

## MATERIAL TRUTH IN LAW AND FICTION IN LITERATURE

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**ABSTRACT:** In the transdisciplinary intersection between Law and Literature, there is the need to approximate concepts, so that the theories that support one area are, to some extent, applicable to the other. This study aims at trying an application of the concept of material truth, which comes from legal studies, to the study of Literature, through its relation to the concepts of mimesis, realism and verisimilitude, used by literary criticism. This study assumes that no one of them is able to fulfil the needs of literary expression, so that an attempt to locate a material truth in Literature will fail too. The article discusses the realistic style in Literature based on different writers' views on realism and discusses the concept of mimesis and the concepts of internal and external verisimilitude through Roland Barthes's questioning of truth as understood by literary criticism. In addition, a brief analysis of the novel *Leite derramado (Spilt milk)*, by Chico Buarque, demonstrates how, despite subverting several criteria that assure the verisimilitude, the narrative is able to ensure its credibility as fictional discourse and make the reader accept the fiction that it expresses.

**KEYWORDS:** material truth; law; literature; mimesis; verisimilitude.

### INTRODUCTION

It is not an easy task to discuss the concept of *material truth*, from theoretical Law, in Literature. As much as both areas are potentially related, fiction is an inherent characteristic of the latter. One may state there is no Literature without fiction, as imaginative creation is what makes literary writing possible itself, regarding

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structure and content, fabula and sjužet. These binomials enable thoughts about the fictional representation of truth: can one classify something as truthful Literature based only on the content and the plot, or should the criteria include the structure, the format, ways of speaking and writing, aesthetics, or even relative manners of reaching for the beautiful and the sublime? This paper does not aim at further discussing Literature within the concepts of classic literary criticism, but at promoting dialogs between Literature and Law, by stating assumptions in order to foster discussion about *material truth* in literary pieces.

In Law, *material truth* is considered as “the one which makes possible to recompose the facts exactly as they happened” (Streck, 2011, p. 220). It is opposed to *formal truth*, which is connected to arguments, and, in criminal proceedings, works as

an ontological truth (in the classic sense) and, thus, metaphysical. Truth would be dependent of capturing an ‘essence’ of things. There supposedly is, hence, a *world-in-itself*, whose structure is up to the judge to know or recognize by using reason and then communicating to others via language, or legal sentence (Streck, 2011, p. 223).

On the other hand, in Literature, there is no such thing as a *world-in-itself*, unless via literary representation, whether it is in narrative, poetry or drama. Whereas in Law, especially in Criminal Law, the intention seems to be reconstructing the facts *behind* the stories reported, in Literature, the fact only exists *within* the story, or, fiction itself is the object to discover. Thus the problem: which possibilities of truth does Literature conceal?

### **MIMESIS AND VERISIMILITUDE**

An attempt at finding in Literature an idea of truth can be the concept of *mimesis*, that is, imitation. The problem, thus, is to know to what extent a literary work is able to imitate truth, usually thought of as historical events<sup>2</sup>. Undoubtedly, there is in Literature an *attempt* to represent reality truthfully, as well as in painting,

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<sup>2</sup> A recommendation about mimesis in Literature classics is Auerbach (1971).

sculpture, theater or cinema, and it is clear that this attempt is present in every literary composition which identifies itself as having or being part of *realism*. Bourneuf and Ouellet, in the book *The Universe of Novel*, mention famous opinions stated on the representation of reality in literature. Louis-Sébastien Mercier, a French dramatist who lived between the 18th and 19th centuries, for instance, opposes history and novel, granting the latter with superiority regarding the representation of reality:

Though apparently entirely subdued by imagination, the novelist makes closer pictures to reality than these fictions honored under the name of history. This one, by the way, cannot help but looking up to kings and their private enterprises, as well as their vast and horrendous politic operations. Novel, much less concerned with highnesses, is able to depict the crowds of individuals and follows the march of national identity (*apud* Bourneuf and Ouellet, 1976, p. 158-159).

Mercier's statement brings up an important element when it comes to truth: to whom does it refer, or, in other words, which discourse, which social voice does it convey? For the playwright, truth does not go together with ruling elites, but with the people. One can wonder: what makes one truth more "truthful" than others?

Another important contribution comes from Guy de Maupassant, to whom "making something truthful consists in [...] creating the complete illusion of truthfulness, according to the ordinary logic of facts, and not transcribing them slavishly wrapped by their succession" (*apud* Bourneuf and Ouellet, 1976, p. 159). For Maupassant, reality changes itself within the consciousness of the novelist, gaining in subjectivity, and, afterwards, transforms itself again when transmitted via language.

In the 20th century, however, realism receives an accurate dosage of relativity in the words of Roland Barthes, who considers that

the most 'realistic' work is not the one that 'paints' reality, but the one which, using the world as content (this very content is alien to its structure, to its existence), will explore as deeply as possible the *unreal reality* of language (*apud* Bourneuf and Ouellet, 1976, p. 161).

Barthes, thereafter, creates a new displacement of reality in literary discourse: while Mercier questions the focus of representation and Maupassant introduces the role of the author's subjectivity, the French semiologist highlights the very reality created by Literature via language. The conclusion reached by Bourneuf and Ouellet is that, because it is impossible to state realism as an imitation of reality, critics end up justifying it by citing its constitutive criteria, such as psychological motivation, reference to what is known and descriptive models (*apud* Bourneuf and Ouellet, 1976, p. 162).

As it agrees to this relative characteristic of reality in Literature, it seems interesting to go back to Aristotle's concept of *mimesis*, which underlies any discussion about the topic. Aristotle says that the literary genres are distinguished because they are able to imitate through different media, because they imitate different objects and because they imitate via different manners (1966, p. 69). Notwithstanding, even if the philosopher is able to describe fixed models for each one of such imitations in every literary genre, what happens if the imitation manner is mixed to the object of another one and the medium of a third one? Well, what happens is a displacement of the historical reality due to the media used to represent the same object. It is plain to see how Socrates, such a respectable philosopher, becomes a ridiculous man when represented wafted in a basket in *The clouds*, a comedy written by Aristophanes.

This helps to conceive the idea that such thing as real or material truth, the one that rebuilds facts, cannot be found in Literature, not even in the most pretentiously realistic of works. In other words, truth, in Literature, is not mixed with historical reality, but maybe with interior aspects of the making of literary works. This is what makes critics get far from historical reality, which used to be a criterion of truth for most realistic writers, searching for a new criteria, closer to the fictional aspect of Literature: *verisimilitude*, even though it is clear that, under no circumstances, it substitutes truth. Salvatore D'Onofrio says that

the work of art, since it is not directly related to a referential in the outside world, is not true, but has an equivalence to truth, *verisimilitude*, which is the indicative characteristic of the possibility of being, and the possibility of happening (D'Onofrio, 2007, p. 22).

Reading Aristotle, it is possible to find that:

the poet is not supposed to narrate what happened, but, actually, to represent what could happen, that is: what is possible, according to verisimilitude and necessity. In fact, it is not verse or prose which differ the poet and the historian [...], - they are different, in reality, because one says what happened, whilst the other says what could happen. That is why poetry is more philosophical and more serious than history, because the former relates mainly to what is universal, whereas the latter to what is private (1966, p. 78).

In other words, Literature is the place of possibilities, a universe in which everything that can be expressed by words can happen, or, can be told as if it had happened. Likewise, in a speech about truth in literary criticism, Roland Barthes mentions the relativity of its criteria. He says that “the verisimilar does not fatally correspond to what was (which is history) nor to what will be (which is science), but plainly to what the audience believes to be possible and it can be very different from the historical truth and the scientific possibility” (Barthes, 1970, p. 191). Hence, he concludes that the verisimilar for literary criticism is the obvious, but, because it is obvious, it is out of any method, because its evidences are, first and foremost, normative (Barthes, 1970, p. 191).

If, even so, we want to approximate Literature and truth, we will need, thus, to choose one of the following ways: 1) an intuitive one, inquiring where truth is and how we can access it; 2) a deductive one, limiting ourselves to Literature and attempting, based on the concept of verisimilitude, to locate in Literature a possible demonstration of truth, in a way that, from it, the nature of the literary truth can be understood and defined.

Answering the first hypothesis, one could create a series of philosophical, scientific and religious explanations which would reveal such a vast universe that we would be lost amidst so many truths in search for only one. As for the second hypothesis, the way seems to be more open, and, at least, there is a starting point. Hence, this is the one we will follow.

Agreeing with D’Onofrio, we understand there are two different forms of verisimilitude:

We distinguish an *internal* verisimilitude, which exists within the very work of art, due to the harmony with its hypothetical postulates and the coherence of its structural elements [...]; and an *external* verisimilitude, which wields imagination under reality and the obedience to the rules of common sense and opinion (2007, p. 22).

In short, internal verisimilitude should avoid writers to allow themselves to create absurd facts in the plot as a means to making an easy denouement. An example of that would be to save a character exactly when he or she would die, with the appearance of a divine creature who could substitute him or her by an animal. External verisimilitude is related to what is considered true by the society that reads the work, and it makes possible, for example, for some impossible events to happen in real life to take place within fiction. For this reason, external verisimilitude is a constant concern of *historical fiction*, that is, literary works that verse about historical facts and, thus, need to face the limit between what is real – or what is considered real by historiography – and what is fictional.

The demand for verisimilitude undoubtedly generates a problem: it restricts the writer's imagination, since imagination allows many narrative constructions and events to take place within the limits of linguistic expression, which are much wider than the limits of internal coherence or of the correspondence with what is exterior to fiction. Another problem, not a minor one, is the disqualification of literary masterpieces, sometimes considered by the critic as lacking of quality or even lacking of fiction because of so-called mistakes, or deliberate subversions, in relation to verisimilitude. A good example for this “uncategory” is how Euripides defies verisimilitude in one of his most known tragedies: *Iphigenia in Aulis*, whose main character, due to be sacrificed in order for the winds to help the Greek ships to reach Troy, is substituted by a doe, at the very moment of execution, by intervention of goddess Artemis, as an example of what has been conventional in Literature as *deus ex machina*. A good example of how external verisimilitude can be subverted is in Brazilian classic *The posthumous memoirs of Brás Cubas*, by Machado de Assis,

which is narrated by a dead man telling his story after death, something which has never been considered possible in reality<sup>3</sup>.

It is clear, thus, that it is impossible to limit literary creation according to whatever criteria but the free imagination of the author. Verisimilitude, both internal and external, can be found in literary works<sup>4</sup> and even used as a feature for judging or assessing it regarding its quality, as long as it is important for the critic, but it cannot define a work as literary or non-literary. Truth in Literature, hence, is ideologically varying, according to what the reader, or critic, wants it to represent. Truth in Literature is a subjective truth.

Using Law concepts, then, truth in Literature is closer to *formal truth*, which depends on a coherent construction between the composing narrative elements, than it is to *material truth*, which assumes an external organization which is comparatively superior to discourse.

Thus, if Law's objective is to reveal the truth behind arguments, or, behind the narratives told by a defendant, in Literature, truth only exists following criteria alien to itself and variable according to the demands of the reader. In short, while Law tries hard to approach the real truth, *material truth*, considering Literature's fictional and subjective natures (both regarding its making and its reception), we conclude there cannot be a real objective truth in Literature, as, essentially, it is a discursive fictional construction.

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<sup>3</sup> A coherent position on the subject seems to be the one taken by Daniela Piva Reyes, who, analyzing verosimilitude in Machado de Assis, says: "his realism is not in writing facts of a life that certainly existed, which could be named or could correspond to something material in the real world; his realism lies in the way he selects and organizes [...] facts and human personalities to present to the reader" (2008, p. 616). It is clear, though, that the author talks about internal, not external verisimilitude, in this analysis. This is, however, something inherent to realism, according to Massaud Moisés: "Objective data, as defended by Comte, substitutes now romantic idealism: what only matters is what can be observed, documented, analyzed, experienced" (Moisés, 1997, p. 166).

<sup>4</sup> Even if by variant criteria, as says Barthes (1970, p. 190-192).

The next step is to verify how literature's fictional properties are expressed similarly to truth and how they justify themselves facing verisimilitude criteria.

### FICTION AND TRUTH

Considering the observations stated above, it should be clear now that Literature owes nothing to truth and, if so, it is only to settle critics who create their own concept of truth in Literature at their will. On the other hand, it is also clear that fiction in Literature can be very convincing and easily considered close to reality, even for the eyes of the most attentive readers regarding verisimilitude.

“We could live in Botafogo area, in the mason built by my father”, says the same narrator that, later, declares: “That is, right on top of our terrain an eighteen-floor medical center was built, and so I’ve just recalled the fact that such mason no longer exists” (Buarque, 2009, p. 6-7). It is the same narrator who starts the tale by saying: “When I move out of here, we are going to get married in the farm where I spent my happy childhood, right beside the mountain” (Buarque, 2009, p. 5). And, before finishing the first chapter, this narrator declares: “Even the farm beside the mountain, I guess it was taken in 1947 for the road to be built” (Buarque, 2009, p. 7). Is it possible, so, that fictional narrative is, oppositely not only to Law's concept of material truth but also to Literature's verisimilitude, illogical, incoherent, and contradicting?

The narrator above is an Eulálio of an Eulálio family, main character of an important novel in Contemporary Brazilian Literature: *Spilt milk*, by Chico Buarque. It tells the story of a man who narrates a tale which sometimes seems to be directed to a specific person, but often appears to be only imaginative; it's also confused regarding its chronology, space and even characters, and reveals, through a fragmented discourse, the story of an aristocratic family in Brazil from the Imperial Court era until its decay, nowadays. The novel was released in 2009 by Companhia das Letras.

*Spilt milk* is a realistic novel, which means there are no supernatural characters in the plot, neither are there facts which

would not be likely to happen to an aristocratic family heir in Brazil. However, the way the narrator places information and facts amidst his biographical reflections betrays the reader's trust, who is led to reconstruct the story as the narrator revisits what he had already told and corrects it. Thus, the implied reader of the narrative is someone who constantly doubts the "truthfulness" of what he/she is reading.

In the novel, there are clearly many incoherencies, some of which could call into question the very internal verisimilitude. One of these is the lack of separation between memoirs and dreams. Frequently, dreams deliberately legitimate confusion and grant verisimilitude to the plot: "One day I went to pick up my parents in the toy's park, because in the dream they were my children. I called out for them with good news about my just born grandfather who was to be circumcised, had become a Jew out of the blue" (Buarque, 2009, p. 15). Sometimes, though, what is narrated is later considered a possible dream, which makes the reader hesitate between believing that what is written is part of the narrator's dreams or memories; this is made clear towards the end of chapter 4: "Matilde turned to me and smiled, sitting by the keyboard which was no longer a keyboard, but my mother's grand piano. Her wet hair lay on top of her naked back, but I guess now this is a dream" (Buarque, 2009, p. 21). This fragment in the narrative is emblematic: in two sentences, the author creates a dreamlike atmosphere which makes the reader uncertain whether the substitution of the organ by a piano is a correction of the narrator's memory, if this correction is trustworthy, or even if it was lived or dreamed about.

Another element that questions verisimilitude in Chico Buarque's novel is the variable identity of the interlocutor. It is known that the interlocutor can be named in a narrative, similarly to the letters that compound epistolary novels such as Goethe's

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<sup>5</sup> *Implied reader* is a concept by Wolfgang Iser, defined as a "group of previous orientations a fictional composition offers, such as reception conditions, to its possible readers" (Iser, 1996, p. 73). From these text indications, empirical readers are led to act in particular manners toward the text.

*Werther*, Stoker's *Dracula* or Laclos' *Dangerous liaisons*, or even mentioned with a general term, such as the "sir" to whom Riobaldo refers in Guimarães Rosa's tale; besides, interlocutors can work as ideal readers, such as the "miss reader" used by Machado de Assis, or even omitted from the whole discourse, in a way to gain abetment from the ideal reader<sup>6</sup>.

The problem with *Spilt milk* is that it is hard to acknowledge the interlocutor. In other words, it is clear that the narrator varies his interlocutors, and, most of the time, it is impossible for the reader to identify whom he talks to – or thinks of. First, Eulálio talks to someone he treats as his daughter: "I'll tell you about one fine day, in Paris, when your grandfather decided to take me to a winter station. Daddy was a man of multiple interests, but so far I didn't know this sporty side of his" (Buarque, 2009, p. 35). Then, the narrator talks, to someone the reader cannot identify, *about* his daughter: "That one who came to see me, no-one believes, is my daughter" (Buarque, 2009, p. 14). Often, it is evident that the interlocutor is not part of Eulálio's family, but might be someone responsible for writing his memoirs (which, again, could be spoken or just thought about): "Before showing to anyone what I tell you, do me a favor and submit it to revision, so that your typing mistakes are not considered as my own. And don't forget my family name is Assumpção, not Assunção, as it is usually spelled, and as it probably appears in my medical records" (Buarque, 2009, p. 18). Often, we are almost sure the narrator talks to a nurse: "Here you come with your syringe, I'd better fall asleep, take my arm" (Buarque, 2009, p. 18). He even tells someone at the hospital that the one responsible for his memoirs is someone else "Now that you're holding pen and paper, the lady could take some notes, in order to make your employee's life easier. The poor thing gets almost no money in her night shifts, helps out everybody at the same time, and still has to write down my memoirs" (Buarque, 2009, p. 70). As if it all were not

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<sup>6</sup> Hereby, it is enough to differ interlocutor as a fictional creation, mentioned in the text, and interlocutor as an ideal reader to whom the text addresses. To see other distinctions between different types of readers, it is recommendable to search, mainly, for Iser (1996).

enough, it is possible to find, in Eulálio's tales, sentences addressed to absent people, such as: "It is terrible, daughter, can't you just kiss my cheek? It is very unpleasant to be abandoned like that, talking to the ceiling" (Buarque, 2009, p. 39).

There are, however, elements which hold internal verisimilitude in the plot. For instance, the narrator's elder age and the fact he is at a hospital: "Even if he enjoyed life at my expenses, I know the big boy was proud of my hundred years of age, everybody is proud of an elder relative. I would have liked to have met my great-grandfather myself [...]" (Buarque, 2009, p. 55). There is no doubt that the longevity of the narrator authorizes both his knowledge of a great part of Brazilian history, considering his family was part of aristocratic environments, and the possibility of a confusion between dreams and facts, between characters who passed and have passed through his life, and between thoughts and memories.

Eulálio makes comments about memory loss in elder age, which assures, in this aspect, internal verisimilitude to the character, which is the only voice in the text. In the following excerpt, the character's doubt surrounding his memories represents a historical doubt regarding the real facts that led to missing people in Brazilian military dictatorship in the late 1960s:

This son of yours impregnated another communist woman, who gave birth in jail and in jail died. You say he died himself in the hands of the police, and, in fact, I vaguely remember such topic. But an old man's memory is not trustworthy, and now I'm sure I've seen a young man Eulálio the other day, very well-built. He even gave me a box of cigars, but my mistake, the one who died was another Eulálio, the one who looked like Amerigo Palumba [the narrator's son-in-law], but thinner. Thinner Eulálio is the one who had become a communist, because he was born in jail already and they say he was early weaned (Buarque, 2009, p. 38).

The above fragment is an emblematic one because, besides the confusion with the name Eulálio, passed from one generation to the other in the Assumpção family, the excerpt, *generally*, concludes with a character joining communism because was born in prison,

where he was arrested for being a communist: hence, a sequence of facts which are illogical and lack verisimilitude, both internally and externally. What grants verisimilitude to the narrative, thus, is not the narrator's discourse, but the fact that his incoherence and lack of logic are authorized by his age and health condition. This is one of those cases in which what is believed by the reader as truth (in the limits of fictional narrative) exists due to elements connected to the narrator's character and the health conditions he is subdued to, and not the information he states. It is, so, a presupposed truth based only on the social legitimacy of the discourse's speaker, which, doubtlessly, constitutes a practical problem, as it sets Literature even farther from a possibility of *material truth*.

In short, verisimilitude in *Spilt milk* depends alone on how unable to utter truthful statements the narrator is, as well as to the fact that the reader sees in Eulálio a contradicting storyteller, which cannot be said, clearly, about every narrator in fiction.

Then again, it is made clear that truth must not be used as a criterion for literary creation and reading, and even verisimilitude can often be limited so as not to condemn a work of art which, much more than a product of logic, is a product of imagination. To further illustrate how imagination overcomes facts in Literature, the first paragraphs from the novel *The moon comes from Asia*, by Brazilian writer Campos de Carvalho, first published in 1956, are a good example:

At the age of 16, I killed my Logic teacher. By invoking self-defense – and which defense could be more legitimate? – I managed to be acquitted with five votes to two, and went to live under a bridge by the Seine, even though I had never been to Paris. I let my beard grow long in thoughts, bought myself a pair of glasses for myopia, and spent my nights watching the stars in the sky, with a cigarette between my fingers. Then I was called Adilson, but I shortly changed to Heitor, then Ruy Barbo, then finally Astrogildo, which is how I'm called nowadays, when I call myself (Carvalho, 2002, p. 36).

It is clear, in this fragment of the novel, that the complete lack of narrative coherence is the main formal feature which expresses

the power of imagination in Literature, both regarding artistic freedom and the conduction of the implicit reader. It is through imagination that the narrator can live under a bridge by the Seine without living in Paris, it is in his thoughts that his beard grows long, and it is thanks to his socially or materially unlimited will that the character impersonates new names and different personalities. The coherence in Campos de Carvalho exists, and it is but a symbolic one: by looking at the stars, the narrator evolves and incorporates them into himself, thus being called Astrogildo. It is no surprise that, in order to become his true self, he was led, at the age of sixteen, to “kill his Logic teacher”, which shows the need for lunacy. Shall we ask, then, as the narrator himself, “Which defense could be more legitimate”?

As seen from Law’s point of view, the illogic discourse in Campos de Carvalho’s narrative is not effective in order to reveal any kind of *material truth*; it could, at most, as shown by our analysis, justify a crime: the death of the Logic teacher was necessary for Adilson to become Astrogildo. Adilson killed his teacher because he needed to live in plenitude. Thus, *A lua vem da Ásia* insinuates a line of thought that, before being seen as truthful, would be, in Law, discussed formally. So, this analysis makes clear in Literature the opposite of material truth, i.e., formal truth, which is made by argument.

### CONCLUSION

There is no doubt that literary fiction gets its credibility much more from its structure, or its *internal verisimilitude*, than for its possible correspondence to facts or possibilities (*external verisimilitude*). The problem showed in this paper is that Literature can sometimes surpass even the limits of verisimilitude. This creates the necessity of giving into the fact that literary creations are not very reliable when it comes to finding the truth, because their reality lies beyond true or untrue: “Fiction literature overcomes to be and not to be, reality and imagination: an artistic character *is*, because he or she was created by an author, and, at the same time, *is not*,

because he or she has never existed in history” (D’Onofrio, 2007, p. 23).

Something worth highlighting, however, is that Literature problematizes the discourse’s legitimacy. For that, it should be enough to mention the political-journalistic dispute set by Mundinho Falcão and colonel Ramiro Bastos in *Gabriela, Clove and Cinnamon*, by Jorge Amado, from 1958, or how Lima Barreto delated the creation of fake news reports in *Recollection of the clerk Isaías Caminha*, from 1909. In short, Literature does not obey truth criteria, but is able, probably because of this very property, to manifest power relations that come from the fight for its possession. Here, just like in Law, truth shows itself because of how legitimate the speaker or the listener is:

Material truth, in an inquisitor model of a “presiding judge”, ends up being used as a theoretical alibi which is useful to justify both the search for elements of “conviction” by the judge (proof management), and the argumentation that motivates a decision that lacks of coherence and integrity, or, a decision with little – or no whatsoever – legal basis (Streck, 2011, p. 221).

In Literature, fiction is as more plausible as better elaborated by a writer who can convince us readers that what’s written is plain truth.

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