

The Critical Analysis in the Legal-Social Context of the Episode "Queda Livre" from Series Black Mirror

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Abstract— This article proposes to analyze the episode “Queda Livre” of the Black Mirror series, considering the constitutional assumptions that establish the protection of the right to intimacy, to privacy and to image, together with the sociological exposure centered on the importance of the individual’s socialization confronting the plot of the episode that presents the technological resources that favor exposures of aspects of people’s private lives on social networks in a society that encourages the rise by punctuation through personal status assessments, making it possible to reflect on the influence of social networks as an influencing factor of conduct.

Keywords— Privacy, Intimacy, Image, Socialization.

I. INTRODUCTION

Considering the theme proposed by the Research Group on Law, Democracy and Ethics for the composition of the collective work (In)Justice, Consumption and Spectacle: Thoughts on Law and Democracy from the Black Mirror, the purpose of this article is to analyze episode 1 of season 3 of the Black Mirror series, whose Portuguese translation is: “Queda Livre”, with the objective of analyzing the exposure of the episode’s plot confronting the legal language provided for by the constitutional text focusing on the right to privacy, to intimacy and to image, as well as pointing out the importance of the individual’s socialization in the composition of the models for the search of social ascension.

The method used in this study was the survey and bibliographic review of the selected theme that sought to analyze the problem of new technologies that favor the exposure of basic personality rights that distance the subject from critical reflection of his social condition, having the importance of his study for deepening of the theme through the expository line of the rights established in the Federal Constitution of 1988 and by the doctrine, considering the social impact of this interaction.

To achieve this goal, the first part deals with presenting the history of the evolution of the Black Mirror series in the media context.

In the next moment, a summary of the episode is presented, with the plot of the adventure story of the character Lacie Pound, a woman desirous of ascension and recognition by social media.

Next, the elementary concepts treated by the dominant doctrine are presented, explaining the given understanding of the meanings in relation to the concepts of privacy, intimacy and image, all within the scope of the 1988 Federal Constitution and seen by the legal doctrine.

The next step is to discuss the influence of the social environment for the socialization process, as an element that shapes conducts, in which law plays a fundamental role as a maintainer of the social order.

The exposure of the plot of the episode is confronted with the legal and social analysis and some considerations are raised in relation to the exposure of the contents of the order of privacy and of image posts on social networks.

At the end, some conclusions are pointed out that serve as a reflection regarding the purpose of exposing aspects of personal life as a form of social manipulation.

II. THE CONTEXTUALIZATION OF BLACK MIRROR IN THE MEDIA

Currently the Black Mirror is in the fourth season, and Netflix has been presenting the episodes to its subscribers

Belonging to the genre of science fiction, Black Mirror is a British series whose theme addresses the relationship between man and the new technologies and the resulting conflicts. The opening of the series displays a screen of a device, such as a TV, monitor, smartphone or other technological device.

The series was created by the British screenwriter Charlie Brooker and produced by British company Zeppotron. The first season of the series, containing three episodes, was shown for the first time in 2011 on Channel 4. In 2013, the second season of the series was shown on the same channel, containing the same number of episodes. In 2015, Netflix, a global audiovisual content platform via streaming, acquired the copyright for Black Mirror for \$40 billion and ordered its creator for the third season, to be divided into two parts, with six episodes each and is now presenting the fourth season.

The episode to be presented deals with number 1 of season 3 whose option for the Portuguese title was "Queda Livre", but the original title is "Nosdive".

This episode is contextualized within a relationship marked by social recognition through evaluations obtained by social interaction between people, who, through accepted behavior, receive a number of stars that increase or decrease the score that indicates their level of social ascension, being an indication of the status.

III. PRESENTATION OF EPISODE 1 "QUEDA LIVRE" OF SEASON 3

In this society, it is soon noticed that people interact through a relationship program in which people give grades by evaluating and being evaluated according to the success of the interaction through the performance of cordiality and ostentation, generating a concern in obtaining higher grades so that they are recognized socially and can obtain better benefits from employment, residence and clubs. On the other hand, people with lower grades would not have access to the best benefits of this society.

In this context, Lacie Pound, a single woman, strives to be recognized on social media and seeks through her always very courteous behavior, to be evaluated by people to achieve a circle of social ascension through high scores.

In this sense, he seeks to mirror his childhood friend, Naomi, who did not correspond to his friendship, but had a much higher performance of grades, with

prominence in that society with several publications of images and messages that demonstrate the ostentation of social status to be modeled by Lacie.

Even with his efforts, he is unable to obtain improvements in his grades, and following the guidance of a social consultant who suggests that he should relate to people who have high marks so that they can evaluate him with a better score.

In her work, she tries to follow a pattern of behavior that allows for a better evaluation, but when giving a grade to another colleague who was losing points, she ends up being negatively evaluated by the work group, increasing her despair for her not being recognized on social media.

At this moment, post a photo of a doll that was made together with Naomi and christened "rabicho" and to her surprise she invites her to be the bridesmaid at her wedding and speaks in her honor. With this invitation, hopes for her to improve her score through an evaluation by Naomi's friends rise.

At the airport, she conflicts with the attendant for not getting a flight on time and ends up having her score lowered to the level that she can only rent a car that is already outdated in technology, being forced to abandon it for not being able to refuel it, starting to hitchhike on the highway. After a certain time, a cart driver offers a ride and reluctantly accepts and during the journey there is a dialogue between the two characters, in which Lacie disdains the driver's position, emphasizing her goal of being recognized by social media to achieve the ascension through her plan. of being her friend's maid of honor, but the driver explains that she had a high score and when her husband was unable to access an experimental treatment to treat cancer due to the low score, she started saying what she thought and was soon evaluated by low grades and starting to live in the current condition.

At the end of the trip, he gets another ride, but his friend Naomi tells him that he no longer wants his presence because now he has a low score and this affected the image of his wedding and his guests. This rejection provoked in Lacie a feeling of frustration and anger making him decide to arrive at the wedding party. At the party, with clothes in a very bad state of repair and dirty, she started to speak before the audience of guests of the bride Naomi, talking about her desire to be like her and at the same time about her frustration for having been manipulated since childhood, exposing including her friend's intimate life.

The result of his behavior was that he ended up being arrested and in the cell next door he found another

that had been lowered in the score and both started to utter words that were not accepted in that society.

IV. INTRODUCTORY NOTES ON THE RIGHT TO PRIVACY, INTIMACY AND IMAGE

The Federal Constitution of 1988 establishes in article 5º, item X the protection of individuals the rights of intimacy, privacy, image and honor, in such a way that it listed within a perspective called personality rights as being major elements of dignity person's.

Personality rights are those common rights of existence, as they are the guarantees of the legal norm given to each person to protect exactly what is inherent to human nature itself, that is, it represents the subject itself in that which is inherent to itself, therefore, paramount to the relationship with you and your neighbor (DINIZ, 1985, p. 83).

However, this thinking refers to the need to preserve moral, physical, psychological and intellectual integrity, these elements being considered as subjective criteria, as they carry the need to value the meaning of importance and especially the established limits that guarantee the preservation of these rights.

In this sense, the Federal Constitution of 1988 prescribed people, the rights of intimacy, privacy, image and honor, and except for the latter, the others will be called upon to be analyzed to a degree that makes it possible to understand its basic elements.

The rights of intimacy and privacy, despite the proximity of their meaning, as they carry a sense of something internal to the subject, the constituent was careful to grant two different forms of protection within the private sphere.

In the conception of the doctrine, these forms of protection are divided into public and private, and Araújo and Nunes Junior (2013, p. 203) point out:

Indeed, the social life of the individual is divided into two spheres: public and private. By privacy, therefore, one must understand the levels of social relationship that the individual usually keeps hidden from the general public, among them: family life, love adventures, leisure and business secrets. Thus, within this sphere, we would have demarcated the proper territory of privacy, formed by relationships marked by confidentiality.

It is understood that in the field of privacy, interpersonal relationships are very characteristic of family

life, of conjugal relationships, being protected from the public sphere.

With regard to intimacy, there is a unique relationship between the individual himself, that is, with himself, of what his thoughts are, ideas that he does not want to share in relation to others.

For the two authors mentioned, privacy and intimacy can be understood (2013, p. 203): “[...] as a large circle, within which a smaller one, that of privacy, within which a more modern walk would be placed. constrained and impenetrable, that of intimacy”.

According to Silva (2014, p. 206) when dealing with the right to privacy, the lawyer recognizes the existence of a difference between the terms:

This is a terminology of Anglo-American law (right of privacy), to designate that, but used in the law of the Latin peoples. Under the terms of the Constitution, however, the distinction we are making is plausible, since item X of art. 5 separates intimacy from other manifestations of privacy: private life, honor and people's image, [...].

The right to intimacy in Cupis' (1961, p. 129) view: “are those that assure the person to exclude from knowledge, by others, what refers to him”, therefore, a subjective value that emanates from the subject's will to maintain this content without publicity, even for those closest to the privacy circle.

The third element that deserves to be highlighted in this study, refers to the right to image, and the Brazilian Constitution raised the image to a constitutionally guaranteed asset, expressly guaranteeing, guaranteeing the right to compensation for material or moral damage resulting from its violation¹, and it was also mentioned in items V and XXVIII².

It follows that the constitutional text dealt at different times, with double rights, with two rights. In item V, there is an image of a more modern character, distinct from honor, which involves the individual within his social relations, while in item X, there is a portrait image, resulting from the individual's physical identity, having

¹These are values expressed in the constitutional text, see article 5, item X of the 1988 Federal Constitution.

² Idem, items:

V- the right of reply is guaranteed, proportional to the appeal, in addition to the indemnity for material, moral or image damage;

XXVII, a) the protection of individual participation in collective works and the reproduction of the human image and voice, including in sports activities;

been placed beside the honor, private life and intimacy (ARAÚJO, 1996, p. 47).

It becomes a delicate issue, even observed by Araújo (1996, p. 47):

[...] so-called image-portrait, finds a restrictive interpretation in the area of unavailability. I can use my portrait image, authorizing its placement in an ad. This possibility, however, does not remove the image from the field of personality rights

Mainly because even though they are unavailable, they are subjective insofar as they depend on the person's manifestation to defend them.

The right to an image is the right of anyone to see your portrait displayed in public without their consent.

The problem occurs that many people live by their image and consequently are due to their own profession placed at a level of public exposure that is not typical of ordinary people, as pointed out by Bastos (1992, p. 181):

It is curial, therefore, that these people who are professionally linked to the public, such as politicians, cannot claim an image right to the same extent as that conferred on individuals not committed to advertising. This does not mean that these people are subject to being filmed or photographed without their consent in non-public, therefore private, places and caught in situations that are not the most appropriate for their appearance.

On the other hand, the right of the attribute image is linked to the qualities and appeals that surround the person's image, as a result of social relations, becoming known for their attitudes or qualities that stand out.

In both cases, portrait or attribute, the person is protected with the possibility of compensation for material and moral delay.

Thus, when analyzing the personality attributes legally protected, privacy, intimacy and image, without further elaboration, it is latent that the Federal Constitution of 1988 establishes mechanisms of protection and guarantees regarding the integrity of the person, being perfectly an exponent of human person dignity.

Despite all constitutional protection, violations regarding privacy, intimacy and people's image are constant in our society, mainly because the human species

is social, that is, it lives in society and interacts with each other, but if the human being were an antisocial being, there would be no such problem, however, the human being is gregarious and establishes bonds through interaction and integration between social groups and in this regard deserves attention and approach on this topic.

V. THE INFLUENCE OF THE SOCIAL FACTOR ON THE DYNAMICS OF SOCIALIZATION

From what has been exposed to the present moment, it is possible to gauge the importance of constitutional rules, especially those that establish protection for the human person with regard to the focus on privacy, intimacy and image, therefore the Federal Constitution of 1988, "sent it well", Regarding this important topic.

It is evident that the law as a whole and any normative system of conduct is a peculiarity of human societies.

Only human life, establishes a collective life project, which, preventing antisocial conduct, seeks to avoid or punish it through the sanction that the norm presupposes.

The fact that the human being goes through a process of socialization in which it consists of adapting the individual to his group, in such a way that he must behave within the standards or roles established through the relationship with the social group, as pointed out by Lima (1973, p. 18):

In the relationship, to which society submits it, the individual has a status and a role. Status is the specific position of the individual resulting from the totality of his relationship in the social body. They are reference points for assigning status, sex, age, kinship, social origin, profession.

From maternal councils, to punishments, from courts, from religious penance or from media exposure, society surrounds us on all sides, with instances of socialization. Such instances work by teaching the individual to place themselves within a social reference determined by the social rule.

Even so, not all individuals socialize or sufficiently, as well as the compound originated from the combination of the diverse biopsychic natures of individuals with the social ingredient that socialization adds to their personality is something uncertain, so society must be prevented of its occurrence with a series of

coercive norms that together are known as the social control apparatus. At its heart are the norms of social treatment, moral norms, education, religious norms and the law.

Law is the most formal form of social control, as its function is that of socializing, as it performs one of the functions described by Dimoulis (2013, p. 101):

Third, legal rules have an indirect, but not least, counterfeit function. They manifest the will to maintain the current situation, that is, of political institutions, social relations and the positions of individuals, that is why it is stated that the law assumes a conservative role. Its objective is to prevent social changes, repressing attempts to change the social organization. The most important element of the counterfactual function of the law is the threat of sanctions against attempts to change the social situation. Examples: persecution and punishment of crimes of terrorism and subversion that can destabilize political power; protection of private property in civil and criminal law.

This function denotes counterfactuality because they have validity even against reality and its tendencies, that is, when the law wants to change social reality or wants to prevent the performance of people and groups to endanger the social order, even if it cannot impose its will, however, does not lose its validity.

Ponder in this respect, Machado Neto (1984, p. 167) ponders:

Thus, as an instrument of socialization in the last resort, the law plays a conservative role in the status quo, also serving to legitimize political power and favor its dominance over public opinion. It also carries a predominantly conservative and revolutionary conservative character.

This coloring of the law gives a conception of social fact, of control, of organization and conduct, as a regulator of social behaviors, not only the relationships that take place between the individual and another individual, but also those that take place between the individual and the social group. (CAVALIERI FILHO, 1998, p. 22).

In this sense, the law fulfills a social function, considering that the individual is a gregarious being,

accommodation and organization of his behavior is essential, giving the subject the possession of the feeling of participation in what is common and the benefits that society distributes. for those who have the best “scores”.

And by mentioning “scores”, it is evident that the human being needs his peers to live and since he was a child he has been socialized within the cultural and social parameters in which he is inserted in his social environment and in this case of episode 1 of season 3 of Black Mirror can bring some important elements regarding social media exposure.

VI. THE ANALYSIS OF THE EPISODE “QUEDA LIVRE” OF THE SERIES BLACK MIRROR IN THE LEGAL AND SOCIAL CONTEXT

The character Lacie Pound in episode 1 of season 3 of the Black Mirror, seeks social ascension through her exposure of her image on social media, because she aims to achieve benefits that that society can provide when it reaches a high score level.

The character lives in a society in which people are constantly evaluated by other people at each social contact, being given stars that increase the points or decrease the score.

The assessment basically consists of behaviors considered appropriate in that society, and the instrument is a device similar to a mobile phone that allows access and exposure of images, self-portrait in social media.

This form of assessment is very effective, because it allows the person to receive their grade immediately. This makes it possible to reinforce the continuity of appropriate behaviors, but this idea follows the principle of operating behavior.

The basic principle of operant conditioning is a bet on Skinner’s behaviorism³ that consists of reinforcing behaviors through positive rewards, that is, a certain behavior is repeated followed by a pleasant result, the act tends to repeat more frequently under similar conditions. If, however, the behavior is followed by an unpleasant consequence, the possibility of manifesting that behavior tends to decrease.

This principle is very practical in the social reality, since Weiten (2010, p. 177) when looking at the

³Burrhus Frederic Skinner (1907-1990) was an American author and psychologist. He conducted pioneering work in experimental psychology and was the proponent of radical behaviorism, an approach that seeks to understand human behavior.

topic provides examples taken from the daily lives of people who illustrate the idea of reinforcement:

The reinforcement principle may seem simple, but it is immensely powerful. Skinner and his followers showed that much of people's everyday behavior is regulated by reinforcement. For example: you study a lot because good grades are likely to come as a result you work because that behavior results in your payment at the end of the month, and maybe you work harder because promotions and salary increases may result from such behavior. You tell jokes and your friends laugh so tell more. The reinforcement principle clearly governs complex aspects of human behavior. Paradoxically, this principle arose from Skinner's research on the behavior of rats and pigeons in exceptionally simple situations.

This reinforcement by the evaluations of the grades that are given to Lacie, makes it seek to obtain better grades, as well as the other people who participate in this media adventure.

This form of assessment soon establishes a stratification of classes of people, this is evident when Lacie's colleague fails to get a minimum score and has blocked access to the work building.

This classification leads to a struggle for social classes, where people who are located at lower levels want to climb higher positions to have access to the best services and consumer goods.

According to Marcondes Filho (1986, p. 147), social differences end up encouraging this search:

Behind all these forms there is an ideology, differentiating and confirming social differences. The most disadvantaged in this system end up being those who will fight the most for the reinforcement of their structures: in the appearance of success, of accomplishment, of a similar experience to that of the rich, the impulses for reaching the status of the best situated in the class society are reinforced. .

The strategy of this media society allows its system to be maintained, as people want to reach the best places in the social strata, they must soon submit to the

imposed rules and start to defend the system itself to achieve this goal.

The character highlights this idea in the dialogue with the truck driver: "Well, you had achieved things in your life. Real things, good things and ended up losing everything". This shows what Lacie really thinks, that is, he also wants "the good things".

To achieve this goal, Lacie uses the strategy of copying the success stories that have the best scores and in this case uses Naomi who has a high score, so he tries to imitate this social model by observing his exposure through media posts, including at the end, when the scene of his marriage misfortune expresses: "I have mirrored Naomi in my whole life".

The images posted by Naomi on the social network, are indicative of success and possession of the "good things", therefore it represents a model to be followed, because in addition to showing her portrait image, it brings the most important element which is the attribute image of Naomi who shows through her posts, the perfect model to be followed due to the success seen by the relationship posts, the possessions, the moments experienced and the trips in places that few could go to.

In this episode, one aspect deserves to be highlighted in relation to the exposure of Naomi's image on social networks, because if transported and confronted with the text of the 1988 Federal Constitution, there would be no harm, as its subjective character does not constitute illegality practiced, as it is recognized and the exposure through posts reinforced by most of its members, so the law in this sense is an instrument that protects this practice.

In this sense, item 10 of article 5° of the Federal Constitution of 1988, depends on the exposure of images and privacy of members of that society, even more for the reason that the core of the functioning of that society is exactly the exposure of successful models with scores high on social media through your posts.

The link of what is desired by Lacie, it becomes clear when you are interested in moving to a better accepted condominium house. During a visit to the site, the broker presents the property with the image of Lacie happy with a loving companion.

Thus, when Bauman (1986, p. 147) highlights that the desire for happiness ends up being manipulated and driven by ready models, he highlights the issue of what is suggested as appropriate to be used as a social model:

We can learn, for example, from the front page of the fashion section of a widely read and highly respected magazine, that Liberty, a 12-year-old student, 'has already figured out how to

make her wardrobe work well'. His 'favorite store' is Topshop, and for good reason: in his words, 'although it is really expensive, I know I am going to leave with something that is in fashion'. What frequent visits to Topshop mean to her is, above all, a reassuring feeling of security: Topshop stylists confront the risks of failure for her and take responsibility for the choices. Buying in this store, the possibility of error is reduced to zero, or almost. Liberty doesn't believe enough in her own taste and judgment to buy (let alone use in public) simply what caught her eye. But the things she buys at this store she can confidently display in public - confident in the recognition, approval and, finally, admiration and high status that follow her closely: all those things capable of bringing that well-being that the public display of clothing and accessories you want to provide.

The character Lacie aims to achieve the social reference standard that that society encourages by exposing the portraits images that build an attribute image of success, seeks a consultant who recommends establishing relationships that evaluate her with "stars" to achieve a status score.

The way in which Lacie behaves in that society demonstrates how it has been socialized in order to respond adequately with the role that it represents within its social context.

The models of behavior that that society determines are accepted and reproduced by Lacie, but within its social environment, opportunities for social ascension are limited, as its relationship circle is limited by its score.

The opportunity to participate as a chaperone for Naomi's wedding, and to speak in public, represents an opportunity to improve your score by assessing Naomi's social group.

The strategy used to expose a moment of your privacy that involved Naomi as a lever to thrill guests and garner a better assessment, serves as an indication that the right to privacy is very relative and becomes subjective in your judgment assessment, because in this society, what matters is social ascension, even if it costs some facts of private life.

The criticism of his brother who exposes his intimacy, does not serve as a point of reflection of his action, but when Lacie exposes publicly during the wedding scene, it ends up violating Naomi's right to privacy within the perspective of the affected attribute image causing a reduction in its score and in this sense item X of article 5° of the Federal Constitution of 1988 is efficient.

The result of this violation is the functioning of the apparatus provided by the law of that society, which results in Lacie's arrest.

The legal normative system of that society is conforming in the sense of maintaining the social structures operating and protecting the interests of the social group that has better access to the benefits of society.

VII. CONCLUSIONS

The Federal Constitution of 1988 was exquisite in establishing protection to the rights to privacy, to intimacy and to image, and pointed out some constitutional remedies to guarantee the protection of these rights, as is the case with *habeas data*.

The defense of these rights depends on the merit of subjectivity, that is, although the constitutional text guarantees the protection of these rights, their evaluation is consigned as society assesses that the right to privacy, intimacy or image as values relativized.

The valuations of these rights are assessed to the extent that society establishes a pattern of social ascension, the limits of defense of these rights become extremely malleable to meet a consumer demand that stimulates social ascension.

The law in this sense acts for the conformity and protection of the interests of social groups, which emphasizes the interest in maintaining media structures that propose an acceptance of social standard.

The generation of a class society is characterized by the vertical differentiation of individuals, having the vector of promotion for the ascension that implies the possibility of reaching higher, of seeing others from above. This is its essence and the main value that it praises, at the same time that it serves to maintain the system, since the majority's desire is to experience the "good things".

What social media can encourage by exposing privacy, intimacy and posting portrait images is the chance given to the individual to be, even for a moment, a member of an aristocracy for a moment and expose that winning side to others, a different moment in your existence.

Having the best, living well, being able to enjoy the best goods that a society proposes, similar to that of

episode 1, of season 3 of the Black Mirror, were never aspirations only present in the speech of that society, they are also of our reality. The question that was mystified, was transformed into the imaginary distant from reality for the majority of the population of that society and of that one too.

There is no harm in seeking a happier, but comfortable, more peaceful life. There is nothing wrong with taking pains to eat well, to dress better, to be able to travel. These aspirations are real and legitimate for people who struggle daily. The problem is that people who aspire to better conditions are kept permanently in the hope of achieving them, and when it has become too late, they can no longer repair their illusions and go about looking for lost time.

The proposed social differential often found on social media represents a departure from reality and the artificial separation of individuals through the acquisition of goods with status that only serves to feed a society that behaves by an intense consumption of illusions.

Social media represents a facet that, far from the social, globalizing function, makes it possible to cover up successful models that do not match those of real life, because in the absence of a real situation of experiencing the “good life”, the disadvantaged classes start to be satisfied with his appearance, boasting purely and simply the symbolic objects of life, but which are not permanent, only temporary.

Society establishes “Naomis” models to be followed and social networks end up encouraging, encouraging people to dream and conform to this reference without really reflecting its meaning for their lives, ending up repeating the same behaviors of the model, being encouraged to consume certain brands established as ideals, simply to feel accepted by the symbolic pattern of the model’s social group, even though they belong to another social group with lower social status.

On the other hand, the criticism of the media exposure of the series Black Mirror also presents another side of its facet, in that the models presented to the general public can be understood as ideal, as, for example, in this episode, the wedding scene is filled by the majority by white people, leading to the thought of those who do not have white skin, that only white people can get along, being a natural and acceptable fact. In the same sense, it can also lead that the few blacks and “browns” that appear on the scene, are examples of success, as long as they follow the proposed models and soon must defend this system in order to be able, one day, to be part of this privileged class.

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