

UMA PROPOSTA DE DEMOCRACIA DELIBERATIVA PARA TUTELA EFETIVA DO DIREITO FUNDAMENTAL À BOA ADMINISTRAÇÃO PÚBLICA E O RESGATE DA FÉ NA DEMOCRACIA: CONSELHOS DE INTEGRIDADE

A DELIBERATIVE DEMOCRACY PROPOSAL FOR EFFECTIVE PROTECTION OF THE FUNDAMENTAL RIGHT TO GOOD PUBLIC ADMINISTRATION AND THE RESCUE OF FAITH IN DEMOCRACY: INTEGRITY COUNCILS

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RESUMO

Na atualidade não resta mais dúvida acerca da existência de um direito fundamental à boa Administração Pública, essencial para o cumprimento dos objetivos estratégicos da República Federativa do Brasil. Por meio do emprego de metodologia dedutiva, pesquisa bibliográfica e jurisprudencial, a pesquisa pretende investigar se é possível avançar na tutela do direito fundamental à boa Administração Pública para além do tradicional caminho puramente repressivo. Assim, sem desconsiderar a importância da punição, que ainda é necessária, pretende-se apontar para o caminho da prevenção, que vem revelando-se mais eficaz em todo o mundo. Objetivos: 1. Analisar o direito fundamental à boa Administração Pública e sua importância para o fortalecimento da democracia; 2. Identificar os efeitos deletérios da má governança para os objetivos estratégicos do Estado Democrático e Social de Direito; 3. Sugerir a criação de conselhos de integridade como uma proposta viável de democracia deliberativa para tutela efetiva do direito fundamental à boa Administração Pública. A conclusão é que o caminho da prevenção revela-se como o mais eficaz para a tutela de tal direito, sendo a proposta de criação dos conselhos de integridade um importante e fundamental passo.

Palavras-Chave: Administração Pública. Direito Fundamental. Democracia Deliberativa. Conselhos de Integridade. Prevenção.

ABSTRACT

Currently, there is no longer any doubt about the existence of a fundamental right to good public administration, essential for the fulfillment of the strategic objectives of the Federative Republic of Brazil. By employing deductive methodology, bibliographical and jurisprudential research, this study aims to investigate whether it is possible to advance in the protection of the fundamental right to good Public Administration beyond the traditional purely repressive path. Thus, without disregarding the importance of punishment, which is still necessary, we intend to point to the path

of prevention, which has been proved to be more effective worldwide. Objectives: 1. Analyze the fundamental right to good public administration and its importance for strengthening democracy; 2. Identify the deleterious effects of bad governance for the strategic objectives of the Democratic and Social Rule of Law; 3. Suggest the creation of integrity councils as a viable proposal for deliberative democracy for the effective protection of the fundamental right to good public administration. The conclusion is that the path of prevention proves to be the most effective way to protect this right, and the proposal to create integrity councils is an important and fundamental step.

KEYWORDS: Public Administration. Fundamental Right. Deliberative Democracy. Integrity Councils. Prevention.

I INTRODUCTION

It is perfectly possible to extract from the Federal Constitution of 1988 a series of strategic objectives for the Federative Republic of Brazil, in particular art. 3, which establishes the need to build "a free, fair and supportive society" (item I), to "guarantee national development" (item II), to "eradicate poverty and marginalization and reduce social and regional inequalities" (item III), to "promote the good of all, without prejudice to origin, race, sex, color, age or any other form of discrimination" (item IV).

As a whole, these strategic objectives create an ideal of a Social and Democratic State of Law, outlining government goals and programs so that the promises made in the Federal Constitution can effectively come off the drawing board and become a reality in the world of life.

Of course, achieving these goals is no easy task, especially in today's complex and risky society. And the challenge becomes even greater in late-modern countries like Brazil, with so many shortcomings and inequalities.

Without disregarding other factors that do not fit within the limits of this article, for this mission it is unavoidable to highlight the issue of good governance, that is, the requirement for responsible management of the Public Administration, with the adoption of procedural schemes aimed primarily at meeting social demands, without departing from the premise that public management must be at the service of the people.

This is why it is legitimate to speak of a fundamental right to good public administration, since it is possible for the state to go beyond promises and good intentions. However, despite some advances, especially in legislation, what has been noticed in recent years is a real mistreatment of this right, which is so expensive and essential for a dignified life, either through acts of corruption or mismanagement.

And this ends up generating disenchantment in the population, which begins to distrust and no longer believe in public institutions, politics and even democracy itself. As a result, citizens are increasingly distanced from public issues, limiting their participation in political life to every two years; this is because, as we know, they are obliged to vote.

But we need to restore this lost trust, which in many people is just lying dormant, waiting to be awakened. This necessarily involves more direct citizen participation in public management, since a good public administration has an impact on the quality of life of those it administers. Yes, the time for being content with a model of exclusively representative (indirect) democracy is long gone, and its complement by mechanisms of direct democracy is important for the health of democracy itself.

Along these lines, this article aims to follow a different path from the one that has been adopted more frequently in Brazil in relation to the protection of good public administration,

which is the punishment and repression of acts of mismanagement and corruption. Not that punishment isn't important and legitimate, but we believe that prevention, by empowering citizens, is more promising and has more positive effects.

So the question here is whether it is possible to introduce deliberative democracy practices to ensure the fundamental right to good public administration. We argue that it is, and an important preventive instrument for this protection is the creation of integrity councils that can be added to other strategies and instruments that already exist to prevent acts of corruption and public mismanagement, as they foster communicative action between the public sector and the administered, epistemically qualifying administrative decisions to follow the path of good governance.

2 THE FUNDAMENTAL RIGHT TO THE GOOD PUBLIC ADMINISTRATION AND ITS IMPORTANCE FOR THE IMPROVEMENT OF DEMOCRACY

As has already been pointed out, the 1988 Federal Constitution contains a series of promises aimed at achieving the strategic objectives of the Federative Republic of Brazil. Of particular note are the social promises set out in Chapter II, such as education, health, food, work, housing, transport, leisure, security, social security, maternity and childhood protection, and assistance to the destitute (Art. 6), which are fundamental rights for a dignified life.

These social rights are essential in order to reduce material inequality, which is contrary to the ideal of a true democracy, even though some people believe that equality is something unattainable, which we don't agree with, since this line of thinking is based on an erroneous and shallow premise, as if defending equality only meant saying that all people are the same. And here the following clarification from WILKINSON and PICKETT (2015, p. 287-288) is valid:

Muitas vezes é dito que uma maior igualdade é impossível porque as pessoas não são iguais. Mas isso é uma confusão: igualdade não significa sermos a mesma coisa. Quando o princípio da igualdade diante da lei foi estabelecido, as pessoas não se transformaram na mesma coisa. Reduzir a desigualdade material também não significa – como afirmam com frequência – baixar o padrão ou nivelar tudo por uma mediocridade comum. A riqueza, especialmente a herdada, é um fraco indicador de mérito genuíno – daí a afirmação de George Bernard Shaw de que “Só onde há igualdade pecuniária a distinção do mérito pode sobressair”. Talvez isso faça da Suécia uma morada especialmente adequada para o sistema do Prêmio Nobel.

Of course, the high costs of realizing social rights cannot be ignored, but we cannot accept that these rights are merely empty and illusory promises. And this, it is important to emphasize, does not mean defending a more "generous" welfare state that is irresponsible with public affairs, but rather a state that protects all citizens, especially the most vulnerable, through good management practices.

Not only that, but resignation in the face of a situation of inequality can generate even more feelings of hopelessness, even causing, among other negative effects, the weakening of bonds of solidarity between citizens, because as MOUNK (2019, p. 269) observes, "unrestrained inequality corrupts the political process, allows the upper middle class to appropriate the best educational and professional opportunities, and weakens the social bonds of solidarity between citizens".

That's why there's no way to accept a posture of inertia or fatalism, as this resignation reveals a mistaken meritocratic ideal, which is a justification for a situation of inequality, as SANDEL (2020, p. 181) points out, since it doesn't consider the large gap between rich and poor to be morally

wrong, since for them ascension or social mobility is based on merit, completely disregarding the reality of the less fortunate, as well as exaggerating the moral importance of effort.

It is clear that the idea of effort is not disregarded. However, reality shows that many people with fewer advantages in society, deprived of basic social rights, are unable to make it on their own and need the state to provide them with a minimum level playing field, even though it is aware of the impossibility of perfect equality. Thus, using Kantian philosophy, the search for this minimum equality in a democracy is a true categorical imperative, an ideal that must be sought collectively. In the words of SANDEL (2020, p. 325):

Mas se o bem comum pode ser alcançado apenas por meio da deliberação com nossos concidadãos sobre os propósitos e os fins dignos de nossa comunidade política, a democracia não pode ser indiferente ao caráter da vida em comum. Ela não exige igualdade perfeita. No entanto, exige que cidadãos de diferentes níveis sociais e estilos de vida se encontrem em espaços compartilhados e lugares públicos. Porque é assim que aprendemos a negociar e a acatar as nossas diferenças. E é assim que passamos a nos importar com o bem comum.

This issue of shared spaces and public places for citizen deliberation will be taken up later. However, it should now be noted that in order to fulfill social promises, there is no doubt about the need for a proficient and efficient Public Administration, and it is possible to defend the idea of a fundamental right to good Public Administration, as has already been highlighted and will be explored further below.

2.1 The fundamental right to the good public administration as an implicit principle in the Federal Constitution

The Federal Constitution has laid down a number of principles for good governance, such as art. 37, caput, which expressly enshrines the principles of legality, impersonality, morality, publicity and efficiency. It is also worth highlighting § 4 of this article, which expressly mandates penalties (in the civil and criminal spheres) for acts of mismanagement, by stating that "acts of administrative improbity shall result in the suspension of political rights, the loss of public office, the unavailability of assets and compensation to the treasury, in the manner and to the extent provided for by law, without prejudice to the appropriate criminal action".

Combining these rules with others in the Constitution, it is entirely possible to defend the existence of a fundamental right to good public administration, which can thus be considered an implicit norm. It is true that this is a right that is constantly under construction, as it changes like society. However, this paper adopts the following definition from FREITAS (2014, p. 21):

(...) trata-se do direito fundamental à administração pública eficiente e eficaz, proporcional cumpridora de seus deveres, com transparência, sustentabilidade, motivação proporcional, imparcialidade e respeito à moralidade, à participação social e à plena responsabilidade por suas condutas omissivas e comissivas. A tal direito corresponde o dever de observar, nas relações administrativas, a cogência da totalidade dos princípios constitucionais e correspondentes prioridades".

Logically, the protection of this right, which has its origins in the jurisprudence of the European Court and was even enshrined in the Nice Charter¹, due to its importance for the realization of

¹ "Artigo 41. Direito a uma boa administração: 1. Todas as pessoas têm direito a que os seus assuntos sejam tratados pelas instituições e órgãos da União de forma imparcial, equitativa e num prazo razoável. 2.

fundamental rights, requires efficient protection, especially in view of the fallibility of public agents and public managers, who, to paraphrase NIETZSCHE, are human, all too human, and who therefore end up committing acts that violate the principles of good governance, causing deleterious effects for the community. In this regard, it is worth remembering MONTESQUIEU, who in the 18th century already said that in modern society it was necessary to convert personal virtues into institutional virtues, especially since "institutions are 'recurrent, stable and valuable patterns of behavior' that persist beyond the mandate of each leader" (apud FUKUYAMA, 2018, p. 12-13).

Yes, it is necessary to strengthen the Public Administration by rooting it in the principles and practices that inform good governance through the development of an ethical culture which, consequently, brings with it duties and obligations aimed at curbing deviant behavior that is contrary to the interests of the community, thus reducing the empty spaces that favor the proliferation of acts of mismanagement. And this ends up allowing the creation of a true "market of virtue" in the art of governing, which tends to expand and may even influence the behavior of citizens, as SEÑA (2002, p. 225) rightly observes:

Una persona que siempre se comporta de acuerdo a normas o ideales morales es una persona virtuosa. Cuando el resto de sus congéneres conocen que es virtuosa puede decirse que há adquirido una buena reputación moral. La reputación es importante en la medida en que permite la asociación entre personas de igual reputación y el establecimiento de relaciones basadas en la confianza mutua, lo que a su vez genera una especie de 'mercado de la virtud', mercado que tenderá naturalmente a su expansión.

And it has never been more necessary to expand these values, especially when there is a certain disenchantment and distrust of public institutions on the part of the administered, which stems from various factors, especially the constitutional promises that have not yet been realized, a very problematic situation in an increasingly complex society, with risks and so many inequalities such as Brazilian society, which increasingly demands the provision of public services, thus requiring a capable and results-oriented Public Administration, which, moreover, can be extracted from the Federal Constitution itself (MOREIRA NETO (2016, p. 79-80).

There is no doubt that public administration must be at the service of the people. This is exactly why today "good administration is increasingly considered a right of citizenship for the administered" (BOSCO, year, p. 179), and why public agents are required to conduct public administration responsibly, adopting procedural and organizational schemes of good governance² (good governance), that is, a "responsible conduct of state affairs" (CANOTILHO, 2008, p. 327), focused mainly on meeting social demands, on the imperativeness of public services PIRES (2016,

Este direito compreende, nomeadamente: - o direito de qualquer pessoa a ser ouvida antes de a seu respeito ser tomada qualquer medida individual que a afecte desfavoravelmente, - o direito de qualquer pessoa a ter acesso aos processos que se lhe refiram, no respeito dos legítimos interesses da confidencialidade e do segredo profissional e comercial, - a obrigação, por parte da administração, de fundamentar as suas decisões. 3. Todas as pessoas têm direito à reparação, por parte da Comunidade, dos danos causados pelas suas instituições ou pelos seus agentes no exercício das respectivas funções, de acordo com os princípios gerais comuns às legislações dos Estados-Membros. 4. Todas as pessoas têm a possibilidade de se dirigir às instituições da União numa das línguas oficiais dos Tratados, devendo obter uma resposta na mesma língua" (BRASIL. Disponível em <<https://eur-lex.europa.eu/legal-content/PT/TXT/?uri=CELEX%3A12007P/TXT>>. Acesso em: 12 de outubro 2022).

2 "A Boa Governança (Good Governance) é um conceito gerado nos anos 90, no âmbito da economia e da política do desenvolvimento, tendo correlação com o Consenso de Washington, hoje por várias ciências, sendo aplicada em empresas privadas como em órgãos públicos. O Acordo do Cotonou, em seu artigo 9º, define 'Boa Governança' como sendo a 'gestão transparente e responsável dos recursos humanos, naturais, econômicos e financeiros para efeitos de desenvolvimento equitativo e sustentável'" (WEINGARTNER NETO; VIZZOTTO, 2010, p. 256-257).

p. 831-832), which is precisely why there are those who argue that good governance is a country's greatest asset, as is the case with MORENO (2022, p. 289):

Na atualidade, a criação de riqueza, para muitos países desenvolvidos, não está precisamente em seus recursos naturais, que inclusive podem ser inexistentes, como tampouco em um setor industrial fortemente desenvolvido. Para estes países e para todos os que querem atingir um nível de desenvolvimento adequado, o fator de competitividade que pode diferenciá-lo em um mundo globalizado é o da boa governabilidade, adotar corretas decisões no desempenho de poderes públicos a partir do respeito à técnica que lhe é própria e que, como se repetiu muitas vezes, se concretiza na legalidade. Este cumprimento da legalidade, ad intra e ad extra, desenvolve uma autoridade com capacidade para gerar confiança e, repetimos, favorecer a criação de riquezas.

It is not for this reason that CANOTILHO (2008, p. 329) believes that the responsible conduct of state affairs is a true principle that requires, among other measures, the deepening of the political, institutional and constitutional context through a permanent assessment of respect for human rights and democratic principles and the rule of law, the centrality of the principle of sustainable development and the rigorous selection of procedural and organizational schemes for good governance.

In fact, there is no doubt that when the principles that govern good public administration are respected, the way is paved for the construction of real public policies through goals and planned and coordinated actions. And this is of fundamental importance, with an eye on the principles of prevention and precaution, because one of the main goals of the modern state must be not to act too late or too weakly in implementing the public policies needed to achieve its strategic objectives, since acting in the opposite way could result in the irreversible sacrifice of human rights.

Yes, and here it is worth highlighting the deleterious consequences of a weak Public Administration, of irresponsible management of state affairs, which disregards the principles of good governance, whether through acts of mismanagement or corruption. This will be briefly demonstrated in the next section.

2.2 Poor governance and its deleterious effects on the strategic objectives of the democratic and social rule of law: a question of human rights violations

As has been shown, it is unquestionable that a proficient and efficient public administration is a decisive factor in the state's strategic objectives, especially the reduction of poverty and social inequality. It is therefore correct to say that there is a clear link between the ideal of good governance and human rights, since the opposite inexorably reflects on the population's quality of life, especially in relation to social rights.

In fact, various studies have shown that acts of mismanagement and public corruption have varying deleterious effects on the health of democracy and, consequently, on human rights. For example, corruption hampers economic growth, undermines the legitimacy of public institutions, causes more poverty, widens the inequality gap, etc. Not only that, but corruption ends up being an unquestionable obstacle to equal opportunities. Thus, as CORTINA (2020, p. 168) rightly points out, "corruption is therefore not just an immoral practice in itself, but has lethal consequences for equal opportunities, for citizens and for growth". An interesting summary of these effects can be found in ELLIOTT (2002, p. 17-18):

“a quantidade e a diversidade de países acometidos pelos escândalos de corrupção em anos recentes evidenciam o fato de que a corrupção difere radicalmente nas formas, na disseminação e nas consequências. Em países pobres, a corrupção pode encolher o crescimento econômico e comprometer a legitimidade política; consequências essas que, por seu turno, exacerbam a pobreza e a instabilidade política. Em países desenvolvidos, os efeitos econômicos podem ser menos severos; todavia, mesmo em países ricos, os recursos desviados não estarão disponíveis para a melhoria dos padrões de vida. A corrupção tende também a aprofundar as desigualdades de renda, isso por aumentar o poder daqueles que têm disposição e capacidade de pagar propinas em detrimento daqueles que não podem fazê-lo - essa questão vem ganhando crescente preocupação em países desenvolvidos e em países atualmente em desenvolvimento. Enfim, a corrupção pode minar a legitimidade política de democracias industrializadas e em desenvolvimento quando aliena os cidadãos de sua liderança política e quando dificulta a eficiência do governo. A corrupção pode causar os mais nefastos efeitos nos países em transição, como a Rússia, por exemplo, onde, caso não sejam tomadas providências, ela pode abalar o apoio à democracia e a economia de mercado.”

This summary is perfectly suited to the Brazilian reality, where the impacts of non-compliance with the fundamental right to good public administration have long been felt. And the issue is even more serious in times of economic crisis and scarce resources, such as the one Brazil is currently experiencing.

In fact, for example, the misuse or misappropriation of public resources is an unquestionable and serious obstacle to investment in areas that are essential for promoting economic development, such as education, science and technology³ and rail⁴, known to be necessary for the flow of the wealth of any country.

Of course, other factors also determine this reality, but there is no doubt that corruption and inefficiency in public management, as pointed out by various studies, seriously contribute to this scenario of backwardness, which ends up causing other serious problems, such as unemployment⁵, poverty and the scourge of hunger.

On the last point, according to a report released by the Food and Agriculture Organization of the United Nations (FAO) on July 6, 2022, Brazil is back on the hunger map. The report points out that between 702 and 828 million people were affected by hunger in 2021. It also points out that 61.3 million Brazilians suffered from moderate or severe food insecurity between 2019 and 2021,

3 Conforme pode ser verificado dos dados da “Pesquisa CNT de Rodovias 2021”, divulgado pela Confederação Nacional de Transportes, que avaliou 109.103 quilômetros de rodovias pavimentadas federais e estaduais, o Estado Geral de 61,8% da malha rodoviária brasileira encontra-se classificada como Regular, Ruim ou Péssimo. Desse percentual, 91% são de rodovias públicas (BRASIL. Pesquisa CNT de Rodovias 2021. CNT/CEST CENAT. Disponível em <https://pesquisarodovias.cnt.org.br/downloads/ultimaversao/Pesquisa_CNT_Rodovias_2021_Web.pdf>. Acesso em: 19 outubro 2022.

4 Além de ser um das piores do mundo, é bastante precária, como apontou o estudo “Transporte ferroviário: colocando a competitividade nos trilhos”, 2018, da Confederação Nacional da Indústria – CNI (Disponível em <https://static.portaldaindustria.com.br/media/filer_public/21/fa/21fa74a8-d3db-46fc-a105-a1ef097257ee/transporte_ferroviano_-_colocando_a_competitividade_nos_trilhos.pdf>. Acesso em: 22 outubro 2022.

5 Dados do IBGE relativos ao primeiro trimestre do ano de 2022 apontam para um número de 11,9 milhões de desempregados (BRASIL. Instituto Brasileiro de Geografia e Estatística – IBGE. Disponível em <<https://www.ibge.gov.br/explica/desemprego.php>>. Acesso em 22 outubro 2022). É verdade que a crise provocado pelo Coronavírus agravou a situação, mas não há como negar a relação de desemprego com as questões relativas às práticas de boa governança.

or 28.9% of the population. In comparison, the period between 2014 and 2016 saw 37.5 million people (18,3%)⁶.

And hunger is only the most perverse face of poverty, a situation that has become more acute with the advent of the Coronavirus pandemic⁷, but which had previously been revealing alarming figures for a country that was once among the ten largest economies on the planet and was once known as the "breadbasket of the world".⁸

The persistence of hunger with all its cruelty and hopelessness is unacceptable; condemning human beings in the 21st century to live imprisoned, enslaved and in shackles, caught in the trap of poverty. That's why it's not apologetic rhetoric or sophistry to say that corruption kills, because it kills through hunger. And the same statement, we think, can be made in relation to acts of mismanagement.

Other problems resulting from poor public management could be mentioned, such as the shameful state of basic sanitation⁹. However, the limits of this article do not allow us to go any further.

It is important to point out that logically we do not intend to blame all of these social problems on bad management or acts of corruption, as this would be to disregard the perverse effects of neoliberal rationality and capitalism itself, and could become a populist political discourse. However, there is no denying a certain share of responsibility as a result of the failure to respect the fundamental right to good public administration.

Finally, it is worth noting that poor governance, as already pointed out, causes the population to become disenchanted and distrustful of public institutions. And this is an extremely worrying effect, since it ends up causing the population to lose faith in the state and even in democracy itself, which is already showing signs of retreat around the world (LEVISTSKY; ZIBLATT, 2018, p. 194).

This crisis in the performance of public administration and, consequently, of the state, needs to be seriously addressed, since "the growing populist movements around the world are currently exploiting this crisis to dismantle crucial elements of the system" (MOUNK, 2019, p. 160).

That's why this essay argues that this confrontation involves strengthening democracy itself, even through dialogue, through a necessary collective action that establishes conversational bridges between managers, public agents and the administered, further democratizing public

6 BRASIL. Nações Unidas Brasil. "Número de pessoas afetadas pela fome sobe para 828 milhões em 2021". 06 jul. 2022. Disponível em <<https://brasil.un.org/pt-br/189062-numero-de-pessoas-afetadas-pela-fome-sobe-para-828-milhoes-em-2021>>. Acesso em 22 outubro 2022.

7 Segundo divulgado, o Brasil atingiu o número recorde de pessoas que vivem abaixo da linha de pobreza no final do ano de 2021, com 23 milhões de pessoas vivendo com menos de R\$ 210,00 ao mês (ou seja, R\$ 7,0 ao dia), o que equivale a 10,8% da população (BRASIL. Folha Uol. "23 milhões de pobres vivem com menos de R\$ 7 ao dia no Brasil. Disponível em <<https://www1.folha.uol.com.br/mercado/2022/06/23-milhoes-de-pobres-vivem-com-menos-de-r-7-ao-dia-no-brasil.shtml#:~:text=23%20milh%C3%B5es%20de%20pobres%20vivem,06%2F2022%20%2D%20Mercado%20%2D%20Folha>>. Acesso em: 22 outubro 2022.

8 Segundo consta a referida expressão teria surgido com Getúlio Vargas. No período do Estado Novo, para exaltar as capacidades agrícolas brasileiras, certa vez ele proclamou a frase: "O Brasil é o celeiro do mundo" (BRASIL. Brasil Paralelo. "Brasil celeiro do mundo – o país que pode sustentar o planeta". Disponível em <<https://www.brasilparalelo.com.br/artigos/brasil-celeiro-do-mundo#:~:text=QUERO%20RECEBER-,O%20que%20significa%20dizer%20que%20o%20Brasil%20%C3%A9%20o%20celeiro,seu%20territ%C3%B3rio%20para%20a%20lavoura>>. Acesso em: 22 outubro 2022.

9 Segundo estudo divulgado pelo Instituto Trata Brasil no ano de 2002, é possível observar dos dados do Sistema Nacional de Informações Sanitárias (SNIS) que "o país ainda tem uma dificuldade com o tratamento do esgoto, do qual somente 50% do volume gerado são tratados – isto é, mais de 5,3 mil piscinas olímpicas de esgoto sem tratamento são despejadas na natureza diariamente" (BRASIL. Ranking do Saneamento Instituto Trata Brasil 2022 (SNIS 2020). Disponível em <https://tratabrasil.org.br/images/estudos/Ranking_do_Saneamento_2022/Relat%C3%B3rio_do_RS_2022.pdf>. Acesso em: 23 outubro 2022.

administration, bringing politics closer to citizenship. This is where some of the procedures of deliberative democracy come into play, as will be demonstrated in the next section.

3 INTEGRITY COUNCILS AS A VIABLE PROPOSAL FOR DELIBERATIVE DEMOCRACY TO EFFECTIVELY PROTECT THE FUNDAMENTAL RIGHT TO GOOD PUBLIC ADMINISTRATION

Despite the fact that current times reveal situations of democratic backsliding with the rise of populism in some countries¹⁰, democracy is the regime that still persists in most of the countries of the world, especially in the West. It is true that much of this growth in populism stems from the wear and tear that democracy has suffered over time, especially in view of the disappointment with politics.

However, this disappointment in a way reflects a society that is not yet democratically mature, which ignores the fact that politics will always be disappointing to some degree (INNERARITY, 2017, p. 164), because all our expectations will never be met. But this obviously cannot be an obstacle to society being politically demanding. And this disappointment, unfortunately, ends up in a loss of faith in democracy, since many also end up forgetting that it can never be considered something perfect and finished.

Of course, the pertinence of some criticisms directed at certain pathologies that end up degenerating democracy is not ignored (in this sense, see: RANCIÈRE, 2014, p. 93-94). 93-94), but this does not prevent us from recognizing democracy as the most suitable system of government for protecting human rights, which in no way means that we have the illusion that democracy will ever achieve perfection, since there is no doubt that it will always be confronted with an increasingly problematic reality, and is therefore an unfinished process, as PEDRA rightly points out (2018, p. 217-218):

A democracia tem sido ao longo da história um sonho acalentado pela humanidade que se transmite de geração em geração, assinalando a marcha para a liberdade, a tolerância e a justiça social. O homem, livre e entusiasta, constrói a felicidade e a vida, no esplendor da convivência democrática, com um sentimento de liberdade e de alegre confiança no futuro. A democracia é um processo que vai rompendo os contrários, incorporando, em cada etapa da evolução, um conteúdo novo. A democracia é uma obra inacabada. Nesse sentido, ela nunca se realiza inteiramente, pois, a cada conquista realizada, avistam-se novos horizontes a serem atingidos em busca do aperfeiçoamento humano.

For this reason, INNERATY (2017, p. 130) points out that "democracy is a disappointing political system because it points to unattainable ideas. It is part of its very nature to always be something unfinished and perfectible, just as the course of history is always open". Obviously, however, this observation does not mean that its improvement should not be permanently sought, even though I am aware that for some this search is nothing more than utopia.

And it is along this path of an unfinished project that the development of democracy itself has been perceived throughout history, even with the establishment of typologies, with emphasis on the classification that takes into account the participation of the people in political power, divided into three types: direct, indirect and semi-direct.

¹⁰ A título de esclarecimento, "segundo novo relatório da Freedom House, adentramos o 13º aniversário de uma 'recessão democrática': em cada um dos últimos treze anos mais países se afastaram da democracia do que foram em sua direção" (MOUNK, 2019, p. 9).

It is not the purpose of this article to detail the differences between these three types of democracy¹¹. Nevertheless, using a brief summary, it is possible to say that direct democracy is that which directly exercises political power through meetings in plenary assemblies of the community; indirect or representative democracy is that in which the people do not directly exercise power, but rather representatives elected by the people, who thus exercise power on their behalf; finally, semi-direct, mixed or participatory democracy is representative democracy plus institutes of direct democracy.

This classification reveals the changing nature of democracy, which has evolved over time in the face of the shortcomings of a single, closed model. Just as time has revealed the impossibility of exclusive direct democracy - especially due to the complexity of modern society - it has also revealed that representative democracy is not enough on its own - because "democracy and participation are required, and there is no democracy without participation, without people" (PEDRA, 2018, p. 229). This gave rise to the model of semi-direct democracy, which ended up finding more legitimacy in contemporary democracies, such as Brazil.

Along these lines, the idea of deliberative democracy stands out, also known as dialogic, consensual, inclusive or discursive democracy, which can be inserted into a mixed vision of democracy (NINO, 1997, p. 143). It has a greater capacity to empower citizens, because in this model people are not just asked to vote on decisions that have already been made or are about to be made by governments without having the opportunity to discuss and dialog about what is being put to the vote, as is the case with plebiscites and referendums, which are important instruments, but can be complemented.

In fact, in deliberative democracy there is a more active participation of the people, who have the possibility to discuss what is being deliberated, and it is therefore a more inclusive model, which ends up giving more epistemic quality to government decisions, making them more rational and acceptable, even if not all participants agree, which is impossible in a plural society. But it is precisely because of this aspect that it is possible to glimpse relevant epistemic missions of deliberation, as MENDES (2018, p. 43-44) points out:

Si no es posible llegar a un acuerdo, al menos los deliberadores serían capaces de identificar sobre qué y por qué no están de acuerdo. En este sentido, por medio de la revelación de sus puntos de vista, cada participante en este proceso maximiza la información que podría ser útil para decidir. La amagación de las preferencias propias sería entonces una alternativa mucho más precaria para adelantar las tareas epistémicas de i) revelación de premisas y ii) recopilación de información. Algunos prefieren esta opción, se detienen aquí y consideran que esto es suficiente, pero otros van más lejos. La deliberación alimentaría la capacidad del grupo para llegar a soluciones no previstas por un individuo solitario. La deliberación sería, por tanto, un iii) activo ejercicio de creatividad. Por último, la deliberación también desempeñaría, mejor que los métodos alternativos, una cuarta y menos modesta misión epistémica: si el proceso deliberativo logra ser, a la vez, un buen desinfectante y un informador competente, se tornaría en un iv) privilegiado instrumento para buscar la verdad.

Deliberative democracy is thus an important way out of the paternalism of the state based on a monopoly of knowledge (HABERMAS, 2020, p. 497), which "looks after its subjects as if they were eternal minors and takes care of their happiness" (BOBBIO, 2019, p. 191). It does not aim to

¹¹ Para aprofundar, dentre outros: PEDRA, 2018.

eliminate political representation, but to complement it, aware that political representation is a necessary evil (NINO, 1997, p. 204).

Therefore, there is no doubt that deliberative democracy is important for strengthening democracy itself. Thus, it is possible to defend the application of its principles within the scope of public administration, further democratizing it and protecting it through risk prevention mechanisms, conduct that reveals acts of bad governance and corruption.

But it must be made clear that this does not logically mean that it affects all government matters, because "no one can imagine a state that is governed through a continuous appeal to the people" (BOBBIO, 2019, p. 89), which could give rise to moral populism (NINO, 1997, p. 165). Furthermore, it is worth noting that deliberative reason recognizes its own fallibility, since it repudiates the idea of an oracle carrying the truth, which gives it a greater democratic character, since it tends to privilege inclusion, empathy and responsiveness through the creation of a space where it is possible to mature together, as INNERARITY (2017, p. 279-280) points out:

A ideia de uma democracia deliberativa chama atenção para a centralidade dos processos e das instituições na formação de uma vontade comum com relação a um modelo de democracia entendida como mera negociação de opiniões e preferências já estabelecidas. A esfera pública é um espaço no qual podemos convencer e ser convencidos, ou amadurecer em conjunto novas opiniões. Os debates servem justamente para gerar uma informação adicional que pode confirmar, mas também modificar nossos pontos de partida. No modelo republicano de esfera pública, o que está em primeiro plano não são os interesses dos sujeitos ou as visões do mundo irremediavelmente incompatíveis, mas os processos comunicativos que contribuem para formar e transformar as opiniões, os interesses e as identidades dos cidadãos.

Thus, in some cases it is interesting for representative democracy to be complemented by direct democracy mechanisms and procedures. And one of these mechanisms involves thinking about the creation of integrity councils, which would be one of the aspects of implementing integrity systems in public administration, as will be seen below.

3.1 The adoption of integrity systems to protect public administration and empower citizens: restoring faith in democracy

As has already been pointed out, acts of mismanagement or corruption have traditionally been tackled with a predominantly repressive approach in the criminal and civil spheres, with Law No. 8.429 of 1992, known as the Administrative Improbity Law, standing out in relation to the latter. Although punishment is important and legitimate, even for the perception of the citizens themselves, specialized doctrine has long pointed out that this should not be the *prima ratio*, with prevention undeniably being the best way to trace the gaps and spaces that favor the emergence of mismanagement and, consequently, the flourishing of corruption.

Indeed, there is no doubt that criminal and civil repression of acts of bad governance is above all reactive. This is why it is insufficient to deal with this complex problem, and it tends to be a resounding failure to favor this approach to the protection of the fundamental right to a good public administration. It is therefore past time for prevention in this area to be a mere mirage, and it must be taken seriously as a strategy, becoming a real obligation (MORENO, 2022, p. 317).

Along these lines comes the idea of integrity in public administration, which is a major task in preventing acts of public mismanagement, because it aims to act as a risk prevention mechanism, which is essential for good governance.

It should be clarified that integrity is not to be confused with ethics, which focuses its attention more on people's daily behavior and also on the respective decision-making process, while integrity, despite its polysemic nature, "presupposes an internal and external consistency of virtues that prevents the practice of acts that are inconsistent or in conflict with the personal stance openly assumed, that is, it works in the opposite direction to hypocrisy" (ZENKNER, 2019, p. 46). Next, incorporating integrity into Public Administration, especially highlighting respect for the principle of legality, MORENO (2022, p. 313) conceptualizes it as follows:

A integridade é agir com correção, dentro da legalidade, mas é também administrar corretamente, gerir eficazmente, em suma, tomar as decisões mais corretas, e para isso, a presença de controles e possíveis exigências de responsabilidade, sem diminuir a competência e sua orientação (pensemos, como sempre, no exercício de funções de governo e sua ampla margem dediscricionariade), disciplina a conduta do gestor público a favor de uma melhor tutela do interesse geral, representado nos serviços públicos que definem e tornam realidade, entre outros, os postulados próprios da cláusula constitucional do Estado social, definindo o espaço de dignidade e bem-estar que todo cidadão reclama e o faz acreditar, não por fé, mas por fatos, na democracia real que o acolhe.

This is precisely why modern public administrations around the world are implementing integrity systems¹², what also begins to be seen in the Brazilian Public Administration, and here we can recall initiatives by the Office of the Comptroller General (CGU) which, inspired by Law No. 12,846 of 2013 (the Anti-Corruption Law), has developed and published a series of guidelines in recent years, in which it highlights the importance of implementing integrity instruments and procedures in the public sphere, despite the fact that the aforementioned law is aimed at the private sphere.

This is the right attitude, since the idea of good management to avoid empty spaces that favor acts of mismanagement and corruption should not and cannot be demanded only of private entities, and it is unquestionable that the State itself (direct and indirect public administration), in order to protect itself, must also adopt exemplary instruments (ZIMMER JUNIOR, 2018, p. 519)¹³.

12 Preferimos a expressão sistema ao invés de programa, pois "num sentido geral, o termo 'programa' se refere a algo que se planeja com a intenção de executar mais tarde. Este vocábulo é utilizado em todas as atividades que exigem certa organização anterior, com início, meio e fim. Entretanto, aqui estamos tratando de algo perene, definitivo e que apenas se aprimora ao longo do tempo. A ideia de que um 'programa de integridade' pode, um dia, terminar, soa equivocada. Mostra-se, por isso, muito mais adequada a utilização do vocábulo 'sistema', que pode ser conceituado como uma rede de componentes independentes que trabalham juntos para alcançar um objetivo comum" (ZENKNER (2021, p. 200).

13 A título de esclarecimento, merece destaque o seguinte registro contido no Guia de Implantação de programa de integridade nas empresas estatais: orientação para gestão da integridade nas empresas estatais federais, elaborado pela CGU: "Nos últimos anos, têm ganhado grande destaque as medidas de governança e, especificamente, de conformidade ('compliance') adotadas por empresas em todo o mundo, consolidando entre o público a noção de que estas empresas não têm apenas obrigação de gerar lucros para seus acionistas, mas, também, obrigações mais amplas para a sociedade. Atualmente, faz parte da estratégia de posicionamento e imagem das grandes empresas demonstrar que são responsáveis social e ambientalmente, o que inclui, de forma crescente, a demonstração do compromisso destas empresas em evitar a ocorrência de fraude e corrupção. No caso das empresas estatais, este compromisso em atuar de forma socialmente responsável não está vinculado apenas a uma estratégia de posicionamento empresarial e de imagem, mas, de forma intrínseca, à sua responsabilidade como entidade gestora de recursos públicos, comprometida com os princípios da administração pública" (BRASIL. Controladoria-Geral da União. Guia de implantação de programas de integridade nas empresas estatais: orientações para a gestão da integridade nas empresas estatais federais. Brasília: CGU, dez. 2015. Disponível em <https://wiki.cgu.gov.br/index.php/Guia_%E2%80%93_Implanta%C3%A7%C3%A3o_de_Programa_de_Integridade_em_Empresas_Estatais>. Acesso em 23 outubro 2022).

Thus, in order to adequately protect the fundamental right to good public administration, it is unquestionable that public entities, at all levels and spheres, adopt integrity systems. And by such systems we adopt the following definition from the Organization for Economic Cooperation and Development (OECD): "Public integrity refers to the consistent alignment and adherence to common values, principles and ethical standards to sustain and prioritize the public interest over private interests in the public sector"¹⁴, being a strategic and sustainable response to the protection of good public administration.

It is important to note that for the OECD, traditional approaches based on the creation of strict rules and stricter controls in public administration, although necessary, have limited effectiveness. Likewise the path of repression. This is why the OECD has been defending and promoting the path of prevention through the adoption of integrity systems, which ends up functioning as an important public policy for a kind of anti-fragile Public Administration¹⁵, preventing risks of various kinds, as well as contributing, as highlighted above, to reducing gaps that favor acts that violate the fundamental right to good public administration.

In this way, it is crucial to realize that the integrity system is a set of institutional arrangements that aim to ensure that the Public Administration does not deviate from the primary objective expected by the public, that is, to deliver the results expected by the population in an adequate, impartial and efficient manner.

Along these lines, it is worth mentioning the proposals of the OECD Committee on Public Governance¹⁶, which can serve as inspiration for the Brazilian Public Administration to create a comprehensive and coherent public integrity system. The proposals put forward by the OECD include the following: i) "Demonstrate commitment at the highest political and administrative levels of the public sector to increase public integrity and reduce corruption"; ii) "Clarify institutional responsibilities across the public sector to strengthen the effectiveness of the public integrity system"; iii) "Develop a strategic approach for the public sector that is evidence-based and aims to mitigate public integrity risks"; iv) "Set high standards of conduct for public officials"; v) "Promote a culture of public integrity throughout society, in partnership with the private sector, civil society and individuals"; vi) "Invest in integrity leadership to demonstrate the public sector organization's commitment to integrity"; vii) "Promote a professional, merit-based public sector dedicated to public service values and good governance"; viii) "Provide sufficient information, training, guidance and timely advice for public officials to apply public integrity standards in the workplace"; ix) "Support an open organizational culture in the public sector that is responsive to integrity concerns"; x) "Apply a risk management and internal control framework to safeguard integrity in public sector organizations"; xi) "Ensure that compliance mechanisms provide adequate responses to all suspected violations of public integrity standards by public officials and all others involved in violations"; xii) "Strengthen the role of external oversight and control in the public

14 BRASIL. Organização para Cooperação e Desenvolvimento Econômico – OCDE. Recomendação do Conselho da OCDE sobre integridade pública. Disponível em <<https://www.oecd.org/gov/ethics/integrity-recommendation-brazilian-portuguese.pdf>>. Acesso em: 23 outubro 2022.

15 Que, segundo CASTRO (2017, p. 288), vem a ser “uma Administração que respeita a Constituição, o devido processo legal, a inexistência da verdade sabida, o direito de ampla defesa, as garantias fundamentais de qualquer cidadão, sob pena de – ao mesmo tempo em que produz justiça – deixar escapar sob as barras das nulidades, a clara possibilidade de mudar a realidade”.

16 BRASIL. Organização para Cooperação e Desenvolvimento Econômico – OCDE. Recomendação do Conselho da OCDE sobre integridade pública. Disponível em <<https://www.oecd.org/gov/ethics/integrity-recommendation-brazilian-portuguese.pdf>>. Acesso em: 23 outubro 2022.

integrity system"; xiii) "Encourage transparency and stakeholder engagement at all stages of the political process and policy cycle to promote accountability and the public interest".

It is obvious that these recommendations are not exhaustive and that there are many other developments that could result from them in the search for more effective protection of the fundamental right to good public administration. We argue that one of these developments is to allow greater participation by the people (the administered) in this crucial issue that affects their lives. Yes, because good governance reflects on the health of cities and, consequently, on the quality of life of the citizens of the polis.

That's why the polis can never be seen as an entity separate from the community of citizens who can collaborate in its proper functioning, since it is an arrogant, narcissistic and paternalistic attitude to understand that issues involving the Public Administration cannot be sought outside its structure, as if the administrators were mere ornaments to eventually legitimize decisions already made by the "owners of the truth".

Along these lines, it is necessary to reflect on a more direct participation of the administrators, which gives them a greater sense of belonging, allowing them to also be confronted with problems relating to the proper functioning of the Public Administration. This is where the interesting path of integrity councils comes in.

3.2 Integrity councils within the public administration: creating deliberative spaces to prevent acts of public mismanagement

It is perfectly possible to extract from the Federal Constitution itself a greater increase in popular participation in government acts, which ends up falling within the issue of social control of public administration, which manifests itself in various ways, such as, for example, reading the Official Gazette, requests, complaints to public bodies, letters, manifestations through ombudsmen, views of administrative processes in public bodies where they are available, verbal complaints to the Administration itself, to the State Prosecution Office, to the Court of Auditors, to the Legislature, etc. (SIRAQUE, 2005, p. 109).

Along these lines, it is interesting, for the purposes of this study, to highlight the social control carried out by means of public policy councils, which are collegiate bodies (made up of representatives of the public authorities and civil society) created at the initiative of the executive (the federal government, states and municipalities) and which constitute a form of decentralization of administration, which began to gain more momentum after the 1988 Federal Constitution, as can be seen in various constitutional provisions. For example, it is enough to look at article 29, XII, which provides for the cooperation of representative associations in municipal planning; articles 194, sole paragraph, VII, 198, III, 204, II, 206, VI and 227, § I, which establish the democratic and decentralized nature of administration in the areas of social security (health, welfare and social assistance), education and children and adolescents, among others, through the participation of civil society in the management of public policies.

Therefore, it is unquestionable that the Federal Constitution, by allowing and encouraging more popular participation in certain cases, ended up constitutionalizing the decentralization of public administration, which ended up having repercussions on the federal legislation.

In fact, as an example, it is enough to recall the Cities Statute (Law No. 10.257 of 2001), which in its art. 43, I, enshrining the principle of democratic management of cities, provides as one of the essential instruments the existence of "collegiate bodies of urban policy, at the national, state and municipal levels". Another noteworthy example is the National Urban Mobility Policy (Law No. 12,587 of 2012), which in its article 15, I, provides for the need for "civil society participation in the

planning, monitoring and evaluation of the National Urban Mobility Policy", which should be ensured, among other instruments, by "collegiate bodies with the participation of representatives of the Executive Branch, civil society and service operators". Finally, it is worth remembering the National Environmental Policy (Law No. 6.938 of 1981, which created the National Environmental Council (CONAMA).

These councils end up being important mechanisms for strengthening the collective fabric of mutual care, which is extremely important in a society marked by narcissistic individuality like the current one, which is increasingly losing the idea of collectivity and otherness. Not only that, but these councils inexorably end up being of great importance to the principles of good governance, because the participation of society in discussions gives decisions more legitimacy and acceptance, endowing them, as already noted, with more epistemic quality, thus creating true "epistemic communities" (INNERARITY, 2017, p. 279).

And the idea of social councils is perfectly in line with the evolution of democracy itself, especially since "democracy is not only government for and of the people, but also by and for the people" (NINO, 1997, p. 133). In fact, as seen above, it is now possible to argue that the idea of a purely representative democracy has been overcome, especially in the face of an increasingly present pluralism, which demands a sharing of power that can no longer be restricted to public managers, since many administrative decisions that have repercussions on the lives of citizens must be shared with civil society, because the exercise of citizenship does not end with the vote, and there is no longer any way to defend the existence of enlightened managers, such as despots. Along these lines, RIBEIRO (2017, p. 61) points out:

Tratando da democracia antiga, Paul Veyne afirma que a nau do Estado não tem passageiros: na imagem grega do espaço político – numa sociedade que conhece a democracia direta e não a representativa, e que ignora os direitos humanos –, só há piloto e tripulantes. Ninguém vive na pólis somente pagando os impostos: participar é essencial.

It is therefore clear that participation is fundamental to the modern concept of democracy, and that the exclusively representative model, which, as we have seen, has proved to be insufficient, although still necessary, should be a thing of the past. That is why this model must be complemented by mechanisms of direct democracy, which "implies the direct and personal exercise of citizenship in the acts of government (PEDRA, 2018, p. 246).

And this participation ends up being even more enriched when the ingredient of deliberation is inserted, which we believe is fundamental for the efficient protection of good public management, since there is no longer any doubt that in many cases managers are unable to solve all the problems that arise in society without the participation of society itself, and it is necessary, as HABERMAS (2020, p. 556) says, for there to be a "democratization of administration":

Uma vez que a administração não pode deixar de recorrer a razões normativas ao implementar programas legais de conteúdo aberto, essas etapas de regulamentação administrativa deveriam ser cumpridas em forma de comunicação do Estado de direito. Isso implica uma 'democratização' da administração que vai além do dever de prestar informações públicas, complementando o controle parlamentar e judicial das atividades administrativas a partir de dentro. Mas, se para tal democratização o mais adequado seria a participação dos concernidos nas decisões administrativas, a ativação de mediadores, procedimentos análogos aos tribunais, consultas populares etc., ou seria necessário encontrar outros mecanismos para um âmbito tão suscetível a perturbações e tão dependente de critérios de eficiência, essas questões, como sempre em inovações

desse tipo, só podem ser respondidas pela combinação de imaginação institucional com experimentação cautelosa.

And this has not gone unnoticed internationally. To illustrate, it is interesting to highlight the provision contained in art. 13 of the United Nations Convention against Corruption (incorporated in Brazil by Decree No. 5.687 of January 31, 2006), which encourages the participation of people and groups that do not belong to the public sector in preventing and confronting public corruption. Although it only talks about corruption, this guideline should be applied to issues relating to public mismanagement, because in most cases corruption flourishes when the principles that inform the fundamental right to good public administration are not observed.

Encouraging direct participation in public decision-making, even discussing problems related to better protection of public administration, serves as a stimulus to rescue part of the frozen citizenry, which is increasingly losing interest and trust in government actions that impact on their lives, such as public policies.

And this participation, it is important to remember once again, is guaranteed in several constitutional provisions, starting with section II of art. 1, which textually emphasizes that the Federative Republic of Brazil is founded on citizenship. This encourages the exercise of truly active citizenship, as SIRAQUE (2005, p. 129) points out:

Os conselhos de políticas públicas têm função pedagógica na formação da cidadania ativa e, por isso, são instrumentos que promovem a educação política do povo, tanto para a participação popular como para o controle social das políticas e dos serviços públicos. Quando a formulação e a gestão das políticas públicas são partilhadas entre os conselheiros do Poder Público e os da sociedade, temos participação popular; quando os conselheiros eleitos pela sociedade fiscalizam e acompanham a execução dessas políticas, temos o controle social. Porém, o controle realizado pelo conselho, enquanto órgão colegiado estatal, é uma mescla de controle institucional e social concomitante. E, ainda, é um misto de controle institucional interno com o controle institucional externo. O controle institucional interno ocorrer quando é feito pelos representantes do Poder Público, e externo, quando realizado pelo conselho como órgão independente da autoridade responsável pela execução da política ou do serviço público definido pelos conselheiros.

Finally, the creation of integrity councils within the public administration cannot be seen as a kind of direct democracy fetish, much less a return to the Athenian democracy model in which the people, gathered in assemblies, participated in all acts of government. This is not the case, because what is being argued is that these councils can be an important procedure for seeking the desired balance between representative democracy and the mechanisms of direct democracy, and can make a significant contribution to preventing acts of bad governance and corruption.

Not only that, but such councils can have a positive impact on the formation of thinking and participating citizens, thus enabling everyone to be effective citizens and not immature collectives¹⁷, this is an important antidote to frustrations over public decisions that impact on the

17 Sobre esse ponto, ao criticar a lógica de que a gestão pública como atividade política fique ancorada apenas no objetivo de obtenção de voto como meio para alcançar o poder, são oportunas as seguintes considerações de MORENO (2022, p. 141): “Tudo isso convertendo uma parte não desprezível de cidadãos em um coletivo imaturo incapaz de vislumbrar o precipício ao qual está sendo empurrado com uma gestão que abandona o olhar da consideração do bem comum em longo prazo ao dilatar enganos sobre a realidade de uma situação orçamentária crítica ou propondo falsas decisões públicas que, tratando de ganhar tempo, finalmente têm como resultado uma grande frustração ou inclusive um sofrimento social que, individualizado, é ainda mais doloroso”.

lives of the community, which ultimately helps to restore confidence in the Public Administration and, consequently, in democracy.

Finally, the creation of integrity councils within the Public Administration provides an environment conducive to a critical democracy, which aims to remove the citizen (the administered) from passivity or mere reactivity, because "it wants to make them an active force, capable of initiative and, therefore, of political projects drawn up by themselves. In short: a people that is the subject of politics, not the object or instrument" (ZAGREBELSKI, 2011, p. 143).

And integrity councils, insofar as they create conversational bridges between managers and the administered, end up being ideal environments for correcting errors, being an important mechanism for the efficient protection of good public management, which is crucial for achieving the strategic objectives of the Federative Republic of Brazil, for a truly dignified life. This is why it is impossible to accept puerile allegations such as "lack of time", since "people without time give rise to an indistinct and therefore totalitarian mass democracy which, by condemning those who do not conform, deprives itself of criticism and the possibility of self-criticism, that is, the possibility of correcting itself with its own mistakes" (ZAGREBELSKI, 2011, p. 149).

4 FINAL CONSIDERATIONS

It is always desirable to find a balance between the requirements of representative democracy and the demands of popular sovereignty. This is why modern instruments of direct democracy complement indirect democracy, which logically has to be done with the necessary prudence, with the aim of collectively seeking the best answers to satisfy society's interests.

Along these lines, in order to protect the fundamental right to good public administration, this essay advocates the creation of integrity councils, which can be important instruments of direct democracy and which are pedagogical for a civic culture, since they allow the average civic coefficient of the society to rise, giving rise to the exercise of active citizenship. This is why it is perfectly possible to think about and encourage the creation of such councils at federal, state and municipal level.

They would play an important role in public policies related to the implementation of integrity systems in Public Administration, notably because they allow not only citizen participation in this issue, but also dialogue and deliberation, which undeniably favors criticism and is an antidote to reducing the empty spaces that favor acts of public mismanagement and corruption, since dialogue and discussion qualify administrative decision-making, making them epistemologically superior.

Finally, with the creation of integrity councils, citizens are empowered in relation to issues linked to the fundamental right to good public administration, which can have a multiplier effect on civil society as a whole, rooting the ideal of integrity in people's hearts, bringing with it greater civic maturity, contributing to the recovery of faith in public institutions and, consequently, in democracy itself.

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