

Prevention and Fight against Avoidable Injustices from Amartya Sen – Legal and Economic References¹

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Abstract: *The purpose of this paper is to prove the importance of legal and economic spheres for the realization of justice according to the Amartya Sen's Theory of Justice. In the most stable democratic societies, the legal system is an indispensable reference and demonstrates the strength of the population's political values and convictions in relation to the social organization at present and in subsequent periods. Empirical data and two laws that contribute to the social equity, participation, exercise of freedom and the overcoming of inequalities in Brazil are presented. The Amartya Sen's contribution is relevant in the world for the recovery, updating and improvement of democracy.*

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Key Words: *Constitutional Law; Contract Law; Justice; Equity; Democracy; Freedom of Information and Expression; New Technologies; Amartya Sen; Brazil.*

Introduction

The Amartya Sen's Theory of Justice is widely recognized in the world, for its academic vigour and conceptual structure as well as for its contribution in preventing and fighting serious injustices that have plagued the world till today and since remote periods. The dramas of hunger, threats to democracy and the exclusion of women or minorities are highlighted.

Researches on collective famines, undertaken by Amartya Sen, point out serious contradictions that exist in the political and economic spheres and relations between people. The seriousness of these contradictions lies in the fact that government officials are not starving in the dizzying increase in food production in the world.

On the other hand, and with the same repercussion, Amartya Sen demonstrates that in democratic countries there is no collective hunger because the governors need to face free elections and their actions are judged by the information that the population receives. This is possible due to the existence of the freedom of expression and information, symbolized in the legal and political guarantees of free press actions.

The theoretical architecture of the Amartya Sen's Theory of Justice can be synthesized as the unshakable faith in democracy with its structure of traditions, principles, legislation, institutions and public convictions. With the same determination and conviction is the demonstration of the effective conditions to combat inequalities and other avoidable injustices. Therefore, a solid democratic structure contributes effectively to a social balance.

The main problem of this paper means the question: *What are the most important legal and economic references in the Amartya Sen's Theory of Justice for facing serious injustice nowadays?*

This approach is justified due to the convictions of Amartya Sen and other researchers about the limitations of utilitarian and transcendental conceptions and the need of building safe and viable references for the prevention and fight against injustices and the strengthening of democracy. In this sense, legal, political and institutional arrangements are indispensable.

The objectives that guide this approach are: a) to highlight the main foundations of the Amartya Sen's Theory of Justice; b) to present the relevance of legal and economic proposals for the realization of justice; and c) to demonstrate how these references were implemented in the social equity, specifically in Brazil through the Consumer Protection Code and the Statute of Child and Adolescent.⁴

The references for the foundations of this approach are present in the Amartya Sen's works, specifically in the reports of his empirical research. Other data on relevant public policies will be presented in order to justify the dynamics of the economic, legal, institutional and social interactions, in view of the common good and social integration of the poorest.

The presentation of an argumentation structure accompanied by empirical data is fundamental for the initial justification of the Amartya Sen's proposition when he criticizes the limits of the traditional concepts mentioned above and presents possible solutions for the serious problems of today.

The debate on social justice conditions needs to take into account the differences that characterize humanity and the social and physical environments, traditions and other related realities. From another perspective, the constant fight against the glaring inequalities that plague large areas of humanity also depends on global political and administrative actions. Epidemics, environmental problems and migrants, for example, must concern everyone and isolated solutions are unsustainable. The creation of new institutions, actions with a high impact and long-term government actions present demands that are increasingly urgent. Avoiding the collapse of humanity is everyone's responsibility in a complex, uneven and globalized contemporary environment.

⁴ For more, see for example Código de Defesa do Consumidor. In: *Instituto Brasileiro de Defesa do Consumidor* [online]. 2021 [cit. 2021-05-25]. Available at: <https://idec.org.br/consultas/codigo-de-defesa-do-consumidor/capitulo-vi?mlid=5539>; and Da SILVA REIS, S. and A. VIANA CUSTÓDIO. Fundamentos históricos e principiológicos do direito da criança e do adolescente: bases conceituais da teoria da proteção integral. *Revista Justiça do Direito* [online]. 2017, vol. 31, nº 3, pp. 621-659 [cit. 2021-05-25]. ISSN 2238-3212. Available at: <https://doi.org/10.5335/rjd.v31i3.7840>.

1 Democracy, freedom of information and legislation

The understanding and organization of democracy have evolved from ancient times to the present day with such dynamics that democracy has become a moral value that can be adopted in any society without pre-conditions. Classical Greece was not a democratic society as we understand it today; however, the Athenian citizens could participate in debates about city life and could make decisions.

In this context and comparison with today, one can allude to contradictions or scandals of equal severity or threats to social, economic, legal and moral stability. In ancient times, the justification for the existence of slaves so that citizens could rule the city and the exclusion of women from the condition of citizenship are grounds for serious criticism and forceful observations on the limits of the Athenian democracy. Currently, democracies live with contingents of hungry and unemployed people, violence and stark forms of exclusion that threaten the minimum conditions of the human coexistence and civilization itself. The world lives with the capacity to produce food on a large scale and, on the other hand, with the existence of an expressive group of people with no resources to access them.

The Amartya Sen's approach to justice is focused on the universal value of democracy, that is, democracy has an inalienable moral value and constitutes the best system of the social organization with the conditions to structure conditions of justice. The legal system, conditions for freedom of expression, free media, wide forms of participation, among others, demonstrate the strength and dynamics of this system. Amartya Sen clarifies this trajectory in the current period: "But it was in the second half of the 20th Century that the idea of democracy was established as a form of government to which any nation is entitled – whether in Europe, America, Asia or Africa. The flourishing of democratic practice and the extension of its scope, however, are ongoing processes."⁵

The decisive action in relation to the dynamism and resources of democracy is the mission of all citizens. The reduction of democracy to periodic elections is, today, one of the most serious limitations of its importance and for its effective functioning, symbolized by the lack of memory about the choice of candidates in the electoral process, a few

⁵ See DRÈZE, J. and A. SEN. *Glória incerta: A Índia e suas contradições*. 1^a ed. São Paulo: Companhia das Letras, 2015, p. 266. ISBN 978-85-359-2522-7.

months after the elections, as is the Brazilian case. After showing serious deficiencies in the Indian democracy, the first non-western country to adopt it, Amartya Sen presents the central dimension of the Indian citizens' responsibility for its value and dynamism: "The future of the Indian democracy depends on great measure of the intrepid public defense of democratic rights, whenever and wherever they are threatened."⁶ This is a central statement for any nation, regardless of any cultural tradition or stage of development. This is also a basic statement that can be applied to other societies in which their stability gradually collapses as well as to those that are more consolidated and even have serious institutional, economic and legal shortcomings. Democracy is dynamic when it comes to the social context.

Given the context in question, it should be emphasized that democracies around the world are going through a period of serious threats, either because of the lack of constant public debate due to their consolidation and updating, or because of the apparent revival of new fanaticisms in the areas of politics and economics that threaten the foundations of its support, mainly due to the contempt or annulment of legal institutions and the lack of effective strategies to combat and to prevent inequalities. Such threats, when expanded or neglected, can lead in democracies to new forms of barbarism, racism and exclusion that resemble the countless ways to classify people, which they have experienced dramatically over time.

In this approach, the freedom of expression and the legal system stand out as fundamental expressions for the vigour of democracy and the overcoming of its problems or limitations. Both are decisive achievements for the realization of democracy and the consequence of many struggles and attempts at the social organization, so they need to be recognized by the vast majority of the population and to reach the daily lives of people, especially in the most distant places and people in greatest need, including, the poorest.

The freedom of expression encourages public debate and argumentation that are essential for the assessment of justice and the conditions for individual and collective choice. Amartya Sen insists, with equal conviction, on the need for information for knowledge and critical analysis of

⁶ See DRÈZE, J. and A. SEN. *Glória incerta: A Índia e suas contradições*. 1^a ed. São Paulo: Companhia das Letras, 2015, p. 272. ISBN 978-85-359-2522-7.

reality to achieve individual goals, to protect the disadvantaged, for the formation of values and political participation.⁷

The media should avoid prejudice or favouring the interests of groups with greater power in the selection and dissemination of information. As Amartya Sen clarifies, there is a serious lack of information in the media about vital issues for the population, for example, sanitary conditions and environmental issues.⁸ This finding reveals the erosion of democracy and social justice in a silent and degrading way.

The legal system is the benchmark for a stable democracy because it materializes the most important convictions of citizens and guides the organization and functioning of societies, specifically the functioning of institutions and the exercise of power. The dynamic legislation responds to social demands and monitors their development, as highlighted by Amartya Sen, “legislative and institutional changes can make a big difference.”⁹

There are different forms of organization and functioning of democracy in the world, just as others have existed. It is important to highlight the need to safeguard its moral value as a universal recognition. However, the operating systems do not follow a rigid and immutable structure, for example, presidentialism or parliamentarism. These are the result of different traditions, interests and dynamics. The most important thing, it should be noted, is the need to safeguard the idea or value of democracy and the need to evolve in its organization according to the needs, contexts and interests of the society as a whole.

Amartya Sen, when addressing the foundations of democracy, points out two conceptions.¹⁰ The first one means an institutional view, with priority to periodic elections and the legitimacy of governments by the majority. The second one, in addition to elections, contemplates public debate, combining participatory decisions with the public decision-making. The guiding idea is the permanent exercise of public reflection,

⁷ See SEN, A. *A ideia de justiça*. 1^ª ed. São Paulo: Companhia das Letras, 2011, p. 369. ISBN 978-85-359-1927-1.

⁸ See SEN, A. *Collective Choice and Social Welfare: An Expanded Edition*. 2nd ed. Cambridge, MA: Harvard University Press, 2018, p. 470. ISBN 978-0-674-91921-1.

⁹ See DRÊZE, J. and A. SEN. *Glória incerta: A Índia e suas contradições*. 1^ª ed. São Paulo: Companhia das Letras, 2015, p. 118. ISBN 978-85-359-2522-7.

¹⁰ See SEN, A. *Collective Choice and Social Welfare: An Expanded Edition*. 2nd ed. Cambridge, MA: Harvard University Press, 2018, p. 461. ISBN 978-0-674-91921-1.

accompanied by a broad access to information as a means of participation and inspection.

A broad view of the dynamics of democracy allows a constant debate and building of a variety of resources to solve everyday problems as well as situations or injustices, the complexity of which requires more information and explanation to limit or to resolve them.

2 Legal and economic references for justice

Brazil has built important laws that have contributed to the implementation of fundamental rights, the promotion of social responsibility and the social balance. A complex, unequal society with difficulties in asserting itself as a stable democracy like the Brazilian, needs a legal structure to organize the relations between its members, to resolve conflicts and to contribute to social equity.

The current Constitution of the Federative Republic of Brazil has its share in guaranteeing fundamental rights, especially highlighted in its Article 5. The option for rights includes the value of the person, his/her responsibilities and his/her duties. In this context and for a better understanding of the repercussion of the corresponding laws, the following can be stated: the Brazilian Consumer Protection Code, Law No. 8,078 of 11th September 1990 (hereinafter referred to as the “Consumer Protection Code”),¹¹ and the Brazilian Statute of Child and Adolescent, Law No. 8,069, of 13th July 1990 (hereinafter referred to as the “Statute of Child and Adolescent”),¹² are the two most important.

The Constitution of the Federative Republic of Brazil from year 1988 has a prerogative of understanding the citizen as a subject of rights. This is an expensive dimension for contemporary democracy and a representative of the nation’s political and social maturity. In this context, rights are fundamental. Standardization is an important dimension because it fulfils the ideal expressed in the larger law. The basic feature of the Consumer Protection Code states:

¹¹ See *Código de defesa do consumidor e normas correlatas* [online]. 2^a ed. Brasília: Senado Federal, Coordenação de Edições Técnicas, 2017. 132 p. [cit. 2021-05-25]. ISBN 978-85-7018-872-4. Available at: https://www2.senado.leg.br/bdsf/bitstream/handle/id/533814/cdc_e_normas_correlatas_2ed.pdf.

¹² See *Estatuto da Criança e do Adolescente* [online]. 3^a ed. Brasília: Senado Federal, Coordenação de Edições Técnicas, 2019. 118 p. [cit. 2021-05-25]. ISBN 978-85-528-0025-5. Available at: https://www2.senado.leg.br/bdsf/bitstream/handle/id/559134/Estatuto_crianca_adolescente_3ed.pdf.

“The Consumer Protection Code is a comprehensive law that deals with consumer relations in all spheres: in civil law, defining the responsibilities and mechanisms for the repair of damages caused; in administrative law, defining the mechanisms for the public power to act in consumer relations; and in criminal law, establishing new types of crimes and punishments for them.”¹³

Consumer relations are in all areas of the social life. People need to acquire goods, either for survival or to satisfy leisure or other wants and needs. In this sense, the conditions for this are part of the exercise of freedom, as highlighted by Amartya Sen in the set of his convictions. Consumer protection aims, among other things, to avoid subjugating or deceiving the most vulnerable parts of this relationship. Amartya Sen highlights that “In fact, some processes based on the market, namely the high exposure to advertising, can interfere with informed decision-making, instead of promoting it.”¹⁴

The vitality of the legislation in question is widely recognized and contributes to balancing consumer relations. With consumer protection as the priority that is the weakest part of this relationship, the Consumer Protection Code does not neglect to guide the market’s performance, especially in sensitive sectors such as advertising, in its Chapter V, Section III. However, it is important to mention the rights guaranteed to the consumer.

Article 6 of the Consumer Protection Code, entitled The Basic Rights of the Consumer, lists the following rights:

- I – protection of life, health and safety against risks caused by practices in the supply of products and services considered dangerous or harmful;
- II – education and dissemination information about adequate consumption of products and services, ensuring freedom of choice and equality in hiring;
- III – adequate and clear information about different products and services, with the correct specification of quantity, characteristics, com-

¹³ See *Código de defesa do consumidor e normas correlatas* [online]. 2^a ed. Brasília: Senado Federal, Coordenação de Edições Técnicas, 2017. 132 p. [cit. 2021-05-25]. ISBN 978-85-7018-872-4. Available at: https://www2.senado.leg.br/bdsf/bitstream/handle/id/533814/cdc_e_normas_correlatas_2ed.pdf.

¹⁴ See DRÈZE, J. and A. SEN. *Glória incerta: A Índia e suas contradições*. 1^a ed. São Paulo: Companhia das Letras, 2015, p. 209. ISBN 978-85-359-2522-7.

- position, quality, incident taxes and price as well as the risks they present;
- IV – protection against misleading and abusive advertising, coercive or unfair commercial methods as well as against practices or clauses that are unfair or imposed in the supply of products and services;
 - V – modification of contractual clauses that establish disproportionate instalments or their revision due to supervening facts that make them excessively onerous;
 - VI – effective prevention and removal of material and moral damages – individual, collective and diffuse;
 - VII – access to judicial and administrative bodies to prevent or to remedy property and moral damage – individual, collective or diffuse, providing the legal, administrative and technical protection to those in need;
 - VIII – facilitating the defense of consumers’ rights, including reversing the burden of proof in their favour in the civil proceedings when, at the judge’s discretion, the allegation is credible or when it is insufficient, in accordance with the usual principles of experience;
 - IX – (vetoed);
 - X – stating generally adequate and effective provision of public services.

The Consumer Protection Code represents a basic instrument for the consumer relations in Brazil, sometimes considered as one of the most updated legislation in the world in this field, which has contributed to the improvement of many relations in the area of consumption. For example, the exposure with a good visibility of the expiry date of products and the regulation of advertising to prevent damage to the well-being of the population can be mentioned.

In turn, the Statute of Child and Adolescent was promulgated, based on the dynamics of the Brazilian Federal Constitution of year 1988, which, as mentioned, considers the citizen as a subject of rights. In this regard, children and adolescents acquired this status before others, institutions and the state. Since its first enunciation, this law strives for an integral protection and responsibility of the family, the community and the state. It is underlined in the Article 3 of the Statute of Child and Adolescent, which states:

“The child and adolescent enjoy all the fundamental rights inherent to the human person, without prejudice to the full protection provided

for in this Law, assuring them, by law or by other means, of all opportunities and facilities, in order to give them rights to provide the physical, mental, moral, spiritual and social development, under conditions of the freedom and the dignity.

The rights set out in this Law apply to all children and adolescents, without discrimination of birth, family status, age, sex, race, ethnicity or colour, religion or belief, disability, personal condition of development and learning, economic, environmental or social condition, region and place of residence or other condition that differentiates the people, families or community in which they live.”

The implementation of the Statute of Child and Adolescent in Brazil contributed to overcoming several embarrassing situations which until then had been difficult to solve, whether due to the corporate interests or other discriminations and prejudices historically rooted in the society. For example, the right to education for all without discrimination, accompanied by the permanent role of the Guardianship Councils, the Public Ministry and the Judiciary, among others, was decisive for the country to currently have almost all children and adolescents guaranteed with the basic school education.

The data on this evolution is significant. Currently, in Brazil, 98 % of children and adolescents between 7 and 14 years of age are regularly attending school.¹⁵ Part of this growth is due to the legislation in force and the requirement for parents to fulfil their duties as well as the requirement for the state, communities and municipalities to offer the conditions for this.

Specifically, in the area of school education, numerous situations still constrain the reality of Brazil; for example, the quality of education and school attendance and the quality of physical structures. From another perspective, there is widespread recognition of the contribution of social programs to the improvement of this scenario. The Income Transfer Program called “Bolsa Família” with its conditionalities contributed a lot to the frequency and permanence of children and adolescents in attending school.

¹⁵ See Ipea: 98 % das crianças de 7 a 14 anos estão na escola. In: *Terra* [online]. 2010-11-18 [cit. 2021-05-25]. Available at: <https://www.terra.com.br/noticias/educacao/ipea-98-das-criancas-de-7-a-14-anos-estao-na-escola,0a081a4045cea310VgnCLD200000bbcecb0aRCRD.html>.

Access to education is an important mechanism for social emancipation as well as overcoming inequalities and serious problems, such as family violence and other exclusions. This is a widely recognized dimension, whether in empirical research or in political and administrative propositions. Society permeated by violence against minorities or victims of poverty and, in the context of this approach, specifically, excluding access to women's education, denying their work outside the home and other forms of participation is a serious threat to the person's individual fulfilment and the social integration as a subject of rights.

The access to acknowledged levels of education, in an equitable manner and with public policy incentives, is decisive for reversing contexts traditionally marked by exclusion or political projects that led to such a situation. The education of children and adolescents, specifically females, has strong repercussions in overcoming the levels of inequality, both from the symbolic point of view as well as from the view of an effective condition of exercising freedom, above all of information and expression, and acting with autonomy in the decision-making.

Amartya Sen highlights the symbolic role of women's education and its capacity for transformation, not limited to the family sphere, and especially its repercussion on the transmission and formation of values as well as on the social transformation.¹⁶ Working outside the home as well as access to health care, good levels of education and the right to property make people, in this context specifically women, less vulnerable and promote their conditions as agents.

The Statute of Child and Adolescent provides numerous mechanisms that can promote, among others, social evolution, integration of differences, development of personal and social talents, prevention of violence and the fight against violence.

The role of new technologies in this matter is underlined by Neuro José Zambam and Karol Ryszkowski who said that "The new information and communication technologies that can enable public consultations, referendums and can change the way institutions function as well as public resources and policy management represent the human potential and the potential of the new social dynamics. From another perspective, there are many instruments and resources that, when used appropriate-

¹⁶ See SEN, A. *Desenvolvimento como liberdade*. 1ª ed. São Paulo: Companhia das Letras, 2000, p. 222. ISBN 85-7164-978-2.

ly, can bring together people, groups, institutions and other entities not even imagined in previous periods. As an example, the extraordinary resources offered by new information and communication technologies capable of mobilizing crowds, supporting effective participation and clarifying the needs of groups and communities can be mentioned.”¹⁷

The more organized society and participatory through new technologies, institutions, leaders, personalities and organizations, the better conditions it will have to understand the importance of guaranteeing rights and participation for the social equity and the affirmation and the renewal of democracy.

3 Legal and economic conditions for the effectiveness of justice

The architecture of a democratic society is built by a set of connections that strengthen each other and contribute to the renewal, improvement and corrections of the social dynamics. In this context, the legislation and economic conditions are of a particular importance.

The Amartya Sen’s understanding is centred on the conditions for the development of people’s capabilities so that they can make decisions they consider important for their well-being, personal fulfilment and social integration. Exclusions depersonalize the citizen by denying him/her the status of an agent. Specifically in this approach, the denial of rights for children and adolescents as well as the absence of consumer protection are representatives of the countless ways of limiting the exercise of freedom.

Access to information represents an important democratic tool for citizens to know their rights, to fulfil their obligations and to contribute to the vitality of the society. The quality of information is essential for the public clarification and the exercise of rights.

The different fields of advertising of rights and the repercussions on people’s daily lives are widely highlighted by Amartya Sen in his tireless defense of democracy as the system of the social organization guided by the debate. In other words, citizens need to know what happens in their surroundings and need to interact permanently with others, govern-

¹⁷ See RYSZKOWSKI, K. and N. J. ZAMBAM. Threatened Democracy and the Reconstruction of Public Justification. *Revista Brasileira de Direito* [online]. 2020, vol. 16, nº 2, pp. 1-16 [cit. 2021-05-25]. ISSN 2238-0604. Available at: <https://doi.org/10.18256/2238-0604.2020.v16i2.4144>.

ments and organizations. The public debate is essential for justice. The media is of a crucial importance in this environment, as he highlights: “[...] the freedom of the media has an important protective function, giving a voice to the neglected and disadvantaged, which can contribute enormously to human security.”¹⁸

In this same perspective, the importance of the concept of development integrated with the search for conditions for the human and social development is highlighted as the primary prerogative of an equitable social organization. The development model centred on metrics that exclusively prioritize economic growth is denounced by Amartya Sen in numerous manifestations. On the other hand, the emphasis on the conditions for the exercise of freedom gives an alternative dynamism both from an economic and a political point of view. Amartya Sen says: “Freedom is not only the primary ends of development, but also the main means.”¹⁹

Likewise, a negligible understanding of the need for economic resources would be naive and politically insignificant. In this regard, Amartya Sen also highlights that “In this perspective, we need to recognize the importance of the two-way relationship between the economic growth and the expansion of human capabilities, while keeping in mind the basic understanding that the expansion of human freedom and capabilities is the end for which growth of the Gross Domestic Product, among other factors, serves as an important tool.”²⁰

The integration between the vigour of development, the vitality of democracy and the solid legal system demonstrate how it is possible to overcome exclusions or inequalities that threaten the organization of the society in its different spheres. In Brazil, the implementation of the Consumer Protection Code and the Statute of Child and Adolescent contribute to this goal.

¹⁸ See SEN, A. *A ideia de justiça*. 1^a ed. São Paulo: Companhia das Letras, 2011, p. 370. ISBN 978-85-359-1927-1.

¹⁹ See SEN, A. *Desenvolvimento como liberdade*. 1^a ed. São Paulo: Companhia das Letras, 2000, p. 25. ISBN 85-7164-978-2.

²⁰ See DRÊZE, J. and A. SEN. *Glória incerta: A Índia e suas contradições*. 1^a ed. São Paulo: Companhia das Letras, 2015, p. 10. ISBN 978-85-359-2522-7.

Final considerations

The architecture of the society depends on numerous factors that are part of the trajectory of its members. Brazil, formed by indigenous cultures and other factors that contributed through immigration, migration and other interests, can be characterized as a “mosaic of cultures” that interact, based on their characteristics and differences. The formation of the country has observed an aggravating exclusion represented by two dramatic historical facts, namely, the annihilation of traditional cultures by the colonization process and the severe period of slavery. This context is aggravated by persistent inequalities.

The weakness of democracy over this period has not invalidated it, but rather demonstrates the lack of harmony between its most important values, the legal-institutional architecture and the political convictions of the population. Just the perception of Brazil’s position among the largest economies in the world contrasts, on the other hand, to its perception as the country that is among the most unequal in the world and with the highest levels of corruption.

The option for democracy, as Amartya Sen teaches, for the population as a whole and, especially, for leaders and government officials must express their convictions and the option for a system with values and mechanisms to correct inequalities, while guaranteeing the political, legal and economic stability. In this sense, the exercise of freedoms is connected with the reduction of inequalities, the promotion of capabilities and the construction of the political and legal structure in view of a model of the human, economic, social and sustainable development that contributes effectively to the social equity.

The Consumer Protection Code and the Statute of Child and Adolescent are symbolic and effective indications of the vitality of recognizing the exercise of rights as the indispensable reference for the conditions of social justice in the country. The lack of public clarification about its content, individual or collective responsibilities, corporate interests, lack of good training on the values and functioning of democracy, political and institutional fragility and the limited tradition of democratic public reason, among other factors, contribute sharply to the continuity of injustices and exclusions.

The perception of injustices that can be avoided, here specifically in relation to the juvenile population, such as illiteracy or the access to education without a quality care, accompanied by participation, clarification

and denunciation of structures, must be fundamental guidelines for a good social organization. Access to school alone is insufficient for the exercise of freedom and development. In other words, metrics are sparse references when out of context.

The strengthening of participation mechanisms, the public debate with the freedom of expression and the well-structured legislation that can be implemented are decisive for social equity. Moreover, the role of equity should be strengthened not only in the legal system because, as Karol Ryszkowski said, "You can pass a sentence that is consistent with the law, but it is unfair. The conclusion which is drawn from the maxim *Summum ius, summa iniuria* supports the principle which states that not everything permitted is fair (*Non omne quod licet honestum est*)."²¹

The Amartya Sen's broad experience, both in clarifying the understanding of democracy and its mechanisms of organization and participation as well as the innumerable experience of the empirical research in different parts of the world, offers a set of references for the correction of the serious problems that plague the Brazilian society. This correction means a vital condition for social, economic, political and legal stability in the country. Avoidable injustices are at the root of the serious Brazilian problems, including violence, corruption and the limited quality of education.

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²¹ See RYSZKOWSKI, K. Adjudication on Principles of Equity in the Proceedings before the Arbitral Tribunal in the Polish Law Compared to Other Legal Systems. *Cadernos de Direito Actual* [online]. 2019, n^o 12, p. 17 [cit. 2021-05-25]. ISSN 2386-5229. Available at: <http://www.cadernosdedereitoactual.es/ojs/index.php/cadernos/article/view/427>.


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