Interactions between Public Prosecutors and NGOs for Citizenship: Three Case Studies in Brazil

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Abstract
This study focuses on the contribution of public prosecutors and non-governmental organizations (NGOs) to the enforcement of rights in Brazil. The 1988 Constitution redefined the role of public prosecutors, making them independent of the three powers and responsible for defending the rights of society rather than defending governments. The number of NGOs has increased significantly and now they are involved with public policies, legislative debates and judicial disputes. Firstly, a brief discussion is made about the growing involvement of these agents in Brazil’s socio-political agenda and their insertion in two contemporary historical processes: the judicialization of politics and the empowerment of civil society. Next, three cases concerning the interaction between federal prosecutors and NGOs are studied. Such partnerships have in common the fact that they were formed to deal with cases in which the law was violated, but its legitimacy was not questioned. The three cases are: demand for the improvement of facilities in public buildings in Rio de Janeiro for persons with disabilities (with the NGO IBDD); demand for the inclusion of children with disabilities in regular schools (with the NGO Escola de Gente); and combat to pedophilia and discrimination on the internet (with the NGO SaferNet). These case studies illustrate opportunities and limits of the interaction between the public prosecutors and the NGOs in the defense of citizenship rights.

Keywords: citizenship; state-society relations; public prosecutors; NGOs.

1. INTRODUCTION

Scene 1: in a judicial hearing, federal, state and municipal governments are convicted to ensure accessibility of the public buildings in Rio de Janeiro. Scene 2: in a congress, college students discuss the access of disabled children to regular schools. Scene 3: a workshop for teachers discusses how to teach children and young people to navigate the Internet without risks such as the release of photos desired by pedophiles. In these scenes, the protagonist role is shared by public prosecutors and nongovernmental organizations (NGOs), whose institutional strengthening and punctual interactions are analyzed here. In this text, I study the cases that gave rise up those scenes and I draw conclusions on possible contributions of these partnerships for citizenship.

At the root of the alliances among these agents of the state (Public Ministry) and civil society (NGOs) there is the difficult enforcement of rights in the country. The gap between law and everyday life, already visible in the silence of the first Constitution (1824) with regard to slavery which was the basis of the economy, has been studied by several generations of social scientists. To contribute to this debate, I discuss, from the

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perspective of political sociology, how this persistent problem is approached by the new relationship between the state and the civil society seen in partnerships between public prosecutors and NGOs.

In the last three decades, political, economic and cultural changes affected the state, society and their interactions. In a civil society more active and articulated, NGOs have gained momentum not only in the defense of rights, but in the implementation of social policies. For that, look for results through the Executive, Legislative or Judicial. In Brazil, the expansion of NGOs was parallel to the redefinition of Public Prosecutor’s Office in the 1988 Constitution. From an institution of the Executive in favor of the interests of governments, it became independent of the three powers and responsible for advocate the rights of society.

In the second section, I articulate the strengthening of public prosecutors and NGOs with the revalorization of the judiciary and the civil society in Brazil and worldwide. I discuss their inclusion in the processes experienced by both: the judicialization of politics, in which omission of the Executive and the Legislative gives rise to the action of the prosecutors; and the activism of civil society, that reflects the desire of citizens to participate in public decisions through alternatives to elections and bureaucracy.

The third section discusses the interactions between these agents from a review of the literature devoted to them. To this end, I reflect on the predispositions of those actors to a partnership after a freely use of a model by Tilly (1978) for collective action, which would result from a set of variables (interests, organization, mobilization and opportunity). I use this model cause I judge that it is useful to analyze different types of collective actions, besides the political struggles studied by that author.

The fourth section contains three case studies of partnerships between NGOs and the Federal Public Ministry (FPM: Ministério Público Federal). These studies are based on the reading of court records and other documents, interviews with four prosecutors and three NGO leaders and observations of meetings and other events. To have strong hypotheses about the pros and cons of each agent and of dynamics that seem promising to citizenship, I focus on alliances with different motivations, strategies and results, but with the common goal of acting against law violations in which the legitimacy of the law was not questioned:

- accessibility of public buildings in Rio de Janeiro: the Instituto Brasileiro dos Direitos das Pessoas com Deficiência (Brazilian Institute of the Rights of People with Disabilities) brought a public lawsuit to make federal, state and municipal governments fulfill, in Rio de Janeiro, the decree for the accessibility of public buildings. Public Prosecutor’s Office has joined as a coauthor and Justice ordered the adjustments until May 2010.
- inclusion of children with disabilities in regular schools: FPM and Escola de Gente spread the constitutional interpretation in favor of full equality of access and stay in regular school. The partnership resulted in debates with college students, professional journals and clashes with opponents of inclusive education.
- fight against pedophilia and discrimination on the internet: the alliance between FPM and SaferNet led to the breach of confidentiality of data and identification of people who
offer content of child pornography. It includes collecting denounces of virtual abuses against human rights and workshops for teachers to alert their students about that.

The case studies, although inhibit generalizations, allow to evaluate opportunities and limits of alliances, that are isolated cases due to mutual distrust. The conclusion summarizes the argument, identifies repertoires of interaction between public prosecutors and NGOs and indicates issues for further research.

2. NEW SOCIO-POLITICAL ACTORS AFTER DEMOCRATIZATION

The end of military rule in 1985 signaled a new direction in relations between state and society in Brazil. The 1988 Constitution provided the expansion of rights, decentralization of public policies and creation of channels of participation. Two novelties of the Constitution are particularly relevant here: the institutional redesign of the Public Ministry and the new spaces for NGOs act in state activities, such as auditing of accounts, proposing policies and reporting irregularities.

Besides making prosecutors independent of the three Powers, the Constitution added the protection of collective rights as a new role, beyond the criminal prosecution, similarly to the foreign counterparts. In addition to the defense of collective rights, which dispenses with the instruments linked to political rights (elections, referendum, plebiscite), it was adopted the constitutional control (via direct actions of unconstitutionality), which generated forms of participation of the Judiciary in the performance of the Executive and the Legislative.

The NGOs, in turn, could make claims based on a Constitution with more civil, political and especially social rights. Moreover, since 1988, the principle of popular participation referred in the constitutional text became present in Public Policy Management Councils, involved in areas such as health and social care.

Because the new constitutional instruments available to prosecutors and NGOs are not enough to understand how they were strengthened to enforce rights, I address the issue by examining them in processes experienced by both: the judicialization of politics, linked to the intervention of public prosecutors (section 2.1) and civil society activism, as evidenced in the new interactions between NGOs and the state (2.2).

2.1. Public Ministry and judicialization of politics in Brazil

The judicialization of politics – the involvement Judiciary in decisions originally the Executive and the Legislative – is motivated both by the ineffectiveness of these powers to meet popular demands as by the expansion of rights and access to justice and the reorganization of the Judiciary. In Brazil, it did not start by the action of judges or public prosecutors, but by the work of constituency of 1988, despite that was not his intention (Werneck Vianna, 2008).

Werneck Vianna et al (1999) distinguish two phases of the judicialization of politics after 1988. Earlier, representative democracy was more highly valued – especially
with the then favoritism of the presidential candidate identified with social change – while participatory democracy, associated by the Constitution with the judicialization of politics, was restricted to isolated and frustrated attempts of prosecutors and institutions of civil society to bring claims to court. This trend was reversed in the 1990s, for reasons that included the use of control procedures of abstract rules.

Have been equally relevant to this result the increasing internalization by prosecutors of their role in public actions, when in many cases, acts as an institution that mobilizes the participation of social groups, the changes in the judiciary through the influence of external pressure for democratizing, or through by movements originating in the corporation itself and, last but not least, the changes that have passed the imagination of civil society, especially within its poorest and most unprotected groups that after the process to turn the state illegitimate as an institution of social protection, have been looking to find a substitute place in the Judiciary, as in public actions and the Special Courts for their expectations of rights and of acquiring citizenship. (Werneck Vianna et al, 1999: 42)

As the judicialization of politics proliferated, it became most studied, such as in the analyzes of Werneck Vianna and Burgos (2005) and Casagrande (2008), which, like this text, gather case studies with Public Ministry. The first authors focus on four initiatives of the Public Ministry (three public lawsuits and a term of behavior adjustment) that show the creative relationship between the institution and the legislation. There is a construction, based in constitutional law and other sources of law, of an argument with the viewpoint of the citizen. Also, the effectiveness of the decision is judged not only by the immediate and tangible impact but by its repercussion on organized civil society. The authors associate the progress of the judicialization of politics with the retreat of the state of social welfare and the erosion of republican institutions and associational life.

Studying five lawsuits won by prosecutors, Casagrande (2008) attributes the public prosecutors a key role in the judicialization of politics. Their intervention, especially with the public lawsuit, gives another dimension to the judicial decision, because its density increases the scope of conquest, and its defense of a group overcomes the problem of so-called "parity of arms", "their rights are expressed in a professional manner and on equal terms with governments" (Idem: 273).

One of the actions examined was proposed by FPM in 2000 from a complaint of the NGO Nuances against National Social Security Institute (INSS, in the original). It aimed to guarantee pension rights for homosexuals, like the application for registration of pension and companions as dependents. After the initial victory of FPM, the INSS appealed, but it was ratified that the relation of INSS to homosexual couples should be equal to that of stable unions between heterosexuals. Here is a clear example of this power of justice to act in cases where Executive and Legislative would not have accompanied the evolution of customs. More than that, the case highlights the potential of partnership between public prosecutors and NGOs.

As in other countries, the debate of judicialization of politics in Brazil is less and less restricted to agents of law and politics. Recent trials at the Supreme Court, as on the
use of stem cells in research and the demarcation of indigenous lands, in 2008, generated criticism to justice among some sectors of society. Between these critics, I highlight (i) lack of legitimacy in the decisions of the judges because they are not endowed with power by the vote, (ii) technical inability of judges and public prosecutors, who lack experts to support decisions, (iii) risks to markets, as legal uncertainty that could inhibit investment and (iv) the imbalance of power with the Judiciary assuming roles of the others.

2.2. NGOs and civil society activism in Brazil

The revalorization of civil society, global phenomenon in the last three decades (Cohen and Arato, 1994; Kumar, 1996), is associated with the emergence of solidarity as a principle that is added to the authority resources and market, and renews the public agenda and the ties between state and civil institutions (Reis, 2006). In Brazil and the world, the activism of agents such as NGOs, community councils and local associations has been highlighted on traditional associations as parties and unions. Since democratization, space was opened up to civil society, whose organizations turned into allies of the state in social policies and are now more than 14,000 entities (Brazil, 2008).

The term "nongovernmental organizations", initially naming consultants of the United Nations in the 1940s (Landim, 2002), has become popular since then relating to a group of organizations difficult to define. To Koslinski (2007), there is no agreement in concept, but two points seem consensual: (i) are self-governed, with its own structure, and (ii) belong to the private sphere, although some receive government funds. The controversial points, according to the author, comprise: (i) the inclusion of informal organizations, (ii) the adoption of the definition of "nonprofit" or "not for profit", (iii) the inclusion only of voluntary organizations or professional, and (iv) the inclusion of organizations based on members.

In Brazil, the NGOs date back to social movements of military period that were associated with changes in corporatist relations between state and society, modernization, urbanization and social diversification, the expansion of media and access to university (Landim, 2008). Inspired by Liberation Theology, sectors of the Catholic Church supported the organization of society by the opponents of the regime. The embryo of NGOs, the "popular education centers" established in the 1960s, gained autonomy acting beyond the advisory to defense movements of marginalized people.

The initial alliance with the Church and foreign entities, source of money particularly relevant to the exiles abroad, explains the decision of NGOs to position themselves "looking back to the state" (Landim, 2002). This aversion is caused by the perception of state vices as barriers to the construction of citizenship, such as the risk of political cooptation.

In the 1990s, the state became seen as a potential partner, whose policies would be influenced by formal and informal channels of participation. There was a bigger
interest of NGO in activities such as joint management, policy proposals and controls (Landim, 2008). State actors have also become more strategic to the new egalitarian movements or for the recognition of identities, like the black movement, the landless, groups for sexual equality, homosexual and human rights. Many NGOs were created around these causes as a product of democratization and the expansion of rights in the current constitutional text.

New spaces for civil society in the public sphere – as the Public Policy Management Councils, participatory budgets and public hearings – have attracted NGOs. Some of the milestones in their history were the establishment of the Brazilian Association of NGOs – ABONG (1991), the Conference on the Environment (1992) and the National Campaign Against Hunger and Poverty (1993).

State and NGOs did not only got closer with the steps of the latter, but after a new vision of state officials about their role and performance. In the Fernando Henrique Cardoso administration (1995-2002), civil society became more responsible for public policies, helping the state and controlling public spending. Examining his presidency, Cardoso (2006) argues that social policies in a mass democracy would depend on new connections between state and society. In this logic stands the creation of the Civil Society Organizations of Public Interest (Organização da Sociedade Civil de Interesse Público), title given by federal government that requires transparency and other aspects and facilitates agreements with the state. The law defined the OSCIPs as private entities nonprofit and with social goals as the promotion of free health and education.

The state’s interest in dialogue with civil society is associated by authors as Dagnino (2004) and Medeiros (2008) with the insertion of the government in the neoliberal adjustment agenda, which included the reduction of state action in certain areas and less regulation and control over social and economic spheres, like labor relations and services. As noted previously (Lopez et al, 2009), this insertion has also implied delegation of responsibilities to organized groups of society, what some analysts saw as a reduction of state responsibilities to social policies, but that flourishes in the context of a civil society more active.

3. INTERACTION BETWEEN PUBLIC PROSECUTORS AND NGOs

How and why public prosecutors interact with NGOs? What are the opportunities and risks of these alliances? Before the case studies, I discuss these and other aspects based on the literature and on the model of collective action that Tilly (1978) used to study the transformation of the power struggles in political revolutions. I apply this concept in a different context because I believe that it is valuable to joint actions of actors who do not even aspire to political power or revolutions.

I approximate the experiences of public prosecutors and NGOs of the elements of collective action viewed by Tilly: interests (profit and loss of the interaction of groups); organization (structure for the group act on their interests); mobilization (collective
control of resources needed for the action); opportunity (relationship between the group and its world); and collective action (joint action with common interests). According to Tilly, the intensity and character of collective action vary with arrangements of these factors.

3.1. Interests and organization

The relationship between organization and mobilization raises a question in Tilly: how to indicate, in any time or place, which are the important interests and how those involved gather them? Defining mobilization as the transformation of a passive set of individuals in an active group in public life, Tilly believes that the mobilization is affected by interest (desire to interact with other groups) and organization (the extent to which this creates a distinct category and a dense network).

What do public prosecutors and NGOs win or lose working together? Naturally, each has an own expertise, so that an interaction may add strengths and minimize weaknesses. While prosecutors have wide legal knowledge (considering their approval in competitive selections), professionals of NGOs get specialized in causes (education, health, minorities, etc.) and discuss technical issues with ease. In my interviews, the complementarity of knowledge was cited by all as the main motivation of both sides.

Among the similarities in the agenda of public prosecutors and NGOs, Macedo Jr. (1999) cites the relative autonomy from the government and the private sector, common interest in enforcing rights and getting harmonic resolution of social conflicts, and the protection of rights and citizenship of those excluded. This aspect would forge alliances among a significant group of NGOs and public prosecutors:

> There are many reasons and advantages for this to occur. Among those worth mentioning: 1) reducing costs and risks, to NGOs dedicated to advocacy, for the lawsuits sponsored by prosecutors and to the preliminary investigation, especially due to the existence of the civil inquiry (...); 2) the advantage of NGOs could devote to forward complaints to prosecutors, who may rely on an effective reporting mechanism on violations of such rights; 3) the possibility of judicial and extrajudicial measures taken by Public Ministry have their symbolic and educational purposes substantially expanded through the connections and influence of NGOs with the media. (Macedo Jr., 1999: 257)

Once seen some advantages of this dialogue, I seek possible disadvantages in the fears of NGOs in approaching the state according to Sanyal (1997): cooptation (becoming "arm of the state"), bureaucratization (getting heavy and inefficient as the state), corruption (affecting its social legitimacy) and loss of innovation (due to state dependence). Assuming that the alliance with the prosecutors would be only one line of action of NGOs - what is not deducted from the partnerships with the Executive - I rule out the risks of bureaucratization and loss of innovation.

Fears of corruption and cooptation cannot be dismissed, but their requirements are not consistent with the structure of the Public Ministry. Regarding the cooptation,
there seems impracticable that the institution would subordinate social actors and suppress their voice. If, as Schwartzmann (1988: 37) says, "political cooptation tends to predominate in contexts where government structures strong and well established historically precede political mobilization efforts of social groups", the parallel strengthening of public prosecutors and civil society contradict this hypothesis.

To evaluate the gains and losses of an interaction for the prosecutors, I find an explanation clue in the perception of Bonelli (2002) that the biggest change in the institution refers to the definitions of "professional" and "political" and to the internal disputes over where is the line between these fields. Though her focus was the speeches about professional ideology of the prosecutors in Sao Paulo until the 1990s, their conclusions would have greater scope:

The cleavages in the sociability of the members of the institution, in mid-1990, reflect the degree of tension around the definition of which concept of professionalism would predominate in the group. Today, it is remarkable the one that accentuates the difference of the profession in relation to politics, preserving it at a level different from the other contenders. Other content is questioning the politics of the profession, which seeks to characterize itself as anti-politics. (Bonelli, 2002: 191)

This perception of the relationship between profession and politics can develop resistance in the prosecutors towards the alliance with entities with their own agenda, such as NGOs. Prosecutors averse to political action (opposed to professional, in this case) would be less susceptible to such partnerships. Another useful distinction here is the typology of Silva (2001) of "office prosecutor" vs. "fact prosecutor". Her proposal allows identifying the members’ profile of those interested in dialogue with NGOs:

I will define the prosecutor of office as the one that, although it uses extrajudicial procedures in performing their duties, gives as much or more relevance to the proposition of legal measures and the examination and opinion of court proceedings. (...) But prosecutor of facts, even when proposes judicial measures and conducts bureaucratic activities related to their areas, gives as much or more importance to the use of extrajudicial procedures, mobilizing community resources, engaging governmental and non-governmental organizations and acting as a political articulator. (Silva, 2001: 91)

This proposal of ideal types, as an analytical construction in Weberian tradition, exposes profiles diametrically opposed useful to the classification of prosecutors: those willing to "act outside the office" would be more likely to interact with civil society actors.

The juxtaposition of the proposals of Sanyal (1997), Bonelli (2002) and Silva (2001) allows not only to identify interest in a partnership, but to clarify the organization, seen by Tilly (1978) as the group structure that allows it to act on its interests. As I already discussed the recent development of public prosecutors and NGOs (section 2), I refrain from exposing aspects of each organization apart.
As for the joint organization, I see three patterns of interaction in the enforcement of rights: through the courts, filing a lawsuit against a violation of the law; outside the courts, demanding respect for the law, using instruments such as recommendations and terms of behavior adjustment; and in a course that joins the other types. The case studies illustrate these three ways.

3.2. Mobilization and opportunity

By adopting the model of collective action of Tilly (1978), I analyze together the mobilization (collective control of resources required by the action) and opportunity (relation between the group and its world). The study of mobilization in a partnership between prosecutors and a NGO involves assessing the resources needed and that must be controlled by both. A primary resource in the three cases discussed is the legislation on a right not respected and a common interpretation about that. There are NGOs who make complaints to prosecutors based on distinct views and this contrast of views can inhibit an alliance between them.

Other features required in a collective action refer to the central issues for NGOs according to Pearce (1997): legitimacy and accountability. The sources of legitimacy, related to its effectiveness as organizations, and accountability relationships, developed with donors, government and beneficiaries, are seen by the author as critical for NGOs to avoid the risks of irrelevance or cooptation. From the interviews for the case studies, I observed that legitimacy and accountability are also requirements for the Public Ministry to have them as partners.

Although a public lawsuit may be brought by NGOs and public prosecutors, the legal provision of the latter to conduct the civil inquiry, demanding explanations from public and private agents, makes the partnership attractive to NGOs even outside the Judiciary (in the judicial process, the interests in an interaction with prosecutors are more evident). Thus, while prosecutors may request information based on the authority conferred by law, NGOs are able to gather information about the cause in which they are specialists.

The opportunity, another element of the collective action in Tilly (1978), decomposes into repression, power and opportunity/threat. A collective action is subject to repression (or tolerance or facilitation) by the scale of action and the power of the group. The repression is more likely the larger the scale of action and the lower the power of the group. A union between prosecutors and NGOs tends to form a strengthened group with limited range, but a broader action may generate other types of protest and repression, as noted in the second case.

The power of a group is the extent to which their interests prevail over the other, so it always relates to (i) another group or set of groups, (ii) an interest or set of interests and (iii) an interaction or set of interactions. The joints between prosecutors and NGOs would have the power certificated according to the groups, interests and interactions that are united in their opposition, making unviable a hypothetical approach of this component.
The opportunity (subjection to new claims that enhance the performance of the rival’s interests) is interwoven with the threat (subjection to claims able to placate such interests). The exam of the opportunity is similar to the one of power because it refers to interests, groups and interactions, but includes perceptions and expectations of the actor. In this regard, the union between prosecutors and NGOs is naturally viewed by both as an opportunity.

Tilly (1978) admits that one weakness of his model of mobilization is not taking into account the time, what simplifies the analysis, but difficults assessing the mutual influences, such as between station power and collective action. Although this model is based on aggregated data on the volume of action, resources and collective goods, I used it freely in order to delineate the components of collective action inherent in the partnerships between the two socio-political actors studied here. Over time, the forms of collective action change, what leads Tilly to adopt the concept of "repertoires of collective action". The question he begins to ask is: how do the repertoires change?

In short, his answer includes factors such as (i) prevailing patterns of rights and justice, (ii) daily routines of the population, (iii) internal organization of the population, (iv) experience gained in collective action, and (v) pattern of repression. These elements help to understand how the predominant forms of litigious collective action has changed in the West because of processes such as the development of large industry, the expansion of the cities, the formation of powerful national states and the spread of capitalism. However, the idea of the repertoire of collective action is also useful, as I show below, to the analysis of interactions between public prosecutors and NGOs.

4. Studies of partnerships between public prosecutors and NGOs

The judicialization of politics and the activism of civil society are interwoven with the recent strengthening of the Public Ministry and NGOs. The former started to defend collective interests with instruments inside and outside the courts, while the latter got closer to the state to participate more of public decisions. To note the opportunities and limits in interactions between prosecutors and NGOs to enforce rights, I studied cases of different partnerships.

These studies follow a script in three steps: a brief description of the social conflict that led to the convergence between FPM and NGOs; summary of the interaction; and presentation of the results. Finally, I gather considerations about the impacts of the alliances.

4.1. Accessibility of public buildings in Rio de Janeiro

Until June 2007, all buildings for public use in Brazil should have free access for people with disabilities or reduced mobility. This adaptation period was given by Federal Decree 5.296/04, known as the "law of accessibility", but many public institutions have not adapted more than five years later. In Rio de Janeiro, the
municipality, state and federal union had disrespected the decree and were convicted to make their buildings in the city accessible until May 2010. The ruling resulted from a lawsuit brought by the Brazilian Institute of the Rights of Persons with Disabilities (IBDD). The NGO sued the three levels of government to enforce in 180 days the decree, under penalty of daily fines of more than R$ 50,000.

The suit was purposely moved the day after the deadline for compliance with the law: in June 4, 2007 (interview with the lawyer in January 2010). Two months later, the court gave an injunction (interim order, valid until the ruling) for federal, state and municipal buildings become accessible within one year, subject to a daily fine of R$ 10,000 per building. According to the judge, "there is no negative or resistance to the right of disabled access to public buildings, federal, state or local" and the defendants’ argument was "mostly practical". Another hearing would evaluate the injunction in three months.

4.1.1. Interaction: FPM becomes co-author of lawsuit brought by IBDD

The injunction ordered that the lawsuit and the day of the hearing would be reported to the Federal Public Ministry, which was called to opine based on its experience conducting a civil inquiry on the matter. A month later, professionals of IBDD and the prosecutor responsible for the inquiry met in a reunion to address this and the lawsuit brought by the NGO (according to both, the NGO had requested a meeting before, but it only happened after the injunction). Present were two professionals from the Regional Council of Engineering, Architecture and Agronomy (CREA/RJ), whose manual of inspection would be used to assess the accessibility of each building. For the prosecutor, the injunction was decisive:

Without the injunction, there would exist a contestation, probably there would not be even hearings. There would be a ruling - and it probably would be favorable because there is no question about that right - but there would not have had this good path of hearings of defendants with the authors. Then, the representatives of municipality, state and federal union had how to ask to their agencies: they had a deadline, a hearing to show what was being done. (Interview, January 2010)

The injunction was reexamined in November 2007 in the presence of the federal prosecutor, of the president and two lawyers of IBDD, and of attorneys of municipality, state and federal union. The court reports indicate, among other facts, that the NGO presented a report from CREA/RJ with an inspection of buildings and then declared to have not enough data and resources to make a systematic list in the terms of the injunction. The defendants, in turn, defined priority areas for adaptation, focusing on places of bigger public access, and undertook to submit, by January 2008, a study of public goods and the condition of accessibility in the priority areas. Finally, the judge made two decisions that deserve mention: approved the intervention of FPM in the process, making it coauthor of the public lawsuit, and upheld the injunction already granted. In three other hearings in 2008, the defendants reported their initiatives to comply with the injunction.
Among the defendants, the municipality brought more difficulties to FPM and CREA to quicken the proceedings, so the judge ordered that, after the change of the mayor, that would be sent “a warrant reporting the existence of this demand, as well as all the advances until that date, asking for the enforcement of the rights of the disabled in the territory of the municipality of Rio de Janeiro, as a priority public policy” (my emphasis). This order is a striking evidence of the judicialization of politics, because the prioritization would come from the Executive, which states public policies, or from the Legislative, which endorses them voting on the budget.

4.1.2. Results: municipality, state and federal union condemned

Plaintiffs and defendants returned to Justice in April 2009 to hear the ruling. Initially, it was rejected the complaint of lack of interest in acting (that the process would be unnecessary because there was no resistance to the claim). The allegation of illegitimacy of IBDD as plaintiff was also rejected, because its legal statute allows filing public lawsuits. The ruling confirms the absence of “negative or resistance to the right of disabled access to public buildings, federal, state or municipal”.

People with disabilities have right of access to public buildings, according to the Federal Constitution and specific legislation, and the major difficulty in this case is the form of materialization of law, since it involves the recruitment of engineering works by bidding, and faces budget constraints. Despite the claim of federal union of lack of means to carry out the required works now, I believe the deadline given today is sufficient for public authorities provide the necessary budgetary estimates to comply with legislation. (Ruling, 04/28/2009)

Also in the ruling, the judge upheld the injunction and ruled that the public buildings in Rio de Janeiro must be, within one year, accessible for disabled people, pursuant to Decree 5.296/04, under penalty of a daily fine of R$ 10,000 per building. It was still provided quarterly meetings with FPM to monitor the works of the defendants, and the appointment of an expert engineer to go to these meetings and the buildings under reform. The prosecutor attributed the ruling to the courage of NGO:

I was working [in the case] only administratively. FPM would not bring the lawsuit when IBDD decided to, but it was important. IBDD had the courage to bring the lawsuit without further data, against municipality, state and federal union, and arguing that the decree should be fulfilled. I was gathering evidence, with the intention to make federal union fulfill it, because state and municipality were not my focus. But I think IBDD was a big boost to FPM. It was a very interesting and productive partnership. (Interview, January 2010)

The lawyer that worked for IBDD emphasizes the importance of convergence of the interests of NGOs, prosecutors and Judiciary:

In this lawsuit, three factors were very interesting. First, a judge committed in the beginning, a person interested in knowing, learning and applying the law in a correct and strict manner. Also, FPM was active, interested and held several meetings. And our advocacy structure had knowledge, had expertise to bring the lawsuit and follow it up. (Interview, January 2010)
The defendants appealed the ruling and asked the suspension of the sentence until the trial of the appeal, but were not met. The follow-up meetings took place in FPM in May, August and November 2009 and March 2010. In the first one, the state attorney has announced a future letter to the Civil Cabinet with the content and deadline (04/28/2010) to adopt accessibility in state buildings in the city. The Union's attorney said that a similar letter would be sent to the legal consultants of Ministries. The municipal attorney stated that, in a letter to municipal departments, had informed about the meeting dates in FPM.

At the last meeting, which I saw with the approval of the prosecutor, the municipality asked for more time to list its measures to comply with the ruling, alleging the change of administration in 2009. The attorney estimated to need 60 days to the study, and the prosecutor said that this time should be asked to court. The federal union did not bring any document, arguing that the responses of the agencies would come closer to the deadline of the ruling. The state handed over documents of various departments and foundations that were in adaptation to the law and appointed an architect to follow the inspections. In the end, it was remembered that the Federal Court would judge the appeals and it was stated that the lawsuit did not include agencies which are legal entities themselves, such as universities.

In May 2010, after one year since the ruling, FPM and IBDD differed on how to act after the deadline for defendants to comply with law. While FPM expected the following hearing, the NGO asked the courts to enforce the sentence, charging up to a daily fine of R$ 10,000 per building without public access. Satisfied with the official answers, the prosecutor said she had another look: "To have a concrete answer, it's necessary to have priority and phases. We will have the law fulfilled in key sectors, but in all only in the long term, when it becomes understood as a policy."

Despite the distinct discourses, both sides share the view that the union of forces was crucial to defend the right to accessibility. According to the NGO's lawyer, the Public Prosecutor Office "has a force that many lawyers themselves often do not have, of access to the judge or to the documents. It's that matter of 'being in authority', that makes a difference not only in our judicial system, but even in our country" (Interview, January 2010). This advantage is also cited by the prosecutor: "Many things they could not get we have obtained as evidence" (Interview, January 2010). But she gives all credit to IBDD.

4.2. Inclusion of children with disabilities in regular schools

According to 2000 Census, 5.8% of children aged 7 to 14 years had any disability (1.6 million) and 88.6% of these were attending school. That year, the National Institute of Educational Studies (INEP) registered 382,215 enrollment of children with disabilities: about 300,000 in special education and the others in regular schools. To Cavalcante (2006: 11), "despite the difference between indicators - originated by the criteria used by one institution and another - it is possible to imagine that many are still excluded from the classroom."
Has a school the right of not enrolling children with disabilities? The question divides teachers and parents and even experts on the rights of people with disabilities. Some groups, like the Sociedades Pestalozzi and the Associations of Parents and Friends of Exceptional Children (APAEs), advocate these children in exclusive classrooms, while others propose an inclusive education, as the Public Ministry and the NGO Escola de Gente.

4.2.1. Interaction: FPM and Escola de Gente get closer through events and inquiry

Escola de Gente began a partnership with a federal prosecutor in Sao Paulo soon after its founding in 2002. At a meeting on inclusion in education one year before, the prosecutor, who had begun researching the issue, caught the attention of the journalist founder of the NGO when she pointed the inclusion as a right of the children guaranteed by the state and that could bring to justice those who disrespect it (Interviews, February 2010). Months later, they teamed up to create the project "Meeting of the Legal Media (Encontro da Mídia Legal)", with debates and workshops to discuss inclusive society among students of law, journalism and social sciences at the State University of Rio de Janeiro.

In the first edition, from August to October 2002, nine of the 17 panelists were public prosecutors. At the time, the support of FPM at the event came from the Federal Prosecutor for Citizens' Rights (PFDC), whose holder attended the opening. Bringing together 400 people, the five debates have addressed the right to inclusion in communication, education, work, health and social space. After the debates, 15 young people made workshops to discuss newspaper texts and advertisements - their analysis and comments from the founder of the NGO and the federal prosecutor may be found at the handbook of the event, which has reached the 6th volume as a result of each encounter. In the second year, its theme was the "right to education in diversity" (Escola de Gente, 2003).

The participation of federal prosecutors in this event and others were never seen at FPM as part of institutional practice, according to that prosecutor. Considered as "voluntary work", such activities do not stop the flow of procedures to the offices, as it happens with the displacements seen as "actual work". While the prosecutor offered informal advice to the NGO, in which she later assumed the post of advisor, the superintendent of Escola de Gente was consulted by FPM on issues related to inclusion. Over time, the activist found partners among other prosecutors.

Among her official activities, the prosecutor in Sao Paulo initiated, still in 2002, a public civil inquiry to assess the efficiency of the right of access of children with disabilities to regular schools. The inquiry’s basis was that this access was an inalienable right, because education is "right of all and duty of the state and the family" (Article 205 of the Constitution) and that it is a crime to thwart without any cause the enrollment of students with disabilities (Article 8 of Law 7.853/89). Initially, the investigation was shared with the State Public Ministry, but the difficulty of signing the documents jointly led to a split: federal prosecutors would deal with the
Ministry of Education and institutions of higher education to provide the access to classrooms, while state prosecutors would investigate law enforcement in schools.

On the inquiry, the prosecutor heard experts from the universities of Sao Paulo (USP) and Campinas (Unicamp), the Ministry of Education and organizations like Escola de Gente, Conectas, Grupo 25 and APAE. She concluded that a child with disabilities is, above all, a child with the right to compulsory elementary education. But how to respect this right: through inclusive education or not? The answer depends on the reading of the passage of the Constitution which guarantees "specialized educational services for the handicapped, preferably in the regular education" (Article 208, III).

Why children with disabilities are mentioned in the Constitution so detached? Here is guaranteed specialized educational services, that the child not always needs. So what is special? There are resources, tools and support that some children need. We have demonstrated that children have the right to basic education and specialized care to support, not to replace the elementary school. (...) This was a general revolution. (Interview, February 2010)

In this interpretation, the "preferably" of the Constitution refers to resources that add to the common course without replacing it, as teaching Brazilian Sign Language (Libras), Braille Code or computing resources. This reading was quickly disseminated by the head of Escola de Gente: "I had a speech in favor of inclusion, but I did not realize I had the law in favor" (Interview, February 2010). With the change of government in 2003, supporters of inclusive education tried to influence the composition of the Secretariat of Special Education, in the Ministry of Education. They wanted to see their constitutional interpretation prevail and the policy become directed towards educational inclusion. The lobby was successful and inclusive education began to be adopted as a guideline of the Ministry of Education.

4.2.2. Results: events, specialized publications and resistances

The relationship between FPM and Escola de Gente in defense of inclusive education has been characterized by spreading this issue without taking it to Judiciary. In addition to teaching young people the concept of inclusive society, through the Encontros da Mídia Legal, the partnership has yielded publications on inclusive education.

Months after the beginning of the civil inquiry, PMF verified, with the help of professors and NGOs, that the Ministry of Education (MEC) had not given guidance on how to ensure access for children with disabilities to school. Therefore, the prosecutor drew up, with a colleague and a professor at Unicamp, the handbook "The access of students with disabilities to ordinary schools and classes of the regular education" (Brazil, 2004), published by the Federal Prosecutor for Citizens' Rights (PFDC) and presented by the Secretary of Special Education of MEC, who supported and distributed it. Considered by the authors an achievement for inclusive education, the handbook was criticized by the National Federation of APAEs, which convened a national mobilization of its members, because the text would bring "threats and retaliation" against the continuity of the services offered by them.
In reaction to APAES, a clarification note was signed by 23 public and private institutions in favor of the handbook, as PFDC and ESMPU, the Secretariat of Special Education MEC, and Escola de Gente. The note said the handbook "points to a new sense of specialized teaching and guides the interested ones to adjust their purposes and actions, to serve its students and assisted in these new times."

In early 2007, there was another clash between pro-inclusion and pro-special education. Escola de Gente was an advisor of Globo TV on how to show the inclusion of a girl with Down Syndrome in the soap opera 'Páginas da Vida'. Although the plot had portrayed the discrimination explaining that she had the rights of every child, when it was focalized her education, the view adopted privileged the special education: the mother enrolled her in a specialized institution, after facing resistance in common schools. The NGO broke the agreement with the TV and made a manifesto of disgust. Its ally in FPM in Sao Paulo included the case within the scope of the civil inquiry she led, and together with the then regional prosecutor of citizen's rights, recommended to the soap opera’s director to show that the refusal of an enrollment of children with disabilities is illegal. The TV did not agreed, but negotiated in return to exhibit vignettes of the campaign "It’s criminal to discriminate" - the result, by the way, of a partnership between Escola de Gente and ESMPU.

After four Encontros da Mídia Legal, the NGO proposed to ESMPU a Latin American seminar about non-discrimination with the goal of starting a channel between civil society representatives and public prosecutors in South America. The event in Rio de Janeiro in October 2006 generated the letter "It is criminal to discriminate", signed by more than 20 civic organizations and supported by prosecutors from nine countries. According to the letter, "it’s necessary to build and to implement a social agenda that includes discrimination as a serious form of violation of human rights". This letter formed the basis, in late 2007, of the campaign exhibited by Globo TV.

The publishing of a "National Policy on Special Education in the Perspective of Inclusive Education" by the Ministry of Education in 2008 was seen as a breakthrough by Escola de Gente and the prosecutor in Sao Paulo. The new policy, the 2004 handbook and the ratification of the UN convention on rights of persons with disabilities justified the end of FPM’s inquiry. This investigation had also led to a recommendation to MEC to withdraw from the site official documents without the perspective of inclusion (the maintenance of one of them led the prosecutor to go to court to be met). Another result of the investigation were the recommendations - and one action - to higher education institutions in Sao Paulo to ensure accessibility in their facilities.

4.3. Combat to pedophilia and discrimination on the internet

Social networks like Orkut, Facebook and Twitter are increasingly used for contacts and exchange of data and digital files. In Brazil, the expansion of Orkut in the second half of the 1990s was seen by some people as an opportunity for illegal dissemination
of pornography of children and youngsters and of discriminatory messages. The repression of these uses of Google’s social network led to the partnership begun in 2006 between FPM and SaferNet and had effects as the arrest of pedophiles, the broadening of the debate on the legislation and workshops with educators about online risks.

The alliance dates back to a complaint of SaferNet to FPM/SP in February 2006 against Google Brazil S.A. and Orkut LLC. Founded in Salvador months before, by law and technology professionals, the NGO listed virtual communities about pedophilia, racism, rooster fight, and sale of drugs. The complaint led the Group to Combat Cybercrime of FPM/SP, created in 2003, to meet with the director of Google in Brazil, who said that would seek an agreement with FPM, although the data of users are in the United States.

With the agreement, Google would preserve evidence of crimes, to quicken the investigations, and warn Brazilian users of Orkut about cybercrimes. During the negotiations, FPM has asked the courts to breach the confidentiality of data from ten communities in Orkut to prosecute the criminals. In that context, the report from SaferNet was read in FPM as a promising starting point for further investigations - an evaluation that helps to understand how, before any agreement with Google, it was signed, in March 2006, a cooperation agreement between FPM/SP and SaferNet.

4.3.1. Interaction: FPM and SaferNet sign cooperation agreements

The cooperation agreement between FPM/SP and SaferNet intended to “unite efforts to prevent and combat child pornography, the practice of racism and other forms of discrimination via the Internet”. The agreement was that SaferNet would host a site to center all the complaints of crimes against human rights in the internet. The NGO said that, from 5475 allegations of child pornography made to the Federal Police in 2004, only 81 turned into inquiries. The previous year, Brazil was the fourth largest host of sites with child pornography, according to the Italian NGO Telefono Arcobaleno (behind the United States, South Korea and Russia).

As in Sao Paulo, other units of FPM and State Public Ministry in Rio de Janeiro signed cooperation agreements with SaferNet. In August 2006, five months after signing the deal, FPM/SP asked to Judiciary to breach data privacy of 52 users of Orkut (more than 100 communities and profiles of child pornography and discrimination to groups like blacks and Jews were being investigated). But Google Brazil did not comply the secret breaches, claiming that only the company headquarters had the data. For this reason, FPM brought a civil action for Google to identify investigated users and pay R$ 130 million in collective damages for disobedience to court (the value was 1% of gross revenue of the group Google in 2005). FPM asked for an immediate fine of R$ 200,000 per court order violated by Google.

The fine was set at R$ 50,000 for contempt, but the decision was suspended by the Federal Court-3rd Region. One year after the lawsuit started, complaints sent by
SaferNet due to the agreement amounted to 46 000 and requests for breach of confidentiality on Orkut came to 233 (158 of child pornography and 75 of racism). Another year passed before the end of the clash between FPM/SaferNet and Google, with the signing of a term of behavior adjustment between them mediated by the Parliamentary Investigation Commission (CPI) of Pedophilia, installed in the Senate in March 2008. Given the resistance of Google to help crack down crimes on Orkut, the senators broke in one month the confidentiality of photo albums with restricted access. According to the coordinator of the Group to Combat Cybercrimes, “if there was no CPI of pedophilia, I think this agreement would come after much more time” (Interview, February 2010).

In the agreement, Google pledged to: immediately notify Orkut profiles and communities with child pornography content, preserve the data needed for the investigation and the contents published on Orkut for six months and hand them over to FPM and the police in case of judicial authorization, and comply with Brazilian law in cases of cybercrimes originated in Brazil.

4.3.2. Results: repression, new law and prevention

In August 2009, a year after signing the agreement with Google, FPM had received 1,926 news and pictures with sign of child pornography on Orkut. From these, 1,287 telematic breaches of confidentiality were requested to justice. In the first half of 2009, SaferNet received 25,212 complaints against online child pornography, and the responsible providers removed about 40% of pages reported by sufficient evidence of a crime or violation of terms of use.

Since then, allegations of crimes, requests of breach of confidentiality and investigations did not stop growing. The Group to Combat Cybercrime of FPM/SP, according to its coordinator, would have increased from 1,500 to 2 thousand reports to be processed only from the news from Google. Internally, this work is seen as "voluntary" because it is gathered with other tasks in FPM's criminal offices. If before an investigation took until six months, now this is the minimum time:

The crimes have not failed to be fought by an inefficiency of the Federal Public Ministry, but because the crimes news did not reach either to SaferNet or to the prosecutors. (…) If you have a closed album on Orkut, one click is enough to remove it. If such evidence is not preserved, there is no way to prove the crime. (Interview, February 2010)

So far, the most emblematic success of the alliance between FPM and SaferNet - with the help of Google - was Operation Turko, in May 2009, when the federal police made 92 searches in 21 states against Orkut users that had restricted the access to albums with photographs of child and teen pornography. Ten investigated people were caught in flagrante delicto with such content.

The arrest in flagrante was made possible by a law drafted by CPI of Pedophilia with the help of SaferNet and prosecutors. Approved in November 2008, the law expanded the penalties for production and distribution of child pornography and transformed
in felony the harassment, online enticement and possession of sexual images of children and teen, which imply three to six years imprisonment and fine. For a prosecutor that combats such crimes in FPM/RJ, "The main increase is due to CPI of pedophilia, since before it, legislation was very poor" (Interview, April 2010). The new law and the means to investigate online crimes are topics of courses given by experts of SaferNet to prosecutors and police authorities, in another example of interaction between state and society.

Investigators of cybercrime predict a growing difficulty in repress it due to the mobility in the Internet access (via mobile phones, for example) and the impracticality of tracking users. So they believe that, as necessary as punishing those who violate human rights on the Internet, is to prevent crimes by raising awareness of children and teens who make and distribute pornographic pictures for fun, despite these may turn into material to crimes by others. This is the basis of another partnership between FPM and SaferNet: the educational workshops on Internet use.

The workshops are given to educators by the director of prevention of the NGO with the participation of prosecutors, responsible for exposing legal issues. In the event, done in cities like Sao Paulo, Cuiabá and Joao Pessoa, educational coordinators and technology professionals of public and private schools receive CD-ROMs and a booklet on how to address the problem in the classroom. In the workshop in Rio de Janeiro in May 2010, I saw the audience’s disquiet to update students on the topic. A SaferNet research on the habits of Internet users brought data useful to the workshops. Two prosecutors that are partners of SaferNet valorize this constant updating of the NGO in its specialty (Interviews, February-April 2010).

The cooperation agreements, the arrests of pedophiles, the changing of the law and the educational workshops are tangible results of a partnership between civil society experts and the state, which does not always persist as expected. In November 2010, FPM/SP ended its cooperation agreement to receive reports of suspicious hyperlinks from the site hosted by SaferNet, which would no longer have "satisfactory conditions to meet the demand for processing and analysis of the notifications". Such an outcome does not diminish the achievements of the interaction between the FPM and this NGO - still partners in the agreement with Google and on prevention workshops - but highlights the difficulties of this approximation (SaferNet has attributed the end of this alliance to serious omissions and inconsistencies of the technical report of FPM/SP).

4.4. Considerations on the enforcement of rights

The analysis of the three alliances revealed distinctions between motivations and dynamics of interactions, their results and the differentials of the NGOs for public prosecutors. This becomes enlightening once that the civil society organizations form a very heterogeneous group, with agents with very different nature and ways of acting, what happens to a lesser extent in a formal institution as the Public Ministry.
**Fig. 1: Summary Table of the studied partnerships**

<table>
<thead>
<tr>
<th>Studied cases</th>
<th>Initiative of dialogue</th>
<th>Ways of interaction</th>
<th>Differential of the NGO</th>
<th>Results of the partnership</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessibility of public buildings in Rio de Janeiro (FPM + IBDD)</td>
<td>NGO (frustrated attempt of meeting) + Judiciary (FPM coauthor of action)</td>
<td>Through Justice</td>
<td>Collect data about buildings without accessibility</td>
<td>Municipality, state and federal union condemned</td>
</tr>
<tr>
<td>Inclusion of children with disabilities in schools (FPM + Escola de Gente)</td>
<td>NGO (seek partnership for event) and, after, FPM (help in civil inquiry)</td>
<td>Out of Justice</td>
<td>Consultancy in inclusive education</td>
<td>Events, specialized publications and resistances</td>
</tr>
<tr>
<td>combat to pedophilia and discrimination on the web (MPF + SaferNet)</td>
<td>NGO (denounces on criminal content in Orkut)</td>
<td>Out of Justice + Through Justice</td>
<td>Centralizes reports of human right violations</td>
<td>Arrests of pedophiles, new law and prevention</td>
</tr>
</tbody>
</table>

4.4.1. Initiative of dialogue

The first step toward cooperation came from NGOs, although the interaction has soon appeared fruitful to prosecutors. This fact may be approached by non-excluding explanation hypotheses: (i) NGO self-criticism / strategy: although specialized in their causes, they seek support from prosecutors for their differential (legal knowledge, available tools to act through and out of Justice etc.); (ii) isolation of the Public Ministry (its members focus only on the documents and files in their offices), (iii) the prosecutors’ skepticism (they hesitate to interact with NGOs whose origin, mission and funding are unknown). From the field research, these would be the most probable hypotheses for the idea of an alliance come from the NGOs.

Other analysis support these proposals: Soares (2007) exemplifies the first one in relation to environmental protection; the aforementioned typology by Silva (2001) of "office prosecutor" vs. "facts prosecutor" and the different perceptions of political and professional activities (Bonelli, 2002) suggest isolation and signs of skepticism.

4.4.2. Ways of interaction and differential of the ONG

The convergence between PM and NGOs can have three ways: through Justice; out of it, and in both paths, as the three cases show. The initiative of IBDD to bring an action also illustrates the growth of the lawsuits initiated by civil associations, as exposed by Werneck Vianna and Burgos (2002). In the partnerships between FPM and Escola de Gente or SaferNet, Judiciary was not a preferred option of the prosecutors neither of the NGOs.

As for the differentials of the NGO, IBDD, Escola de Gente and SaferNet have in common experts in their subjects (inclusion of persons with disabilities and human rights violations on the Internet) trained in the areas of activity of NGOs. Besides the skilled manpower and expertise, NGOs would differ from prosecutors for having professionals who are committed to a cause, with the "passion of the theme", according to a prosecutor (Interview, February 2010). This union of emotional involvement and technical knowledge generate gains not seen in the Public Ministry.
The cases allow us to question the thesis Arantes (2002) of substitutionism of civil society by the Public Ministry. After all, following some propositions by Werneck Vianna and Burgos (2002), the partnerships show that the roles of public prosecutors and NGOs are complementary, not excluding.

4.4.3. Results of the partnerships

Aspect less subject to comparisons because of the particularities of each case, the analyzed results are useful for drawing a picture of possible effects of alliances between public prosecutors and NGOs. The impacts include the condemnation of public administration (1st case), events and publications (2nd) and crime repression and its prevention (3rd).

The two case studies corroborate the advantages in the partnerships between these institutions seen by Macedo Jr. (1999): (i) reducing the costs and risks in investigation and judicialization; and (ii) a useful connection between the informant (NGO) and the informed (FPM). The third benefit he mentioned - the biggest effect guaranteed by the contacts of NGOs in the media - I cannot accept it nor reject it from this research.

5. CONCLUSION

The interaction between prosecutors and NGOs can be seen as a collective action (Tilly, 1978) whose components (interest, organization, mobilization and opportunity) provide the identification of certain repertoires of approximation. This is not a starting point for analysis, but of arrival, because I considered such an approach appropriate after studying each partnership. The repertoire of collective action includes alternatives that vary slowly and seem obvious and natural for those involved (see Tarrow, 2009):

![Fig. 2: Repertoires of interaction between Public Ministry and NGOs](image)

For this diagnosis, I started from two aspects relevant to the dynamics and effects of the alliances: its focus (judicial or extrajudicial) and its formalization. As I already pointed out, Tilly attributes the change in repertoires to certain variables: prevailing patterns of rights and justice (the law violated in this case); daily routines and internal organization; prior experience with collective action (successes and failures in other alliances); and repression (the power of other groups to affect costs and returns of other collective actions among agents).
The approach of these interactions as a collective action as studied by Tilly seems appropriate here and in future research on dialogues between state and society. However he focalized repertoires of political contention, it seems very fruitful to use the concept of repertoire to political coalitions, among which may be included new actors in the socio-political scenario.

As I discussed the judicialization of politics and activism of civil society separately, I did not emphasize the convergence between them. I must stress that there is such a linkage in the literature on these topics and in empirical data as offered by the first and third case studies. Through this research, I confirmed that Justice becomes important as an arena of solving social conflicts and that some members of NGOs and public prosecutors are among those responsible for that.

This mentioned intersection between judicialization of politics and activism of civil society, seen here in an indirect way, is more understandable in light of case studies of interactions between other agents or quantitative research on tools such as public lawsuits and court settlements. To this trail or other, I think my approach to those subjects is useful for its theoretical review or its empirical analysis.

With this study, I put in contrast the trajectory of Brazilian citizenship (passive and private, in the typology of Turner, 2000) with the citizenship in the discourses of public prosecutors and NGOs (active and public). This opposition was, in fact, a hypothesis of this study, but was largely substantiated by the data collected from documentary analysis and interviews.

While the passage of the XVIIth century to the XVIIIth was marked by the emergence of the national territory as an arena for equal rights, three centuries later such struggle is sprayed on fields as the Judiciary and public opinion. As much as certain fractions of the Public Ministry and NGOs act in the opposition to enduring aspects of the relationship between state and society in Brazil - as low civism, patrimonialism and political cooptation - one should not ignore the coexistence of traditional and modern features. One example is the personalism in the second case: for the NGO and the prosecutor, the union depends more on personal ties than the institutional ones.

Although the case studies do not corroborate the vision of a "schizophrenia" in Public Ministry noted by one of its members (Macedo Jr., 1999), I see the coexistence, that he writes about, between engagement and detachment towards social problems, despite that I have only focused the first aspect. Another issue that deserves to be better explored concerns the identification of criteria of legitimacy for NGOs to draw closer to state institutions.

Based on the case studies and the literature, I found that public prosecutors and NGOs share a "amphibian" nature in public-private relationship: while Public Ministry is part of the state, but challenges governmental institutions, NGOs are private entities, but increasingly engaged in traditional roles of the state. The prospect of a convergence, rather than a bet of some of its members, shows up now as a reality, albeit limited to isolated cases.
There are so many paths that connect the practices of a people and the texts of their laws, and this text only analyzed some of these flows. The range of interactions studied clarifies that prosecutors and NGOs may have an important and complementary role in enforcing rights. The question is whether the dialogue between them will have wider scope.

Bibliography


_____ (2008).“Thirty years and recent dilemmas: NGOs and Third Sector in Brazil (and Latin America)” Paper for 8th International Conference of the International Society for Third Sector Research [www.istr.org/conferences/barcelona/WPVolume/xLandim.pdf]

Lopez, Felix G.; Leão, Luciana T. S.; Grangeia, Mario L. (2009). “NGOs, politicians and


