

## THE ROLES OF THE OPPOSITION AND THE STATE IN PROTECTING A PUBLIC SPACE SUITABLE FOR DEMOCRATIC DEBATE: REMARKS FROM THE INTER-AMERICAN SYSTEM OF HUMAN RIGHTS

### OS PAPÉIS DA OPOSIÇÃO E DO ESTADO NA PROTEÇÃO DE UM ESPAÇO PÚBLICO PROPÍCIO AO DEBATE DEMOCRÁTICO: APONTAMENTOS DESDE O SISTEMA INTERAMERICANO DE DIREITOS HUMANOS

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#### ABSTRACT

Recent studies point to a reduction in the number of countries in a democratic political regime in the world, as well as a smaller number of nations in full democracy. In any case, Latin American countries are historically handicapped in the effective construction of democracy, in view of the structural problems of the State and other difficulties in civil society. Considering the relevance of this reality, this work is justified and its general objective is to undertake a legal analysis of democratic construction in the Latin American context, pondering the actions of the State and the political opposition in this sphere, especially in Brazil and Colombia, using as paradigm cases the case of “Cepeda Vargas vs. Colombia” judged at the Inter-American Court of Human Rights and the death of Marielle Franco in Brazil. The scope, therefore, is to verify how these States have protected and promoted the democratic space. It is concluded that the achievement of full democracy in Colombia and Brazil has practical obstacles, marked by violence, state impunity and resistance to political pluralism. In order to reach this conclusion, it is important to carry out a research that starts from the legal-dogmatic aspect, with a deductive method of approach and bibliographic, doctrinal and exploratory research techniques. In the meantime, it is urgent to evaluate State public policies, among other actions, to ensure the exercise of democracy and to favor the improvement of political cultures in these countries.

**Key words:** Cepeda Vargas; Decoloniality; Democracy; Marielle Franco.

#### RESUMO

Estudos recentes apontam a redução da quantidade de países em regime político democrático no mundo, assim como menor número de nações em democracia plena. De toda maneira, os países da América Latina estão historicamente prejudicados na construção efetiva da democracia, tendo em vista os problemas estruturais de Estado e outras dificuldades na sociedade civil. Considerando a relevância dessa realidade é que este texto se justifica e tem como objetivo geral empreender uma análise jurídica acerca da construção democrática no contexto latino-americano, ponderando sobre as atuações do Estado e da oposição política nessa esfera, especialmente no Brasil e na Colômbia, utilizando como casos paradigmas o de “Cepeda Vargas vs. Colombia” julgado na Corte Interamericana de Direitos Humanos e o da morte de Marielle Franco no Brasil. O escopo, assim, é verificar como estes Estados têm protegido e promovido o espaço democrático. Conclui-se que a realização da democracia plena na Colômbia e no Brasil possuem óbices práticos, marcados pela violência, pela impunidade estatal e pela resistência ao pluralismo político. Para o alcance dessa conclusão, ressalta-se a realização de uma pesquisa que parte da vertente jurídico-dogmática, com método de abordagem dedutivo e técnicas de pesquisa bibliográfico-doutrinária e exploratória. Nesse ínterim, urge avaliar políticas públicas de Estado, entre outras ações, para assegurar o exercício da democracia e para favorecer o melhoramento das culturas políticas nesses países.

**Palavras-chave:** Cepeda Vargas; Descolonialidade; Democracia; Marielle Franco.

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## 1. INITIAL CONSIDERATIONS

Data collected by the recent “2021 Democracy Index”, released in February 2022 by the Economist Intelligence Unit (EIU), reveal that around 45% of countries in the world live under a democratic state, with a smaller percentage of nations that experience a “full democracy” (6.4% of the world population)<sup>3</sup>. The aforementioned Index is based on five evaluation categories: electoral process and pluralism; civil liberties; government functioning; political participation; and political culture.

This is a study that uses around 60 indicators on the situation of democracy in 165 independent countries and two territories<sup>4</sup>. On a scale from 0 (zero) to 10 (ten), States are identified as authoritarian regimes (0-4), hybrid regimes (4-6), imperfect democracies (6-8) and full democracies (8-10). Brazil, for example, was classified as an imperfect democracy, scoring 6.92 in the general ranking in 2020.

According to the The Economist, full democracy occurs in nations where civil liberties and fundamental political freedoms are respected and reiterated by a political culture that leads to the growth of democratic principles. The system of “checks and balances” between public powers is in place properly, as well as the Judiciary acts independently, in a functional governmental model and with a diverse and autonomous media<sup>5</sup>.

The study under analysis addresses that the decline of full democracy in countries around the world was due to force majeure, such as the negative interference, with generally harmful effects, of the new coronavirus pandemic (Covid-19)<sup>6</sup>. In any case, nations like those in Latin America are historically hampered in the effective construction of democracy, considering that they are countries with structural State problems and other difficulties in civil society. An example of this is the low political participation of Latin American people and

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<sup>3</sup> AGÊNCIA ESTADO. No mundo, 45% da população vivia em regime democrático em 2021, revela EIU. *Correio Braziliense*, 10 fev. 2022. Available at: <https://www.correio braziliense.com.br/mundo/2022/02/4984197-no-mundo-45-da-populacao-vivia-em-regime-democratico-em-2021-revela-eiu.html>. Accessed on: 28 jun. 2022

<sup>4</sup> THE ECONOMIST. Democracy Index 2021: the China challenge. 2021., p. 3. Available at: [https://www.eiu.com/n/campaigns/democracy-index-2021/#mktoForm\\_anchor](https://www.eiu.com/n/campaigns/democracy-index-2021/#mktoForm_anchor). Accessed on: 28 jun. 2022.

<sup>5</sup> BOTELHO, Julia. Democracia Plena: os países mais democráticos do mundo. *Politize!* 22 fev 2022. Available at: <https://www.politize.com.br/democracia-plena/>. Accessed on: 28 jun. 2022.

<sup>6</sup> THE ECONOMIST. Democracy Index 2021: the China challenge. 2021., p. 3. Available at: [https://www.eiu.com/n/campaigns/democracy-index-2021/#mktoForm\\_anchor](https://www.eiu.com/n/campaigns/democracy-index-2021/#mktoForm_anchor). Accessed on: 28 jun. 2022.



their low levels of political culture, aggravated by perennial socioeconomic inequality and an unfortunate “tradition” of corruption at all levels<sup>7</sup>.

Considering the relevance of this reality, then, this work is justified and has the general objective of undertaking a legal analysis regarding democratic construction in the Latin American context, considering the actions of the State and the political opposition in this sphere, especially in Brazil and in Colombia, using “Cepeda Vargas vs. Colombia” judged by the Inter-American Court of Human Rights and the death of Marielle Franco in Brazil. The problem of this research, then, is centered on the following question: to what extent States, especially Brazilian and Colombian, have protected and promoted the genuinely open public space for democratic debates and clashes, being especially provoked by opposition movements?

The initial hypothesis of this study is that, although there is the consolidation of the democratic regime in the legal systems of the mentioned countries, the result of historical struggles in favor of the ideal of equality that is intended to be had in a democracy, it is assumed that the practical challenges, of a political-institutional nature, still hinder and even postpone the achievement of full democracies in the region. Another hypothesis is that, even when the investigation and judicialization of cases of human and political rights violations occur, such as those covering the cases Cepeda Vargas in Colombia and Marielle Franco in Brazil, such measures are, although relevant, certainly incipient for the creation of a true culture of democracy in the countries of Latin America, given other (de)colonial traits.

For the development of this research, the research methodology of this work starts from the legal-dogmatic aspect, with method of deductive approach and technique of bibliographic-doctrinal research, employing the literature review on the subject. The exploratory technique was also used for the reading and interpretation of the cases indicated above.

Concerning the structure, the text begins with the presentation of notes for the theoretical conceptualization of democracy within a Rule of Law. In the following topic, the approach to internal coloniality in Latin American politics is discussed to better understand the phenomena of the exercise of power in these democracies. After that, there is a topic that briefly exposes the Cepeda Vargas vs. Colombia case judged by the Inter-American

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7 BOTELHO, Julia. Democracia Plena: os países mais democráticos do mundo. Politize! 22 fev 2022. Available at: <https://www.politize.com.br/democracia-plena/>. Accessed on: 28 jun. 2022.



Human Rights System, which is intended to delve into the legal violations seen in democratic practice in the Colombian State. Lastly, the case of the murder of councilwoman Marielle Franco in Brazil and other statistical data regarding the persecution of the political opposition in the country are presented, aiming at looking for similarities in this field between Colombia and Brazil, showing a possible decline of the democratic regimes in these countries.

## 2. WHAT IS A DEMOCRATIC STATE: PROMOTING DEBATE AS A STATE DUTY WITH THE PARTICIPATION OF THE OPPOSITION

This topic will be dedicated to a brief theoretical delimitation of the concept of democracy from the perspective of the Rule of Law, and it will also ponder over internal coloniality in Latin American politics, aiming at better understanding the phenomena of the exercise of power in the region.

### 2.1 BRIEF ALIGNMENTS ON THE CONCEPT OF DEMOCRACY IN THE RULE OF LAW

The word democracy comes from the Greek (*demos*, people; *kratos*, power), equivalent to “power of the people” - and not “government by the people”. This means that the government can be occupied by a single person or a group - what matters is that power belongs to the people, ultimately. The choice of the individual or group that governs will be under popular control<sup>8</sup>.

In the beginning, governments were made up of kings. However, there was a transition of power from the palaces to the public square - the “*tó mésson*”, “in the middle”, that is, to the center of the urban agglomeration. Power, therefore, was no longer invisible to the subjects and begins to have a more public and transparent connotation in the ancient Greek polis, especially Athens<sup>9</sup>.

The Greeks distinguished three political regimes: monarchy, aristocracy and democracy. The first regime referenced is the power (*arquia*) of just one (*mono*). The aristocracy, in turn, would be the power of the best (the *aristoi*, excellent): these would be those who have *areté*, that is, the excellence of the hero. Democracy, in this sense, differs

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8 RIBEIRO, Renato Janine. A Democracia. Folha Explica. São Paulo: Editora Publifolha, 2001., p.7.

9 RIBEIRO, Renato Janine. A Democracia. Folha Explica. São Paulo: Editora Publifolha, 2001., p.7



from the power of a single person and the power of the best, which stand out for their quality – democracy consists of the regime of the people, in which everyone is equal<sup>10</sup>.

This first model of democracy that worked in Athens is conceived as ancient democracy, in which the direct exercise of people's power was prominent. In the so-called “modern democracy”, popular political representation began and human rights were absorbed<sup>11</sup>.

Such rights arose, in principle, to limit the power of the ruler, valuing the power of the subject, the citizen. “Subject” comes from the Latin word “*subditus*”, one who is submitted, subjugated, subordinate to what another commands. This subject bias is clear in absolute monarchies. “The citizen is the active element of the city, of the ‘*civitas*’: he takes part in the decision on public affairs”<sup>12</sup>.

Human rights, therefore, although they permeate modern democracies, appeared first in non-democratic regimes: the intention was, indeed, to limit the power of royalty, preventing it from being absolute. “They express the attitude of someone who is not a citizen, but want to reduce his/her subjection [...] to a minimum”<sup>13</sup>.

Political representation, like human rights, precedes the emergence of modern democracy. Human rights were initially formulated in the 17th century, while representation was already perceived in the Middle Ages. At the end of the 18th century, the first modern democracies appeared, at least those of reasonable dimensions<sup>14</sup>.

Renato Janine Ribeiro noted that, in 1747, the French philosopher Montesquieu argued that the republic, being it democratic or not, was impossible in the modern world. However, it became a political regime adopted around the world, taking in many places the form of representation<sup>15</sup>.

The chapeau of Article 1 of the Brazilian Constitution of 1988 established that Brazil is a Democratic State governed by the rule of law and one of its foundations is political pluralism (art. 1, item V)<sup>16</sup>. It is also found in other Constitutions within the international

10 RIBEIRO, Renato Janine. A Democracia. Folha Explica. São Paulo: Editora Publifolha, 2001., p. 7.

11 RIBEIRO, Renato Janine. A Democracia. Folha Explica. São Paulo: Editora Publifolha, 2001., p. 9.

12 RIBEIRO, Renato Janine. A Democracia. Folha Explica. São Paulo: Editora Publifolha, 2001., p. 12

13 RIBEIRO, Renato Janine. A Democracia. Folha Explica. São Paulo: Editora Publifolha, 2001., p. 12.

14 RIBEIRO, Renato Janine. A Democracia. Folha Explica. São Paulo: Editora Publifolha, 2001., p. 12.

15 RIBEIRO, Renato Janine. A Democracia. Folha Explica. São Paulo: Editora Publifolha, 2001., p. 16.

16 BRASIL. [Constituição (1988)]. Constituição da República Federativa do Brasil de 1988. Brasília, DF: Presidência da República, [2021]. Available at: [http://www.planalto.gov.br/ccivil\\_03/constituicao/constituicao.htm](http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm). Accessed on: 27 jun. 2022.



society, such as Spain, France, India, Italy and Portugal<sup>17</sup>. The Constitution of the European Union itself presents article 1-2, which values and summarizes the values of the contemporary Constitutional State imbued with the principle of democracy:

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for rights, including the rights of people belonging to minorities. These values are common to Member States, in a society characterized by pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men<sup>18</sup>.

Although there are variations in meaning regarding the core concept of the Democratic State of Law, this expression basically represents the political organization in which power emanates from the people, this contingent of people who exercise the aforementioned attribute directly or through representatives elected in free and periodically elections, through universal suffrage and direct and secret vote, and in which elected agents exercise mandates lasting for a certain period of time<sup>19</sup>.

Inocência Mártires Coelho deepens the spectrum of democracy in the definition of the Rule of Law, stating that, in terms of concrete relations between Power and the individual, a State has democracy when, in fact, it strives to guarantee its citizens the effective exercise civil, political and, especially, economic, social and cultural rights<sup>20</sup>. Other varied principles constitute legal extractions from the principle of the democratic Rule of Law, such as the separation of Powers, political pluralism, equality, legality and, even, the supra-principle of human dignity<sup>21</sup>.

For Elías Díaz, the Democratic State of Law would be a kind of improvement of the dialectical incorporation and overcoming of the models of liberal and social States that

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17 MENDES, Gilmar Ferreira; COELHO, Inocência Mártires; BRANCO, Paulo Gustavo Gonet. Curso de Direito Constitucional. 4 ed. rev. atual. São Paulo: Saraiva, 2009., p. 171. Available at: <https://revistas.unila.edu.br/epistemologiasdosul/article/view/772>. Accessed on: 1 ago. 2022.

18 MENDES, Gilmar Ferreira; COELHO, Inocência Mártires; BRANCO, Paulo Gustavo Gonet. Curso de Direito Constitucional. 4 ed. rev. atual. São Paulo: Saraiva, 2009., p. 171. Available at: <https://revistas.unila.edu.br/epistemologiasdosul/article/view/772>. Accessed on: 1 ago. 2022.

19 MENDES, Gilmar Ferreira; COELHO, Inocência Mártires; BRANCO, Paulo Gustavo Gonet. Curso de Direito Constitucional. 4 ed. rev. atual. São Paulo: Saraiva, 2009., p. 171. Available at: <https://revistas.unila.edu.br/epistemologiasdosul/article/view/772>. Accessed on: 1 ago. 2022.

20 MENDES, Gilmar Ferreira; COELHO, Inocência Mártires; BRANCO, Paulo Gustavo Gonet. Curso de Direito Constitucional. 4 ed. rev. atual. São Paulo: Saraiva, 2009., p. 171. Available at: <https://revistas.unila.edu.br/epistemologiasdosul/article/view/772>. Accessed on: 1 ago. 2022.

21 MENDES, Gilmar Ferreira; COELHO, Inocência Mártires; BRANCO, Paulo Gustavo Gonet. Curso de Direito Constitucional. 4 ed. rev. atual. São Paulo: Saraiva, 2009., p. 171. Available at: <https://revistas.unila.edu.br/epistemologiasdosul/article/view/772>. Accessed on: 1 ago. 2022.v



preceded it in the course of History<sup>22</sup>. In this sense, Pablo Lucas Verdú, considered that the Rule of Law, in any of its aspects, has always appeared as an achievement, as it follows:

The Rule of Law, in any of its species: liberal State of Law, social State of Law, democratic State of Law, is an achievement. I mean that each of them established themselves, or tried to establish themselves, fighting against opposing power structures, namely: the liberal State of Law, in the face of the Old Regime; Social rule of law, against the individualism and abstentionism of the liberal state; Democratic rule of law that struggles with the socio-political structures of the previous one: individualist remnants, oppressive neocapitalism, privileged established system<sup>23</sup>.

In the meantime, and in connection with the idea of the present debate, the idea of political pluralism, legally enshrined in the Brazilian constitutional text and in other international Fundamental Laws, as mentioned elsewhere, is raised in the context of the Democratic State. Pluralism, in reality, is not just political: it constitutes a fundamental right to difference in all fields of human experience (political, religious, economic, social and cultural) - the difference “not only, but also”<sup>24</sup>.

In the political sphere, political pluralism enables the “dialogicity” that oxygenates democracy: ideas and positions that disagree with each other must have an open and tolerant public space, and political opposition to a certain “situational” government, for example, can be exercised without reprisals.

But this is not the reality in many countries, especially in Latin American tradition. In this region, “[t]he political life required by liberal conceptions offers little room for public deliberation to test the plausibility of competing moralities – to convince others of the content of moral arguments and to be convinced of the arguments of others”<sup>25</sup>. In fact, in the Latin American political environment, the ideological opposition normally and regrettably gives

22 MENDES, Gilmar Ferreira; COELHO, Inocêncio Mártires; BRANCO, Paulo Gustavo Gonet. Curso de Direito Constitucional. 4 ed. rev. atual. São Paulo: Saraiva, 2009., p 171. Available at: <https://revistas.unila.edu.br/epistemologiasdosul/article/view/772>. Accessed on: 1 ago. 2022.

23 MENDES, Gilmar Ferreira; COELHO, Inocêncio Mártires; BRANCO, Paulo Gustavo Gonet. Curso de Direito Constitucional. 4 ed. rev. atual. São Paulo: Saraiva, 2009., 171. Available at: <https://revistas.unila.edu.br/epistemologiasdosul/article/view/772>. Accessed on: 1 ago. 2022.

24 KAUFMANN, Arthur. *Filosofía del derecho*. Bogotá: Universidad Externado de Colombia, 1999.

MEMÓRIA GLOBO. Caso Marielle. *Memória Globo*, 02 dez. 2021. Available at: [https://memoriaglobo.globo.com/jornalismo/coberturas/noticia/caso-marielle.ghtml#ancora\\_](https://memoriaglobo.globo.com/jornalismo/coberturas/noticia/caso-marielle.ghtml#ancora_). Accessed on: 6 jul. 2022.

25 L'ALÍK, Tomás. A concepção democrática de direitos humanos. *Revista Direitos Fundamentais & Democracia*, [S. l.], v. 28, n. 3, p. 05–39, 2023. DOI: 10.25192/issn.1982-0496.rdfd.v28i32725



rise to three uninteresting scenarios in the State that should be avoided, namely: populism, extremism and authoritarianism.

Populism has historically been characterized as the rise to power of charismatic leaders with an “anti-establishment” discourse and with propositions of simple solutions - often mistaken - for complex problems. In this phenomenon, the creation of artificial enemies is noticeable, in a division “us, the people and them, the elite”, and with the adoption of the following strategies: a) establishing direct communication with its followers<sup>26</sup> (currently via social networks, for example); b) practices of “by-pass”, co-optation or demonization of intermediary institutions, such as the press, the Legislative Branch and civil society entities; and c) attack on institutions, especially the supreme courts or constitutional courts, “which act to contain abuses of political power”<sup>27</sup>.

Extremism, in turn, presents itself as the non-acceptance of others, of those who are different, implying the support of antagonisms with aggressive speeches and practices, aimed at suppressing the rights of opponents<sup>28</sup>. Authoritarianism, on the other hand, displays the permanent temptation of rulers, in different countries and political-partisan orientations, to concentrate power in their administrations, “oppressing or emptying institutions that involve popular participation and control over government activities”, as well as promoting press censorship and persecution of opponents<sup>29</sup>,

The combination of populism, extremism and authoritarianism can lead to the so-called “contemporary fascism”, in which the following characteristics can be highlighted: a) exaltation of the greatness of the nation and nationalist effervescence, b) persecution of opponents as they are seen enemies of the country, c) domination of all institutions,

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26 Lúcia de Casemiro and Thanderson de Sousa already said that “[in] populist democratic theory, [...] [p]opular sovereignty [...] constitute supreme principles of the republic”, thus establishing such a link with the society is so important. DE CASIMIRO, Lúcia. M.; DE SOUSA, Thanderson. P. Democracia, Estados de Exceção e Exclusão Social: entre lonas de invisibilidade e o amanhã. *Revista Direitos Fundamentais & Democracia*, [S. l.], v. 26, n. 2, p. 203–226, 2021. DOI: 10.25192/issn.1982-0496.rdfd.v26i22178

27 BARROSO, Luís Roberto. Democracia, populismo e desinformação. Luís Roberto Barroso - Jurisdição Constitucional e Debates Públicos. 7 mar. 2022. Available at: <https://luisrobertobarroso.com.br/?p=1795>. Accessed on: 30 jun. 2022.

28 BARROSO, Luís Roberto. Democracia, populismo e desinformação. Luís Roberto Barroso - Jurisdição Constitucional e Debates Públicos. 7 mar. 2022. Available at: <https://luisrobertobarroso.com.br/?p=1795>. Accessed on: 30 jun. 2022.

29 BARROSO, Luís Roberto. Democracia, populismo e desinformação. Luís Roberto Barroso - Jurisdição Constitucional e Debates Públicos. 7 mar. 2022. Available at: <https://luisrobertobarroso.com.br/?p=1795>. Accessed on: 30 jun. 2022.



affronting their independence, and, above all, d) the willingness to use violence and intimidation to stay in power<sup>30</sup>.

In the case Manuel Cepeda Vargas vs. Colombia before the Inter-American Court of Human Rights – the aforementioned elements will be seen, especially the persecution and execution of the national political opposition to maintain the status quo in politics, specifically Colombian politics, riddled with populism, extremism and authoritarianism. In the Marielle Franco case, still being investigated in Brazil, in addition to this nuance indicated in the Cepeda Vargas case, the impetus given to movements of hate, misinformation and conspiracy theories to distort the reality surrounding the death of this Brazilian parliamentarian, with the aim of destroying political divergences and weakening representative and judicial institutions, which ends up resembling the motive for Marielle's possible execution with that of the aforementioned Colombian politician.

In any event, in addition to these preliminary considerations, it is also appropriate to observe the traces of the so-called coloniality, intrinsic and present in Latin American politics, in order to better understand the existing political, social and institutional structures that favor the “isms” detailed previously, often perpetuating the same political elites in power. This approach will be discussed in the topic below.

## 2.1 INTERNAL COLONIALITY IN LATIN AMERICAN POLITICS AS AN OBSTACLE TO DEMOCRATIC EXERCISE

The epistemological movement called decolonial thought was initially organized by the Modernity/Coloniality Group, which originated in the 1990s, in the United States, with the reprint of Aníbal Quijano's text (*Colonialidad y modernidad-racionalidad*) in 1992<sup>31</sup>. This movement emphasizes the concept of coloniality understood as the violent and hidden face of modernity<sup>32</sup>, and which aims to renew Latin American criticism<sup>33</sup>.

30 BARROSO, Luís Roberto. Democracia, populismo e desinformação. Luís Roberto Barroso - Jurisdição Constitucional e Debates Públicos. 7 mar. 2022. Available at: <https://luisrobertobarroso.com.br/?p=1795>. Accessed on: 30 jun. 2022.

31 BALLESTRIN, Luciana Maria de Aragão. América Latina e o giro decolonial. Revista Brasileira de Ciência Política, v. 2, 2013., p. 94. Available at: <https://www.scielo.br/j/rbcpol/a/DxkN3kQ3XdYYPbwwXH55jhw/?format=pdf>. Accessed on: 1 ago. 2022.

32 MIGNOLO, Walter. Desafios decoloniais hoje. Epistemologias do Sul, Foz do Iguaçu, nº1, v. 1, 2017, p. 13. Available at: <https://revistas.unila.edu.br/epistemologiasdosul/article/view/772>. Accessed on: 1 ago. 2022.

33 BALLESTRIN, Luciana Maria de Aragão. América Latina e o giro decolonial. Revista Brasileira de Ciência Política, v. 2, 2013., p. 89. Available at: <https://www.scielo.br/j/rbcpol/a/DxkN3kQ3XdYYPbwwXH55jhw/?format=pdf>. Accessed on: 1 ago. 2022



Decolonial thinking criticizes colonial relations and their effects beyond the formal termination of colonization that many countries experienced, beyond the independence process of former colonies. Ballestrin<sup>34</sup> highlights two characteristics of this reasoning: the search for a definitive detachment from Eurocentric authors, and a greater concern to the specificities of Latin America in the debates.

The Modernity/Coloniality Group underwent changes and, from 2000 onwards, new research members joined, such as Catherine Walsh, Nelson Maldonado-Torres, Margarita Cervantes de Salazar, Libia Grueso and Boaventura de Sousa Santos. In this critical work, the aforementioned Group advocates for an epistemological decolonial option – one that intends “to understand and act against a world marked by the maintenance of global coloniality at different levels of personal and collective life”<sup>35</sup>.

Despite typically considered a post-colonial author<sup>36</sup>, Boaventura de Sousa Santos, has a quite important work to understand the disparities that exist within Latin American societies<sup>37</sup>, to what he calls internal coloniality. For him,

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34 BALLESTRIN, Luciana Maria de Aragão. América Latina e o giro decolonial. *Revista Brasileira de Ciência Política*, v. 2, 2013., p. 94-96. Available at: <https://www.scielo.br/j/rbcpol/a/DxkN3kQ3XdYYPbwwXH55jhw/?format=pdf>. Accessed on: 1 ago. 2022

35 BALLESTRIN, Luciana Maria de Aragão. América Latina e o giro decolonial. *Revista Brasileira de Ciência Política*, v. 2, 2013., p. 89. Available at: <https://www.scielo.br/j/rbcpol/a/DxkN3kQ3XdYYPbwwXH55jhw/?format=pdf>. Accessed on: 1 ago. 2022

36 In reality, Boaventura de Sousa Santos can be considered a post-colonial author. Postcolonialism is a movement that can be interpreted as a genre of which decoloniality, subalternity and even postcolonialism itself are species of it. In his words, in the original: “Entendo por pós-colonialismo um conjunto de corrente teóricas e analíticas, com forte implantação nos estudos culturais, mas hoje presentes em todas as ciências sociais, que têm em comum darem primazia teórica e prática às relações desiguais entre o Norte e o Sul na explicação ou na compreensão do mundo contemporâneo. Tais relações foram constituídas historicamente pelo colonialismo e o fim do colonialismo enquanto relação política não acarretou o fim do colonialismo enquanto relação social, enquanto mentalidade e forma de sociabilidade autoritária e discriminatória. Para esta corrente, é problemático saber até que ponto vivemos em sociedades pós-coloniais. Por outro lado, o carácter constitutivo do colonialismo na modernidade ocidental faz com que ele seja importante para compreender, não só as sociedades não ocidentais que foram vítimas do colonialismo, mas também as próprias sociedades ocidentais, sobretudo os padrões e discriminação social que nelas vigoram. A perspectiva pós-colonial parte da ideia de que, a partir das margens ou das periferias, as estruturas do poder e de saber são mais visíveis. Daí o interesse desta perspectiva pela geopolítica do conhecimento, ou seja, por problematizar quem produz o conhecimento, em que contexto o produz e para quem o produz.” (SANTOS, Boaventura de Sousa. *Do pós-moderno ao pós-colonial. E para além de um e de outro. Travessias – Revista de Ciências Sociais e Humanas em Língua Portuguesa*. Universidade de Coimbra, edição dos números 6/7, 2008, p. 18-19.)

37 GOMES, David F. L.; CARVALHO, Rayann K. Massahud de. Poderá o direito ser decolonial?. *Revista Direito e Práxis*, Rio de Janeiro, Vol. 12, n. 01, 2021, p. 79. Available at: <https://www.scielo.br/j/rdp/a/nxvbYTdVbVZLC9KCWFQhWxC/?format=pdf&lang=pt>. Accessed on: 2 ago. 2022.



[...] internal colonialism is not only, nor mainly, a State policy, as it was during the colonialism of foreign occupation; it is a very vast social grammar, which crosses sociability, public and private space, culture, mentalities and subjectivities. It is, in short, a way of living and coexisting that is often shared by those who benefit from it and those who suffer from it<sup>38</sup>.

In other words, the problems we face with social disparity and the vulnerabilities that come along are just a domestic reproduction of what we once faced as a colonial state, being dependent on the metropolis to develop. And just as in the past, in which the colonialist and capitalist model shaped the sociopolitical imagination, today the same situation persists to exist, in which the leaders who in the past were allied with the colonists, today are the new “bosses”<sup>39</sup>, reproducing the same dominating logic through which today these few benefit to the detriment of a large portion of society, which persists in having their rights denied, including (but not limited to) the right to development. After all, the belief that the anti-colonial liberation struggles of the 20th century ended the colonial era is bogus, as what happened was the change in the form and appearance of this structure<sup>40</sup>.

Boaventura de Sousa Santos replicates Pablo Gonzalez Casanova's concept of internal decolonialism to address the permanence of colonial power structures in societies that emerged in the 19th century from the independence struggles in the Americas. These struggles concluded the independence processes of the 20th century, but the colonization that ended was a specific form of colonialism – historical colonialism, derived from foreign territorial occupation – and not colonialism as a mode of domination. This continues in other ways<sup>41</sup>.

38 SANTOS, Boaventura de Sousa. *Refundación del Estado en América Latina: perspectivas desde una epistemología del Sur*. Lima: Instituto Internacional de Derecho y Sociedad; Programa Democracia y Transformación Global, 2010, p. 29. Available at: [http://www.boaventuradesousasantos.pt/media/Refundacion%20del%20Estado\\_Lima2010.pdf](http://www.boaventuradesousasantos.pt/media/Refundacion%20del%20Estado_Lima2010.pdf). Accessed on: 2 ago. 2022

39 the example of "coronelismo" in Brazil, which was a common practice in the Old Republic (1889-1930), in which those in power would coerce those subjected to them in order to stay in power (OLIVEIRA, Janaina Florêncio. *Origens, desenvolvimento e aspectos do coronelismo*. Rev. Sem Aspas, Araraquara, v. 6, n. 1, pp. 74-84, jan./jun. 2017. DOI: 10.29373/semaspas.v19n1.2017.10249)

40 SANTOS, Boaventura de Sousa. *Refundación del Estado en América Latina: perspectivas desde una epistemología del Sur*. Lima: Instituto Internacional de Derecho y Sociedad; Programa Democracia y Transformación Global, 2010, p. 71. Available at: [http://www.boaventuradesousasantos.pt/media/Refundacion%20del%20Estado\\_Lima2010.pdf](http://www.boaventuradesousasantos.pt/media/Refundacion%20del%20Estado_Lima2010.pdf). Accessed on: 2 ago. 2022

41 SANTOS, Boaventura de Sousa. *Refundación del Estado en América Latina: perspectivas desde una epistemología del Sur*. Lima: Instituto Internacional de Derecho y Sociedad; Programa Democracia y Transformación Global, 2010, p. 71. Available at: [http://www.boaventuradesousasantos.pt/media/Refundacion%20del%20Estado\\_Lima2010.pdf](http://www.boaventuradesousasantos.pt/media/Refundacion%20del%20Estado_Lima2010.pdf). Accessed on: 2 ago. 2022



(Western) human rights, (liberal) democracy and neoliberal economic policies today form part of the same package of globalization driven from (and in favor of) the West. They are the inseparable set of “universal” recipes for achieving development, progress, peace and success, great non-generalizable promises of modernity/coloniality, which – paradoxically – provoke diametrically opposite results when applied by impoverished countries<sup>42</sup> (our translation)

This is the so-called “insidious colonialism” of Boaventura de Sousa Santos. It occurs as a mode of domination in the ontological degradation of the dominated populations, in various aspects: in racism, in xenophobia, and, in the present discussion about deviations in the exercise of democracy, in police violence and in paramilitary militias, which end up reaching other segments of society<sup>43</sup>. Therefore, the new forms of colonialism seem more misleading because they occur in the essence of social relations dominated by the ideologies of anti-racism, universal human rights, equality of all before the law. “The great trap of insidious colonialism is to give the impression of a return, when what returns has never stopped being there”<sup>44</sup>.

Because of this, colonialism would then be one of the main difficulties to be faced by the “political imagination” alongside capitalism. The State is, therefore, still capitalist and colonial, making it necessary to recreate this entity, with the end of the aforementioned systems of domination and exploitation<sup>45</sup>. Hence, Boaventura de Sousa Santos proposes to de-commodify, democratize and decolonize through the epistemologies of the South, with the remaking and the expansion of the concept of social justice. This concept, in his view, should encompass freedom, equality, recognition of difference, cognitive justice, through the

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42 VITÓRIA, Paulo R. A colonização das utopias e outras conseqüências da assimilação acrítica dos principais discursos ocidentais sobre democracia e direitos humanos. *Revista Direitos Fundamentais & Democracia*, [S. l.], v. 23, n. 2, p. 198–236, 2018. DOI: 10.25192/issn.1982-0496.rdfd.v23i21298.

43 SANTOS, Boaventura de Sousa. Do pós-moderno ao pós-colonial. E para além de um e de outro. *Travessias – Revista de Ciências Sociais e Humanas em Língua Portuguesa*. Universidade de Coimbra, edição dos números 6/7, 2008, p. 15-36.

44 SANTOS, Boaventura de Sousa. O colonialismo insidioso. *Portal Geledés*, 02 abr. 2018. Available at: <https://www.geledes.org.br/o-colonialismo-insidioso-por-boaventura-sousa-santos/#:~:text=As%20novas%20formas%20de%20colonialismo,evasivo%2C%20em%20suma%2C%20ardiloso>. Accessed on: 5 ago. 2022.

45 SANTOS, Boaventura de Sousa. *Refundación del Estado en América Latina: perspectivas desde una epistemología del Sur*. Lima: Instituto Internacional de Derecho y Sociedad; Programa Democracia y Transformación Global, 2010, p. 71. Available at: [http://www.boaventuradesousasantos.pt/media/Refundacion%20del%20Estado\\_Lima2010.pdf](http://www.boaventuradesousasantos.pt/media/Refundacion%20del%20Estado_Lima2010.pdf).



ecology of knowledge, and historical justice, understood as a fight against colonialism, both foreign and internal<sup>46</sup>.

Thus, valuing these considerations of decolonial thinking, it is possible to infer that these colonizing structures of exploitation that are so typical and persistent in Latin America end up negatively influencing the exercise of power in a democratic way in the countries of this region, since the common thread of this regime is equality between people, with the opportunity for pluralism, and, consequently, the openness to opposition of ideas. But this characteristic has been continually violated. Historically, elites have established themselves at the top of political power in Latin countries and an institutional culture has developed that is inflexible to criticism, divergent movements and the so-called “minority groups”.

This stance in fact triggered a series of events that reverberated the still soft democratic construction in many places of the region, as in Colombia. The case of execution of Senator Manuel Cepeda Vargas, in Colombia, which was brought before the Inter-American Court of Human Rights, and the “Marielle Franco” case in Brazil, which is still under investigation, both to be detailed in the following topic, illustrate this assertion.

### **3. THE CASES OF MANUEL CEPEDA VARGAS VS. COLOMBIA AND “MARIELLE CASE” IN BRAZIL AS EXAMPLES OF VIOLATIONS OF DEMOCRACY?**

In order to continue debating the softness of democracy in Latin America as a repercussion of the maintenance of colonialism, this topic will present the case “Cepeda Vargas vs. Colombia”, heard by the Inter-American Human Rights System, in order to observe the practical challenges for the consolidation of democracy in the Colombian State. At the same time, the case of the murder of councilwoman Marielle Franco in Brazil and other statistical data relating to the persecution of the political opposition in the country will also be reported, with the aim of aligning possible similarities in this field between Colombia and Brazil and what can be considered to ensure the maintenance of the democratic regime in these territories.

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46 SANTOS, Boaventura de Sousa. *Refundación del Estado en América Latina: perspectivas desde una epistemología del Sur*. Lima: Instituto Internacional de Derecho y Sociedad; Programa Democracia y Transformación Global, 2010, p. 71. Available at: [http://www.boaventuradesousasantos.pt/media/Refundacion%20del%20Estado\\_Lima2010.pdf](http://www.boaventuradesousasantos.pt/media/Refundacion%20del%20Estado_Lima2010.pdf).



### 3.1 REMARKS ON THE MANUEL CEPEDA VARGAS VS. COLOMBIA CASE BEFORE THE INTER-AMERICAN COURT OF HUMAN RIGHTS

On November 14, 2008, the Inter-American Commission on Human Rights presented, in accordance with articles 51 and 61 of the American Convention on Human Rights of 1969, a claim against the State of Colombia regarding to case 12,531 “Manuel Cepeda Vargas”, which was separated from case 11,227 (*José Bernardo Díaz y otros, “Unión Patriótica”- UP*)<sup>47</sup>.

The facts alleged by the aforementioned Commission referred to the extrajudicial execution of the then Senator Manuel Cepeda Vargas, perpetrated on August 9, 1994, in Bogotá, Colombia, as well as the lack of due diligence in the investigation and sanction of all those responsible, the obstruction of justice and the lack of adequate reparation in favor of the family members of that parliamentarian.

It was further alleged that the execution of Cepeda Vargas was part of a systematic pattern of violence against members of the *Unión Patriótica* (UP) and the Colombian Communist Party (PCC) and that it was perpetrated through supposed operational coordination between members of the Army and Colombian paramilitary groups, through the so-called "coup de grace plan"<sup>48</sup>.

The Inter-American Commission on Human Rights also considered that the aforementioned execution reflected the situation of UP members, the acts of persecution and attacks against members of that political party and the impunity in which such facts were maintained. Furthermore, the aforementioned Commission maintained that the execution of Senator Cepeda “stands out in the pattern of violence against UP activists, given his role as the last representative elected by popular vote”<sup>49</sup> of that party, and constituted a crime against humanity.

The rights of Cepeda Vargas and her family members that were violated, according to this demand, and based on the American Convention on Human Rights, were the following: rights to life and personal integrity of Senator Manuel Cepeda Vargas (articles 4.1 and 5.1, in relation to the obligation to respect rights established in article 1.1 of the American

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47 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 2. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

48 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p.3. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

49 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p 3. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.



Convention); right to the protection of honor and dignity, freedom of thought and expression, freedom of association and political rights (articles 11, 13.1, 16 and 23, in relation to article 1.1 of the American Convention); rights to personal integrity, protection of honor and dignity; and right of movement and residence of family members (articles 5, 11 and 22, in relation to article 1.1 of the American Convention)<sup>50</sup>.

In the analysis of the merits of the sentence of the Inter-American Court of Human Rights, a succinct biography of the victim in this case was described. Senator Manuel Cepeda Vargas was a political leader, member of the UP and the PCC, as well as a social communicator with a critical opposition orientation. He was a member of the leadership of these parties, and, in this capacity, he was elected as Representative of the Chamber of Congress in Colombia between 1991 and 1994 and, subsequently, won the elections for Senator of the Republic between the years 1994 and 1998. As Social communicator, Senator Cepeda held positions on the management and editorial board of the weekly *Voz*, in which he published a political column for several years<sup>51</sup>.

On August 9, 1994, Senator Cepeda Vargas was killed while on his way to Congress. The Senator's car was intercepted and the perpetrators fired firearms which caused his immediate death. The parliamentarian's escort reacted and returned fire, but without obtaining results. The criminal agents left the vehicle they were in a kilometer and a half from the location<sup>52</sup>. At least two sergeants from the Colombian National Army participated in the execution of this murder, who were convicted for the events. Other members of the Colombian Army and paramilitary groups were investigated, although none were found responsible at the time of the Inter-American Court of Human Rights' ruling in this case<sup>53</sup>.

It is a fact recognized by the parties in this suit that the reason for Senator Cepeda Vargas' death was his political activism, which he exercised as leader of the UP and the PCC, in his parliamentary activities as Senator of the Republic and in his publications as a

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50 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

51 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p.26. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

52 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 26-27. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

53 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 26-27. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.



social communicator<sup>54</sup>. According to the Public Prosecutor involved in the investigations into this murder, "there is a direct relationship between the emergence, activity and electoral support of the UP and the murder of its militants and leaders in regions where the presence of this party was interpreted as a risk to the maintenance of the privileges of certain groups"<sup>55</sup>. Thus, since 1985, several of its leaders and representatives have been victims of homicides or attacks, including presidential candidates Jaime Pardo Leal and Bernardo Jaramillo Ossa, as well as senators, representatives of the Chamber, mayors and councilors<sup>56</sup>.

In the text of the sentence handed down by the Inter-American Court of Human Rights on this case, it was noted that, in 1998, the United Nations High Commissioner for Human Rights stated that:

[...] [the] Colombian political activity is characterized by a high degree of intolerance towards opposition parties and movements; [that the] most dramatic example is the case of the Patriotic Union, whose militants have been victims of systematic executions, with more than 1,500 members [...] murdered since the Party's founding in 1985, including elected officials and almost all of its representatives at the Congress. Others had to go into exile and abandon their political positions<sup>57</sup>.

This assertion demonstrates the recognition of a problematic situation in the Colombian political context – and, often, similar to what occurs in other Latin American countries, as will be seen later - of little tolerance or even persecution of opposition movements to power, be it exercised by an elected government at a given moment, whether through ideological confrontation with the power of elites who have already established themselves in political positions or in the functions of greater institutional expression of the State.

Moreover, in the text of the sentence under analysis, it was pointed out that the Colombian Constitutional Court considered that the State did not adopt "sufficient measures

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54 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 26-27. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

55 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 28. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

56 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 28. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

57 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 29. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.



to ensure [UP's] special protection as a minority political party, systematically decimated despite its official recognition"<sup>58</sup>.

The Prosecutor in the case stated that “[t]he violent wave [against the UP] reveals evident aspects of political intolerance, lack of electoral guarantees and systematized extermination against UP leaders and militants [...]”, for which he maintained that “the empire of impunity reigned before the bloody extermination of the militants of this democratic force”<sup>59</sup>.

According to the Prosecutor, the failure of the National Government and the Revolutionary Armed Forces of Colombia (FARC) to comply with the peace agreements was also decisive for the generation of violence against the UP, the necessary guarantees to develop their political activity. In particular, this violence was also linked to the UP's identification with the FARC<sup>60</sup>.

Worsening these scenarios of transgressions against democracy, as admitted by the State of Colombia and confirmed by the Attorney General of the Nation and the Council of State, the threats to which several members of the UP were victims, including Senator Cepeda Vargas, were publicized to the national authorities. There were at least five extermination plans against UP members that were denounced by these political agents - among such plans was the “*Golpe de Graça*” (1992), mentioned in the case under analysis<sup>61</sup>.

Many protective measures were requested from the Colombian State through the Ministry of Defense and other bodies, but they did not sufficiently meet their constitutional and legal duties, as they did not take appropriate security measures to protect the life of the late Senator, as recognized by the Inter-American Court<sup>62</sup>.

As the state authorities themselves verified it, the execution was carried out by several individuals, from which it is possible to observe a division of tasks. In fact, while a group of individuals shot at Senator Cepeda, others were the ones who protected and ensured the escape of the first. The Inter-American Court of Human Rights noted that these

58 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 30. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

59 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 30. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

60 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p.31. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

61 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 33. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

62 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 38. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.



sergeants had participated in other crimes before and after the death of Senator Cepeda Vargas, while they were active members of the Army<sup>63</sup>.

The Court considered, then, that the superior commands of both NCOs knew, or at least should know, that said sergeants were investigated for the practice of various crimes since before the execution of Senator Cepeda Vargas. This entailed the duty of superiors to adopt reasonable, concrete and effective measures to prevent and put an end to human rights violations committed by subordinates (Article 8.1 of the American Convention on Human Rights) as well as by the competent authorities punishing those responsible for such acts<sup>64</sup>.

Another point highlighted by the Court was the State's duty to investigate the extrajudicial execution of Senator Cepeda Vargas. In addition to this obligation, the State should procedurally determine the standards of joint action and all people who in different ways participated in these violations, with their corresponding responsibilities. As this did not occur, violations of articles 8 and 25 of the American Convention on Human Rights were verified, in relation to article 1.1 of that same regulation<sup>65</sup>.

There were, in fact, the development of three suits in relation to the execution of Cepeda Vargas (a disciplinary process, two administrative contentious processes and a criminal investigation), however the set of investigations carried out were not coherent with each other, nor sufficient for a due clarification of the material facts of the case, from the perspective of the Court<sup>66</sup>.

The slowness of the investigations, including – approximately sixteen years after the events occurred, violating the provisions of article 8.1 of the American Convention on Human Rights – led to the Court's understanding that there was a prevalence of impunity in the present case due to the processes and procedures internal resources have not been developed within a reasonable time. The Court also concluded from the case that effective resources were not created to guarantee access to justice (articles 8.1, 25 and 1.1 of the aforementioned Convention) to investigate and eventually sanction all the perpetrators,

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63 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia..., p. 39. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

64 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia..., p. 40. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

65 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia..., p. 47. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

66 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia..., p. 46. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.



including the possible participation of paramilitaries, and fully compensate for the consequences of violations<sup>67</sup>.

Regarding the protection of honor and dignity, freedom of thought and expression, freedom of association and political rights (Articles 4, 11, 13.1, 16 and 23 of the American Convention on Human Rights, in relation to Article 1.1 of the same legal framework) the Court reiterated in a sentence text a valuable position:

[...] the voices of the opposition are essential for a democratic society, without which the success of agreements that meet the different visions that prevail in a society is not possible. Therefore, the effective participation of people, groups and organizations and opposition political parties in a democratic society must be guaranteed by States, through appropriate regulations and practices that enable their real and effective access to different deliberative spaces on equal terms, but also through the adoption of necessary measures to guarantee its full exercise, taking into account the vulnerable situation in which members of certain sectors or social groups Humans find themselves<sup>68</sup>.

In this sense, the Court understood that the Colombian State did not create the conditions or gave the necessary guarantees so that, as a member of the UP in this context, Senator Cepeda had a real opportunity to hold the office for which he was democratically elected to, in particular through the impulse of the ideological vision it represents through its free participation in the public debate, in the exercise of its freedom of expression. Ultimately, his activity was hindered by violence against the political movement to which Senator Cepeda Vargas belonged to and, in this sense, his freedom of association was also affected<sup>69</sup>.

Having recognized the political motive for the murder of Cepeda Vargas, the Court considered that the extrajudicial execution of an opponent for such a reason not only implies the violation of several human rights, but also violates the principles on which the Rule of Law and directly makes the democratic regime vulnerable, as it relates the lack of subjection of different authorities to the obligations to protect nationally and internationally recognized human rights and to internal bodies that control their observance<sup>70</sup>.

67 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 46. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

68 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 63-64. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

69 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 64. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

70 CORTE INTERAMERICANA DE DIREITOS HUMANOS. Cepeda Vargas Vs. Colombia., p. 65. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.



In view of these findings, the Inter-American Court sentenced the State of Colombia to the following: the Court's judgment alone as a means of redress; determination of continuity of state investigations into the case; preservation of the safety of Cepeda Vargas' family members; publication of the sentence in official and electronic media of the State of Colombia; realization, by the State, of a public act of recognition of international responsibility for the facts of this case a publication and an audiovisual documentary on the political, periodic and political life of Senator Manuel Cepeda Vargas, in coordination with family members and with their dissemination; State grant of a scholarship on behalf of Manuel Cepeda Vargas; payment of medical and psychological treatment to the victims; payment of material and immaterial damages; notification of referrals assumed by the State within one year to the Inter-American Court of Human Rights<sup>71</sup>.

As a result, despite being an important decision to highlight what democracy is and what it covers, it also illustrates a series of violations to it, especially by the mere exercise of political divergence, showing there is still a long way to consolidate a true democracy – one that there is no abuse of rights. Unfortunately, such a framework is quite common not only in the country<sup>72</sup>, but in the region<sup>73</sup>, in which we infer derives from its colonial past, as

<sup>71</sup> CORTE INTERAMERICANA DE DERECHOS HUMANOS. *Cepeda Vargas Vs. Colombia.*, p. 90-92. Available at: <https://www.corteidh.or.cr/tablas/fichas/manuelcepeda.pdf>. Accessed on: 27 jun. 2022.

<sup>72</sup> According to the Freedom House Organization, "Colombia is among the longest-standing democracies in Latin America, but one with a history of widespread violence and serious human rights abuses. Public institutions have demonstrated the capacity to check executive power, and the country's main left-wing guerrilla group signed a peace accord in 2016. Nonetheless, Colombia faces enormous challenges in consolidating peace and guaranteeing political rights and civil liberties outside of major urban areas. In June 2022, opposition candidate and former left-wing guerrilla member Gustavo Petro was elected to the presidency and formed a government comprised of a broad left-wing coalition, becoming Colombia's first leftist government since the reestablishment of competitive democracy" (FREEDOM HOUSE. *Colombia.* 2022. Available at: <https://freedomhouse.org/country/colombia>. Accessed on: 27 dez, 2023.). A recent survey regarding democracy in Latin America and the Caribbean pointed out that Colombia is ranked n. 47 out of 137 countries, being n. 1 a Democracy in consolidation, and 137 a hard-line democracy. Hence, Colombia it is classified as a 'defective democracy', also known as incomplete democracy, meaning that, although considered democratic, the country presents several flaws when compared to more established regimes (CRS - CONGRESSIONAL RESEARCH INITIATIVE. *Democracy in Latin America and the Caribbean: A Compilation of Selected Indices.* CRS Report, Washington D.C., Sept. 27, 2023. Available at: <https://sgp.fas.org/crs/row/R46016.pdf>. Accessed on: 27 dec. 2023)

<sup>73</sup> In accordance to the Democracy Index in Latin America, "[t]he overall average score for Latin America fell for the fifth consecutive year, from 6.05 in 2019 to 5.99 in 2020" (SALGADO, Luis. *Democracy Index in Latin America.* 2023. Available at: <https://cemerl.org/en/mapas/m-indice-democracia-america-latina-bu>. Accessed on: 27 dec. 2023). A more recent survey pointed out the continuation of this panorama: "Latin America maintains a higher score than all regions apart from North America and Western Europe. But no other region's score has fallen by as much since 2008 (see chart). In 2022 it fell by 0.04 points; only that of the Middle East fell by more (0.07 points). [...] But the biggest reason for the region's democratic decline is the growing number of "hybrid regimes". In 2008 it had three such regimes; by 2022 it had eight. These may maintain some important democratic practices, such as holding fair elections and respecting civil liberties" (THE ECONOMIST.



previously put. This can also be verified in the Brazilian politics, such as what happened to councilwoman Marielle Franco, as will be detailed below.

### 3.2 REMARKS ON THE “MARIELLE FRANCO’S CASE” IN BRAZIL AND ITS SIMILARITIES WITH THE MANUEL CEPEDA VARGAS CASE

The case of the murder of Rio de Janeiro councilwoman Marielle Franco in Brazil is still under investigation by national authorities, but it received worldwide repercussions due to the political scenario in which her death occurred. Marielle Franco had just over a year into her term as councilor when she was murdered, in the Estácio neighborhood, in Rio de Janeiro<sup>74</sup>.

According to the press, she was returning from a meeting (*Jovens Negras Movendo Estruturas* meeting, held on March 14, 2018 at the *Coletivo Casa das Pretas*, in Rio de Janeiro’s the city-center), when the car she was in was shot thirteen times, also hitting her driver, Anderson Pedro Gomes. The councilwoman’s advisor who was sitting next to Marielle was hit by shrapnel<sup>75</sup>.

Marielle Francisco da Silva – better known as Marielle Franco – was born on July 27<sup>th</sup> 1979, in Morro do Timbau, in Complexo da Maré – a group of sixteen *favelas* in the city of Rio de Janeiro. She graduated in Social Sciences from the Pontifical Catholic University of Rio de Janeiro, receiving a scholarship from the University for All Program (ProUni, in the Portuguese acronym)<sup>76</sup>. She also defended her Master’s Dissertation in Public Administration at the *Universidade Federal Fluminense* (UFF) entitled “UPP – Reducing the favela to three letters: An analysis of the public security policy of the state of Rio de Janeiro” (our translation)<sup>77</sup>.

Latin America is under authoritarian threat. 15 Feb 2023. Available at: <https://www.economist.com/graphic-detail/2023/02/15/latin-america-is-under-authoritarian-threat>. Accessed on: 27 dec. 2023).

74 MEMÓRIA GLOBO. Caso Marielle. Memória Globo, 02 dez. 2021. Available at: [https://memoriaglobo.globo.com/jornalismo/coberturas/noticia/caso-marielle.ghtml#ancora\\_](https://memoriaglobo.globo.com/jornalismo/coberturas/noticia/caso-marielle.ghtml#ancora_). Accessed on: 6 jul. 2022.

75 MEMÓRIA GLOBO. Caso Marielle. Memória Globo, 02 dez. 2021. Available at: [https://memoriaglobo.globo.com/jornalismo/coberturas/noticia/caso-marielle.ghtml#ancora\\_](https://memoriaglobo.globo.com/jornalismo/coberturas/noticia/caso-marielle.ghtml#ancora_). Accessed on: 6 jul. 2022.

76 SENGER, Sabrina; GRAUBE, Tiago Ademir. Marielle Franco. *Coisas do Gênero - Revista de Estudos Feministas em Teologia e Religião*. São Leopoldo, v. 4, n. 1, Jan.- Jun. 2018., p. 169. Available at: <http://periodicos.est.edu.br/index.php/genero/article/view/3409/3040>. Accessed on: 5 jul. 2022. Available at: <http://periodicos.est.edu.br/index.php/genero/article/view/3409/3040>. Accessed on: 5 jul. 2022.

77 SENGER, Sabrina; GRAUBE, Tiago Ademir. Marielle Franco. *Coisas do Gênero - Revista de Estudos Feministas em Teologia e Religião*. São Leopoldo, v. 4, n. 1, p. 169-173, Jan.- Jun. 2018., p. 169. Available at: <http://periodicos.est.edu.br/index.php/genero/article/view/3409/3040>. Accessed on: 5 jul. 2022.



Married to Mônica Teresa Azeredo Benício since 2000, Marielle Franco was an active opposition politician, focused on causes such as the inclusion of black woman, the *favelas*, and LGBTQA+. Her demands were focused in favoring the guarantee of human rights and human dignity, and the decrease of violence and death<sup>78</sup>. With these guidelines, Franco was elected councilor for the Socialism and Freedom Party (PSOL, in the Portuguese acronym) as the fifth most voted person in the 2016 elections. In 2018, however, the councilwoman's life was interrupted, with strong indications that it was an execution guided by political divergences<sup>79</sup>.

As Rocha highlighted, Marielle Franco's death may have represented an attempt to silence her resistance. She was a councilor who "spoke loudly and argued with men as equals"<sup>80</sup>, causing the hatred of many people. As the author puts it,

[...] hatred expressed, for example, by the then candidate for state deputy Rafael Amorim (later elected as the most voted in the state of Rio de Janeiro), who tore down a plaque in honor of Marielle that was in a public square in the city center, and who publicized proudly his actions on social media (our translation).<sup>81</sup>

In this context, it is worth noting that the Inter-American Commission on Human Rights (IACHR) granted precautionary measures on August 1<sup>st</sup> 2018 in favor of her partner, because she was being subjected to threats, harassment and persecution, allegedly linked to the murder of the councilwoman, and because she was denouncing the circumstances of her wife's death and the delay of the investigations surrounding it<sup>82</sup>. This measure reinforces the perception of the aforementioned feeling of hatred, which extends to a great part of human rights defenders in the country.

<sup>78</sup> SENGER, Sabrina; GRAUBE, Tiago Ademir. Marielle Franco. *Coisas do Gênero - Revista de Estudos Feministas em Teologia e Religião*. São Leopoldo, v. 4, n. 1, p. 169-173, Jan.- Jun. 2018, p. 169. Available at: <http://periodicos.est.edu.br/index.php/genero/article/view/3409/3040>. Accessed on: 5 jul. 2022.

<sup>79</sup> SENGER, Sabrina; GRAUBE, Tiago Ademir. Marielle Franco. *Coisas do Gênero - Revista de Estudos Feministas em Teologia e Religião*. São Leopoldo, v. 4, n. 1, p. 169-173, Jan.- Jun. 2018., p.170. Available at: <http://periodicos.est.edu.br/index.php/genero/article/view/3409/3040>. Accessed on: 5 jul. 2022.

<sup>80</sup> ROCHA, Lia de Mattos. A vida e as lutas de Marielle Franco. *Revista Em Pauta: teoria social e realidade contemporânea*. Rio de Janeiro, 2º Semestre de 2018, n. 42, v. 16, p. 279. Available at: <https://www.e-publicacoes.uerj.br/index.php/revistaempauta/article/view/39439>. Accessed on: 5 jul. 2022.

<sup>81</sup> ROCHA, Lia de Mattos. A vida e as lutas de Marielle Franco. *Revista Em Pauta: teoria social e realidade contemporânea*. Rio de Janeiro, 2º Semestre de 2018, n. 42, v. 16, p. 279. Available at: <https://www.e-publicacoes.uerj.br/index.php/revistaempauta/article/view/39439>. Accessed on: 5 jul. 2022.

<sup>82</sup> ORGANIZAÇÃO DOS ESTADOS AMERICANOS. CIDH concede medidas cautelares em favor de Mônica Tereza Azeredo Benício no Brasil. 5 ago. 2018. Available at: <https://www.oas.org/pt/cidh/prensa/notas/2018/172.asp>. Accessed on: 28 mar. 2023.



After all, Marielle's death does not constitute an isolated fact in the national political reality of extermination of the opposition. In a survey carried out by the newspaper "Aos Fatos" using databases collected in the Mortality Information System (SIM) of the Ministry of Health, it was found that an average of nine elected politicians were murdered per year in Brazil between 2007 and 2018. During such period, 97 mayors and city councilors were killed<sup>83</sup>. Still in accordance to that same survey, between 2007 and 2016, eight city councilors were victims of homicide in the State of Rio de Janeiro. Baixada Fluminense was the region where the most councilors died in the state in the last ten years, with four victims in total, with a negative emphasis on the Magé region<sup>84</sup>.

From a Brazilian perspective, however, such crimes against politicians occur more frequently in small cities. People occupying the position of city councilor are the main victims of homicides of this nature (85 cases were reported between 2007 and 2016). Nevertheless, most homicides occurred in the Northeast region of Brazil (47% of the total), having the state of Ceará in the top of this ranking, followed by Rio de Janeiro and Maranhão<sup>85</sup>. Besides, according to the survey, despite the death of Marielle, men are mostly the victims of homicides. In any event, clear signs of execution for political motivations were present in all of the deaths<sup>86</sup>.

The data listed by the newspaper "Brasil de Fato", collected from the data presented in 2018 by the Federal University of the State of Rio de Janeiro, also confirms this regrettable statistical trend in Brazilian politics. This research adds that violence against politicians is already present before their inauguration. Between 1998 and 2016, for example, there were 79 deaths of candidates during the campaign – an average of 16 murders per electoral period, being the state of Rio de Janeiro at the top of the rank<sup>87</sup>. Most of the deaths occur in

<sup>83</sup> CUNHA, Ana Rita; MENEZES, Luiz Fernando; LIBÓRIO, Bárbara. 9 políticos são assassinados por ano no Brasil. Aos Fatos, 22 mar. 2018. Available at: <https://www.aosfatos.org/noticias/9-politicos-sao-assassinados-por-ano-no-brasil/>. Accessed on: 6 jul. 2022.

<sup>84</sup> CUNHA, Ana Rita; MENEZES, Luiz Fernando; LIBÓRIO, Bárbara. 9 políticos são assassinados por ano no Brasil. Aos Fatos, 22 mar. 2018. Available at: <https://www.aosfatos.org/noticias/9-politicos-sao-assassinados-por-ano-no-brasil/>. Accessed on: 6 jul. 2022.

<sup>85</sup> CUNHA, Ana Rita; MENEZES, Luiz Fernando; LIBÓRIO, Bárbara. 9 políticos são assassinados por ano no Brasil. Aos Fatos, 22 mar. 2018. Available at: <https://www.aosfatos.org/noticias/9-politicos-sao-assassinados-por-ano-no-brasil/>. Accessed on: 6 jul. 2022.

<sup>86</sup> CUNHA, Ana Rita; MENEZES, Luiz Fernando; LIBÓRIO, Bárbara. 9 políticos são assassinados por ano no Brasil. Aos Fatos, 22 mar. 2018. Available at: <https://www.aosfatos.org/noticias/9-politicos-sao-assassinados-por-ano-no-brasil/>. Accessed on: 6 jul. 2022.

<sup>87</sup> GONÇALVES, Juliana. Brasil contabiliza 16 mortes de políticos por período eleitoral. Brasil de Fato, 27 mar. 2018. Available at: <https://www.aosfatos.org/noticias/9-politicos-sao-assassinados-por-ano-no-brasil/>. Accessed on: 6 jul. 2022.



municipal elections; 63 of them involve candidates for councilor and in cities with less than 50 thousand inhabitants. All states present deaths caused by this very reason<sup>88</sup>.

Pondering over such research, Azevedo shares the same view as us that violent practices frequently occur within the scope of political disputes in Brazil. Besides, he highlights the State's inability to "act with its public security tools and devices to curb this type of practice that often remains unpunished"<sup>89</sup>.

As repeated throughout this study, Violent practices in the political field are historically existing in Latin America, whether in the Colombian or Brazilian reality. Since the European colonization through the republican period and the civil-military dictatorships that devastated these nations, this violence is evident. The State's inability to prevent and punish these brutalities is also notable, especially because the State itself is often the protagonist of this violent stance, as seen in the case of Cepeda Vargas.

In the case of Marielle Franco's murder, specifically addressed in this topic, the violence is even more explicit because, in addition to being a way to eliminate opposition to the government in power, Marielle's death represented all the characteristics that are historically oppressed in the country. It can be considered that the crime against the Rio's councilwoman not only had a racist, misogynistic, LGBTQIA-phobic nature, but also a discriminatory character against marginalized people.

It is for this reason that we believe Marielle's death brought a lot of commotion to people: in it we see the real attack on the democratic principles that we expect to see enforced in a State of Law. Azevedo's shares the same view. For him, the exacerbation of political violence also denotes an inability of the Brazilian State to constitute itself as a Democratic State, ensuring the conditions for political dispute without this element being able to be used<sup>90</sup>.

The main reflection, in this aspect, is that the State commonly has little efficiency in resolving conflicts through institutional and democratic channels. This situation is worsened

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<sup>88</sup> GONÇALVES, Juliana. Brasil contabiliza 16 mortes de políticos por período eleitoral. Brasil de Fato, 27 mar. 2018. Available at: <https://www.aosfatos.org/noticias/9-politicos-sao-assassinados-por-ano-no-brasil/>. Accessed on: 6 jul. 2022.

<sup>89</sup> GONÇALVES, Juliana. Brasil contabiliza 16 mortes de políticos por período eleitoral. Brasil de Fato, 27 mar. 2018. Available at: <https://www.aosfatos.org/noticias/9-politicos-sao-assassinados-por-ano-no-brasil/>. Accessed on: 6 jul. 2022.

<sup>90</sup> GONÇALVES, Juliana. Brasil contabiliza 16 mortes de políticos por período eleitoral. Brasil de Fato, 27 mar. 2018. Available at: <https://www.aosfatos.org/noticias/9-politicos-sao-assassinados-por-ano-no-brasil/>. Accessed on: 6 jul. 2022.



by characteristics such as clientelism, social inequality and corruption. One of the possible consequences of this is the emergence of patterns of low trust among individuals in politics, taking even less part of the state's political life or engaging in collective actions<sup>91</sup>. This disbelief can favor authoritarianism.

In other words, this entire scenario drives growing discontent and dissatisfaction among the population with democracy, given that the widespread notion is that political institutions do not work, leading them to lose their social legitimacy<sup>92</sup>. Thus, just as Costa and Baquero, we can conclude that political culture and greater social capital are deficient in Brazil.

And while 'social capital' is linked to institutional efficiency, meaning citizens are active and interested in public affairs and engaged in collective actions, as a way of building relationships of cooperation and solidarity between individuals<sup>93</sup>; 'political culture' consists of:

[...] orientations, postures and attitudes of citizens in relation to the political system, and this provides the basis for political behavior, which is in accordance with patterns constructed from the characteristics of each historical context and political system, so that each system will have a distinct political culture<sup>94</sup>.

In this context, similarities can be seen between politics in Colombia and Brazil. Both countries present a political culture that has historically been influenced by personalism, in

<sup>91</sup> COSTA, Andressa Liegi Vieira; BAQUERO, Marcello (Orient.). *Cultura política, capital social e participação na América Latina: perspectivas sobre Brasil e Colômbia*. 2017. 93 f. Trabalho de Conclusão de Curso (TCC) – graduação em Ciências Sociais – Instituto de Filosofia e Ciências Humanas – Universidade Federal do Rio Grande do Sul – UFRGS – Porto Alegre, 2017., p. 11. Available at: <https://www.lume.ufrgs.br/handle/10183/182396>. Accessed on: 27 jun. 2022.

<sup>92</sup> COSTA, Andressa Liegi Vieira; BAQUERO, Marcello (Orient.). *Cultura política, capital social e participação na América Latina: perspectivas sobre Brasil e Colômbia*. 2017. 93 f. Trabalho de Conclusão de Curso (TCC) – graduação em Ciências Sociais – Instituto de Filosofia e Ciências Humanas – Universidade Federal do Rio Grande do Sul – UFRGS – Porto Alegre, 2017., p. 11. Available at: <https://www.lume.ufrgs.br/handle/10183/182396>. Accessed on: 27 jun. 2022.

<sup>93</sup> COSTA, Andressa Liegi Vieira; BAQUERO, Marcello (Orient.). *Cultura política, capital social e participação na América Latina: perspectivas sobre Brasil e Colômbia*. 2017. 93 f. Trabalho de Conclusão de Curso (TCC) – graduação em Ciências Sociais – Instituto de Filosofia e Ciências Humanas – Universidade Federal do Rio Grande do Sul – UFRGS – Porto Alegre, 2017., p. 11. Available at: <https://www.lume.ufrgs.br/handle/10183/182396>. Accessed on: 27 jun. 2022.

<sup>94</sup> COSTA, Andressa Liegi Vieira; BAQUERO, Marcello (Orient.). *Cultura política, capital social e participação na América Latina: perspectivas sobre Brasil e Colômbia*. 2017. 93 f. Trabalho de Conclusão de Curso (TCC) – graduação em Ciências Sociais – Instituto de Filosofia e Ciências Humanas – Universidade Federal do Rio Grande do Sul – UFRGS – Porto Alegre, 2017., p. 11. Available at: <https://www.lume.ufrgs.br/handle/10183/182396>. Accessed on: 27 jun. 2022.



a logic of exploitation and predominance of the private to the detriment of the construction of a public sphere, with notable social and political exclusions, with periods of interruption of democracy by authoritarian governments<sup>95</sup>. And these two cases that we explored exemplify the challenges both countries still face when it comes to building/keeping a democratic regime.

#### 4. FINAL CONSIDERATIONS

Current surveys have shown a decrease in the percentage of countries in democratic political regimes in the world, with the number of nations in full democracy being even smaller. This data alerts us to the need to reflect on the democratic process, as well as it serves to instigate the removal of obstacles that make it impossible to exercise this regime in the most comprehensive and inclusive way possible.

The data presented shows the persecution and even assassination of political agents in Brazil, confirming the first initial hypothesis of this work that practical, political-institutional challenges still hinder and postpone the achievement of full democracies in Latin America, especially in the countries here analyzed (Brazil and Colombia). The lack of a culture in Latin American societies of respect for the Democratic State is still notorious, which is certainly due to the colonial past that established social inequalities and that structurally persists through mechanisms of internal coloniality, with the domination of lower-income people by dominant elites, who are normally the ones in power.

The second initial hypothesis raised in this study was also confirmed. Without the pursuit of the ideals of democracy, it will be difficult to overcome serious cases of violations of political human rights, such as that of Senator Manuel Cepeda Vargas, executed for his opposition in Colombia and whose case reached the Inter-American Court of Human Rights, or like that of Marielle Franco, Brazilian councilor murdered for political reasons, given her opposition activism.

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<sup>95</sup> COSTA, Andressa Liegi Vieira; BAQUERO, Marcello (Orient.). **Cultura política, capital social e participação na América Latina: perspectivas sobre Brasil e Colômbia**. 2017. 93 f. Trabalho de Conclusão de Curso (TCC) – graduação em Ciências Sociais – Instituto de Filosofia e Ciências Humanas – Universidade Federal do Rio Grande do Sul – UFRGS – Porto Alegre, 2017., p. 11. Available at: <https://www.lume.ufrgs.br/handle/10183/182396>. Accessed on: 27 jun. 2022.



The investigation and judicialization of these cases is important, but they have almost no effects if there is no development of a true political culture, with greater social capital, beyond considering other decolonial traits. It is primarily up to the States the task of promoting the consolidation of a democratic public space where such a model is promoted without reservations, in the sense of having freedom to practice opposition or, in a broader spectrum, diverge from the active social, political and institutional structures. The independence of Powers, the transparent functioning of the electoral system, the autonomy of the media and the support of human rights must be combined in public policies that allow the “best sigh” of the democratic regime.

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