of fundamental problems. And yet the note discusses nothing less than the division of religious and secular power. Such hasty juridical ‘enlightenment’ was not an exception in the journalism of the time, just as the normative comparison with ‘educated Europe’. In this case, however, besides the general civilizational issues and despite the shortness, the text contains some rather specific additional notes explaining how the non-codified relations between the different judiciary institutions resulted in ‘disorders and injustices’; or the obvious problem of practical jurisdiction – the fact that cadii verdicts could not be repealed; there is even a practical proposal for a clearer division in the spheres of competence of cadii courts (all expert juridical problems). In addition the author hints at the problematic legitimacy of those courts (‘*in whose name do they try secular disputes*’). Under the abstractly-philosophical [legislative] surface lurks the patriotic understanding that Turkish judges should not be allowed to hear secular cases in the name of the new Sovereign, the Bulgarian people. The passing criticism at the Ministry of Justice for tolerating this confusion is masked as ironic self-deprecation (‘*As we could not solve this mystery we leave it to*

*the...)* In the signature, the role of the journalist is substituted with that of the lawyer with the obvious intention to guarantee the author's competency rather than to use the role potential of the court defendant. Thus the issues under consideration are bound in a non-specific, undivided knot, just like the genres, motives, styles and positions from which they are discussed – as if the short article has been simultaneously written by a journalist, a legislator, a lawyer and a politician, with the themes, arguments and stylistic registers specific for each one of these roles. It is a typical example of a public-judicial hybrid, the point where the perspectives and vocabularies of the judiciary system and critical publicity are inextricably intertwined.

\* \* \*

Even stranger from today's point of view is the journalist practice of commenting entire laws at length in the periodical press – a task that should be reserved for the specialized juridical literature. This is the case of the disproportionately long untitled article signed by 'Mr. G' and stretching with considerable intervals over several issues of the newspaper *Suvremennik*, filling up pages 5 to 70). Unlike the above example, however, here the juridical and philosophical competencies of the author are not demonstrated but playfully hidden behind the mask of 'common sense'. The editorial introduction to the article claims that not only the Press Law is '*not created to serve a public need or to ensure the inviolability of the head of the state (sufficiently guaranteed by Art. 8 of the Constitution)*' but it is meant to '*consolidate and guard the power of some lucky men who were unfortunate enough to consider themselves the cleverest people in the world*'. The practical results of this law are presented with the traditional hyperboles: '*Over twenty managing editors of different newspapers have been imprisoned for no greater crime than daring to discuss the actions of the government*'.

The article itself follows a remarkable line of argumentation. It starts with an auto-reflexive paradox: Am I not breaking the Press Law by commenting upon it? The author quotes an excerpt from the law: '*Anyone who uses the press to incite disobedience or negligence of the law or the legal instructions of the authorities, or disrespect to the authorities, shall be punished with one month to one year in prison*' and moves on to the following unexpected commentary:

*'From the three 'Or' in this article the reader will easily see that law and authority are intimately related; therefore, if he was to say anything against the article, he would be showing disrespect to authority, which would amount to 'inciting disobedience'. If so, how can I criticize the Press Law? I think that the above lines are enough to convince anyone in the guiltiness of such criticisms. How can I then assure the reader that he would not be reading felonious line? (p.6).*

From this ironic *reductio ad absurdum* the author jumps to abstract philosophical statements about human nature. '*Man has an unconscious need to examine and learn. With this need he is born, with this need he dies. The child never stops asking and drawing conclusions...*' (p. 6). This right of free reflection '*cannot be denied in any way. No prohibition can stop the human mind from thinking...*' (p. 6). This observation is followed by a traditional Enlightenment transition to philosophically-anthropological and politically-philosophical arguments: the freedom to share and accumulate such critical thoughts leads to possible criticism of the existing social environment and, after discussing the matter at democratic gatherings, to possible changes in the social order. The author alternates arguments and counter-arguments

to establish whether the critical reflection/discussion is not a crime in the contexts of different types of power (including in contrast with the various monarchies and authoritarian regimes where law is enforced ‘from above’ – from God, or the royal person, etc.) and discusses whether law and authority are one and the same thing, lists the various types of slavery, the heaviest of which is the ‘slavery of ideas’, quotes examples for the Revivalist awakening of the people from its ‘deep sleep’... The conclusion is paradoxical – by prohibiting the free discussion of the laws (which can be interpreted as ‘inciting disobedience’), the Press Law prohibits this age-old human trait – free thought and personal opinion, becoming simultaneously illegitimate (as it contradicts a fundamental human right) and impossible (as no force can stop the human mind from thinking and criticizing). It is also incongruent with the spirit of the Bulgarian Revival which created the sovereign Bulgarian people rather than a rabble of immature subjects waiting for permission to think. To this the author adds the practical consequences of the law for the Bulgarian situation of that time:

*‘Any ordinary person who would speak up in the press against the wrongdoings of any official (even the municipal ones), will immediately be prosecuted for illegal actions... this is a principle of absolutism... to protect the inviolability of each tiny particle of power, every single clerk... And so the Bulgarian person, though rid of the Turks, has found itself new masters, i.e. it is still a slave. (P. 68) The article concludes: ‘We don’t have to mention the adversity of this law not only to human common sense but to our principal law, the constitution... The control over society is so uninhibited that it implies that there is no Bulgarian people but only a rabble of children and slaves, of whom none is capable to defend himself’ (p. 70)*

This article exemplifies a cunning combination of hybrid arguments from the realms of law, philosophical anthropology, political philosophy, from the author’s own interpretation of the Bulgarian Revival and his oppositional political attitudes. Its juridical competence is manifested in subtle professional commentaries of certain articles of the law (exposing the contradictions and paradoxes the legal text contains). Its genre is part critical commentary, part philosophical essay and part devastating satire of the articles of the Press Law, dressed up as an exercise in common sense methodological inquiry. This is all done from a playful individualist position: instead of advertising themselves as such, the jurist and the philosopher hide their professional competences and playfully imitate free, critical, professionally uncommitted thinking. This impression is reinforced by the fact that, stylistically, philosophical and juridical passages are framed by simple dialogical speech, characterized by phrases like *‘But you’ll say... This is all very good, but the problem is that... Yet one thing scares me, one thing clouds my mind and I can’t seem to find a cure’*. In other words, the article creates a peculiar image of its own author, incongruous with any traditional juridical, journalist and even philosophical role: an ostensibly timid person purportedly scared that his innocent commentaries would constitute a transgression or disrespect to the law, but actually daring to play around with the texts of the law, to uncover its paradoxes through sudden and improvised critical leaps of thought; he delves deep to the very foundations of laws, the Bulgarian tradition and the Bulgarian political reality. Of course, this reflective and satirical game shows brutal ‘disrespect’ for the same law the author claims fear...

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On a third occasion the overlapping of rights and obligations, competences and authorities of political actions, court institutions and public activities seems particularly drastic. In 1884 Dr. Vasil Radoslavov, a member of the Sofia Court of Appeal at the time, signed as a private person the manifest of the so-called 'Liberal Bureau' – i.e. performed a private and purely political act. His colleague from the University of Heidelberg minister Pomyanov sent him a letter by which he accused him of degrading the honour of his magistrate position and pressured him to renounce the oppositional 'Liberal Bureau'<sup>39</sup>. Instead of writing an answer to his superior, Radoslavov sent minister Pomyanov's letter to the newspaper *Turnovska konstitutsiya* (*Turnovo Constitution*) as, he wrote, 'I don't doubt it will be of great interest for the Bulgarian public and for my juridical colleagues'.

What we see is a curious triangle – the political intersects with the official/institutional, which on the other hand overlaps with the public sphere, where the rights and obligations of professional roles are discussed. The minister uses professional routes to threaten his subordinate, claiming that he degraded the honour

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<sup>39</sup> Прилагам този интересен документ, заедно с придружаващото го писмо на Радославов до в. "Търновска конституция". До редакцията на в-к "Търновска конституция" Най-покорно моли почитаемата редакция на в-к "Търновска конституция" да обнародва приключенното при това министерско писмо, което ни се испрати на 13 того, чрез г. Председателя на Соф. Апелативен Съд и което – не се съмнявам – ще бъде не от малък интерес за българската публика и за моите – по съдебната част колеги.

София, 23й Януар. 1884г.

Член на Соф. Апел. Съд

Д-р В. Радославов

Г-ну Радославову член на Софийския Апелативен съд:

Господине,

Една група политически агитатори, която си дава името "Централно Либерално бюро, и която, види се, е избрала Столицата за съсредоточие на деянията си, напечатала е тия дни и изпратила до провинцията един своероден манифест, имающ сичките характеристически черти на памфлетите и други противо-държавни писания. Между частните личности, които са приподписали тия документи, ... намерил се е един виско княжески магистрат, който като е мислел, че може безнаказано да компрометира честта на чинът си, достолеието на българските съдилища и въобще интересите на Правосъдието, признал е за уместно да прибави и своя подпис към листът \* на више – споменатите политически агитатори: тоя магистрат господине сте вий. ...

Вий сте обrekli съдническия си авторитет...

Но Министерството на Правосъдието счита за излишно, господине, да извади на яве сичките нелепости, сичките лъжи и клевети, ...

Вместо да дадете като висок магистрат пример за преданност към Държавната глава, за почитание и уважение към законите и към обществения порядък, вместо да докажете на публиката с ...\* на частния си живот, че Българската висша магистратура стои много по-високо от страстите, които ръководят някои улични ратници, вий сте се присъединили към тия, които правят една професия от анархизма и имат за неизменно начало – да водят война с всяка законна власт и с всякой социален ред.

Вий лесно ще разберете Господине, че Княжеското правителство не може да позволи, щото един съдия, един представител на законите и законността да бъде същевременно и един от най-главните причинители на раздорите в страната. ...

Подир всичко това, Министъра на Правосъдието, като не може да ви лиши от службата ви и да закрие за винаги съдническото ви поприще, предлага ви господине да се откажете от всяко съдействие с вишеозначените агитатори, като пратите да се обнародва, във всичките столични вестници, мотивираната си оставка от тѣй нареченото "Централно Либерално Бюро".

Министър: К. Помянов

И. Д Главен Секрет. – Ст. Михайловски

За Началн. на Отдел – Миронов

of his office; to defend himself, the subordinate did not turn to higher authorities (the Court of Cassation or the Prince) but submitted the official letter for publication, implicitly claiming that the act of ‘exposing’ an absurdity in the institution of the court is higher than the official complaint and carries a greater truth.

The editor of *Turnovska konstitutsiya* published both letters and, defending Radoslavov, attacked the minister, making a far stricter and juridically motivated distinction between the official court system and the non-official civic actions, including the political opposition of a state-employed judge<sup>40</sup>. His arguments resembled the speech of a lawyer drawing arguments before an invisible court. It’s interesting to note that it was the minister/jurist, not the journalist, who used indistinct

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<sup>40</sup> Привеждам и коментара на главния редактор на “Търновска конституция”

*Средец, 28 Януарий 1884г.*

*Нашите читатели вероятно помнят напечатаното в миналия ни брой писмо на днешния министър на Правосъдието, с което писмо Министър Помянов предлагаше на Д-ра В. Радославова (член на тукашния апелативен съд) “да се откаже от всяко съдействие в Централното Либерално Бюро, като прати за обнародване във всички столични вестници мотивираната си оставка от това бюро”.*

*Това chef d’oeuvre на министъра Помянова ний ще се помъчиме да анализираме днес, за да се убеди всеки в неговата стойност: и като министерско писмо от един висок магистрат, и като политически документ, с който днешното правителство уверява света, че не ще прилага в действие “измененията” на Търновската конституция, - която била възстановена във всичката ѝ цялост и цяла да се прилага на нов опит; - и най-после като документ, който иска да умаломочи централното либерално бюро, относително неговите легални и мирни действия, като представя тези действия пред българския народ с други фалсифицирани краски.*

*По първия въпрос, т.е. относително стойността на “Помяновото писмо” като министерско предписание до един висок магистрат – ний ще кажем следующето:*

*Действията на г-на Д-ра Радославова в качеството му на член на централното либерално бюро, са действия въвн от службата му като съдия в тукашния апелативен съд и следователно ако г-на министъра на Правосъдието мисли, че тези действия докачат честта и достолепие на съдилищата, могъл би, и има право да го привлече към дисциплинарно въздействие. ... Дисциплинарните наказания в такива случаи са предвидени точно и ясно в чл. 119 от закона за съдоустройството ... Но за туй министъра на Правосъдието преди всичко е длъжен да поиска обяснение от лицето, което е извършило действие въвн от службата си. ...*

*Министърът на Правосъдието обаче е игнорирал всички тези законоположения и въвн от всяко понятие за закон и нравственост, предложил е на г-на Д-ра Радославова – да се откаже от всяко съдействие в Централното либерално бюро и да си даде мотивираната оставка ..., защото министерството не искало да го лиши от службата му и да закрие “за винаги” съдническото му поприще. Министъра Помянова или не знае добре или пък ако знае не иска да разбере, че закриването “завинаги” съдническото поприще на един съдия е лишение от граждански и политически правдини, а подобно лишение на правдини, придобито по естествен път (по рождение, произхождение, народност и вяра) е дело на общите съдилища и то след извършване на известни престъпления и злодеяния, предвидени в наказателния закон, и след издаването на съдебна присъда, влязла в законна сила.*

*Министърът г-н Помянов може преспокойно да уволни г-на Д-ра Радославова от съдническото му звание, при всичко че няма причини. ... Г. Помянова може да уволни един съдия и това действие макар и да е произволно и следствие от необузданна партизанска страст, но то не ще рече, според юридическите доктринални понятия лишение за винаги от съдническото поприще. Г-н Радославов е гражданин на България, родом от гр. Ловеч, бил е народен представител и е Д-р на правото от Хайделбергский университет, също такъв както и г-н Помянов; той като български гражданин има пълно право, въвн от службата си да се интересува за съдбините на отечеството си, и с онази гражданска доблест, която го характеризира, да действа за запазването на правдините на народа си, когато те немилостиво се тъпчат от когото и да било. ...*

*... министерското писмо, според нашето мнение, не може да третира въпроси, въвн от сферата на едно официално писмо – изходяще от министерството на Правосъдието и адресирано до един съдия. ...*

notions like ‘the honour of the office’ or ‘the dignity of the state and its ruler’ and tries to achieve the total obedience of his subordinate not with direct orders but with overbearing psychological pressure. Unlike the minister, the journalist took up the juridical role, describing with professional competence the limits of the judiciary role and what the person can do outside this role. In the spirit and the letter of the law he even informed the minister what his own prerogatives to punish and dismiss his subordinates were, making a distinction between dismissal as an administrative punishment and the ‘suspension of rights’ as a juridical one.

Thus the professional interpretation is given by the wrong person at the wrong place. The Minister of Justice has ignored the law, choosing not to use the procedural channels of punishment available to him through his office; the defendant responds not in court, but on the pages of a newspaper; the newspaper, on the other hand, behaves like a court, judging the incompetence of the minister. In other words, this newspaper puts on trial the court, the very Minister of Justice, whom it charges with procedural incompetence.

### **Truth and court: representations in the Bulgarian literature**

There is a special aspect of publicity which deserves separate attention here: Bulgarian fictional literature.

Its special place in public space deserves some introductory words. It can certainly be called a public medium as fictional works – just as magazines and newspapers – are ‘published’ in an anonymous and universally accessible space. For the 19<sup>th</sup> century literature is even one of the most prestigious media as its cultural longevity is opposed to the short life span of newspapers.

Just like the other media, literature can discuss and directly criticize the institutions of modernization, create its own discourse and its own public images of those roles and institutions. Unlike the other ‘public textualities’, however, it can do something more: with its fictional but typical characters it can offer public access, public insight into the ‘interior world’ of the individual cast in those roles. That is, literature has access to the ‘internal truth’ of the individual, if only through its fictional constructs, the characters. This access gives it a special fundamental attitude to individual identity as it can be represented both ‘truthfully’ and ‘realistically’ (whatever that means) or structured along literary models and norms. An old Romantic utopia of literary ideology claims that literature and the arts set the stage for the appearance of the whole person - non-alienated, unchained by social conventions and alienating roles. Schiller’s program for the ‘aesthetic education’ of Man is based on this concept, which is taken up by Realism as well. We can therefore expect that literature as a special discourse will construct its literary ‘whole persons’ as opposed to other public and expert discourses which set out to discuss, standardize and control the conventional roles.

In the 19<sup>th</sup> century – the epoch of literary realism and positivism – this program for portraying and modeling of the ‘authentic whole person’ got a rather peculiar

realization: it gradually departed from the earlier self-expression of the exceptional personages of Byronic Romanticism and focused on another problem – that of achieving the ‘internal truth’ of the average person, the non-exceptional, mass individual of the low social strata. A huge number of European realists turned to the typological figure of the ‘little man’, describing his clash with the alienated world of the institutions and the state. The approaches to describing this conflict are quite diverse – from Flaubert’s *Sentimental Education* to the naturalism of Zola and his miners, from Gogol’s satire to the philosophical treatments of the smallness and humiliation of the ‘underground man’ in Dostoyevsky. As we will see, in the Bulgarian case literature (meaning mostly the prose and to some extent the drama, lyrical poetry is a special case) always develops its plots asymmetrically, clashing whole, biographical characters (eliciting readers’ identification) with personages who are nothing more than roles, offices, positions in a certain institution.

We must also bear in mind that this time of literary coincided with the time of literary nationalism: in this same 19<sup>th</sup> century literature took active part in the symbolic building of the nation. It constructed an imaginary-homogenous publicity, an *imagined community* of imagined readers experiencing their ‘togetherness’ as an emancipatory march through history – as the awakening, revival and liberation of the People. This allowed literature to stage yet other plots on its imaginary stage: this time clashing ‘the interior world’ of the nation (i.e. the ‘values’ of its Grand historical narrative) with the same alienated and formalized reality of the modern state. As we will see, in the Bulgarian case this is dramatized as the clash between the ‘heroic Bulgarian’ and the Bulgarian who is nothing more than a role, a gear in the new modern system.

Thirdly, unlike other sectors of discourse, literature (and especially realistic prose) has yet another important basic characteristic. As Bakhtin has shown, it is capable of encompassing and ‘orchestrating’ – i.e. engaging in certain relationships – many social discourses, organizing a certain dialogue and a clash of social languages in its provisional space. This means that it can dramatize the linguistic emblems and signs of the institutions, it can clash the jargons of specific roles and professions, opposing them to another seemingly authentic, whole language, unlimited by any roles. This makes it an especially interesting object for our analysis.

Bulgarian literature inherited certain traditions in the portraying of courts, court productions, juridical justice and juridical roles from the period before the creation of the new Bulgarian state (1878). Examples of the representations of Ottoman justice can be found in Karavelov, Petko Slaveikov and Botev. Perhaps the most indicative token of this norm of literary depiction is Botev’s feuilleton *Examples of Turkish Justice*, 1871, painting pictures of incredible juridical and extra-judicial iniquity with a clear and sentimentally-modelled addressee – the suffering Bulgarian people. In this poetics the Turkish ‘men of justice’ are an embodiment of violence and corruption, blatantly misusing their juridical roles for their personal gain, punishing innocent people (Bulgarians) and letting the villains (non-Bulgarians) go free, mocking and torturing an ethnically defined population suffering beyond measure; even capable of allying with the criminals for reasons ranging from material profits to hatred for the ‘infidels’. That is, moving within the revolutionary ideology of the national revival and its traditional homogenizing and demonizing of Turks, Muslims and the Ottoman Empire, Botev created (through the prism of the mono-dimensional genre of the story-feuilleton-report) an exceptionally biased, partial and satirically deformed

picture. In it Ottoman justice is but a cynical Oriental and racist imitation of justice, a tragic mockery of the sufferings of the ‘Bulgarian folk’.

After the Liberation this nationalistic tendency in the depiction of justice in the Ottoman Empire was both preserved and transformed. There continued to appear articles, memoirs and literary texts where Turkish kadii were depicted through the same oriental-satirical prism – as the embodiment of cruelty, juridical folly and ignorance, as figures of evil and corruption. This cliché, however, was accompanied by two parallel types of literary representation.

The first one appeared mainly in memoirs describing the trials after the failure of the April uprising. Authors like Zakhary Stoyanov and Konstantin Velichkov described the Turkish juridical system as a chaos where sudden outbursts of compassion and law-abiding<sup>41</sup> coexisted with sluggish imperial pseudo-bureaucracy: In the detailed biographical experience of those prisoners the Ottoman juridical system was a confusing mixture of Ottoman and European procedures, sudden pardons, court errors and omissions and pure ‘oriental’ cruelty.

The third type of literary representations of the court, juridical justice and juridical roles is part of the whole retro-utopian project of the first decades of independent Bulgaria to the ‘national heritage’ and especially the non-institutional practices of the common law (see the first part of this study). In its idealizing perspective both the common law and imperial jurisdiction (which often overlap) suddenly appear as some pre-bureaucratic, wise and authentic sense of truth and justice.

Some literary works describe folk punitive practices - Ivan Vazov’s *Cairn* 1885 (Gramada) comes to mind – thus modeling a patriarchal and romantic image of ‘direct justice’. In his novella *The Gaping Wall* Tzani Ginchev draws a favorable picture of a harsh Ottoman system of direct punishment where field-keepers could even kill illegal fruit-pickers (“Zinalata stena”, p.32), whereas in his other novella, *Wedding*, the characters speak reverently of samples of Serbian heroic justice:

And when it comes to judging, they judge right and there is no villainy there. You could lie down on the road with a sack of gold coins and nobody will dare touch you. When someone steals something which dearer than 100 coins, they shoot him and put him up on a stake—mounted wheel and leave him for crows and eagles to feast on – they are rather quick-tempered there... And for a murderer – no qualms at all – six bullets and put him on the wheel. *Zhenitba*, in *Tzani Ginchev: Selected Works*, volume 2. Sofia 1986: Bulgarski pisatel, p 125.

It is worth noting that this image of justice contains some paradoxical juxtapositions: ‘cruel punishments’, mercy and corruption can successfully coexist there precisely because they were presented as ‘natural’, human, coming from the heart, from wisdom and experience, without the cold formality of bureaucratic jurisdiction. In other words, this image of justice is explicitly or implicitly polemic – literature is trying to set the emerging modern institution against another, non-institutional and non-formalized ‘truth’ with ‘authentic’ characteristics. This is the informal ‘truth’ of

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<sup>41</sup> *The magistrate, enraged by the answer of one of my fellows, went as far as slapping his cheek and started hitting him on the head. The old Turk, who hadn’t moved so far, jumped from his couch and taking the magistrate by the hand, shouted at him in front of us with a voice reeking of true indignation, ‘What are you doing? Have you come here to investigate these people or beat them? If they are guilty, then find their guilt and punish them according to the law, but the law gives you no right to beat them. You can’t do anything which disagrees with law and justice’. In this moment he seemed to me like one of those old Turks who stopped the sultans on the street to rebuke them for their lawlessness in front of the crowds. He was a remnant from another generation for which the sense of justice was developed as a virtue.* Konstantin Velichkov, *In Gaol*, 1899, pp. 57 - 58

the human heart – but as the literary works are badly written and edited, their conceptual aspect is rather mixed up as well, often emitting several conflicting messages simultaneously.

An interesting example in this vein is Vazov's story *Old Nistor* ('Dyado Nistor', 1888), based on the troubled relationships between two contradictory ideas of justice and jurisdiction and their respective roles and identities. The conflict between them is presented in a broad social and biographical context as a clash that is simultaneously psychological, domestic and cultural. Old Nistor, a human relict from an earlier epoch, cut off from the dynamic world of the new state<sup>42</sup>, is a man of 'village' justice, embedded into the communicative and practical experience of the small, pre-modern 'warm' community of neighbors, friends and relatives, living and 'aging together', to use Alfred Schutz's phrasing. His son, however, is a public official, a district constable with strictly exercised law-defined duties and responsibilities. Their failure to understand one another grows into an open narrative conflict. Nistor tries to persuade the district constable to pardon an army deserter (acting from village solidarity, compassion and pity for his neighbor, the mother of the soldier)<sup>43</sup>. His son's retort 'I have to follow the law, Dad – shall I heed you or my office?' is met with a plain-hearted 'you have to obey your father, your heart, humanity and compassion'. He has yet to face the implacability of his son, who follows his professional duties and indicts the deserter.

The short story shapes the conflict asymmetrically, alternatively offering an ironic, external view on the protagonist or requiring sympathy and identification, describing 'from the inside' the torments of his soul. At the same time it consistently keeps the external perspective to the world of the official, making it almost impervious, stretching no further than the 'office' held.<sup>44</sup> As a result of this asymmetry the reader is presented with a specific picture of modern Bulgaria and its 'justice', shown not through the eyes of the new bureaucracy (which is best acquainted with its rules) but through a peculiar 'double vision' – alternating between the perspective of the pre-modern Nistor and that of the modern narrator keeping his cultural distance from the protagonist.

*Nistor could see there was no mercy anymore. The new laws were harsh and people became harsh, too. They were ready to trap you for any small grievance, to bring you to court, to the lawyers, and you're done. They don't want to hear, they don't want to look at the man. Didn't they ruin Todor Koev the treasurer just for a little flaw in the cash-box? They kicked him out with his six children! As if the kingdom would fall for*

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<sup>42</sup> *The great takeover had brought great changes. Fire and sword had ravaged his native town and, destroyed his home and many friends, acquaintances and affinities, leaving empty spaces in his heart. The new people who made their appearance were strangers to him, the new rules which replaced the old ones seemed adverse and offensive. He, a man of the past, felt like a foreigner in this new Bulgaria, the creation of a political cataclysm.*

<sup>43</sup> The old man's arguments are presented as follows: "The poor woman is crying, it breaks my heart to look at her; I promised his mother to plead for pity, it will be a shame to waste the young man so, [the mother of the deserter] would grieve to death, let him go so we won't take this sin upon us.

<sup>44</sup> The 'duty' of the official is interpreted in two aspects: as a professional obligation (with which the district constable seems to find some moral identification, but the story does not expound on this besides mentioning en route that the district constable had a 'harsh nature which his duties made unrelenting' (p.138); and as potential guilt in the case of its non-feasance ('If I let him go, I might be indicted myself. The law is harsh' (p. 139)

*a handful of money. . . Turks were bad, but when you dropped down to plead with them, when you slipped them something, you could get mercy and pardon – even if you killed a man. They did beat, but they pardoned, too... They were a merciful kind. We are beasts! Besides, Nistor thought, there was no justice anymore. Kids who hadn't seen or endured anything much were made ministers and grandees, the elders were kicked outside... Those drones have not said an 'ouch' under the Turks, and here they are crushing us down! ..., Are they what the Russians fought for? (p. 136)*

As we can see, the peasant 'justice', based on immediate compassion, on family and local emotional solidarities, identifications and personal acquaintances, operating with the categories of informal mercy like 'pardon', 'plead', etc. leads to a strange idealization of the former imperial jurisdiction, absolving both its unpredictable and often unmotivated 'pity' and its cruelties, lax procedures and corruption. On the other hand, for Nistor this idealization is only a contrast for the modern juridical justice he finds utterly inscrutable and describes as 'harsh' and 'merciless'- a condition he interprets through moral categories – people have 'hardened', they have become 'beasts and tigers'.

From the perspective of the narrator Nistor's justice is, of course, naïve, but also likeable – likeable because it is integral, explicable, human and biographical, unlike the cold, formal and impenetrable 'office-holding', which is described laconically and objectively without any identification techniques. Interestingly, though, this story doesn't stay with this predictable judgment and does not make Nistor the 'moral victor' in this match of truths, as one could expect. The finale takes a sudden turn, demonstrating how 'authentic' people like Nistor are an easy prey of the manipulations of the new, modern times: naïve as he is, the protagonist is drawn by his son's opponents into political schemes against his own offspring – thus implying that the biographical 'authentic' person is already weak, unfit and unable to maintain his 'justice' – the new times are capable of manipulating his integrity and inability to assume social roles in various unwanted ways.

We can't comprehend this narrative twist without stopping to describe the specific literary genre of Bulgarian literary representations of the judicial system, juridical 'justice' and juridical roles between 1878 and 1910/14. I will also use this digression to describe the size and style of the literary works discussed here.

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I went through the literary production of the most important Bulgarian writers between 1878 and 1915 and identified about 50 works with some reference to crime, punishment, court justice, juridical truth and the roles of court officials or the participants in the legal proceedings (I have appended the list in Bulgarian). I found a manifest genre asymmetry - the court institution was frequently treated in prose writings, rarely mentioned in drama and almost never referred to in lyrical poetry: the optics of some literary genres obviously excluded the problem of institutions and their roles (an interesting enough issue which I won't have enough space to discuss here). I will mainly examine the first decade and some stories by Ivan Vazov and Mikhalaki Georgiev.

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Besides *Old Nistor*, in the last decade of the 19<sup>th</sup> century Vazov frequently treated the subject of law, juridical roles and the questionable juridical 'justice'. The novella *Mitrofan and Dromidolski* (1881) tells the parodic provincial story about a caricature Justice of Peace (lacking the requisite education, professional competence and ethics for his position) who decides to sentence his rival/friend to death for 'killing' (i.e. cutting) somebody's cherry tree. In the novella *Chichovtsi* (1885) a similar petty

conflict ends when the Turkish official swings his cane on the ‘law-seeking’ would-be litigants. The story *Bikoglav* (‘Bull-headed’, 1890) refers to a soldier who’s indicted and convicted on a miscarriage of justice (he won’t admit that he’s been with his lover as that would compromise her reputation); *Dve vrati* (‘Dve vrati’, 1893) tells the story of two litigants overhearing their conspiring, corrupt lawyers and in their disappointment forget their feud and cede the long-running trial. The story *Clause 33* (‘Chlen 33’) refers to the absurdities of the Libel Act whereby a journalist can be convicted for defamation even if he has said the truth. The plot *An Odyssey in the Deliorman* (‘Edna odiseya v Deliormana’, 1905) is developed symmetrically: a judge convicts a criminal but when he also gets persecuted and falls into the hands of the same criminal, the latter takes pity of him and moved by his notion of honor, does not take revenge but even saves the ex-judge. In the long story *Kardashev Goes Hunting* (‘Kardashev na lov’) there is a brief reference to a court trial where a thief and murdered was rightly sentenced to death.

To sum up, Vazov seems to conduct a series of experiments with the juridical plot and the literary images of court justice. Together, his ‘juridical’ works (more than 10 in a period of 25 years) imply that he seemed to examine different possibilities, try out variants and often treat the same motif through different ideological prisms, interpreting and evaluating it in different ways, building varying types, roles and plot positions. This is a peculiar literary ‘mix and match’ of types, character positions, social and professional roles in conflict with different ‘authentic’ identities and their personal truths. Vazov was obviously anxiously seeking the right attitude to the painful problem of the alienated ‘justice’ of the court institution.

In abstract terms, the shared ideological framework of these experiments almost coincides with the romantic literary utopia I mentioned in the beginning: an authentic, non-institutional person (or community) with his own ‘living’ truth clashes with the hostile alienated world of the court institution, coldly dispensing partial truths and formal justice in an inhuman, procedural manner. The fascinating thing here is precisely those anxious combinations: the situations and personages vary, as if ‘trying out’ all sorts of conflicts between (also differently interpreted) roles and identities. We can have a comical conflict between a funny provincial community and the modern system of justice, but it can also be the tension between ‘the father and the son’, between ‘a man and his friend’, ‘the client and the attorney’, ‘the little men and his betters’, ‘the judge and the criminal’, ‘the writer and the criminals’. This ‘mix and match’ impression is also supported by the thematic repetitions/variations of the same situations and motifs: defection as a crime, miscarriages of justice, the cold impartiality of judges, the limits of mercy, the impartial judicial roles, etc. This approach creates not only different images of court justice, but also different images of its Other – the ‘authentic human justice’: the latter is not as univocally depicted as one might expect. In Vazov’s stories it undergoes various, sometimes even contradictory transformations: sometimes human ‘authenticity’ is rendered as a romantic drama against the inevitable court mechanism (‘Bikoglav’), sometimes – as a biographical appurtenance to a bygone but ‘genuine’, ‘whole and human’ historical world (‘Dyado Nistor’) or the conflict between a not particularly magnanimous judge and a noble-hearted criminal (‘Edna odiseya v Deliormana’). In the earlier works from this period there are even cases when the basic opposition (authentic truth vs. formalized juridical justice) falls apart and the ‘authentic’ people appear ridiculously unauthentic, grotesquely provincial – pure satirical construct, just like Gogol’s characters. (‘Mitrofan i Dromidolski’). In later variants the ‘authentic’ has ceased to be an ideological alternative, having been reduced to a mere technical device

(‘motivation’ in the sense used by the Russian formalists) with no other function than that of a contrast to routine juridical roles. The litigants in *The Two Doors* should have been breathing, passionate people with their own histories and their own ‘truths’ – to serve as a contrast to the lawyers, represented as callous and cynical masks. And yet the passionate hatred of the plaintiff and the defendant is nothing more than a structural, purely formal condition for the development of the plot – it is described without any psychological intensity, without any biographical drama; the reader is not invited to identify himself with them, etc.

One could expect that a literary practice like Vazov’s (a contradictory mixture of Romantic and Realist principles) should at least have a clear hierarchy of ‘truths’: the truth and justice of the whole biographical person should always be ‘superior’ to what is established and adjudicated by the cold juridical procedure (as it is in stories like ‘Bikoglav’, ‘Chlen33’, ‘Edna odiseya’...). But as we saw in the analysis of ‘Dyado Nistor’, there are whole stories where both ‘truths’ coexist in an unresolved rivalry, and even the abovementioned ‘Bikoglav’, ‘Chlen33’ and ‘Kardashev na lov’ have fragments that could lead the reader to passing insights into the specific justifications of court procedures (‘Kardashev na lov’, etc.)

In fact, most of Vazov’s stories are searching for an easy way to pry open the hard nut of literary-judicial representation: they simply do not refer to any real crimes. This is especially important as only a serious transgression can reveal the deep meaning and justification of the court – as a procedure giving equal chances to the defense and the prosecution, to punishment and to those wishing to prove their innocence. Vazov prefers dealing with situations where justice ‘fails’, i.e. reaches its real limitations – miscarriages of justice, routine formalism, juridical absurdities and hollow, staged court performances.

The establishment of guilt – the core meaning of jurisdiction – is not a driving force of his plots; his narratives always start with absolute knowledge about the guilt or innocence of the characters, the exposure of the crime never causes any suspense, because Vazov’s narrators never fail to inform the reader what happened, who’s guilty and is there any crime at all. Heavy crimes are rarely discussed and when they are, they are still left outside the plotline as they are deemed unworthy of literary treatment, satirical at best (*Kardashev na lov*). Thus Vazov forsakes his chances of developing a deep philosophical plot like that of *Crime and Punishment*. His interest is usually elsewhere; other things seem to him humanly significant and worthy of literary representation – love conflicts, family conflicts, literary and social conflicts. Thus literature and jurisdiction seem to have no common ground; literary representations seem to avoid the real deep philosophical rivalry between the two ‘justices’.

These examples testify that under the ostensible repetition of the realist/romantic utopia about the ‘justice of the whole person’K, Vazov’s prose from this period demonstrates a certain anxiety – unable to properly deal with the court and its representations, it seems to avoid the issue – it keeps pecking at it, but it actually chooses only its stultified, uninteresting variants.

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Another example of literature’s ‘indecision’ towards the image of the court and its truth is the story *In Chalk and Charcoal* (‘S tebeshir i vuglen’, 1891) by Mikhalaki Georgiev – a typical convoluted and fragmentary story with direct interferences, commentaries and moral judgments passed on by the narrator. The plotline goes like this: traveling in the country, the narrator hears from the drayman about the problems

of a village suffering from the misdeeds of the priest and the mayor. Meanwhile the narrator meets Kolyo the Mellow, the story protagonist, who helps mend the broken cart. We hear a detailed portrait and a circumstantial description of the sufferings of the character. In the village the narrator hears that the mayor and the priest are suing Kolyo for his mill – a gift from a Turkish nobleman. About a month later the narrator accidentally meets Kolyo in the city and attends the trial presided by the young judge Assen Vilovsky, whom the story presents as corrupt and negligent. Vilovsky guides the proceedings sloppily and bureaucratically, using a juridical jargon which is totally inscrutable for Kolyo. Uncomprehending and comically inadequate in his answers, Kolyo loses the case. Years later the narrator meets him again in court. The old man wants to appeal but doesn't know how to go about it; he finds a friendly and intelligent official, but he's not from the cassation court. The official listens to Kolyo's story and tries to recall all his juridical knowledge but is unable to help him. At the end the narrator visits the village again and hears the end of the story: Kolyo has lost his mill and works as a servant now. The priest and the mayor are also punished, however – first by the law (as the new district constable exposes them as thieves and sends them in prison), then by fate itself (as they are accidentally killed when they try to jailbreak).

The story makes a great effort to create a monolithic moral perspective and describe the institution of the court as hostile and inscrutable while lending Kolyo's world an obvious human truth and justice. Figuratively speaking, the structure of the story seems to urge the reader to identify with the protagonist. There is a whole chain of direct evaluations, compositional and stylistic techniques whose purpose is to provoke sympathy to the protagonist and hostility to his adversaries. The author is trying to ensure a prerequisite moral 'coordinate system' where the plot will unfold and moral and social conflicts will be solved – a system so univocal that the reader could have no doubts who is right and who is not.

The story, however, contains certain specific compositional and conceptual 'anomalies' which question this ostensibly clear and categorical moral order of the narrative world. The function of the antagonist, for example, is divided between two kinds of personages – some 'assuming' the behavior dictated by their social role (Assen Vilovsky, the second court official), while others have personal, evil and mercenary motivations (the mayor and the priest). It is not clear which of the two negative agents is the true reason for the misfortunes of the protagonist. As if the story cannot be satisfied with the institutional evil (the tragedy caused by the inscrutable, formally alienated procedure of the court and its callous officials) and needs to add another, principally different reason. The clash with the alienated court institution is reinforced by two more reasons: the archaic evil of the inscrutable villains and the avarice embodied in the typical Realist figure of the 'social oppressor' (the personages of the priest and the mayor are divided between metaphysical evil and material interest).

On the other hand, the judicial role is also depicted in a just as contradictory and manifold manner: its empty shell is first occupied by the corrupt and unworthy Assen Vilovsky (i.e. we should be blaming the man rather than his social role), but in the next episode it hosts the friendly court official who can't bend the law in any way (i.e. Kolyo's misfortunes were not caused by the corrupt judge but by the law itself, by the institutionalized, alienated and self-propelled authority). Thus the story turns out to be conceptually muddled – despite the ostensible univocal 'truth' it seeks to suggest, its message disintegrates into several mutually contradictory claims. Striving to portray

the court in a negative, monstrous light, it unwillingly sends additional messages and muddles its conceptual framework.

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Another author who wrote about courts and juridical proceedings is Aleko Konstantinov, but his writings have yet to be analyzed from this perspective. **TEXT IN BULGARIAN available upon request**

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Every public discourse is an ideological interpretation and ideological intervention in reality, but literary works give a more complicated, indirect interpretation. They are autonomous worlds which build extended stories, juxtaposing plotlines, incidents, characters, clashing and contending the different fates, social positions or viewpoints. This makes them far more multidimensional than other public discourses, so that they can be seen as a kind of theatre – a makeshift arena for the juxtaposing, rating and arranging of social codes and symbolic system, for the negotiation of the core values of any society.

We saw that according to the normative notions (mostly related to the various manifests of European Realism) a good realistic work must create a synthesizing meta-perspective suggesting an self-evident unconditional ‘truth’, ostensibly emanating from the literary world itself. With its integrity, transparency and authenticity it should encompass and arrange all the other (partial, alienated, formal, biased, etc.) truths.

The historical genre of the multi-segmented, fragmentary story from the 1870-1900 period seems symptomatic: it demonstrates that Bulgarian literature as a specific public discourse did not handle the above task particularly well. It couldn’t very well offer a univocal representation of modern institutions and their formalized roles. Plotlines and character clusters of the abovementioned leading genre were not juxtaposed and ranked in a clear and unquestionable manner; the whimsically selected episode are not logically ordered and do not emanate any obvious truths; life-stories are fragmentary and confusing, formalized social roles are variously attributed with different functions, plotlines seem to twist in every direction. Even when the story is biased, it still carries some parasite messages which do not always conform to the explicit tendency. There is yet another vacillation – between the autonomous fictionality of the literary world and the documentary, journalistic pretensions of the representation; most stories are in fact a genre hybrid between the universalizing artistic mimesis ‘based on probability and necessity’, a literal documentary true to individual facts and the feuilleton seeking a hyperbolic, deformed and satirical effect. The literary representation of the court institution is especially provocative for the conceptual weakness of this genre. Juridical ‘truth’ resists any literary manipulations - shrunk to the abovementioned genre template, Bulgarian literature gave birth to a muddled array of jurisdiction images: pictures of the court as an impervious and monstrously formal establishment, as a source of iniquity, miscarriages of justice and legal absurdities coexist with unexpected, moderately positive ‘juridical’ images, while the negative authority of the institution is duplicated by archaic notions of evil. The reason is simple enough: the image of the juridical multiplies because the image of its Other (the coveted authentic, integral and warmly human existential truth) multiplies, disintegrates and eludes us in the same contradictory and muddled

manner. Literature desperately seeks this authentic truth, alternately transforming it into a sentimental love relationship, the ability of the individual to live within the grand historical 'narrative' of his nation, an ironic nostalgia for a bygone patriarchal world or a sentimental social identification with 'the injured and the insulted'. Thus in this period the story/documentary only imitates the good juxtaposition of social languages – only to disintegrate into crudity, bias and flatness which are not even coherent enough. Or end up with the conclusion drawn by Vazov's personage Kardashev: 'Satire, let's take up satire!' A feeble and inconsistent outcry.

Third part 1989 – 2005

**The status of the judiciary system in Bulgaria 1989 – 2005 text in Bulgarian, available upon request.**

**The Status of PUBLIC discourses in Bulgaria - text in Bulgarian, available upon request.**

### **Case Study: The Private Life Of Public Discourse: Metaphors Of Familiarity And Aggression In Bulgarian Media**

#### **Introduction: the context.**

Here I will address some specific features of the Bulgarian public domain. But in order to do this I will have to provide you with some historical information about the origins of the new democratic public sphere in Bulgaria and the competing discourses in it.

#### **Proto-Publicity**

As every other culture in a totalitarian communist society, Bulgarian culture had two poles: an official and an unofficial one. Official, public culture was supposed to reproduce communist ideology - it was, in fact, a powerful party-and-state institution. Unofficial culture came in an entire range of versions and degrees of oppositionism, but on the whole it had little, if any, access to official and ideologically indoctrinated public space. The idiosyncrasy of Bulgarian totalitarian culture should perhaps be sought in the special flexibility of the official-vs-unofficial relationship. The typical exponent of Bulgarian culture of the period had the relative freedom to move along the official-unofficial axis; it was socially acceptable for him or her to hold different positions under different circumstances, combining dissidence with officially prescribed cultural roles.

One could compare the birth of the new democratic public sphere in the last years of Bulgarian totalitarianism to the origin of the European public domain in the late 17<sup>th</sup> century England – as described by Juergen Habermas. As in England during the Enlightenment the new public freedom of speech was born in various circles of men of letters – writers, philosophers, critics, artists. In the 60-ies and 70-ies unofficial groups of friends or young fans and followers clustered around some older renowned poet, in the mid-80s. Such informal circles of friends started expanding until they evolved into quasi-institutional formations. An informal circle would mimic an institution admissible by totalitarian cultural standards in order to acquire access to

the public domain through the press, books, seminars, conferences, public recitals.

A retrospective interpretation could see such circles as a proto-model of freedom of speech and free debate – as if they were a public sphere in miniature. However, one should not overestimate their role and underestimate their constitutive limitations. Their real access to broad publicity was in fact rather small – they had no media channels, neglectable access to radio, television, press. Bulgarian samizdat had a modest role in this country in comparison with samizdat in the Soviet Union, Czechoslovakia, Hungary and Poland. It was short-lived (appearing months before the fall of Todor Zhivkov's regime, it ended with the full liberalization of the press) and consisted of only several literary publications.

Moreover, Bulgaria did not have prominent oppositional public figures, dissidents – people as Vaclav Havel or Andrei Sakharov who firmly declared in public their refusal to "live in lies" . Nor did it have alternative cultural fields like those generated by Catholic and emigre literature in the Polish cultural situation, for instance.

Thus, the general principle of this oppositional verbal environment was that private, friendly and informal relationships clad in the pathos of an actual or imaginary cultural mission were disguised as institutional forms which were admitted to public domain along with official totalitarian cultural institutions. The range, level and nuances of subsurface oppositionism differed, circles of friends merged and overlapped, and the same people took part in all sorts of similar cultural enterprises.

In the late 80-ies there appeared a number of articles and books which tackled the political, cultural, environmental and existential problems of Bulgarian society with a new, symptomatic literalness which called a spade a spade. All somewhat unconventional texts, previously published in the official press, used political allegory to one degree or another. They abounded in intricate implications, understatements and parables. In official culture, writers and readers seemed to communicate in an esoteric jargon which implied, rather than formulated, problems. To quote film director Georgi Dyulgerov, author and audience could understand each other at a glance. Satirist Ivan Koulekov hit the nail on the head when he said that the national language was Aesopian. Rejecting this complicated ideological allegorism, these few samizdat writings stopped beating about the bush. They demonstrated no strict line or difference between literary i.e. symbolic and political actions. The Aesopian and allegorical rhetoric was rejected; the truth was "shouted out" in public, There were no tabooed subjects any longer.

### ***Parrhesia and Festivities: Truth in Public***

During the changes – in autumn of 1989, in 1990 and 1991 this discourse of literalness and truth had powerful public repercussions. One could say that the Bulgarian society, which used to live for a 45 years in an ideological lies and public simulations was fascinated – even obsessed - by the rediscovery of the “parrhesia” – the ancient genre of perilous speaking the truth in public.

That is why in its first two years, beyond all their sociological, economical and political dimensions, the velvet revolutions were also symbolic gestures: actions intended to destroy the dominant semio-sphere. It combined paradoxically two contradictory rhetoric modes – parrhesia and poiesis, the simple speech of telling the truth and the sophisticated omnipotence play with language. Indeed, literature ceased to be the realm of tropes, metaphors, fables, allegories, indirect speech. It seemed as if it almost merged with the literal and evades into the sea of various public discourses – all variants of the risky public voice telling the truth. But at the same time public truth was endowed with the most important literary and utopian feature –

the poetic belief in the omnipotence of language. Everybody was obsessed by parrhesiastic discourse of perilous telling the truth in public – and at the same time projected upon it the quasi-magic power of poesis – the art of possible, where new worlds, changes, transitions are not but rhetorically constructed.

1.1 Free speech in the squares. November 10 and the corporeal discourse of freedom: festivities, meetings, speeches, dances, songs, rock music. The public discourse as parrhesia and public festivity.

### **Commercial Press and the Market of Phantasms.**

The birth of the free speech in public happened almost simultaneously with another “birth” – the establishment of the Bulgarian private commercial press. Unlike the electronic media, which remained state property and which were always vulnerable of different arts of governmental and parties pressures, attempts for censorship or controlled informational policy, some of the most important newspapers, according to the democratic changes in law and constitution, became private. i.e. they were independent both financially and ideologically. Next to the party press – newspapers such as *Democracy*, *Duma (Word)*, *Free People*, a number of such independent private newspapers free from engagement to any political cause or ideological doctrine appeared - *Trud*, *24 hours*, *168 hours*, *Kontinent*, *Standart*, *Reporter 7* and many others. In a society of change and transition they answered to the great social need for information and orientation. However, the social need was easily translatable into market demand – information and free public speech became one of the profitable commodities in the new Bulgarian market economy. The number of copies sold daily varies for the biggest newspapers *Trud* and *24 hours* between 300 000 and 150 000 (the biggest success for *24 hours* was 350 000 in 1992-3) for a period of 9 years.

However, this market success of the private newspapers proved to be an ambiguous achievement of democracy. Being free but at the same time under the pressure of market demand, it began to sell one of the most profitable commodities – its own and very specific media discourse. In the Bulgarian case this meant a strange mixture between the parrhesiastic discourse of free, risky and public speech and the mass-fanatisms (i.e. collective dreams, wishes, longings, passions, hate against Others, fears, traumas, resentments). In this newspaper discourse the public speech governed by the liberal values of freedom, democracy and emancipation came close to aggression, brutality, pornography, xenophobic variants of nationalism, paranoia and direct consumerism of mass-phantasmagorias. One could say that these newspapers sold together with the information and freedom of speech also cruel but seductive images of the Bulgarian political and mass-cultural subconsciousness.

This happened in the context of the ongoing loss of prestige for the previous totalitarian “high culture”, medialization of the public space and invasion of Western mass-cultural patterns, which took the empty place of cultural authority. All bookstores were closed because of restitution of property; soap operas flooded the national TV; on the street literature of high quality was sold mixed with popular bestsellers, pornographic, pseudo-esoteric and entertainment literature. The old unions of writers, painters, composers split into competing hostile organizations or disintegrated in despair and individual alienation; famous old writers and artists

discredited themselves in senseless complaints and melancholic nostalgia for the privileged place of high culture in totalitarianism. These attitudes of the old intellectual generation confronted the new radicalism of the underground youth – the result was the strengthening of the generation gap. The marginalization of previous official or alternative intellectual circles and intellectual press, the decline of the leading “high culture” weeklies and the dispersion of cultural authorities went on parallel to the disintegration of old cultural institutions and media channels.

This process was echoed in the new independent press in the form of slogans that “democratization” of society means also democratization of language. This “democratization”, however reached too far – it was interpreted by market oriented journalism not only as getting rid of all the cliches of communist “wooden language”, but also as rejection of any kind of journalistic stylistic norms, any public politeness and of any implicit ethos of democratic public debate. The often propagated explanation was that newspaper language should open itself to the “language of the street and masses” and should disregard all false taboos. But in fact the “democratization” was much more alike the “returning of the repressed” from the linguistic unconscious of the totalitarian masses. It was an invasion of all possible discursive forms of aggression, brutality, play of obsessive corporeal and erotic images, reproduction of traumas and phantasms of the repressed post-totalitarian masses. The parrhesia was unnoticeably substituted by discourse of transgression and resentment, far from any democratic procedure, tolerant discourse, public rule and liberal ethos.

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### **Public Discourse and the Paradigm of Family**

Up to this point I have been trying to introduce you to the context of the origin of the new democratic Bulgarian public domain. This perspective necessarily requires macro-analysis of the public and discursive situation: I have tried to define and locate the dominant public discourses in post-totalitarian Bulgaria and to describe the dynamic and changeable hierarchy of their relationships.

In the second part I will address a rather specific feature of the discursive and media situation in Bulgaria, which demand micro-analysis of some metaphoric and stylistic structures in the language of the independent and commercial press. I will try on one hand to conduct this micro-analysis on a semantic and stylistic level. On other hand I will consider them to be symptoms of a deeper processes in the political and public situation in Bulgaria; i.e. that the semantic analysis will continue into discursive, political and cultural analysis. The final task is to reconcile the micro and macro-perspective.

Let us consider a list of titles, selected by me in the last 3-4 annual currents of the greatest Bulgarian newspaper “Trud” and “24 hours”.

Канибал, спипан с тенджерa човешко, 1 , 24 часа, 2 септември 1995,

Canibal nabbed with his pot full .....full of flesh, full of human meat

Магазинер млати даскал заради политика, 24 часа, 25 юли 1995

Shopkeeper hammers thumps a schoolteacher over politics

Shpopkeeper and schoolteacher come to blow over politics

Милошевич псувал като хамалин бившия си зет, 24л10л97

Miloshevich curses like a sailor his former son-in-law.

Тъст строши главата на зет си, посл 29 юли 1997

Man smashes son-in-laws' head

Ловец простреля съпругата си..... 4.3.1998

Hunter shoots wife

Шеф на бар прободe с нож съпругата си .....

Bar owner stabs wife

Докога ще пълним гушите на комшиите, ..... /става дума за вноса на зеленчуци/.....

How long will we be putting food on our neighbours table?

How long will we stuff the neighbors' mouths?

One can easily notice that the image of the family appears quite often in these titles. It is represented by a number of terms designating traditional family positions or relatives – mother, father, brother, sister, son, daughter – but also more distant relationships inside an extended family – grandmother, grandfather, grandchild, nephew, uncle, aunt. This peculiar feature of the Bulgarian newspaper language deserves astonishment and analytical attention – how does it happen that the most typical terms, designating the kernel of the private sphere – the family – appears so often in the public language? The fact is even more astonishing because these family terms appear in the most emblematic layers of publicity – in the newspaper headlines. What is the function of these typical signs of the private midst in the public realm? Why does the public designate itself by anti-public terms? One could expect exactly the opposite – that in the public language of the newspapers man will be represented usually as a public persona, with his or her official social roles – political, cultural, professional, institutional, medial. The expectation is that men in public are more often ministers, writers, soldiers, artists, experts, movie stars, celebrities, sportsmen etc. – than private persons – neighbours, friends, fathers, mothers, nephews and uncles.

### **Some Typologies**

Let us have a closer look at the structures of these titles. The typical title has a logical and syntactic structure of a sentence with a subject group and predicative group (the last consists usually of verb, object and circumstance). A rough typology of the relation between the syntactic positions and social roles demonstrates that the official public roles and the private family roles have approximately equal chances to occupy the subject or the object position in the sentence. The subject can with the same probability be a politician, administrator, journalist, artist, expert, sportsman, star, model as mother, father, child or distant relative. At the same time one can notice that the subject and the object position is not so often – but often enough -

occupied by terms designating neither official nor private but “a-social” or semi-criminal roles; thieves, murderers, killers, kidnappers, even cannibals.

The same goes true for the syntactic position of the circumstance especially when it designates location. Of course, in a lot of the titles there occur neutral, official and typically public places such as administrative buildings, names of states or cities where some important events took place, or simply social places such as factories, museums, hotels, monuments, TV-shows etc. But once again parallel to these “neutral” public “localizers” there occur terms, designating (or implicating) typically private topics – places, things, details from the everyday private activities at home, in the private surrounding of the family – such as bedrooms, homes, family houses, pots, cups of milk, underwear pieces, bed coverings.

The types of social activities, occupying the dynamic and emphatic center of the sentence - the predicative position – are slightly different. Once again the “normal” official activities of the public sphere are well represented – activities such as declaring, negotiating, signing contracts, visiting, meeting etc. But next to these verbs there is also a group of other verbs referring to the a-social, criminal, delinquent sphere of human life: to hammer, to smash someone’s head, to steel, to curse, to lie, to murder, to robe, to stab, to hit, to kidnap, to violate, to get drunk.

One could say that the relations between social and syntactic positions in the newspaper titles is characterized by competition of three spheres of social agents - the public one, the criminal or transgressive sphere and the (extended) family. The repetitive structure of the sentence combines in a subject or object position public, private and criminal roles; its dynamic and emphatic center – the verb – also oscillates between the public and the transgressive.

### **Stylistics and Pragmatics: Paradoxes of Informal Discourse in Public**

On the level of the stylistics it is clear that the stylistic choice in the contemporary Bulgarian journalistic discourse is governed by the same three foci. Parallel to the neutral and informative conventional public style there are two others stylistic spheres which determines the stylistic play in Bulgarian newspaper titles. On the one hand there is an obvious preference for subversive and transgressive spheres of language: the titles of the opinion leaders *Trud* and *24 hours* are full of idiosyncratic, aggressive, highly emphatic, hermetic and untranslatable expressions from delinquent linguistic subsystems. The stylistic mark of these verbs in Bulgarian is much stronger than in English – most were chosen from the super-expressive and contra-normative slang of some marginal or even a-social groups and gradually became part of the everyday mass jargon in Bulgaria. In general, slang, jargon, argot, - which are normally totally excluded from the correct public language – are typical constituents of these newspapers’ titles. Such titles-idioms often carry strong corporeal, sexual, physiological connotations and at the same time they carry pejorative allusions, underestimating both the subject and the object of the event as well as the partners in the communication. The transgression is multiple; the titles break archaic taboos with the same easiness as contemporary convention of public politeness or even legal norms.

On the other hand the transgressive and public discourses are combined in a strange manner with a discourse of localism, familiarity, privacy and even intimacy. Sometimes the specific stylistic choice of words makes it clear that the anonymous newspaper discourse implicitly addresses the Bulgarian rural home and the big patriarchal family. Words, untranslatable in English, such as *бащини имоти*, (fathers’ estates), *цървули* (rural leather shoes), *софра* (rural table), *гащи* (pants),

фycpa (an item of rural female underwear) mean objects and places from the traditional surroundings or clothing of peasants, which are often and sometimes even emblematically used in the Bulgarian folklore.

Further on, there appear a lot of titles consisting of idioms and phraseologisms characteristic for everyday informal communication. They presuppose shared specific linguistic competence as well as shared “local knowledge” (to use the words of Clifford Geertz). The titles are full of specific presuppositions and implications - knowledge of context information is always taken for granted, “alien”, “uninformed”, “distanced” readers are practically excluded. The general image of the reader assumed by this discourse differs from the neutral, universal, anonymous reader image, implicit in every official and “normal” public discourse. The implicit reader here is assumed to be an acquaintance, someone from the closest neighborhood, a friend, relative. The presupposed audience reminds much more on a local pre-modern community of face-to-face contacts and informal communication, then on a modern alienated society where contacts are mediated through formal public conventions, communicative rituals and sophisticated norms of politeness, indirectness and distance. Such “communal” discourse disregards any social distance, any possible hierarchies between the agents of societies, between participants in events or in communication. Famous persons, celebrities and public figures are symptomatically addressed by given names or nicknames; and there is no great difference whether the title addresses sportsmen (Ljubo, Christo, Trifon), criminals (Krushata, Mechkata, Krokodila, Zlatistija, Barona, Maimunata), officials, (Zeliu, Tato, Ivan, Bateto, Klara), or even members of royal families ( Moni – Tzar Simeon, Charles, Diana, Kamila).

#### Interpreting the Symptoms: Political and Cultural Implications of Familiarity and Transgression in Public Domain

Let us once again raise the question: what does the fact mean that the Bulgarian public discourse operates with such a “private”, anti-public vocabulary as well as with local, sometimes hermetic and idiosyncratic stylistic registers? What is the political and cultural message hidden in this peculiar discourse? And in addition – what makes it possible to sell this language of familiarity and transgression as journalistic mass commodity with special aura that is quite independent from the traditional journalistic commodities – neutral news, factual information or objective commentary ?

In his book *The Postmodern Condition* Lyotard demonstrated that every society - pre-modern, modern as well as post-modern – controls a number of symbolic techniques for reproduction of the “universe of names” – i.e. the possible social position and roles which are accessible to the members of this society. One can consider the discourse of commercial mass press also as such technique for reproduction of possible social roles and positions. From this point of view the strange mixture of public roles and family positions of man in the Bulgarian journalistic discourse becomes a symptom – it symptomatizes the instability of the official social roles in this culture and the uncertainty of the process of socialization in it. Achieving maturity means in every modern society achieving independence from family and from its private sphere. It means acquiring an autonomous status in the public domain – one acquires position, profession, place in the official social hierarchies. The successful socialization secures legitimated access to this realm of alienated social roles. One overcomes the roles and positions given him or her by birth – and becomes “self-made” public persona.

From this point of view the co-existence and the possible replacement of public and family roles in Bulgarian journalistic titles symptomatizes something quite disturbing for this society. Deep in their repetitive structure the titles in question reveal themselves as a conflicting symbolic technique for mass identification. The “double agency” hidden in the syntactic structure of the typical title reproduces incommensurable and struggling “universes of social roles”. The journalistic discourse allows its readers to occupy simultaneously incompatible modern and pre-modern positions. On the one hand there is the open and dynamic reservoir of modern public and professional roles – on the other – there is the unchangeable, seemingly eternal family positions and clan identifications of man. This discursive representation of Bulgarian society interprets the world of alienated official roles as being uncertain and unstable. Behind them always haunts the ghost of an archaic more fundamental and more stable world - the pre-modern big family, the clan, the tribe, the “Ours”.

This double agency could be interpreted even further. One of the possible messages is that socialization in the modern sense of the word could be, in fact, never achieved; one can never acquire real independence from his or her role in this family. One can become general, politician, intellectual, expert, professional, even genius - but he or she could never get rid of his family role and could never cut the eternal strings binding him to his relatives, to the ultimate and most real human universe. The Bulgarian public sphere insists that the fundamental identity of man is the private one; one is less mathematician, worker, movie-star, physician, public figure and is much more a son, a father, a nephew, an uncle. Thus in its deepest cultural message the Bulgarian media discourse represents the fundamental social being of man as network of family interactions between fathers, mothers, grandfathers, daughters, grandchildren, distant relatives etc. This image of the social world is in a hidden and ceaseless competition with the other official and public image. I mean here the “surface” journalistic representations of the Bulgarian society as an universe from alienated mature social roles, determined by efforts, socialization and success, not by birth and the tribe structure of the clan or the big family. In fact, the deep structure, the discursive unconsciousness of the Bulgarian journalistic jargon carries out a process called in the psychoanalytic tradition *regression* – return to previous, undeveloped stages of human behaviour or previous cultural models. Thus, one can insist that this newspaper jargon ceaselessly regresses the modern and public features of this society to pre-modern, archaic family models. And because this happened under the pressure of market demand it means that this regression fulfils certain needs of this society; it reproduces the image of this clan structure as a powerful model both for identification and for regressive projection for the Bulgarian fears, passions, longings, traumas.

There is something more to this. As already mentioned there are not two but three semantic and stylistic spheres, governing the “generative grammar” of the Bulgarian journalistic titles. Next to the public and the private, the transgressive and criminal are also a paradigm for their typical structure. This means that the imaginary family in question is far from the idyllic patriarchal family created by XIXth century literature and popular social philosophy (the last one is in fact a retro-utopian image of naïve happiness and authenticity). An analytic look at the repetitive family relationships usually preferred in the Bulgarian press will demonstrate that this is rather strange family - a family-mutant. It is not the privileged social domain for love, solidarity, intimacy and security but a micro-sphere of wild and brutal acts – kidnapping, revenge, murders, tortures, criminal intrigues, sometimes even of

castration, incest, cannibalism, defacement. The journalistic discourse merges together the imaginary pre-modern big family (the nostalgic Other of Modernity) with its dark and transgressive Other. – with the worlds of the madman, the criminal, the sexual torturer, the a-social element. The bright phantasm of authentic, non-alienated, “natural” social structure is mixed with a dark one – with the obsession of cruelty, criminality, breaking every law, disregarding any norm, transgressing every taboo. The family constructed by newspaper representations is a field for the cruel play of enormous aggressive and transgressive energies – it combines in its reductionist image the fundamental and regressive social structure and the destructive essence of the a-social and anti-social sphere itself.

Let me give you some more examples – Peasant cuts heads and genitals of a neighbor, 24 hours, 25.7.1995, Hunters shoots wife, Trud, 4.3.1998, Dario Fo’s Wife – robbed 25 years ago, Trud, 19.2.1998. Man Killed by his Father tortured the whole village, Man Beats a Child to Death in order to save expenses,... Grandfather Pours Acid upon his Grandson Trud, 4.8.1998

Sometimes this big family reminds us of a criminal clan – such as the mafia, the Cosa Nostra or the Camora. Here is another list of examples – Bloody war between two gypsy clans in Kyustendil, Trud, 29.6.1997; A man from Pazardzik started a rich wedding after a investigation by the police, Trud, 29.6.1998, Grandmother helps her grandchildren rob the neighbors, 3.9.1996, Eight criminals kidnap businessman’s wife.

Sometimes brutal acts happening inside the family transgress the very old norms of respect for one’s corporeal limits or of sexual taboos. In a “normal” society the archaic fears of castration, patricide and incest, constitutive for the human civilisation in general, are usually suppressed in the collective and individual unconsciousness. This, however, is not valid for the Bulgarian public domain – the journalistic discourse of the titles reproduces the visibility of these archaic fears or proto-criminal acts, it has no fear, no taboo for them. Sometimes, it demonstrates in its connotations even something which the German language designates *Schadenfreude* - a joy for the destruction, loss, failure, fascination with evil.

Thus the family – the most archaic form of all social organisations – has a strange fate in the Bulgarian media discourse. In the depths of its discursive construction it symptomatizes the instability not only of the modern public norms – but also of the social norms in general. The fundamental, social organisation, predestined to secure solidarity, security and love between social agents is split by cruelty, aggression and transgression of all possible norms. In this phantasmatic and paradigmatic anti-family fathers and children kill each other, young nephews rape old grandmothers, brothers rob each other. The family has saved all its private features (lack of official distance, intimacy, closeness, informal contact, context knowledge). But at same time it is transformed into a micro-domain of lies, violence, sexual brutality, curses, blood and beating. The rare cases of solidarity reproduced by this image carry features of the resentment identification: it is usually a contra-social solidarity between criminals. In this discourse the family is a hidden paradigm of all social spheres – but it is a contra family, a primary a-social and transgressive structure.

And there is one last remark. The repetitive choice of style in the Bulgarian media discourse is not an innocent journalistic and commercial device. Neither is the specific pragmatic modeling of the public communication as local communication.

Both of them create a general image of the public language, which is far from any public norms. In an ideal situation public language should be neutral and should work with stylistically unmarked concepts. There is a good reason for that - it should be universal, tolerant and democratic – i.e. neither giving privilege to any specific group, nor to any social discourse and its specific verbal construction of the world. Only under this condition of polite “neutrality”, “universality” and “social balancing” public discourse could represent the official and dominant social order in a given society – i.e. only under this condition it could function as those institution which Lacan used to call In-the-Name-of-the-Father.

Being a mass-commodity and under the pressure of market demand, the Bulgarian newspaper discourse clearly avoids this universal and balancing role. It transgresses the neutrality and presents itself as strongly marked and non-universal. In this language the connotations, the additional and contextual messages are privileged for the sake of the literal and factual meaning of the information. Further – these connotations are strongly expressive, emphatic, they belong to closed, sometimes almost hermetic and idiosyncratic group jargons. This makes its messages almost inaccessible for uninformed Others (foreigners, outsiders, people not from the “big family”). Let us imagine a foreigner, reading a Bulgarian newspaper – how could he or she know who Bateto, or Ivan, or Pesho are, how could he or she decipher strange messages such as “Multi helps Walter” etc.? The newspaper language reproduces a perverted model of identification – it stimulates its reader to identify himself with a imaginary pre-modern tribe-like group, which refuses publicity, authority, hierarchy and modern formal contacts. This language imitates that the public strategies of its own representation are nothing but informal talk among “the Ours”, the big family. But, in fact, this phantasmatic “We” combines in a perverted manner the family with the criminal clan, presenting this mutant as the ultimate and single identificational model, limiting and almost excluding all other possibilities of identification.

The expression “political correctness” is well known. There is a famous leftist political action in Western universities carrying this name. One of its features is the de-masking of the “quasi-universality” of public language. The politically correct activist reveals the play of power and the asymmetrical positions of dominance and subordination hidden in the quasi-universality and quasi-neutrality of the public discourse. He or she demonstrates that the linguistic point of view of the dominant class, sex or race, is inherent in this quasi-universality and that the “neutral” public discourse, in fact, marginalizes all the others points of view, makes silent all the other social voices. But in this action the very idea of public neutrality, tolerance and universality is not denied – it is just criticised because of its non-authenticity, its simulations and imitations – because of its quasi-universality. The dominant feature of the Bulgarian public language is exactly the opposite. It doesn’t “imitate” tolerance, it doesn’t tries to present itself as neutral, universal and common for everybody. It presents itself as a language of a marked, non-universal group, as a voice of a quasi-tribal “We”, both privileged and traumatic. One can say that its strategy is exactly politically anti-correct. Its main tendency is to exclude brutally all the others from the communication and to represent the world as a stage where this semi-familiar, semi-criminal “We” is opposed to the rest of the world, including its official, neutral and tolerant part. This is the language of an imaginary group, which pretends to be homogeneous and unified. Its language is dominant for the public domain of this society – i.e. it is a language in power. At the same time, however, it speaks as if being in a marginal position: the discourse in power speaks from the position of resentment, aggression, transgression of public norms. Thus Bulgarian

public discourse connotes a democratic power, which mistrusts the traditional democratic public institutions and procedures, it reproduces a strange situation where publicity is turned against its own norms.

Appendix – titles in Bulgarian newspapers 1992 - 1999

ПРИЛОЖЕНИЕ: СЛУЧАЙНА ИЗВАДКА НА ЗАГЛАВИЯ ОТ БЪЛГАРСКИТЕ ВЕСТНИЦИ В ПЕРИОДА 1993–1998

Адем Кенан пребит от съседи заради перде кириз в спалня [в текста – воайорство] (24 часа, 11 юли 1995).

Гагарин се пропил от слава и кръшкал (24 часа, 3 юни 1995).

Канибал, спипан с тенджерата човешко (24 часа, 2 септ. 1995).

Селянин отрязва главата и половите органи на комшия (24 часа, 25 юли 1995).

Магазинер млати даскал заради политика (24 часа, 25 юли 1995).

Попадия краде ябълки, остава без фуста (24 часа, 24 септ. 1995).

Гъски вилнеят в дома на добрички экс-депутат (24 часа, 24 септ. 1995).

Чарлз, не лъжи две жени! (24 часа 29 дек. 1995).

Щерката на Рейгън проби в порното (168 часа, 30 септ. 1995).

Как кръглата "софра" [става дума за кръглата маса] се бори с конкурентите (24 часа, 3 ян. 1996).

Мама дава на Иван всяка сутрин по чаша мляко [за Иван Славков] (24 часа, 6 ян. 1996).

Наина: Елцин привлича женски погледи (24 часа, 15 март 1996).

Баба помага на внуците си при грабеж у съседка (Труд, 3 септ. 1996).

Циганин наръган в любовен спор (.....3 септ. 1996).

Леля Ванга и Майка Тереза – сходства в живота на двете светици (Нощен труд, 12–13 септ. 1977).

Германец чакал 24 г. брак с нашенка (Труд, 27 септ. 1977).

Нашенските мистерии – с една по-малко (Труд, 27 септ. 1997).

Тръгва процес срещу сарафина Владимир Ковачев, убил жена си. (Труд, 21 септ. 1997).

Ограбиха съпругата на футболиста Златко Янков (Труд, 21 септ. 1997).

Крадец, пребит до смърт от разгневен стопанин (Труд, 11 юни 1997).

Руснаците кътат 20 милиарда под дюшека (Труд, 11 юни 1997).

Изневяра провали щатски генерал (Труд, 11 юни 1997).

Териер уби баба, спасила живота му (Труд, 11 юни 1997).

Тони и Чери Блеър продават къщата си (Труд, 11 юни 1997).

Рогоносец взе \$ 243 000 от любовника на жена си (Труд, 20 окт. 1997).

Милошевич псувал като хамалин бившия си зет (Труд, 24 окт. 1997).

Тя обичаше убиеца на Кенеди [за Марина Пусакова, влюбена в Ли Харви Осуалд] (Труд, 24 окт. 1997).

Дъщерята на Милошевич откри бар (Труд, 25 апр. 1997).

Тъст строши главата на зет си (Труд, 29 юли 1997).

Нетаняху побеснява от публикациите за жена му (Труд, 3 юни 1997).

60 майки на захвърлени деца изчезнали безследно (Труд, 3 юни 1997).

Кървава война между два цигански клана в Кюстендил (Труд, 29 юни 1997). Рубрики: Семейен портфейл, Фамилия (Труд, 4 авг. 1997). Бонев ще отдъхва с гадже на море (4 авг. 1997).

Пазарджиклия вдигна тежка сватба след полицейски обиск (.....4 авг. 1997).

Националната ни сигурност е не само без цървули, но и без гащи (.....4 авг. 1997).

Лидерът на торите ще се жени за секретарката си (Труд, 2 юли 1997).  
Елцин обвинен в семейственост (Труд, 2 юли 1997).  
Болен напада лекари (Труд, 2 юли 1997).  
Съпруга на полицаи се простреля в главата (Труд, 2 февр. 1997).  
И третият тенор спипан в изневяра [за Пласидо Доминго] (Труд, 2 февр. 1997).  
Бабуриин: България да не се опитва да суче от две майки (Труд, 5 февр. 1997).  
Осмина похитители отвличат съпруга и майка на бизнесмен (Труд, 5 февр. 1997).  
Връщат на Ст. Савов бащини имоти (Труд, 9 ноем. 1977).  
Агаси: искам да стана баща (Труд, 9 ноем. 1997).  
Ловец простреля съпругата си (Труд 4 март 1998).  
Жената на Дарио Фо – изнасилена преди 25 години (Труд, 19 февр. 1998).  
Вдовицата на полицая: Смърт! [убит е Васил Ценов] (Труд, 11 май, 1998).  
Племенник на военен шеф се простреля в главата (Труд, 11 май 1998).  
Маца [аргентинската манекенка Валерия Маца] се омъжи (Труд, 11 май 1998).  
Пиян поп насини полицаи (Пиян поп преби жена си, халоса в окото полицаи и се озова в ареста след золумите, сторени в събота в дупнишкото село Самораново, съобщи РДВР-Кюстендил) (Труд, 3 юли 1998).  
Шеф на бар прободен с нож съпругата си (Труд, 3 юли 1998).  
Вдовица бе убита на гроба на мъжа си (Труд, 3 юли 1998).  
Султан разследва брат си за 16 млрд. (Труд, 3 юли 1998).  
Баба оживява по чудо след като рови в чанта с взрив (Труд, 3 юли 1998).  
Убитият от баща си тормозел цяло село (Труд, 3 юли 1998).  
Майка и двете ѝ деца смазани от катастрофа (24 часа, 5 авг. 1998).  
Майка и двете ѝ дъщери убити при катастрофа (Труд, 5 авг. 1998).  
Дядо заля внука си със сода каустик (Труд, 4 авг. 1998).  
Докога ще пълним гушите на комшиите... [става дума за вноса на зеленчуци] (Труд, 4 авг. 1998).  
Мъж преби до смърт доведено дете, за да спести харчове (Труд, 4 авг. 1998).  
Инфаркт покоси майката на Шварценегер (Труд, 4 авг. 1998).  
Макартни защитава маймуните (Труд, 4 авг. 1998).  
Чешки доктори изрязаха дупка в гърлото на Вацлав Хавел (Труд, 4 авг. 1998).  
Баба изнасилва 48, питала за още (24 часа.....).  
Ротвайлер се пропи от жега (24 часа 5 авг. 1998).  
Яйца се измътиха без квачка, в Москва човек умря от студ (Труд, 16 авг.1998, начална страница).  
Гаврят се с братя за откуп от 25 млн. лева (Труд, 13 авг. 1998).  
Отвякоха син на търговец заради неуредена сделка (Труд, 13 авг. 1998).  
Чрез домати към Интернет (Труд, 13 авг. 1998).  
Синатра-син мъсти на похитители (Труд, 13 авг. 1998).  
Арестуваха Жоро Тухлата (Труд, 12 авг. 1998).  
Брат, сестра и братовчед убиват и заравят момиче (Труд, 12 авг. 1998).  
103 годишна съди синовете си за къща (24 часа, 13 авг. 1998).  
Отрови се дядото, залял внука си с киселина (24 часа, 13 авг. 1998).  
Отвличат дете на длъжник (24 часа, 13 авг. 1998).  
Махленски интернет организират в Хасково (24 часа, 13 авг. 1998).  
Орален секс в овалния кабинет (Труд, 21 авг. 1998).  
Човек на Кокала пуснат срещу 3 млн. лв. (Труд, 21 авг. 1998).  
Клинтън не бръснел оралния секс (Труд, 21 авг. 1998).  
Германските политици могат да мамят жените си (Труд, 21 авг. 1998).

Нашата галактика поглъща две по-малки: Млечният път вършел космически канибализъм (Труд, 21 авг. 1998).

Президентът сбърка, че се изфука с данъците (24 часа, 21 авг. 1998).

Как да прекараш прокурор (24 часа, 21 авг. 1998).

Гадател гледа на задни части (24 часа, 21 авг. 1998).

## **Battles For Truth, In A ‘Country In Clinical Condition’**

In this chapter I will focus on one particular case which sparked incredible public debate in 2001: a case that caused a clash between the first (the Executive), the third (the Judiciary) and the fourth ‘power’ (the media), provoked nationwide outrage and brought Bulgaria to the brink of a political and institutional crisis in a truly unprecedented way. I will examine the ‘truth discourses’ of these powers, and more specifically the critical intertwining of ‘truths’ produced by the Bulgarian executive, media and judicial institutions about the case in question.

Let me note that like Foucault, here by ‘truth discourse’ I understand specific public or institutional modes of expression, social languages, valid public rhetorics that produce ‘true propositions’ or imply ‘what is true’, thereby exercising normativizing pressure on all other social discourses and practices. Yet unlike Foucault, who focuses only on the classifying and normalizing truth discourse of science, my research object encompasses the entire contradictory range of different, barely compatible ‘truth discourses’ – public, media, institutional and others – their conflicts, contentions and hierarchies.

The present study will try to unravel this complicated knot by analyzing mainly the way in which media ‘truth’ is produced (as we shall see below, the media quote and therefore contain within themselves the other ‘truths’), as well as the consequent roles, identities and hybrids.

### **The Event**

On the morning of 16 March 2001, Daniela Terziyska called the police from her home and told them that a black western car had abducted her three-year-old son Pepi. Meanwhile, Pepi’s father Stoyan Terziyski, a taxi driver, contacted co-workers by radio and drivers from several taxi companies in Sofia organized a search for the boy, blocking the exits from Sofia and searching all black western cars... The boy was found dead by passers-by in the pond in Sofia’s South Park, with marks of a noose around his neck. Hearing about his death, the taxi drivers blocked the traffic, drove downtown and surrounded Parliament in protest, shouting ‘murderers’ and ‘mafia’ and demanding from the government safety of children and the interior minister’s resignation. Small groups of people from the Internal Macedonian Revolutionary Organisation (VMRO), the Bulgarian Socialist Party (BSP) and other parties joined the protest and tried to make it political; key figures from the former secret services (such as Tsvyatko Tsvetkov) were seen among them.

The government (at that time, from the United Democratic Forces or UtDF, popularly known as the ‘blue’) reacted quickly. The Question Time which was in progress in Parliament and which, ironically, was devoted to the combat of crime, was interrupted and Prime Minister Ivan Kostov came out to speak with the protestors (assuring them that he would take his share of responsibility for the case). The crowd

was also addressed by Deputy Interior Minister Zdravko Zafirov, Sofia police chief General Roumen Stoyanov, General Slavcho Bossilkov, Interior Ministry Chief Secretary (who ominously told the taxi drivers, ‘When you learn what were the motives and who are the true perpetrators, you’ll feel ashamed that you were here,’ quoted by the *Standart* daily, 17 March 2001), and General Vassil Vassilev, Police Director. Later, Interior Minister Emanouil Yordanov promised to resign if the murder was not solved within a week. The protest of the drivers was defused to some extent (although they rallied again outside Parliament at 7 pm on the same day) and they gradually dispersed in the evening of 16 March.

Meanwhile the opposition – the leaderships of the Movement for Rights and Freedoms (MRF) and the BCP, supported by the Civil Alliance of Democratic Organizations and Gergyovden – promptly demanded the government’s resignation and early elections. In their turn, the UtDF accused the opposition of trying to turn a purely domestic crime into a political issue.

The police reacted swiftly too. On the next day, 17 March, the police issued a press release stating that during six hours of questioning the boy’s mother Daniela, who had originally stuck to the abduction version, broke down and made a full confession to an investigating magistrate and a judge. She said she had strangled the boy herself, placed his body in a black plastic bag, taken a taxi to South Park where she dumped it in the pond, then dumped the evidence – a short rope and the black plastic bag – elsewhere and gone back home. Although taxi drivers from across the country were on their way to Sofia, the protest quickly lost momentum and died down.

The police claimed they had done their job and passed the case over to the investigative authorities, which appointed the required autopsy, forensic tests and reconstructions, as well as psychiatric evaluations of the mother who was suspected to be mentally ill. The mother was soon found to have suffered from affective schizophrenia and to have stopped taking medication for some time. After a long-drawn psychiatric evaluation, the Sofia City Court dismissed the case against Daniela on grounds of insanity, but her lawyers lodged an appeal for a retrial. The Supreme Court referred the case back to the lower instance.

The media reacted very quickly too. Breaking the news of the murder as top story on 16 March, they did not hesitate to turn the case into a large-scale symbol of rampant crime in Bulgaria, using it at the same time to launch a media campaign against the Ivan Kostov government and the institutions conducting the investigation: police, investigative authorities, prosecuting authorities, forensic psychiatrists, the court. From 17 March till the end of June all broadcast and print media ran a huge number of items on the case, offering anything from serious journalistic investigations introducing alternative versions about the crime and interviews with friends and relatives of the victim, to sensational new stories and ‘facts’, just as sensational rumours or analyses of infanticide cases, and sentimental accounts of the domestic and neighbour context of the murder. The Daniela Terziyska case became known throughout the nation, whipping up public opinion to near fever pitch: the reason for that was the huge number of unsolved murders, including murders of children, in recent years. Thousands of emotional and outraged citizens wrote to the papers, politicians, experts, media celebrities, relatives of the victims spoke out in the press and on broadcast media, online discussion forums were afire; the entire public sphere was engaged in the debate. Closed by the court of first instance, the case was referred by the Supreme Court back for retrial and was completed in ... Daniela Terziyska was found guilty of murdering her son but she was acquitted on grounds of insanity: as we shall see, lawyers and media have consistently refused to accept that the court

verdict was completely correct and just. Although less and less frequently, there were publications on the topic (usually in connection with new developments around the case and the institutionalization of Daniela) right until 2006.

Next is a discourse analysis of the publications (more than 250) on the subject in the some of the major Sofia-based dailies – *24 Chassa*, *Novinar*, *Standart*, *Monitor*, *Sega*, aimed at identifying the images of official institutions promoted in them and the type of ‘truth’ that media discourse promotes as different and in a sense opposite to the ‘truth’ reached by way of official police, investigative and judicial procedures. The analysis is based on publications from March 2001 to June 2001 (with occasional references to later publications: from 2002 to 2006).

\* \* \*

The murder of the young Pepi Terziyski roused different notions of truth and justice in Bulgarian society, thus prompting different political, public and professional groups, as well as different institutions, to fight for ‘their truth’. The ‘truth’ about this murder has proven metonymic of an extremely powerful symbolic resource involving basic phenomena such as power, authority, legitimation and trust in Bulgarian society.

### **The Two Types of Truth**

In the Bulgarian press, the ‘truth’ about the murder is characterized by inherent ambiguity. On one hand, it is the search for an answer to the question of ‘who killed young Pepi Terziyski and why?’ This question is asked by everybody – the official institutions conducting the investigation, newspapers and televisions, ordinary citizens – and the attempt to find an answer gives rise to versions and counter-versions, attempts at proof and refutations. Thus, the first pole of truth discourses (formulated from different positions – of politicians, investigators, journalists, citizens) is precisely this: propositions and arguments related to the only, the particular, actual, verifiable truth about a particular event. The formulations range from neutral reporting (*Peter wasn't abducted, he was killed by his mother. We have irrefutable proof that directly incriminates Daniela Terziyska as the perpetrator of this act, said Col. Roumen Stoyanov, Director of the S[ofia]D[irectorate of]I[nternal]A[ffairs] after the M[inistry of]I[nterior][ meeting on Saturday, 12.30 pm; Standart, 18 March 2001) to the affective ‘Shock! Mum Confesses: I Killed Him!’*

In the second sense, the ‘truth’ does not simply concern the particular event in question: it is necessarily and invariably *the* truth about ‘all of Bulgaria’, about Bulgaria’s terrible condition, catastrophe, severe problems, and so on. Here are some examples: *According to Deyanov [the interviewed father of another missing and presumably murdered child, Suvestin], the subject of crime is being substituted by the focus on the fact that a mentally ill woman had killed her child’* (from ‘Signatures Collected for Death Sentence,’ *24 Chassa*, 18 March 2001). Another text, symptomatically headlined ‘Don’t Substitute My Motives,’ reads as follows: *The drivers had allegedly gathered outside parliament to demand that the killer be found. Let’s not kid ourselves! They protested because crimes go unpunished! Tensions have escalated because of the successive murder of a child. It would be good to find the*

*killer immediately. But **the truth is** [emphasis added] that it doesn't matter who he is. Someone kills a child every week. These base passions are unleashed by the poverty, despair, lack of prospects resulting from recent 'competent' government. That is precisely why [government] ministers must resign, and not because there has been yet another murder.*

How do those two truths correlate, which 'truth discourse' is definitive? The answer to this question is not predetermined: it is for this answer that the public and political battle is being fought by all means. Ruling politicians and experts rarely make generalizing, apocalyptic statements about 'all of Bulgaria', but such statements are commonly articulated by politicians from the opposition, media celebrities, journalists and ordinary citizens. Politicians from the government try to reduce the case to its specific, factual particularity, whereas journalists and citizens are inclined more or less to ignore this particularity (including the truth about who the actual killer is – this *doesn't matter*, as the explicitly clear quote says) and to turn the case into a symptom and large-scale symbol of the whole: for them truth is less an object of investigation and ascertainment than of obvious, nationwide conviction about the condition of the country as a whole. In the latter rhetoric, the facts around Pepi's murder are only an occasion to speak, to articulate this painful truth, to express moral outrage, to protest (this is the truth, don't substitute my motives). The change in the facts around this murder (for example, refutation of a given version) cannot shake this truth-conviction, which is 'supra-specific'. In other words, in the second case we have truth-as-panoramic-picture, and not as reference to a particular fact that can be verified. Put in logical terms, in the first case truth is conceived of as correspondent and in the second as consensual; in the former it is a proposition about a particular fact, and in the latter a complex meta-description of the state of things.

This obvious logical difference between truth discourses is only part of much more intricate and complex differences that are not logical but pragmatic and political and stem from communicative, motivational, symbolic and other causes depending on who is the speaker, where are they speaking (publishing) from, what language (prestigious, non-prestigious, etc.) are they are using, who are their intended audience and what is their purpose. In other words, the complex differences between various types of discourse stem from the different attempts of different public agents to use the truth (as they understand it) as a resource of power. Power here should also be understood mainly as a symbolic resource – as an ability to define and evaluate a particular fact or situation or historical and political period or, more generally, the picture of the world. Within the different types of discourse the statement of truth (called 'constative' in speech act theory) is never isolated, it is never constative in chemically pure form. It is always embedded in a complex cluster of discursive practices (performatives, various ways of doing things with words) which invariably accompany it.

### **The Players in the Media Field: Truth Discourses**

I will first sketch a provisional classification of truth discourses in the Bulgarian media. Here truth discourses will be viewed precisely as such complex clusters of performatives in which the statement of truth is accompanied by gestures, appeals, suggestions, rules, procedures, political relationships, institutional hierarchies, rivalry between powers, and so on. I will then try to study the dramatic conflict of these

discourses – their correlation, rivalry, conflict potential and dynamic, changing power hierarchy, as we find them in the above-mentioned Sofia-based dailies.

For the purposes of this analysis, I distinguish five types of truth discourses: official (of government spokespersons and of the incumbent government), expert (of institutions serving the first or third branch of government: police, investigative authorities, prosecutors, medical and psychiatric experts), judicial (of the courts), a discourse which I will call metaphorically ‘the voice of the people’, and professional journalistic discourse.

\* \* \*

**The official discourse of the Executive** aims to stabilize the situation and, although reacting to the accusations, reduces the topic under discussion to the particular fact: a murder in which the murderer must be found quickly. Here are two typical statements of figures from the Executive: *Killer will be caught very soon, General Bossilkov promises* (subtitle of article headlined ‘Drivers [Shout] at Kostov: ‘Mafia!’, 24 Chassa, 17 March 2001) or Deputy Interior Minister Zafirov’s *I want to reassure everybody that the Interior Ministry, as always, will find the perpetrator of this murder in the quickest way possible* (24 Chassa, 17 March 2001). In addition to this factual reductionism, however, the discourse of official truth has other characteristics too: parallel with the factual truth which it tells (or hides), it also tells other truths and performs additional performative acts. In the first place, it represents (in the sense of *darstellen*) not only the facts – it also represents (in the sense of *vertreten*) its electorate. That is why, parallel with asserting the facts from a particular perspective, it simultaneously says what the electorate wants to hear, referring explicitly or implicitly to the consensual truth, to the picture of the situation and the world as seen by the electorate. Of course, the reference to ‘the people’s truth’, the truth of the Sovereign, may be used by politicians sincerely or manipulatively (they tell it to achieve their own ends, and not the electorate’s ends). That is why the official utterance of ‘the people’s truth’ by a politician requires something else too – it requires recognition, i.e. the politician’s listeners must recognize his or her speech as sincere. That is why official public discourse must have rhetorical characteristics aimed more at making it sound trustworthy, persuasive or seductive than at proving particular facts. Here is a typical case of discursive conflict in which Prime Minister Kostov found himself during the protest demonstration of taxi drivers on 16 March, compelling him to switch between different strategies and registers of official discourse. He starts his speech to the demonstrators by reducing the situation and the social conflict to the particular fact about which the truth can be found and a fair verdict can be passed: *We all have a stake in finding the killer*; but he is interrupted by shouts and slogans belonging more to the other, generalizing type of ‘truth’ that refuses to recognize his sincerity: *Mafia! Mafia!* Switching to a different strategy, Kostov refers to the other type of mass-consensual truth: *We are likewise shocked by this murder. We are just as shocked as you are. We are just as frightened as you are. ... What you are shouting now [‘Mafia’ and ‘Killers’] we have been shouting for ten years. For ten years now we have been shouting ‘Mafia’,* he says, hinting at his party’s role as opposition for many years. *The people, however, started booing him,* the 24 Chassa reporter comments (24 Chassa, 17 March 2001). Then Kostov reverts to the particularizing, correspondent strategy and says once again, *What we now have is one particular murder. I believe you want this murderer to be caught and punished*

(quoted from *Standart*, 17 March 2001). Later, in other statements, he makes a number of concessions to ‘the people’s truth’ declaring, for example, *I understand their grief* (24 *Chassa*, 17 March 2001). Parallel with that, the prime minister tries to speak unemotionally, carefully picking his words and making an effort to win trust; he tries to sound authoritative, compelling, persuasive. In other words, his speech is actually meant to convey ‘truths’ at several levels and in several ways, while striving to articulate verifiable propositions in which words correspond to facts and to convey the implicit message of truth understood as knowledge, responsibility, authority, trust, control over a situation that is bearable and definitely under control. For the latter reason, official politicians or political spokespersons refrain from being rash, they refrain from emotional outbursts, expressive exclamations, anything that may be considered impolite, etc. Following a statement before journalists, the report published on the following day says that *Kostov refused to make public the analysis of the situation yesterday because he wanted to be absolutely certain in his words. We don’t say the first thing that comes into our heads, we want our words to sound authoritative and reliable, he declared* (24 *Chassa*, 18 March 2001). It is also important that good politicians avoid any conflict between the two truths, the factual and the consensual one. (According to *Standart*, for example, Kostov scolded his subordinate Bossilov who told the protesting drivers that they will feel ashamed when they learn the truth; the prime minister told his subordinate ‘Don’t do this!’, having in mind the correct rhetorical strategy: *Standart*, 17 March 2001). He wants to convey to the masses the message ‘I know your painful truth, I think about it, I share your feelings’ and, at the same time, to transform this truth into a particular, verifiable fact that is within the power and control of the institutions which the prime minister is in charge of; he wants to redefine the situation, reducing it from a social conflict to one particular, solvable case.

**The expert discourse** is professional and, by definition, it must be politically neutral, producing only ‘auxiliary’ truths, pure and specific constatives. They are designed to be used in more complex discursive games by others – for example, in the decisions of the executive or the judgments of the judiciary branch of government. The truth produced by expert discourses is procedural, highly formalized, based on rules and on academic and professional knowledge; it is often expressed in terminological jargon that may be incomprehensible to non-experts. Such discourses require privileged and protected positions of the experts themselves, technological time for investigation, verification, forensic tests, examinations; they work with typizations, classifications and normalizations, their task being to announce the true results of those expert procedures. Although they are in partnership with power (in the Foucauldian sense of power/knowledge), they do not represent the ‘voice of the Sovereign’ and lack the dialogical potential of political discourse; they do not flirt with the doxa of the Sovereign. They communicate only cold, politically neutral, verifiable truths attained by strictly defined formulas. Expert discourse, too, is correspondent and verifiable (in the sense that it utters verifiable propositions about particular facts), but the facts do not have a complex but an atomized, elementary, ‘simple’ character. For example, experts do not strive to answer the question of ‘who is the killer’, a task that is within the remit of the court. But, as the medical scientists did in the Daniela Terziyska case, experts established that there were traces of the victim’s skin on the saial rope (established and verified by DNA analysis), and that there was a hair from the mother (likewise established through DNA analysis) in the bag in which the victim had been carried. In some cases, the expert examinations were more comprehensive, producing

complex versions about the actual way the crime was committed or even conclusions that sounded less more as judgments than as constitutions – for example, the psychiatric evaluations (see the paper of Martin Kanoushev, a co-participant in the Roles, Identities and Hybrids Project).

**The judicial discourse of ascertaining truth** is a power discourse, its truths have specific consequences (convictions of those found guilty, acquittals of those found innocent). Ideally, this is a procedural discourse which must not be concerned with consensual truth either (with the moods and sentiments of the People) but only with establishing facts by the relevant procedure prescribed by law (judicial truth is institutionally complex, its separate components being collected by the police, by investigating magistrates, then checked during the trial by the prosecution and the defence who call witnesses; the court will accept evidence collected by lawful procedure and reject evidence that is in violation of this procedure); ultimately, judicial truth is indistinguishable from the handing down of a fair verdict. Judicial discourse is dually correspondent in the sense mentioned in the first part of this study: it simultaneously establishes the facts and the *corpus delicti* corresponding to a particular punishment. In the final judgment, constative (establishment of the truth) and verdict (administration of justice) merge in a single gesture. In the case of Daniela Terziyska, the Bulgarian court bent its procedures under pressure from public opinion and, contrary to judicial rules, involved a higher instance, the Supreme Court of Cassation. In addition, the investigative authorities allowed the leaking of classified information and published the testimony of the mother who had killed her son; finally, under pressure from public opinion again, judicial rules were broken once again and the judgment delivered was referred back for review, only to be upheld.

**‘The Voice of the People.’** I have named this type of truth discourse after the heading of a section that appeared several times in *24 Chassa*. By this metaphor I designate the interventions by ordinary citizens, anonymous or not, which express a personal opinion about what is true in the public sphere. The genres in which their discourse is manifested vary considerably: from spontaneous direct, expressive shouts of the crowd at a demonstration to thought-out letters to the editor and interviews with relatives of the victims, witnesses in the case or random citizens. This type of discourse is characterized by a low level of formality close to informal speech, by the laconic affectiveness of shouts, verbless sentences, random words; in the case analyzed here, it is also characterized by a tendency to skip from particular statements about the particular murder of Peter Terziyski to assertions and judgments about the Bulgarian situation in general. In other words, this discourse is a hybrid in which correspondent truth can easily metamorphose into consensual truth and vice versa and in which, similarly, description of the general situation easily merges with moral judgment. ‘Popular’ discourse never has direct access to the public sphere; it is always re-transmitted, cited, reprinted and retold by journalists or politicians who use and manipulate it to their own ends (that is why its authenticity is always problematic), because it can be used as a legitimating resource (it is represented as the authentic voice of the Sovereign). Another characteristic of the truth according to ‘the voice of the people’ is that the truth is conceived of as clear, obvious, not subject to analysis and verification but capable of asserting itself by the very fact that it is shared, consensual, authentic and self-evident – that is why at the verbal level this discourse is expressively laconic and extremely contextual, inscribed within the

general consensual picture of the situation. Quite often arguments and propositions are reduced to short enthymemes, the enthymemes being in their turn reduced to exclamations and shouts which, however, are loaded with meaning: *Standart* conveys this most clearly by publishing the headline ‘The People vs Power: “Mafia, Killers, Scum”’ (*Standart*, 17 March 2001).

Here is an example of this discourse in the case under consideration here, quoted from *24 Chassa*, 18 March 2001. The title of a letter to the editor, published along with other similar letters ‘from the people’, is ‘Things Get Even Uglier’: *If it is true that three-year-old Pepi was strangled by his own mother, then the drama of our society is even uglier. If we have started killing even our own children, this means that we have become no better than animals! People outside Parliament yesterday were so aggressive because they are deeply frightened after all the murders, abductions, rapes. What happens? The police catch somebody with 40 kg of heroin or arrest a rapist only to release them on bail. Rank-and-file police officers do their job but the situation is worsened by the upper echelons of power.* Signed Ana Nikolova, Sofia, 18 March 2001, *24 Chassa*. Here one can clearly see how quick and unproblematic is the passage from a particular case to other similar cases and, hence, to a quick and coherent picture of the general situation; a picture that relies more on its self-evidence (on the fact that it is shared by the reader too) than on solid evidence. The key characteristic of this discourse is the position from which it is pronounced just as the particular case quickly blends with the general situation, so the pronouns ‘I’ and even ‘he’ or ‘she’ (for example, she, Daniela Terziyska, the murderess) easily and unproblematically metamorphose into a general ‘us’ or ‘we’ implying ‘we Bulgarians’, the voice of the Sovereign (the implication in the text quoted above is that if *she* has murdered her child, then *we* Bulgarians have become no better than animals). That is also why the assertions and judgments in this discourse can easily transform into self-analyses and self-evaluations concerning the essence of collective identity, of ‘us’.

**Journalistic discourse** is alternative to and contests political discourse. Charles Taylor says that the public sphere, which is the locus of journalism, thinks of itself as an extra-political society that is alternative to the executive power branch (unlike the polis and ancient societies, where public figures are involved in the very process of making common decisions and are bound together by common law). According to the Canadian philosopher, the public sphere does not wield power directly but demands that it be recognized by those in power; its agents (journalists, intellectuals, commentators, media celebrities and so on) behave like supervisors, critics and advisors of those in power. They personify the voice of common deliberative reason (and, thereby, the resource from which modern political power must constantly draw legitimacy). By normative presumption, public discourses negate their own partiality and deliberate in the name of the public good (Taylor calls this principle of negativity), but deliberation itself presupposes that there is no ‘single truth’ in the public sphere. That is why the media as a *sui generis* reification of the public sphere (which, in a sense, transforms and negates the latter) are many-voiced by definition. It is a journalistic norm for publications, be they printed or broadcast, to cite, include and provide access to many social voices so as to represent their conflicting truths. In this plural context, the reports and commentaries by professional journalists look like only one equal discourse among many. This discourse has its own specific features: it ranges across a variety of genres, both informative (news, information, report) and

analytical (review, commentary, analysis, column, discussion, talk show); but from the perspective of production of truth journalistic discourse should have two functions only, i.e. purely informative and analytical. This is supported also by its stylistic spectrum, ranging from the omnipotent anonymous and pure ‘reporting’ of ‘facts’ (i.e. blending information and ‘truth’, suggesting something along the lines of ‘this is what happened’) to passionate personification and commitment, analytical revelation of the non-evident (‘in fact, the truth of it was...’).

Journalistic practice, however, deviates from those norms for many reasons. The most important reason is that journalistic activity is not only a matter of civic conscience and a discourse but also an institutionalized profession, and this radically distinguishes it from all other public voices. It is a commercial profession like any other and a market on which the products of this profession are traded like a commodity, yet neither of those two aspects is necessarily associated with the production of truth (except in the sense that truth is the best and best-selling journalistic commodity). It is common knowledge that parallel with reliable information and in-depth commentary the media, as a market, are offering increasingly (and by now only, according to Jean Baudrillard and others) that which is in demand: spectacles, entertainment, sensations, mass phantasms, seductive images, fears and anxieties, popular explanatory schemes, clichés, identification models or projections (in Edgar Morin’s sense). As a profession with specific competence and institutional micro-power, making newspapers, television or radio broadcasts does not involve simple reporting but also professional manipulation of the voices of others so as to adjust them to the standards of the profession. Journalists act like film directors of the public sphere: they give or refuse access to social voices, select or filter them, paraphrase or cut them at will, arrange them in the layout of the newspaper page, surround them with similar or contrasting material, include other social voices that contest or support them, give them interpretative titles, complement them with nonverbal material like photos, illustrations, cartoons, different fonts and colours, place them on the front, inside or back pages of newspapers. In other words, journalists manipulate the meaning of statements in various ways – through words and structural devices, as well as through nonverbal but meaningful codes; in their own way, all these traditional tricks of the trade ‘comment on’ and filter the ‘truths’ communicated by the other public discourses. However, in line with Taylor’s ideas, the self-ideology of the profession claims otherwise. Let us illustrate this with another example from our case study: *As a mirror, the media reflected a mess; why do you expect the mirror to depict the components of the mess in pure form?* (article by Martin Karbovski, 24 *Chassa*, 20 March 2001). In other words, the ideology of the profession claims that the sole function is passive and objective ‘representation’, impartial ‘depiction’ of reality ‘as it is’. This ideology hides the meta-position and manipulative potential of the ‘fourth power’, i.e. it hides precisely that which makes the media a power, filter and arranger, an interpreter of the truths of other discourses which, moreover, is capable of making them visible and audible. Thus, the position from which journalists speak (what is known in semiotics as site of enunciation) is hybrid because it is both public, excluded from decision-making in the Executive or Judiciary) and micro-power in the Foucauldian sense (professional-institutional). But this gives the ‘truths’, which journalism formulates verbally and equally with all others, a privileged status – the journalistic profession and institution can convey them by other, extra-discursive and non-argumentative means. Journalistic ‘truths’ only seem to be equal participants in public debate where they compete with other

truths; in fact, they are professionally and institutionally privileged, they are a power and authority, and the metaphor of the media as a ‘fourth power’ is far from accidental (bearing in mind, of course, that this power is not absolute and has its constraints).

I will demonstrate this on the basis of the particular Bulgarian case of Daniela Terziyska and the murder of her child after formulating the hypothesis of this study in several steps.

By a concurrence of circumstances, the Daniela Terziyska case initiated a political struggle between the two main resources: the official discourse of the Executive (the Ivan Kostov government) and the discourse of the Bulgarian media; this was a battle for control and redistribution of the main symbolic discourse, i.e. the truth. Or, more precisely, for control over the locus from which the truth can be articulated and accepted as trustworthy. These battles had a legitimating aspect too – they were not only for who represents the truth of facts correctly but also for who represents correctly ‘the people’s obvious truth’, the consensual and intuitive picture of the condition of the Bulgarian State and society in 2001. Thirdly, both sides used expert discourses in this struggle, even if in different ways, thus generating specific images of the official police, medical and judicial institutions. Fourthly, both ‘the voice of the people’ and ‘expert opinions’ – and, in a sense, even the official discourse of the Executive – proved to be not immediately ‘given’ but media-constructed. In fact, they are media constructed as enemies (the Executive, the state institutions/ or allies (the voice of the people, the independent experts) creating conditions for the media truth to be the winner. The last step of the hypothesis: if the struggle in question is viewed from the perspective of the practical goals of the media (discrediting the government, resignations of government ministers, resignation of the whole government, a new “strong hand” order, full and total control of public authority) and of practical outcomes (the Kostov government did not fall, no minister resigned, there was satisfactory judicial resolution of the case), then one must conclude that in this particular case the ‘fourth power’ suffered defeat. Yet as monopolists of the public sphere, the Bulgarian media succeeded in representing their defeat as victory, largely asserting their ‘truth’ in public and gaining new, populist legitimacy; they succeeded in conveying the message that it is they who represent and express the voice and truth of ‘the people’ – and not the lawfully elected government and official institutions responsible for finding out the truth in crimes, such as the police, the investigative authorities and the courts.<sup>45</sup>

Let us try to prove this hypothesis by analyzing the Bulgarian newspapers.

## **Dramaturgy of the Conflict**

### **The Alibi**

The prime concern of the Bulgarian media discourse in the case under consideration is to create an alibi for itself: an illusion of objectivity understood as inclusion of all social voices and versions about the murder in the public debate. In this respect, *24 Chassa*, *Novinar*, *Standart*, *Troud* demonstrate a panoramic information policy. Its first distinctive feature is that they quote or retell all official announcements of the government, press releases of the investigative authorities and results of the medical

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tests and examinations seemingly objectively, in detail, almost without comment. The statements of Prime Minister Kostov, Police Director Vassilev, Interior Minister Yordanov and other officials are widely reprinted and commented in detail. In addition to the official discourse and its version, the papers quote (or run specially commissioned articles by) experts – psychiatrists, psychologists, lawyers. Thirdly, the majority of papers constantly publish apparently different opinions of various ordinary people, who may be involved in the event or not. Especially active in this respect is *24 Chassa*, which regularly runs ‘readers’ letters’ from Sofia, Ahtopol, Varna or Bourgas (in fact all over the country), and interviews with taxi drivers, and even with children from Pepi’s kindergarten and Daniela Terziyska’s primary-school teacher. The majority of papers interview several times the closest relatives – Pepi’s father Stoyan Terziyski, Daniela’s mother Anastasia Toutekova, Stoyan’s mother Tsvetanka Terziyska – as well as neighbours, friends, co-workers. Everything is meant to suggest an objective, many-voiced picture, an objective approach that includes different views and discusses different versions about the murder...

### **Politics of Suspicion**

Under this illusion, however, the social voices are rearranged and their truths hierarchized.

With regard to the official political discourse and its version (even when this version was substantiated by material evidence, examinations and a court verdict), the common strategy of all newspapers may be defined as ‘politics of mistrust and suspicion regardless proofs, expertises and facts’. Using various subtle and not so subtle means, the version of the government and the official investigative institutions is contested covertly, without taking the risk of refuting it directly. All means are used: from the opportunities offered by the Bulgarian language and its non-evidential mood<sup>46</sup> (expressing indirectly mistrust) to alternative and independent experts who have their own versions. Journalists also conduct their own investigations, which are represented as being more trustworthy than the official ones; a private investigator provides sensational disclosures; even, as *Novinar* reports several years later, *Because of the mother found guilty of murdering her child in two court instances, a poet left off writing poetry and dedicated himself to conducting his own investigation* (1 February 2003). The papers give special prominence to Reni Tsanova, one of Daniela’s lawyers known for being Todor Zhivkov’s lawyer and for exposing miscarriages of justice (Tsanova does not miss the chance to repeatedly stress that she suspects the official version). In addition to this ‘counter-expertise’ organized by the media, there are many other newspaper tricks designed to undermine trust in the official version. The papers overstress inconsistencies in the time of the crime and speculate about a videotape (which a security company operating close to the Terziyski home gave not to the police but to Nova Television; and on which the desperate father saw his supposedly dead by then child, carried by Daniela, ‘moving his tiny feet’...). They question various puzzling details (how come the hair of the dead boy was dry considering that he was taken out of the pond?), and so on. The papers use even the layout of pages and proximity of items to convey suspicion: for example, surrounding the official version with items that call it into question (a device commonly employed by *24 Chassa*); or inserting, in an article offering a detailed police account of the crime based on Daniela’s confession, a box headlined ‘Mother Confesses under Sedation?’, casting doubt not only on the version but also on the good faith of police

officers, investigators, and the judge who was present during her confession (24 Chassa, 18 March 2001). There are more direct manipulations too, such as Martin Karbovski's allegation in 24 Chassa that 'the cops know the truth about the murder but don't want to tell it because truth is power'.

This 'politics of suspicion' culminates in January 2002 when Daniela was released from the forensic psychiatric clinic after she was found to be insane and non-dangerous, and Kevork Kevorkian and the *Vsyaka Nedelya/Every Sunday* TV show made a scandalous interview with the mentally ill woman, in which she denied her confession and repeated the original version that Pepi had been abducted (after a completed trial with irrefutable proof).

### **Letters of the People: The Truth in Pure Form**

Parallel with the politics of suspicion, the Bulgarian media construct the image of an alternative truth which is 'the voice of the people' or, more appropriately, 'the intuition of the people'. The construction of this alternative truth begins with the interviews of friends and relatives of Daniela, with taxi drivers, and so on, where the official version is constantly challenged by pointing out inexplicable 'facts' noticed by ordinary, non-institutional people: *I wonder how Daniela could have possibly led the police officers to the bag when there was no bag at all* (24 Chassa, 30 March 2001),<sup>47</sup> and continues with similar rhetorical questions in articles and letters to the editor. Ultimately, the media imply that distrust of institutions is a Bulgarian norm, that every Bulgarian is as if morally obliged to check the highly questionable version of the 'power-holders': *The case of the prompt solution of the murder of the three-year-old Pepi by his mother Daniela has awakened the Hercule Poirot dormant in every Bulgarian. ... Two weeks after the incident, everyone has their own version about what happened on the early morning of 16 March at Daniela Terziyska's home and later in South Park. The police continue claiming that they did their job perfectly* (Novinar, 2 April 2001). They rely especially on a natural and intuitive understanding of truth on the part of the people closest to Daniela, her mother and her husband: *I don't believe and I'll never believe that my wife is a murderess*, says Stoyan Terziyski, quoted by 24 Chassa (30 March 2001). *I think this videotape will change many things around the investigation. ... I have no idea why the police didn't take the tape. Maybe they didn't look for it at all.* Novinar counters Deputy Interior Minister Zdravko Zafirov's statement that he is 101 per cent certain that Daniela killed her child by the following strange view of Stoyan Terziyski: *At the same time, Pepi's father Stoyan Terziyski retorts: I'm two hundred per cent certain that Daniela didn't kill our son! Who is telling the truth here: the man who has lived with the ill woman for four years or the one who has seen only her picture in the papers but has the mother's evidence given on the day of the murder?* (Novinar, 2 April 2001).

The leitmotif 'ordinary people cannot believe that a mother is capable of killing her son' recurs constantly. In a letter to the editor, a reader from Varna (24 Chassa, 4 April 2004) declares the following: *Almost everyone has been left with a lingering shadow of doubt. Could a mother's hands really break this infant neck, kissed so dearly until yesterday? Even in the most deranged mind the child's voice, 'Mum, don't!...' will find its way through the maze of an insane brain to the instinct of the mother.* Ordinary human intuition, the common sense of ordinary people, the life experience of those who were close to and know Daniela very well – all this,

according to the media, is an ordinary, human and universally understandable ‘truth’ that clearly refutes the official version.

The official version itself was invented, in their view, with a clear purpose: to draw public attention away from the ‘truth’ about Bulgaria, it is a manipulation (as a front-page headline in *24 Chassa* claims as early as 17 March, ‘[This Will Be] Just Another Cover-Up’).

Contrasted with the nontransparent and probably corrupt procedures of power and institutions, the ‘truth of the people’ has several distinct characteristics. In the first place, it presupposes absence of distance between the audience and the ‘heroes’ of the tragedy: the ‘ordinary people’ around Daniela Terziyska; that is why it employs the media techniques of personification as well as sentimental identification models of popular culture. The papers start representing the tragedy of the Terziyski family in terms of soap-opera clichés. As early as 17 March, a headline in *24 Chassa* voices suspicion that it’s all a ‘love triangle’, followed on 6 April by a lengthy feature about Daniela’s life with the bestseller title ‘The True Story of Daniela Terziyska’ and the subtitle ‘Friends of hers tell how she came to the point of emotional breakdown. When did her illness begin? Who are the other men in her life?’ A mentally ill woman who killed her child (and who was earlier portrayed as deserving ‘Harsh Punishment for the Murderess’, *24 Chassa*, 18 March 2001), Daniela suddenly turns out to be an ordinary, good and nice girl who has had tragic love affairs but eventually seems to have found her true self, becoming a loving wife, devoted mother and perfect housewife whose life was shattered by a terrible, incomprehensible tragedy, whereas her husband is grieving inconsolably and hopelessly for the lost domestic bliss. The identification process is supported also by the newspapers’ visual policy, which personifies the ‘heroes’ in the events but avoids personifying the representatives of institutions: whilst photos of Daniela Terziyska herself, of her husband, of people from her immediate circle abound, the image of police officers, investigators, judges and other officials remains invisible, with few exceptions (usually photos of politicians like Kostov and Emanouil Dimitrov). With the passage of time, Daniela Terziyska becomes ever more of a media celebrity and is accordingly portrayed as an innocent victim – there is even a letter to the editor to this effect, which *24 Chassa* quotes in a screaming, full-page title: ‘State Machine Crushes Daniela’; the process of victimization ends with the above-mentioned interview on *Vsyaka Nedelya*.

The second characteristic has already been mentioned: this is the truth not only about the particular murder but about Bulgaria in general. The ‘truth of the people’ is terrible and of course overcomes every particular fact: it is an obvious picture of the perverse condition of a confused, abnormal and inhuman country in which, after a series of murders and crimes, the most terrible thing of all is now happening, something that is monstrous and breaks the oldest taboo: mothers have started killing their children. Here is a picture assembled here from different pieces and titles in *24 Chassa*: it’s frightening to go out in the street, killings are not an incident but an everyday occurrence, there has been a series of rapes, journalists and public figures are being assaulted, there now are unthinkable murders of children – Eleonora, Daniela, Staniela, Suvestin, Peter... (*24 Chassa*, 17 and 18 March, 2001). There is no authority, no law, no order, no justice, no security. The power-holders are lying, the Interior Ministry is wasting its time with utter trivia instead of doing what it’s supposed to do, the police know who the criminals are but sit back and do nothing, they catch them only to release them. There are security arrangements for Kostov but not for our kids. This picture, reconstructed from letters of unknown readers, is complemented by the emotional outbursts of media celebrities like Slavi Trifonov and

Martin Karbovski: *Who was it who shot to death 16-year-old Eleonora? Her mother or a drunken police officer? Who raped and killed six-year-old Denitsa? Who blows up three bombs a day? How come every Bulgarian has been robbed twice? Who disillusioned people? Who turned the 'heaven on earth' into hell?*

This is a hybrid-truth. The constatives in it are blended with emotional outbursts, hyperboles, paradoxes and moral judgments: those who are to blame for this murder and everything else are not the actual perpetrators but the monstrous and psychotic atmosphere in the country (psychiatrists are asked by journalists whether the social situation can cause madness), the unbearable life in this country. Cyclophrenia is not in the mind of one person or another, it is '*Cyclophrenia in the Country*' (headline in *24 Chassa*, 19 March 2001); *This murder is part of the clinical picture [sic] in which Bulgaria has fallen. And the reaction of people, of politicians, of the murder itself – this is us ourselves. This is the wretched condition of this country. As our country so our murders* (*24 Chassa*, 19 March 2001). It follows of necessity that what the country needs are resolute measures, executions (of five, six thousand people), resignation of the government; *24 Chassa* Editor-in-Chief Venelina Gocheva, supported by various other media intellectuals (Slavi Trifonov, Rossen Petrov), initiates a campaign for a referendum on capital punishment; readers send letters of support.<sup>48</sup>

A third characteristic is the incredible, paranoiac coherence of this consensual picture, the constant description of the present unbearable situation in Bulgaria as being the result of a conspiracy. In it the power-holders, the cops, and so on, know but cover up, consciously doing nothing to curb crime. Little Peter's murder is consistently contextualized and compared to other murders, crimes, violence. In connection with several cases of assault on journalists, *24 Chassa* runs a feature about assaults on public figures committed by organized crime groups: typically, the apocalyptic picture is grossly exaggerated, and an ah doc conspiracy theory is deduced from two cases of such assault (on Lyubomir Stoykov and Dragomir Draganov). It is stressed that the MO of the crimes is identical (waiting for the victim in the dark and assaulting him without stealing anything), and the following grand conclusion is drawn from these modest facts: *The victims as well as the attackers are alike: dark moutras ['ugly faces'] against TV celebrities. As if deliberately, the assaults are precisely before their shows are due to go on air. ... Too many coincidences. Could there be a system here, an evil plan? It seems as if somebody has deliberately targeted public figures and is organizing attacks to intimidate them. And all this is happening after we have seen how a brutal, senseless and mindless murder of a child can destabilize the whole country and drown it in waves of fury. All this is happening after the prime minister himself has started explaining to the people that crime will cave in. If somebody is committing the assaults by a scenario, then the purpose is clear: causing fear and rage. One says to oneself, if they will attack such famous people then they certainly won't hesitate to attack us ordinary people. This is terror. Yet terror is usually followed by chaos, and chaos by some sort of emergency. There are lots and lots of variants: emergency measures, a state of emergency, emergency amendments to the Constitution... To dispel such doubts, the government must promptly find out who is beating up famous journalists and why* (*24 Chassa*, 19 March 2001).

The fourth characteristic of 'the people's truth' is its self-evidence, clarity, visibility. This should be understood both metaphorically (everybody knows, 'sees' Bulgaria's

‘wretched condition’ – the difference between knowledge, intuitive perception and ‘seeing’ is eliminated) and literally: truth is interpreted as being visible with the naked eye and that is also why the new visual evidence (a videotape) delivered to Nova Television by the Prima security company or the visual evidence collected by private detective Marin Marinov whip up a frenzy of excitement. A seductive logic that is suggested by recurrent phrases like ‘different institutions are claiming different things, but the tapes show that... you can see... you can see very clearly.. it is obvious that...’ The figure of the obvious is literalized and self-referential, shifting trust from institutions to the constructed ‘people’ and its intuitive self-verifying judgment.

That is why ‘the people’s truth’ constructed by newspapers like *24 Chassa* and *Novinar* informs stable, uncontestable argument-chains, invariant populist figures against which there is no critical defence. By repeating them indiscriminately, the papers virtually drum them into mass consciousness. Whilst in *24 Chassa* this figure has a conceptual pretension – ‘the truth is not the truth about the particular murder but about the obvious condition of the abnormal and unbearable country we live in’ – in *Novinar* it has a simple, chemically pure populist form: ‘The police claim that ... people, however, think that...’

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### **Roles, Identities, Hybrids: The Institutions Discredited**

What kind of identities, roles and hybrids are created by the public ‘production of truth’ described above in the context of the murder of Pepi Terziyski? An indirect outcome of the struggle for and redistribution of the key symbolic resource of truth is the clear rearrangement of images of institutions and professional roles in the reference system of public values. The media systematically project mistrust and a negative attitude towards the Judiciary and its institutions. Here is how the latter are depicted by the journalists from *Novinar* (based on another collage of quotes): the police, investigators, prosecutors, are taciturn, bureaucratic, busy and unhelpful, there are suspicions that corruption is rife among them. They do not submit relevant files to the lawyers or give them too little time to study the evidence; acting against the law, they do not allow Daniela’s family to see her, they commit numerous procedural irregularities and dare take ‘sudden’ leave during a case that has shocked the whole nation: *The prosecutor supervising the case is Plamen Hristov. He is on sick leave since Wednesday. So is the acting chief of the Sofia City Prosecution Office Valeri Purvanov (Novinar, 31 March 2001). Investigating magistrate Roza Kaplanova well-nigh runs away from journalists, whereas the prosecution and investigative authorities are violating Daniela Terziyska’s rights, said Kiril Stanchev, one of her lawyers (Novinar, 4 April 2001). These official institutions are incapable of coming up with anything other than confused, useless explanations and contradictory versions: Until recently, doctors claimed that Daniela’s case was more than elementary. Tow days before they are due to appear in court, however, experts are not ready with an opinion on her case. At the same time, supervising prosecutor Plamen Hristov is suddenly off on leave (Novinar, 18 April 2001). The media image of judicial institutions is strangely split between near professional details (there are comments as to what is within the powers of the police or of the investigative authorities, within how many days a particular evaluation should be completed by law, and so on) and the tendency to fail to distinguish between the bodies of the*

Judiciary and of the Executive, merging the two in the image of the ‘power-holders’ or even of the ‘cops’.

To put it in more general and technical terms, the Bulgarian media discredit the very institution of power/knowledge by denying both the legitimacy of the Executive and the capacity of the specialized, designed for the purpose, institutions to produce truths and judgments by legitimate procedures. They construct a coherent negative picture of those institutions and their due professional roles in which, behind the apparently articulated representation of the activities of those institutions, the latter are actually blended into a mythological, monolithic image of evil ‘power-holders’.

This negative picture is of course also a means of constructing its opposite by the principle of contrast: a specific ‘us’, a media model of collective identity. I would like to conclude this study with a few words about this model which, as most media-ideological constructs, has several layers.

### **‘Us’: The People and Its Favourite Newspaper**

At the surface level, this ‘us’ is constructed as ‘us ordinary people who are neither in power nor in institutions’, i.e. the ‘us’ identity is constructed precisely in this fundamental opposition to Executive, Judiciary and institutions, blending them into the hazy image of an evil, conspiratorial power. The definitions of the said ‘us’ (‘people’, ‘the people’, ‘everybody’) are negative: ‘we’ do not have access to proceedings and judgments, do not know the law in detail, do not have a decision-making or expert apparatus. What ‘we’ have, however, is an ‘authentic soul’ capable of unshakable true judgment of things. This ‘people’ may be confused about details (see the headline *The Daniela Case: Whom Can We Believe? Now anybody can conduct an investigation into Pepi’s murder*; *Novinar*, 2 April 2001). But it cannot be confused about the whole because it is the sole possessor of the truth about it.

At the same time, as we have seen its identity constructs itself in relation both to patriarchal models (the nuclear family, the next of kin, the neighbours, the acquaintances, those who are ordinary people ‘like me’) and sentimental ‘soap-opera’ plots in popular culture. The media shape this ‘us’ as an unfortunate victim living in a near unbearably monstrous and perverse world that violates the most basic norms and taboos. As Slavi Trofonov writes, *For the Bulgarians this is no longer just another domestic murder, just another daily case of crime. They’ve simply had more than enough, and the murder of a child is the last drop that made the cup of their patience run over. By the irony of cruel fate, the body of baby Peter was found in the fountain near the Strelbishte [Shooting Ground] Quarter as if to show that the whole country has long since become like a shooting ground in which both the God-anointed shooters and the disenchanting targets are well known* (24 *Chassa*, 19 March 2001). That is why it can suddenly be transformed from a passive and sentimental ‘us’ into an ‘us’ that can do something radical – and here models coming from Bulgarian National Revival are included: *When they’ve knocked the stuffing out of you, resigned stoicism is a logical line of conduct. But nothing is known for certain, honourable ministers. Watch out, because for all you know the people might wake up from its deep heroic slumber* (a text by Martin Karbovksi, 24 *Chassa*, 20 March 2001).

In addition, this ‘us’ has a new representative, a representative who speaks with its voice and tells its truth and from whom it can get reliable information and truth about the murder. An excellent illustration of this is a self-referential photo of a crowd of anonymous readers of 24 *Chassa* (18 March 2001), captioned *Sofianites look in their favourite newspaper for the latest news about Pepi’s murder late on Friday night*.

The true representative is not the lawfully elected government and public institutions but the media voice that tries to tune itself so as to blend with the said 'us' of the people, to become indistinguishable from the 'voice of the people' (while keeping its right to behave like an alternative expert if necessary). This discredited knowledge/power is substituted by a contesting institution: the media-manipulated social imagination/power which is not democratically elected but commercially asserted, without this preventing it from mixing with the solid identity of the Sovereign – 'the people', 'people' – and proclaiming itself as the spokesman of its clear 'truths'. In her open letter '24 Chassa Demands Referendum on Capital Punishment', Venelina Gocheva, Editor-in-Chief of *24 Chassa*, formulates this position laconically and clearly: the political elites have been discredited, the judicial system in Bulgaria is ineffective, coming from the mouth of people blue [UtDF] and red [BSP] the word 'elections' sounds *most inappropriate and cynical*, the people and the newspaper want a referendum. This is a hidden proclamation about a new type of populist political order in which the Sovereign, no longer relying on a democratically elected Executive and Judiciary and procedural institutions, vests its will not in the discredited parties but in this self-asserted authority which, alone, proclaims its will and its truth: the media. *My [political] party are the readers*, Gocheva declares at the end of her letter.

Media power does not produce knowledge and verifiable truths, nor does it classify and normalize subjects; instead, it substitutes them by mass phantasms that provide legitimacy and have actually been constructed by media power itself – represented, however, as the foundation of democracy, as shared social will of a fixed collective 'us' that possesses the obvious and plain-as-day truth.