

# JURISTS AGAINST DEMOCRACY: USES OF LAW AND DEMOCRATIC DECAY IN POST-2014 BRAZIL

Alexandre D. Z. Carvalho<sup>1</sup>  
Maurício Palma<sup>2</sup>

JURISTAS CONTRA A DEMOCRACIA: USOS DO DIREITO E  
DESINTEGRAÇÃO DEMOCRÁTICA NO BRASIL PÓS-2014

**ABSTRACT:** In Brazil, in addition to formulating discourses and practices that mobilize legal institutions, jurists traditionally have a prominent place in politics orientation, being also able to (re)insert particular normative content in law by criticizing public agents and the political system, as well as by incorporating their own political views into professional practices, obtaining material benefits in this relationship. In this sense, considering the importance of judicial responses in the legitimation assessment of political power exercise after Operation Car Wash, evidenced by research into trust in democracy, one argues that, by presenting themselves as agents of legality and simultaneously violating the law, jurists have contributed to the deepening of the Brazilian political and institutional crisis. Furthermore, by blending law and morality, jurists eroded the democratic bases of legal dogmatics, facilitating the rise of authoritarian political forces. Hence, it is suggested that the instrumentalization of legal forms encourages undemocratic uses of law and has reinforced democratic disintegration after 2014.

**Keywords:** Legal field. Political system. Democracy. Brazil.

**RESUMO:** No Brasil, além de formularem discursos e práticas que mobilizam instituições jurídicas, juristas possuem, tradicionalmente, lugar destacado na orientação da política, sendo também capazes de (re)inserir conteúdos normativos particularistas no direito ao criticar agentes públicos e o sistema político, bem como ao incorporar suas próprias visões políticas às práticas profissionais, obtendo, nesta relação, benefícios materiais. Considerando a importância das respostas judiciais na avaliação da legitimação do exercício do poder político após a Operação Lava Jato, evidenciada por pesquisas de confiança na democracia, argumenta-se que, ao se apresentarem como agentes da legalidade e simultaneamente violarem o direito, os juristas aprofundaram a crise político-institucional brasileira. Por fim, aduz-se que a instrumentalização das formas jurídicas incentiva usos não democráticos do direito, reforçando a desintegração democrática no pós-2014.

**Palavras-chave:** Campo jurídico. Sistema político. Democracia. Brasil.

<sup>1</sup> Doutor em Direito pela Universidade de Brasília/UnB e mestre em Direito Constitucional pela Faculdade de Direito do Recife/UFPE. Foi bolsista do Programa de doutorado sanduíche da CAPES na Universitat Pompeu Fabra.

<sup>2</sup> Doutor em Direito, Estado e Constituição pela Universidade de Brasília, com doutorado sanduíche na Universidade de Bremen, com bolsa do programa PROBRAL (CAPES/DAAD) e mestre filosofia do direito e do estado pela Pontifícia Universidade Católica de São Paulo.



## 1 INTRODUCTION

The centrality of the legal discourse in the legitimization of political responses about the most diverse social conflicts and the convergence of political and legal languages enabled by the Constitution have reinforced the semantics of law as a relevant source of the exercise of power in increasingly complex societies. In the case of the Brazilian constitutional experience, this reinforcement has come along with increased political prominence of representatives of the Judicial Branch and the Office of the Public Prosecutor.

Once seen as interpreters of law enforcement according to secular hermeneutic techniques, whose command made it easy for them to defend the argument that they were neutral in relation to the interests submitted to their judgment, judges, including those of lower courts, began to decide sensitive political conflicts more often, for which reason they began to be seen and gradually see themselves as qualified arbitrators of the most significant disputes of the political system (CARVALHO, 2017). It can be said that, by assuming the role of judges of the Constitution and not only of the laws, the representatives of the Judiciary and the Office of the Public Prosecutor promoted themselves to the condition of stabilizers and catalysts of the tensions between politics and law<sup>3</sup>. In Brazil, since 2014, this article's milestone, this condition seems to have been reinforced just when the economic crisis was fueling the political and institutional crises and vice versa (PINTO *et al.*, 2019). In fact, 2014 marks the beginning of Operation Car Wash, the occurrence of presidential elections, and the strengthening of organized right-wing movements, factors that have driven the growth of street protests and worsened the political crisis. It was in this context, as it will be demonstrated below, that the elites of the legal field used prerogatives granted by the institutional design to guarantee benefits to their professional categories, thus shaping undemocratic actions.

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<sup>3</sup> The Office of the Public Prosecutor (Ministério Público) is the Brazilian body of Public Prosecution in both federal and state spheres.

This is a perspective that gains relevance when one observes the differential access to information and circulation of ideas in a social environment structured according to conditions as unequal as those that separate ‘over-citizens’ and ‘under-citizens’ in Brazil. Therefore, the description of the role played by the elite of the justice system in the process of corrosion of representative democracy demands to evaluate especially how the judicial elite is inserted in the socioeconomic outlook and what kind of alliances it establishes with the other elites. In a country whose deep inequality is reflected in the quality of public education and health services offered to the most significant portion of the population, differential access to good schools, universities and better job opportunities mark a very clear distinction in the self-perception of those in public offices, especially those linked to legal careers.

In this regard, two records seem important as assumptions molding the sociability of the legal field in Brazil. The *first* is in the format of the legal elites’ education, the formalist tradition and the bonds of solidarity built in the professional and corporate arena of the so-called legal community, which social sciences literature has already explored under various aspects (CARVALHO, 1996; BONELLI; OLIVEIRA, 2003; ALMEIDA, 2014; VIANNA; BOM JARDIM, 2015). The *second* point is in the investigation of the relations created and maintained among the members of the legal and judicial elite and the agents representing the interests of such other areas of the social system as economics and politics (Halliday 1999; Almeida 2016; Engelmann and Penna 2014), and which materialize also in the institutionalization of reforms of the justice system itself according to parameters defined by international and transnational agencies guided by the wide array of the north’s global market interests (Dezalay and Garth 2002; Rodríguez-Garavito 2011).

As in the formation of other professional groups, the professionalization of the legal field follows a strategic orientation of accumulation of power, prestige, and income. The objective of economic gain enjoyed by legal professionals, however, does not conceal the fact that it is also by monopolizing the articulation of legal language that jurists operate a symbolic order through which they socially promote the privileged status of their activities. The organization of professional groupings around common economic objectives through

mechanisms of income legitimation is still one of the ways of arranging the structural inequality of opportunities in the division of labor.

If, on the one hand, the strengthening of judicial elites has been forged directly by the importance of corporations and representatives of those carriers that make up the justice system (CARVALHO, 2017; ARANTES; MOREIRA, 2019), on the other hand, the intensified autonomy of the judiciary seems to have created an institutional substance that has allowed its members to see themselves as agents of a moralizing field in politics by putting the anti-corruption discourse into use. This condition has enabled them to have their own anti-political discourse. Such discourse, in turn, is built by the instrumentalization of the legal forms themselves, which encourages undemocratic uses of law and reinforces the disintegration of the democratic bases of politics with a moralizing rhetoric.

Using the technique of literature review coupled with the collection of documents and data on judicial action and the political crisis, this paper raises the hypothesis that, by presenting themselves as agents of legality while violating legally protected expectations, magistrates and members of the Office of the Public Prosecutor contribute to the deepening of the Brazilian political and institutional crisis.

In addition to this introduction, the article is divided into three topics and final considerations. The first topic describes how jurists and judges publicly set their anti-corruption agenda by moralizing the judicial and political discourse after 2014. Subsequently, the text assesses the rise of such movement in Brazil as a possible example of the global phenomenon of juristocracy, and the local characteristics of the process in which the under-integration of significant portions of the population has deepened in the crisis. It should be noted that the intersection of corporate interests and those of dominant social classes resulted in mutual benefits for the members of both elites. Then, in the *third* topic, the article identifies which elements in this conjuncture help to highlight how jurists' actions have stricken the Brazilian political system, paving the way for the progressive disintegration of democracy in the country, especially after the ousting of Rousseff from office, and the increased radicalization of the extreme-right discourse of that led to Jair Bolsonaro's presidential victory and now tests the consistency of Brazilian political

institutions. Lastly, in the final considerations, one describes how moralization of law and politics has brought the country to a new face of the crisis given the intensified undemocratic semantics, which seem to compete with one another to establish their hegemonic legitimacy in the political process.

## **2 JURISTS, JUDGES, AND POLITICS IN POST-2014 BRAZIL**

Judges and jurists have always been present at the most relevant moments of the country's political and institutional life. However, the conjunction of factors that conferred unprecedented power upon judges, especially upon Justices of the Brazilian Supreme Court (Supremo Tribunal Federal), was strengthened by the institutional design of the 1988 Constitution, which created some of the structural conditions necessary to intensify the autonomy of judicial bodies and the entire justice system. One can say that this context reinforced the bonds of solidarity between judicial and political elites, which can be explained by both the ideology their members shared and a statutory-based loyalty (ENGELMANN, 2017). The way political decisions are imposed and the law is applied cannot fail to take into account such close ties and the absence of strong normative structures, which could provide the law with internal consistency and a selective openness to the inflows of its environment.

Strengthened by a series of legal and constitutional prerogatives and positioning themselves according to the objectives of the corporation itself based on the judicial discourse, members and associations of judicial bodies built a public image that associated the justice system to the fight against corruption. By occupying this position, when the country's main media seemed to be at least indifferent to the corrosion of structures of the democratic political system for repeatedly relating it with corruption, the institutional standing of some judges and members of the Office of the Public Prosecutor became not only a privilege provided by the exercise of the profession but also a source of political opportunity.

The building of this moral reserve, also thanks to the massive popular support, took members of the judiciary and the Office of the Public Prosecutor to a prominent position in the political and institutional scenario. The dominance of legal discourse became an even

more valuable resource when the dramatization of the corruption scandals investigation gained repercussion in the media and social networks. One may thus say that the judicial professionals involved in the investigation and trial of corruption cases came to be seen as *qualified opinionators* in the legal definition of what would become the “good politics”, to use an expression of one of the main agents of the aforementioned moralization, Luís Roberto Barroso<sup>4</sup> (2017, p. 18).

At Largo São Francisco, the School of Law in the University of São Paulo, in his speeches during the impeachment process of Dilma Rousseff, Miguel Reale Jr., a lawyer and professor at the Law School of the University of São Paulo, claimed that the Workers’ Party (PT) was a “gang”. His university mate Janaína Paschoal, also a lawyer, said derogatorily that Brazil was at that moment the “republic of the snake,” alluding to the situation of the country and to Rousseff, whereas Modesto Carvalhosa, a lawyer, compared PT supporters to Nazi marketeers<sup>5</sup>. Reale Jr. and Paschoal drafted, alongside Hélio Bicudo, the accusation against Rousseff for a “crime of responsibility” (BICUDO *et al.*, 2016), the initial brief of the impeachment process whose filing was authorized by the then speaker of the House of Representatives, Eduardo Cunha, on Feb 12, 2015, in a decision that accepted only the grounds relating to Rousseff’s violation of tax rules<sup>6</sup>. The accusation claims that the main crisis in Brazil is “moral”<sup>7</sup>. The Order of Attorneys of Brazil (Ordem dos Advogados do Brasil) also filed an accusation against Rousseff of a “crime of

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<sup>4</sup> Barroso, from a teleological and uncritical point of view of Illuminism history and rationality, states: “In addition to the purely representative role, supreme courts occasionally play the role of illuminist avant-garde, charged with pushing history when it gets in the way. It is a dangerous assignment, one to be exercised with great parsimony, due to the democratic risk it entails and so that the constitutional courts do not become hegemonic instances. But sometimes it’s an indispensable role” (BARROSO, 2015, p. 42).

<sup>5</sup> See the stories ‘USP e o impeachment: atos na Universidade refletem discussões que dividem o país’ *USP Online Destaque*, 05 April 2016 <https://www5.usp.br/107269/usp-e-o-impeachment-atos-na-universidade-refletem-discussoes-que-dividem-o-pais/> and “‘Acabou a República da cobra”, diz coautora de pedido de impeachment’ *Veja SP*, 27 December 2016 <https://vejasp.abril.com.br/cidades/janaina-paschoal-ato-sp/>.

<sup>6</sup> Decision by the speaker of the House of Representatives Eduardo Cunha of 02 December 2015. Available at [https://www.camara.leg.br/internet/agencia/pdf/Decis%C3%A3o\\_sobre\\_impeachment\\_CD.pdf](https://www.camara.leg.br/internet/agencia/pdf/Decis%C3%A3o_sobre_impeachment_CD.pdf).

<sup>7</sup> According to this brief, “Morality needs to be rescued so that the citizens who pay their taxes, who struggle to pay for their children’s education and feed them, do not feel ashamed to be Brazilian.” (p. 61). The document is also based on the rhetoric of compliance with the current constitution, which would have been disrespected by fiscal maneuvers of the federal leader at the time.

responsibility” on March 28, 2016, supporting the allegations of USP’s jurists<sup>8</sup>. Years later, Paschoal joined the PSL, Bolsonaro’s party at the time, and was elected state representative in 2018.

In 2016 the Office of the Public Prosecutor, through the Car Wash Task Force, drew up a proposal called “Ten measures against corruption”, which became Bill N. 4,850/2016, as a Popular Initiative and which turned into Bill N. 3,855/2019<sup>9</sup>. According to the proposals, chances of pretrial detention would be expanded, forged flagrante delictos would be viable, there would be a reversal of the burden of proof in case of unjust enrichment; the use of illicit evidence to incriminate the accused would be expanded; habeas corpora and appeals would be restricted and rules on limitation of prosecution would be modified in order to project the veto of the retroaction of statute of limitation stipulated on the basis of the specific punishment, thus modifying article 110, §1, of the Penal Code.

Moral arguments were the basis of reflections on legal dogmatics, examples of which were several articles published on the Office of the Public Prosecutor website that promoted the Ten Measures Against Corruption. Cheker, a federal prosecutor working in Operation Car Wash, morally labeled the Brazilian legislation “meager”, “strange” and “excessiveness”, besides “brilliant” (CHEKER, 2016, p. 3-5, p. 20). Pauperio, a federal judge, defended the Office of the Public Prosecutor in relation to the tightening of laws and demonized lawyers: “These proposals may put an end to some well-known maneuvers of the ever-so-enthusiastic law firms of the great corrupt ones, who are always looking for loopholes in criminal procedural law in order to hand a forced unscathed condition to their elusive clientele on a plate” (PAUPERIO, 2016, p. 2).

As far as the party system is concerned, the ten anti-corruption measures proposed a vigorous accountability of political parties, not just members who committed illegalities, by providing that the provisions of Law n. 12,846/2013 would be applied to the parties. According to Bill 48.50/2016, the Brazilian Justice could temporarily suspend the operation of the party directory for up to four years, and the Electoral Prosecutor’s Office may

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<sup>8</sup> Document available at <https://www.conjur.com.br/dl/pedido-impeachment-oab.pdf>.

<sup>9</sup> Bill available at <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2080604>.

require that the party's own registration be canceled should the national directory be involved in illicit acts. Demonstrating disbelief in the representative political system, regional prosecutors Campos de Ré and Batini, in defense of civil and criminal objective liability of political parties, called on society to engage in this proposal, claiming that politicians would not do something that contradicted their own interests (CAMPOS DE RÉ *et al.*, 2016, p. 6).

The so-called Operation Car Wash provided numerous examples of how mutualism between the *criminalization* of politics and the *moralization* of the fight against corruption gave prominence to personalities from the Office of the Public Prosecutor and the Judiciary in the public debate as the nation's saviors. Among the examples, the performance of Prosecutor Deltan Dallagnol, who coordinated the Car Wash Task Force, stands out. Taking advantage of the prominence achieved by the operation and highlighting his Baptist Church Protestant/Christian faith, the Master of Laws from Harvard University worked intensively on the Office of the Federal Public Prosecutor's project "Ten measures against corruption" and even published a book in 2017 entitled "The Fight Against Corruption – Car Wash and the Future of a Country Marked by Impunity". The name of the prosecutor made it to the list of favorites to head the Prosecution Office.

However, the most notable personality highlighted by the operation was the former federal judge and former Bolsonaro's Minister of Justice and Public Security Sérgio Moro. From 2014 on, as popular demonstrations against the government of President Dilma Rousseff and former President Luiz Inácio Lula da Silva, supported by the press and social media movements, gained strength on the streets of the country, Moro's standing was the antipode of the unpopularity of the main leaders of traditional political parties and the Congress itself and consolidate himself as the main representative of the fight against corruption in the country. The former judge conquered his image as a national hero based on two pillars that were expressed on banners, in shouts, and on the shirts of his supporters in street protests: 1) the praise for his conduct leading Operation Car Wash and



2) the public disqualification of all instances of party political representation and the Supreme Court<sup>10</sup>.

The search for public support to Car Wash in either the press or street protests was the basis of the strategy mobilized by the judge and members of the Office of the Public Prosecutor who worked in the operation. In addition to the selected illegal leaks, such as the dialogue between Lula and Rousseff, then president, whose illegality was soon recognized by Moro himself<sup>11</sup>, it could be observed that political timing was what guided the leaks and their effects on the public debate. During the investigation, several public notes were released by Judge Moro<sup>12</sup> himself, by the Car Wash Task Force of the Office of the State of Paraná Public Prosecutor<sup>13</sup> and by the associations that integrated it: AJUFE<sup>14</sup>

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<sup>10</sup> In addition to the frequent requests to close the Congress and of “constitutional military intervention”, as *Época* magazine reported, which heralded protests against the Rousseff government in Brasília on March 13, 2016 alongside the cries of “Go get them, Moro”; “Let Moro work,” and statements such as, “Judge Sérgio Moro, we, the Brazilian people, are on your side! Trust! Do your duty and do justice! The Lord represents us! We, the Brazilian people, today on the streets across the country, support the Office of the Public Prosecutor, the Federal Police and the Brazilian Justice!,” one could also hear “The Federal Supreme Court is PT. Moro is Brazil.”. See ‘Sérgio Moro é tratado como herói em manifestação em Brasília’ *Época Negócios*, 13 March 2016 <https://epocanegocios.globo.com/Brasil/noticia/2016/03/sergio-moro-e-tratado-como-heroi-em-manifestacao-em-brasilia.html>.

<sup>11</sup> According to S. Rodas, ‘Moro reconhece erro em grampo de Dilma e Lula, mas mantém divulgação’, *Consultor Jurídico*, 17 March 2016 <https://www.conjur.com.br/2016-mar-17/moro-reconhece-erro-grampo-dilma-lula-nao-recua>.

<sup>12</sup> Like the note released during the demonstration on June 13, 2016, in which the former judge said: “I was touched by the support to the investigations of the so-called Operation Car Wash. Despite the references to my name, I credit the kindness of the Brazilian people for the success so far of a robust institutional work involving the Federal Police, the Office of the Federal Public Prosecutor, and all jurisdictions of the Judiciary (...) There is no future with the systemic corruption that destroys our democracy, our economic well-being and our dignity as a country.”. See ‘Moro: é importante que as autoridades eleitas e os partidos ouçam a voz das ruas’ *Época Negócios*, <https://epocanegocios.globo.com/Brasil/noticia/2016/03/moro-e-importante-que-autoridades-eleitas-e-os-partidos-oucam-voz-das-ruas.html>.

<sup>13</sup> The note is not signed by prosecutors or on behalf of the Office of the Federal Public Prosecutor, but by the entity “Car Wash Task Force”, which, although depersonalized, seems to operate as an autonomous institution within such Office. In one of them, published in several newspapers on May 11, 2017, the “Task Force” disqualifies information presented by the defense of former President Lula in the criminal judicial records in order to ensure the public’s adhesion to the actions of prosecutors and Judge Moro, as the reports of The Intercept Brazil would reveal two years later. In: ‘Depoimento de Lula teve ‘diversas contradições’, dizem procuradores’ *Folha de S. Paulo*, 11 May 2017 <https://www1.folha.uol.com.br/poder/2017/05/1883172-depoimento-de-lula-teve-diversas-contradicoes-dizem-procuradores.shtml>.

<sup>14</sup> For public notes in defense of judges Marcelo Bretas and Sérgio Moro, including on the occasion of the illegal disclosure of conversations obtained in interception of President Dilma Rousseff’s telephone conversation with Lula, see: ‘Nota pública da Associação dos Juizes Federais do Brasil em apoio ao juiz federal Sérgio Moro’ *AJUFE*, 16 March 2016 <https://www.ajufe.org.br/imprensa/notas-publicas/6463-nota-publica-da-associacao-dos-juizes-federais-do-brasil-em-apoio-ao-juiz-federal-sergio-moro>; R. C. Veloso ‘Nota pública em defesa do juiz federal Marcelo Bretas’ *AJUFE*, 24 October 2017 <https://www.ajufe.org.br/imprensa/notas-publicas/9970-nota-publica-em-defesa-do-juiz->

and ANPR<sup>15</sup>. The organization of such a broad movement somehow shielded Operation Car Wash, which resulted in an automatic perception of its critics as “defenders of corruption”. Recently, President Bolsonaro himself said that, had it not been for former judge Moro’s work, his election would not have been possible<sup>16</sup>. Corroborating this statement, Bebianno, former Secretary General of the Presidency, said that Guedes, Minister of Economy and Bolsonaro’s bulwark in the financial market, had, before the second round of presidential elections, invited Moro to head the Ministry should the candidate at that time win<sup>17</sup>.

Pinto *et al.* (2019) argue that the members of Operation Car Wash presented themselves to the public as members of a “moral and intellectual elite”, stripped of private interests, responsible for the rescue and refoundation of Brazil. According to these authors, this phenomenon is related to the historically verifiable messianism of the Brazilian middle class, represented, for example, by the Lieutenant Movement of the 1920s<sup>18</sup>. The construction of the public image of the judicial elite in the Car Wash era based on the attributes of intellectual preparation and moral virtue seems to reproduce in Brazil a phenomenon observed by Garapon in France in the 1990s (GARAPON, 1996, p. 53). In the declared purpose of distance from politics by the judges, he identified their intention

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federal-marcelo-bretas; R. C. Carvalho, Nota em defesa do juiz federal Sérgio Moro *AJUFE* 24 July 2017 [ajupe.org.br/imprensa/notas-publicas/7510-nota-em-defesa-do-juiz-federal-sergio-moro](http://ajupe.org.br/imprensa/notas-publicas/7510-nota-em-defesa-do-juiz-federal-sergio-moro).

<sup>15</sup> Among them, there is one that records the following: “The performance of the Office of the Public Prosecutor in Car Wash has been technical, complete, and, above all, Republican, always advancing in search of elucidation of the facts, without choosing and without avoiding the involvement of whomever it is. Brazil, with the strength of this work, an example of what the Office of the Public Prosecutor does in any country, believes more and more in overcoming impunity.” See J. R. Cavalcanti, ‘Nota de apoio ao PGR e à Força Tarefa Lava Jato’ *ANPR*, 25 August 2016 <https://www2.amp.org.br/noticias/ler/idnoticia/14893>.

<sup>16</sup> In Bolsonaro’s words: “He could not approach politicians, could not have a party, and in fact he didn’t. He was fulfilling his mission. If his mission had not been well accomplished, I would not be here either, so we owe part of what happens in Brazilian politics to Sergio Moro”. See ‘Bolsonaro diz que trabalho de Moro como juiz o levou à Presidência’ *UOL Política*, 08 November 2019 <https://noticias.uol.com.br/politica/ultimas-noticias/2019/11/08/bolsonaro-diz-que-trabalho-de-moro-como-juiz-o-levou-a-presidencia.htm>.

<sup>17</sup> According to ‘Guedes chamou Sergio Moro para ministério antes do 2º turno, diz Bebianno’ *UOL Política*, 18 November 2019 <https://noticias.uol.com.br/politica/ultimas-noticias/2019/11/18/guedes-chamou-sergio-moro-para-ministerio-antes-do-2-turno-diz-bebianno.htm>.

<sup>18</sup> Luiz Werneck Vianna, in an interview for *O Estado de São Paulo*, identified in the illuminist moralism of judges and prosecutors elements similar to those of lieutenants in the 1920s. He distinguished, however, that the “lieutenants wearing a gown” had no project for the country other than just a “moral reform”. See: W. Tosta ‘Tenentes de toga comandam essa balbúrdia jurídica’ *O Estado de São Paulo*, 20 December 2016 <https://politica.estadao.com.br/noticias/geral,tenentes-de-toga-comandam-essa-balburdia-juridica-afirma-cientista-politico,10000095549>.

to “present themselves as the last refuge of virtue and impartiality in a Republic abandoned by its representatives”.

### **3 AMONG JURISTOCRACY, OVER-INCLUSION AND LEGAL ELITES**

The increased influence of judges and courts on political issues in domestic power levels is not an exclusively Brazilian phenomenon and seems to follow the impact of economic and technological transformations on States. As Hirschl (2007, p. 212) points out, the global expansion of constitutionalization has taken place alongside a conjunction of economic interests of an elite whose political preferences included the delegation of fundamental matters about the functioning of States to the confined space of courts as an appropriate strategy to preserve hegemonic interests.

This phenomenon was strengthened by both the influence of institutionalist economic theories and rational choice that pointed to judicial review as the option with greater predictability and lower economic and political costs than the formation of consensus in the conflicting and fragmented environment of parliaments, and it would also isolate certain political options from popular pressure. Under the hegemonic prevalence of neoliberalism as the basis of action of national markets and States, this institutional design adopted in constitutions also meant giving to the Judiciary the role of safeguarding austerity and limiting the exercise of social rights. This is one of the main characteristics of Hirschl’s analysis of the transition of political regimes governed by a constitution to juristocracy<sup>19</sup>.

Significant changes in the conduction of governments resulting from economic and political crises are often reflected in the legal interpretation and internal dynamics of the courts. A comprehensive understanding of the actions of the judiciary and judges in such contexts, however, requires an analysis that takes into account their relations with other state agents, organizations, and even international or transnational bodies (MCCANN, 2009, p. 838).

This form gains special relevance in the periphery of world society, where Brazil lies, because it structures the inequality and the position of the field in the distribution of

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<sup>19</sup> For an analysis of the functions of constitutional courts under the perspective of juristocracy, see Pokol (2017).

economic and symbolic capital so as to define which social groups will be dominant in the system of relations. Thus, as Bourdieu realized, being in the judicial elite legitimizes privileges on the one hand and, on the other, strengthens the position of those who will define the political and legal meanings of these relations, regardless of the participation of the population who will live with their effects (BOURDIEU, 2000, 2002).

Among the strategies used by a professional group organized to promote its prestige and remuneration is to highlight as indispensable the social need of its services (REID DOS SANTOS, 2008). That is, the systematization and maintenance of a discourse capable of fostering the demand for their professional activity so that the monopoly of the *cognitive* and *operative* domain of that kind of communication remains under the control of the professional group or corporation. This involves, in the first place, defining programs, discipline and the assimilation of a corporate ethics by those professionals in training ever since their education, and, secondly, defining parameters of action that strengthen the monopoly of the symbolic domain of that semantics and reinforce the social perception of the meritorious nature of their acquisition<sup>20</sup>.

In the case of the public service legal professions as members of the judiciary and the Office of the Public Prosecutor, the creation of professional identity is permeated by elements that enable the self-image of these corporations as a typical ruling elite. The far-fetched use of the complex legal language and its distancing from popular layers, the peculiar argumentative and rhetorical training that allows them to use the language of law even in informal situations, the competence to elaborate on the meaning and scope of legal norms, the proximity between its members, especially those of the summit and the elected political authorities, the exclusive nature of the position to mobilize the justice system, interpret laws and rule on judicial procedures, and finally the homogeneous interests that promote internal solidarity among members of the base and the summit of

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<sup>20</sup> This seems to be an argument of limited scope in Brazil. Based on the analysis of the selection processes and remuneration of positions in the Federal Executive Power, F. Fontainha et. al. concluded that in the case of legal careers in Brazil there is no meritorious association between academic degree and salary. According to the data, doctors made about 20 per cent less than bachelors, and masters had salaries similar to those of high school public servants (FONTAINHA *et al.*, 2015, p. 692-693).

the system seem to give the judicial elite an abundance of social power resources which are comparatively much more significant than those available to other professional groups.

Although the magistracy has fragmented interests and ideologies, the autonomy and independence of judges and the judiciary is constructed by a set of factors that include the sharing of a *habitus* among its members capable of maximizing their class interests with the use of their own legal language and easier access to the judiciary itself. Alliances with other social actors, protest movements, the media, parties, political representatives, and their ideological currents are also very relevant to the success of the professional group's demands, especially when the justice system is highly politicized (BAKINER, 2016, p. 131-158). In such alliances, the reputation and public image of a body of impartial and apolitical members are very valuable assets.

Understanding the alliances established by jurists and judges and their impacts on judicial decisions and the political game requires a sociological perspective based on the identification of the magistracy's interests. If the privileged condition enjoyed by judges, associate justices, and ministers seems already reasonably explained in the literature (DA ROS, 2015; CARVALHO, 2017; ZAFFALON, 2017; RAMOS *et al.*, 2019), studies on judicial policy in the country still lack investigations that explore more comprehensively the relational mechanisms that bind members of the Judiciary and other political agents so that one can describe how such informal mechanisms are activated and resonate in the deliberations of both parliament and trial sessions in the courts.

However, given the available data and observing the intertwining of the interests at stake –on the one hand the expansion of functional prerogatives and remunerative advantages and on the other the desired political result of a given judicial decision–, the hypothesis that *the structure of exchanging incentives* between judicial and political elites favors the convergence of interests to the maintenance of the status quo is strengthened. It is one of the axes on which the guaranteed permanence of both groups in the positions of domain and ruling class that characterize the concept of over-integration used by Neves is consolidated (NEVES, 1994).

Through the concepts of over-integration and under-integration, the social effects of the convergence between judicial and political elites can be well analyzed because,

according to Neves, the under-integrated would remain dependent on the benefits of the legal system without achieving them, though, but they are not excluded from the system.<sup>21</sup> The inclusion of the under-integrated is thus justified by their subjection to the imposed limitations typical of their marginalized integration because, although they lack the requirements to exercise their rights, they are not be exempted from fulfilling their duties to the State because they are overpowered by its punitive structures.

The under-integration of broad sectors of the population is associated with the maintenance of privileges of the over-integrated with the express support of the state bureaucratic structure. This is the condition that guarantees the ‘institutionalization’ of the obstruction of the proper functioning of the law for the preservation of privileges incompatible with the equality regime, with the financing of the whole society. It turns out that, although not exhaustively studied by Neves in the empirical plan, the effects of such over-integration in the access to constitutionally-defined legal property obey a selectivity of their own because the over-citizens usurp the normative discourse when their interests are at stake, but discard it if their set of political and economic interests runs into constitutional limits. Therefore, the constitutional text does not regulate the “horizon of judicial and political action and experience of the ‘owners of power’, but is like an offer which, depending on the array of interests, will be used, disused or abused by them” (NEVES, 1994, p. 261).

Without disregarding the high complexity and ideological and political fragmentation existing among the more than eighteen thousand magistrates of the country<sup>22</sup>, but observing the political and legal nuances that permeate the relations between the elites of the professional group of judges and conventional politics, it can be said that the convergence of interests allows to categorize both as over-integrated elites (FORNARA *et al.*, 2018).

<sup>21</sup> Neves’ construction is based on the systemic theory’s notion of inclusion, which was initially seen as the inclusion of the population in the functional systems, with the State of social welfare being an enlarger of such inclusion. Thus, inclusion “hace referencia de un lado, al acceso a estas prestaciones y, de otro, a la dependencia que estas van a tener los distintos modos de vida individuales” (LUHMANN, 1993, p. 47-48). Besides being related to the subject’s autonomy, at the end, the notion of inclusion is presented at the same time as conditioned by and conditioning of the exclusion, and inclusion/exclusion is a two-sided form. Inclusion produces exclusion, and this problem may even compromise the primacy of functional differentiation (LUHMANN, 1998, p. 620).

<sup>22</sup> Conselho Nacional de Justiça (National Justice Council). Justiça em Números 2019 (2019) [https://www.cnj.jus.br/wp-content/uploads/conteudo/arquivo/2019/08/justica\\_em\\_numeros20190919.pdf](https://www.cnj.jus.br/wp-content/uploads/conteudo/arquivo/2019/08/justica_em_numeros20190919.pdf).

Expanding Neves' proposal, it is pointed out that the problems related to the inclusion of individuals in social systems and the role of professional groups in decision making and maintenance of the status quo lead to the discussion about the relationship between *elites* and *social classes*, especially in the peripheral context, because such elites can take advantage of fragile normative structures, which contributes to the factual and massive exclusion of populations. A profound description of Marx's writings (MARX, 1960; MARX, 2008) cannot be made here, but it is worth pointing out that they present "social class" as an ambivalent, non-static link between political and economic determinations, that is, between the position at the core of social division, derived from the economy, and the political struggle (BACHUR, 2009, p. 197, p. 208). Still for Marx, there is an opposition between proletariat and bourgeoisie, as well as the need for liberation by real movement of this opposition so that man can self-realize as a subject.

Even if the Marxian position is not taken, the notion of social class can be applied.<sup>23</sup> Sectors that have resources and power in world society, strong enough to impose decisions, control, through systemic inclusion, institutional rearrangements, and material concessions producing shocks with other sectors of society. Unlike Marx's conceptions, there are in fact communication arenas in which inclusion does not derive from such fixed elements as social class or place of birth: their requirements originate in the communication arenas themselves. For example, in order for actors to include themselves in the legal system and gain relevance, they need to master specific legal languages and techniques. Class struggle seems to comprise, on the one hand, diverse social groups without a privileged historical subject which can fight among themselves, without access to the positive side of systemic benefits or material resources, and, on the other, sectors that have material and systemic resources. Fundamentally in the outskirts, given their absolute need for resources, it is a struggle for inclusion: not only for inclusion in the systems (social integration) but also for basic material resources.

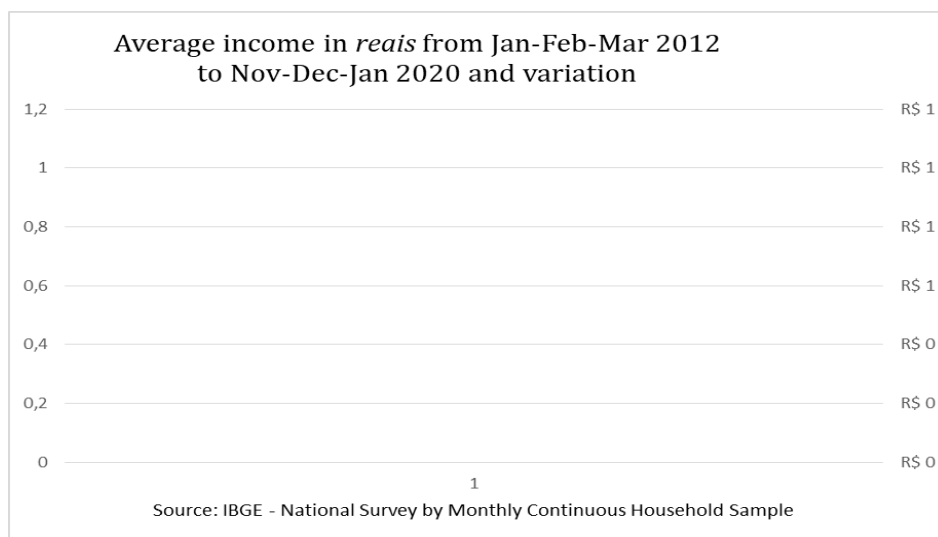
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<sup>23</sup> See Perissinoto *et al.* (2009, p. 258) and Luhmann (1985). Because it pulverizes society and the issue of reallocation of resources and possibilities in the systemic and functional logic and because it claims that social systems are mechanisms to solve problems and obtain resources and are not in charge of regulating distribution (hence the binomial inclusion/exclusion is a two-sided form, see BACHUR, 2009), "functional differentiation" is the systemic theory's notion according to which the observation of the existence of a "class struggle" is neutralized.



In peripheral contexts there is the formation of groups that concentrate symbolic and material resources very unequally, blocking systemic and functional processes for their own benefit. Thus, sectoral elites can serve the interests of ruling classes, which involves maintaining the status quo. Not being rigidly dependent on factors such as birth and position, the elites of the legal field are able to expand their claims to corrupt rationalities in order to accumulate resources and institutional and material advantages. Thus, in Brazil, the support of the elites of the legal field favored the distributive rearrangement to capital holders in such actions as labor and social security reforms, tax renunciations, and legal privileges to investors (COSTA, 2019).

An important record on the hypothesis of how the correlation of interests of judicial and political elites is guided by the class criterion is in the increased average income of judges since the beginning of the economic crisis, contrary to the situation of stagnation or even fall, in some sectors, of the average labor income, according to official data, which deepens the inequality<sup>24</sup>. In fact, the overall real average labor income of all labor that people with labor income receive has varied only 0.1 per cent (3 Brazilian *reais*) between 2014 and 2019<sup>25</sup>. Furthermore, by observing the average labor income variation between the first quarter of 2012 and January 2020, a drop between the second quarter of 2014 and the second quarter of 2016 can be verified:

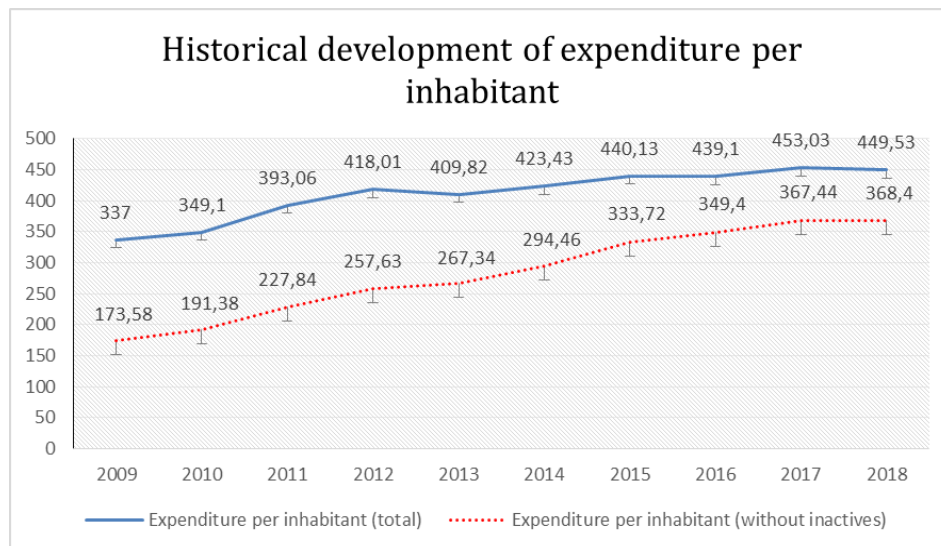


<sup>24</sup> The monthly income of 50 per cent of Brazilian workers in 2018 was 820 Brazilian *reais*, less than one minimum wage, according to data from the Brazilian Institute of Geography and Statistics (IBGE)'s National Survey by Continuous Household Sample (PnadC). See IBGE (2018).

<sup>25</sup> According to IBGE (2020).



In contrast, according to the 2019 Justice in Numbers report by the Brazilian National Justice Council (Conselho Nacional de Justiça), in 2018 the country had 18,141 magistrates (4 per cent) among the 450,175 people who make up the Judiciary workforce. The report points out that 90.8 per cent of the Judiciary's budget is allocated to the payment of personnel, including public servants, outsourced workers, and interns, and that the cost of average monthly remuneration is approximately R\$ 46.8 thousand per magistrate. The following graph shows that, disregarding the remuneration of inactive people, the amount of average expenditure per inhabitant with the Judiciary has more than doubled in the last ten years, ranging from R\$173.58 in 2009 to R\$368.40 in 2018:



The data above constitute evidence of the hypothesis that legal field sectoral elites follow the classist logic that guides politics in peripheral States, causing distributive rearrangements in times of economic and institutional crisis to maintain or expand their benefits<sup>26</sup> and accentuate the concentration of wealth while reducing the income of other salaried workers for the benefit “of capital, white men, millionaires, and the established middle class” (COSTA, 2019, p. 523), with whom Car Wash’s judges and agents themselves

<sup>26</sup> An example illustrating this hypothesis can be found in the negative increase, due to the impact of R\$ 25 billion on the budget, by the government in July 2015, before the oust of Rousseff – under the predictable political cost and the concession already in the Temer government, in July 2016, of 41.5 per cent increase for employees, followed by an increase of 16.38 per cent for magistrates in November 2018. In the period, GDP had fallen by 3.31 per cent in 2016 and rose only 1.06 per cent and 1.12 per cent in 2017 and 2018, respectively. See ‘PIB do Brasil: histórico e evolução em gráficos’ *Gazeta do Povo*, 24 April 2019 <https://infograficos.gazetadopovo.com.br/economia/pib-do-brasil/>.

maintain “elective affinities”, occupying a space that belonged to the military in 1964 (ANDERSON, 2019).

For this reason and following the methodological instruction of observing the contingencies surrounding a classist representation of politics based on the intertwining of an elite corporation’s specific interests with broader interests of a given social class (PERISSINOTO; CODATO, 2009), the analysis of the role of jurists and judges in the conduction of Operation Car Wash and in the construction of the anti-corruption rhetoric that fueled the crisis in post-2014 Brazil ought to consider what mutual benefits the quid pro quo among members of the justice system and some of the members of the conventional political system has produced in the crisis and, consequently, in the democracy instability it has caused.

#### **4 INSTRUMENTALIZATION OF LEGAL FORMS AND DISINTEGRATION OF DEMOCRACY IN THE COUNTRY AFTER 2014**

Political agents usually resort to the semantics of human rights, constitution and democracy competitively to legitimize their actions (PALMA, 2019, p. 30). When there are strong normative structures, this resource can cause agents to have to be bound by constitutional norms, human rights, and democratic principles. In such situations, the law can, therefore, restrict rationalities based on its own internal structure (FISCHER-LESCANO *et al.*, 2013, p. 375).

However, there are cases in which normative structures are not strong enough and semantics are applied as useful facades for achieving undemocratic objectives. In these situations, two strategies can be verified: in the first, political regimes may apparently reinforce the semantics of modern constitutionalism by advocating the promulgation of a new constitution, which, however, would contain undemocratic, particularist, and anti-human rights provisions, as occurred in Hungary under Orbán (MÜLLER, 2016, p. 41). Using another strategy, political regimes such as those in post-2014 Brazil may not advocate the promulgation of a new constitution, but rather adopt decisions and norms contrary to the bases of democratic constitutionalism and human rights, which are nonetheless presented

as compliant with the constitution. In both situations, the constitution does not function as a normative structure, but only as a façade useful to anti-constitutional governance.

With the repetition of unconstitutional acts and in view of the poor judicial control of such actions including by constitutional courts, the normative expectations arising from the constitution have been gradually eroded and legal forms have been instrumentalized. These processes, in turn, encourage undemocratic uses of law in various areas of state Justice and administration, making legal and political structures even more fragile in a spiral of increasing distortion of the constitution. Weaker institutions produce the opposite effect to what legal agents in Brazil allegedly sought as they favor the emergence and strengthening of non-state networks, including criminal ones, national or non-national (MASCAREÑO *et al.*, 2016). It can thus be observed that, coveting to gain ground, sectoral elites exploit weak political and legal normative structures and further weaken them, which invigorates the emergence of elites unconcerned with the democratic process or linked to common criminality.

The instrumentalization of the law seems to be manifested by the rhetoric of morality as a factor that governs all other social fields (NASSEHI, 2017). Since 2014, the intervention of moralizing discourses has scaled in constitutional dynamics, a strategy that was intensely used by right-wing actors. The moralization of legal dogmatics, shown in topic 2, illustrates this point. In 2018, months before his election campaign, whose motto was “Brazil above everything, God above all”, the then-candidate Bolsonaro said that Lula’s voters should “eat dirt,” that the “*petralhada*”<sup>27</sup> from Acre should be shot, and that the former president was a bum, a rascal and a bandit.<sup>28</sup> Bolsonaro’s party’s founding manifesto in 2019 claimed that it existed to “rid the country of pilferers, smart ones,

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<sup>27</sup> Translator’s Note: *Petralhada* refers to the group of *petralhas*, which is a derogatory term to designate ‘thieves’ created with the contraction of *petista* (people affiliated with the Workers’ Party (PT)) with *Irmãos Metralha*, Brazilian translation of The Beagles Brothers, the famous thieves of the Donald Duck universe, who tried to implement income distribution policies with the fortune of the capitalist Uncle Scrooge.

<sup>28</sup> See Casado *et al.* (2018), ‘PT vai ao STF contra Bolsonaro por vídeo em que ele defende ‘fuzilar a petralhada’ *Folha de S. Paulo*, 3 September 2018 <https://www1.folha.uol.com.br/poder/2018/09/pt-vai-ao-stf-contr-bolsonaro-por-video-em-que-ele-defende-fuzilar-a-petralhada.shtml>, and Lavezo, ‘Bolsonaro critica inclusão de Lula em pesquisas eleitorais e chama ex-presidente de ‘vagabundo’, ‘malandro’ e ‘bandido’ *G1*, 24 October 2018 <https://g1.globo.com/sp/sao-jose-do-rio-preto-aracatuba/noticia/2018/08/24/em-terceiro-dia-de-campanha-pelo-interior-de-sp-bolsonaro-faz-carreata-e-caminhada-pelas-ruas-de-sao-jose-do-rio-preto.ghtml>.

demagogues, and traitors” in a country “massacred by corruption and moral degradation against good practices and good customs.”

With important discourses and political practices based on the actions of Car Wash members, as from 2014 many sectors of the media and protesters began to label not only elected politicians but also all existing political parties in a massive way as criminals or involved in scams. The degree of politics and law moralization and weak normative structures was such that even the semantics of human rights, constitutional law, and democracy was discarded on occasion in the name of the defense of the country.

Another element seems to reinforce the militant moralism incorporated by the entrepreneurs of this refoundation of Brazil through the “fight against corruption”. The progressive political escalation of evangelical representatives and especially those from sectors linked to neo-Pentecostalism has strengthened an alliance between religious morality and public debate on rights and political representation. This strengthening can be seen in the increased representation of the evangelical caucus in the Brazilian Congress<sup>29</sup>, now more willing to address its conservative agenda, since the political conditions are more favorable. However, the internal disputes of the legal field and its elites, linked to this movement, began to be influenced by the political rise of evangelical currents.

Previously less relevant to the public image of members of the Office of the Public Prosecutor and the Judiciary in a so-called secular State, the presentation of characters whose names circulate as favorites for key positions at the summit of the justice system became linked to the evangelical faith, some examples of which are Prosecutor Deltan Dallagnol<sup>30</sup>, Federal Judge Marcelo Bretas<sup>31</sup> and the Attorney General André Mendonça<sup>32</sup>.

<sup>29</sup> With the 2018 elections, evangelicals became 90 parliamentarians, among deputies and senators, and most of their delegation supported the election of Jair Bolsonaro. See L. Marini, ‘Renovada, bancada evangélica chega com mais força no próximo Congresso’ *Congresso em Foco*, 17 October 2018 <https://congressoemfoco.uol.com.br/legislativo/renovada-bancada-evangelica-chega-com-mais-forca-no-proximo-congresso/>.

<sup>30</sup> In his profile on social networks this prosecutor usually identifies himself as a “servant of Jesus” and, according to Robson Dias, “became a poster boy for the cool fundamentalism practiced by the main Baptist churches of Paraná”, a role he also plays as Prosecutor and through which he has promoted, in the evangelical environment, the Ten Measures Against Corruption and carried forward his promotion of moral reform in the country. See Santos Dias, ‘O avanço do fundamentalismo nas igrejas protestantes históricas do Brasil’ *Le Monde Diplomatique*, 01 October 2018 <https://diplomatique.org.br/o-avanco-do-fundamentalismo-nas-igrejas-protestantes-historicas-do-brasil>

It is a movement that suits the very statement by Jair Bolsonaro statement according to which he wants to appoint a minister of “terribly evangelical” profile to the Supreme Court, which, in turn, reinforced the lobby of the Brazilian Association of Evangelical Jurists<sup>33</sup>.

This convergence of the moralistic discourse of fighting corruption permeated by evangelical religiosity and the language of law used by some of its main agents would then be one of the elements responsible for the conversion of “legal entrepreneurs” into “moral entrepreneurs” (ALMEIDA, 2018). The instrumentalization of the right by morality fuels the strengthening of anti-constitutional measures and deepens the Brazilian political and institutional crisis, paving the way for the rise of anti-democratic political movements. On the one hand, jurists use the state machine and the public arena to delegitimize representative democratic politics<sup>34</sup>. On the other hand, members of the judiciary’s elite benefit economically from the democratic corrosion via the promotion of political careers, consultancies, and lectures, and there are elective affinities between judicial elites and the finance sector.

In this context, forms of authorization that characterize democratic representation, such as voting, recalls, referendums, and democratic protests lose space. They are the means for the population to participate in political decisions and they bring themes on behalf of others to public debates (MIGUEL, 2013, p. 121-122). If notions such as patriarchalism and personalism illustrated the particularism of social elites to the detriment of the represented population (NEVES, 1992; SOUZA, 2003), which strengthens exclusion processes (LUHMANN, 1998, p. 169; NEVES, 1992, 2007), the instrumentalization

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<sup>31</sup> This judge often quotes the Bible in his decisions. See I. Nogueira *et al.* (2017) ‘Juiz da Lava Jato no RJ se destaca por penas duras e religiosidade’ *Folha de S. Paulo*, 15 February 2017 <https://www1.folha.uol.com.br/poder/2017/02/1858829-juiz-da-lava-jato-no-rj-se-destaca-por-penas-duras-e-religiosidade.shtml>.

<sup>32</sup> According to C. Rezende *et al.* (2019), ‘Mendonça, o “terrivelmente evangélico” que disputa indicação ao STF’ *Uol Política*, 10 July 2019 <https://noticias.uol.com.br/politica/ultimas-noticias/2019/07/19/mendonca-o-terrivelmente-evangelico.htm>.

<sup>33</sup> According to C. Zanatta (2019), ‘Grupo de juristas evangélicos fundado por Damares amplia lobby no governo’ *Exame*, 22 June 2019 <https://exame.com/brasil/grupo-de-juristas-evangelicos-fundado-por-damares-amplia-lobby-no-governo>.

<sup>34</sup> According to C. Zanatta (2019), ‘Grupo de juristas evangélicos fundado por Damares amplia lobby no governo’ *Exame*, 22 June 2019 <https://exame.com/brasil/grupo-de-juristas-evangelicos-fundado-por-damares-amplia-lobby-no-governo>.

of legal forms has caused the already fragile mechanisms of representation, participation, and control to be morally characterized as useless.

## 5 CONCLUSION

By moralizing and criminalizing the political game, jurists' and magistrates' movements have contributed to the deepening of the Brazilian political and institutional crisis. In fact, the democratic system was subjugated to a moralizing logic, and there have been illegal acts, including a presidential ousting without a consistent legal or political motive (ANDERSON, 2016; ANDERSON, 2019), a process that was prompted by the Car Wash actions and fueled by protests directed against the entire political class and related to a global context (ALONSO, 2017, p. 50). With the rhetoric of refounding the country and an alleged fight against corruption, such public officials produced discourses and public notes in the non-legal environment and distorted the legal and jurisprudence rules established in criminal matters.

In post-2014 Brazil the elites of the legal field benefited materially from the corrosion of constitutional and democratic premises, as demonstrated in topic 2, evidencing the conjunction between their actions and the interests of capital holders. In times of economic and political crisis, these elites allied themselves with the ruling classes so that the new distributive arrangements maintained their own benefits. To this end, they made use of the state machine, distorted the legal dogmatics and moralized the public debate, contributing to the erosion of democracy in the name of the fight against corruption. In systemic terms, it can be said that the legal, political and democratic codes were corrupted in order for these objectives to be achieved.

By mixing law and morality, a significant number of Brazilian judges and jurists have corroded the democratic bases of legal dogmatics. The moralization and simplification of legal and political dynamics not only divide society into friends and foes, but also create conditions for the rise of political forces openly contrary to the representative party system (NASSEHI, 2017, p. 547). As one has seen, the intense moralization of law and politics that led to the instrumentalization of legal forms has generated three serious and long-lasting consequences which connect in a complex way: 1) the *deepening of the crisis*

by the systematic attack on the stabilization attempts produced by the political system itself through the use of questionable legal techniques and illegal leaks of the content of investigations; 2) the *strengthening the conditions for the rise of an authoritarian regime* and admittedly opposed to the fundamental rights of political minorities through voting, which fueled the disbelief of the population in the political system; 3) the creation of *an environment hostile to the free functioning of the institutions of the legal system itself*, whose public image has come to be associated with collusion with corruption as a result of the increased distrust in the justice system itself.

On the other hand, one cannot fail to highlight the responsibility of agents, parties, and other components of the political system that have contributed to this situation and made room for politics usurpation by moralizing public debate and instrumentalizing the law. If the crisis of representativeness in democracies is undeniably a global phenomenon, in Brazil its effects are even more pronounced. The general distrust in representatives and institutions finds a fertile scenario fueled by urban violence, by the very high concentration of income at the top 1 per cent of the social pyramid, and by the deep levels of inequality regarding access to basic public services. It is under these structural conditions that three types of semantics are mixed and, although they can be competitors at various times, they contribute to the perception that a political system without politicians –at least professional politicians– works better.

The first and perhaps most popular of them is the *magical and religious* one promoted by neo-Pentecostal sectors of the Evangelical church, which have achieved considerable political and electoral success and, although they have all quid pro quo clientelism characteristics of the most traditional parties and politicians, they detach themselves from such image with their political and theological speech with pragmatic purposes.

The second semantics holding a special appeal in the context of crisis has been the *technical and legal* one, promoted in the wake of Car Wash and which remains strong among its supporters from urban middle classes due to either its alleged technical and apolitical nature, supported by a liberal and illuminist line and the rule-of-law rhetorical, or the belief that meritocracy and legal discourse can continue to protect their relatively



privileged position in the distributive conflict against the flattening of their income by the pressure from the financial elite and the claims of the poorest layer.

Finally, the alternative that we call *authoritarian and military* here, whose strongest expression is in the personalism of the President of the Republic and his children in their frequent attack on institutions –especially the Congress, the Supreme Court and the press– and which does not hesitate to insert the possibility of closing the regime with the consequent restriction of civil liberties in its political communication. Although this semantics is surrounds the head of the Executive, its supporters seem to be more scattered in some protests and social networks. Finally, although there are doubts about the real support of the police and armed forces to this initiative, one cannot deny how concerning it is for the democratic institutions and the exercise of rights in Brazil.



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