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ACCESS TO JUSTICE AND RECOGNITION: THE PUBLIC DEFENDER'S OFFICE AS AN INSTITUTIONAL MEDIATOR IN ITS MISSION AS *CUSTOS VULNERABILIS* AND *AMICUS COMMUNITATIS*

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ABSTRACT: This article aims to analyze the relationship between access to justice, recognition, and the performance of the Public Defender's Office as *custos vulnerabilis* and *amicus communitatis*. Thus, we established the following specific objectives: a) conduct a literature review regarding access to justice and the performance of the Public Defender's Office to understand to what extent the academic literature has evidenced the importance of recognition as a dimension of substantial access to justice, considering the function of the Public Defender's Office as a *custos vulnerabilis* and *amicus communitatis*; b) describe recognition as a dimension of access to justice in terms of the philosophical theory developed by Axel Honneth; and c) present the Public Defender's Office through its mission as *custos vulnerabilis* and acting as *amicus communitatis* as a possible institutional mediator in terms of the Honnethian theory of recognition. The research employs a deductive method and has an exploratory and explanatory nature, combining a literature review conducted through the CAPES journal portal and bibliographic research on access to justice and the Public Defender's Office. The results show that published papers on access to justice mainly focus on assistance to disadvantaged groups without highlighting other forms of vulnerability or issues related to the social recognition of groups and individuals. Thus, the research turns to the Public Defender as an institutional mediator, promoting inclusion and social pacification by assuming the role of *custos vulnerabilis* and *amicus communitatis*.

KEYWORDS: Access to justice; recognition; public defender's office.

ACESSO À JUSTIÇA E RECONHECIMENTO: A DEFENSORIA PÚBLICA COMO MEDIADORA INSTITUCIONAL EM SUA MISSÃO COMO *CUSTOS VULNERABILIS* E *AMICUS COMMUNITATIS*

RESUMO: Este artigo tem como objetivo central analisar a relação existente entre acesso à justiça, reconhecimento e a atuação da Defensoria Pública como *custos vulnerabilis* e *amicus communitatis*. Para atingi-lo, traçamos os seguintes objetivos específicos: a) realizar uma revisão de literatura quanto ao acesso à justiça e a atuação da Defensoria Pública, no sentido de compreender em que medida a produção acadêmica tem evidenciado a importância do reconhecimento como

dimensão do acesso à justiça substancial, considerando a função da Defensoria Pública como *custos vulnerabilis* e *amicus communitatis*; b) descrever o reconhecimento como uma dimensão do acesso à justiça, nos termos da teoria filosófica desenvolvida por Axel Honneth; e c) apresentar a Defensoria Pública, por meio de sua missão como *custos vulnerabilis* e atuação enquanto *amicus communitatis*, como uma possível mediadora institucional, nos termos da teoria honnethiana do reconhecimento. A pesquisa parte do método dedutivo e possui caráter exploratório e explicativo, combinando uma revisão de literatura, realizada no portal de periódicos da Capes, e pesquisa bibliográfica sobre acesso à justiça e Defensoria Pública. Os resultados desta pesquisa mostram que, majoritariamente, os trabalhos publicados sobre acesso à justiça tendem a focar na assistência a grupos desfavorecidos, sem ressaltar outras formas de vulnerabilidade ou questões relacionadas ao reconhecimento social de grupos e indivíduos. Assim, a presente pesquisa volta-se à Defensoria Pública enquanto mediadora institucional, promovendo inclusão e pacificação social ao assumir o papel de *custos vulnerabilis* e *amicus communitatis*.

PALAVRAS-CHAVE: Acesso à justiça; reconhecimento; defensoria pública.

1. Introduction

We know that, in Brazil, many citizens have few fundamental social rights realized. Likewise, we can affirm that various minority groups – such as blacks, people with disabilities, the LGBTQIA+ population, women, the poorest, homeless people, etc. – have often been ostracized when it comes to planning and implementing recognition policies capable of minimizing the effects of decades of exploitation, stigma, and social marginalization.

In an attempt to minimize this context, the Brazilian Constituent Assembly gave relevance to the Public Defender's Office, elevating it to the role of a permanent institution essential to the judicial function of the State and which should act focusing on legal guidance, the promotion of human rights, and the defense, at all levels, judicial or non-judicial, of individual and collective rights, full and free of charge, to those in need (Art. 134, Federal Constitution). The *custos vulnerabilis* mission and it's unfolding while *amicus communitatis*, assigned to the Public Defender's Office, originated from this constitutional dictum.

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In general terms, such functions authorize and promote the institution to intervene judicially or out of court in favor of individuals and social groups in a situation of socioeconomic vulnerability. Likewise, these forms of action reveal the potential to raise the Public Defender's Office to the role of institutional mediator, promoting social recognition of its assisted populations, according to the theory developed by Axel Honneth (2015).

In this sense, the central objective of this article is to analyze the relationship between access to justice, recognition, and the performance of the Public Defender's Office as *custos vulnerabilis* and *amicus communitatis*. We divided the research into three specific objectives: a) to conduct a literature review regarding access to justice and the performance of the Public Defender's Office to understand how the academic literature addresses the role of the Public Defender's Office as a *custos vulnerabilis* and *amicus communitatis* given that recognition is a dimension of substantial access to justice; b) describe recognition as a dimension of access to justice in terms of the philosophical theory developed by Axel Honneth; and c) present the Public Defender's Office through its mission as a *custos vulnerabilis* and acting as *amicus communitatis* as a possible institutional mediator in terms of recognition theory, in alignment with legal norms on the Public Defender's Office.

To fulfill the objectives, this research will use the deductive method, starting from larger premises (generalist theories) to achieve specific results endowed with scientific validity. In this perspective, in the first section of the development of this article, we will conduct a literature review involving the terms "access to justice" and "Public Defender's Office" in the Capes Journal Portal to conduct exploratory research. In the following sections, we will continue with bibliographic research, using the literature already published in books and journals, which involve the themes under analysis, and documentary material from the legislation relevant to the theme, with explanatory typology (Lakatos; Marconi, 1995).

Therefore, in the first section, we will review the literature on the Capes Journal Portal, applying the filters "subject", "is (exact)", and "Portuguese language", and the search terms "access to justice" and "Public Defender's Office". With this stage of the research, we will be able to understand how scientific literature has approached the theme and whether or not it has evidenced the importance of recognition as a dimension of substantial access to justice in the context of the Public Defender's Office's work as a *custos vulnerabilis* and *amicus communities*.

In the second section, concerning recognition as a dimension of access to justice, according to the theory of Honneth (2015), we present the aims of recognition theory (social justice and freedom), explain how this philosophical current was inserted in the debate concerning the concept of justice, demonstrate how the aims of recognition theory are built from the so-called "recognition patterns" and deconstructed from the experiences of disrespect, and understand the idea indicated by Honneth to mitigate the social pathologies arising from the experiences of disrespect: institutional mediation.

In the third section, we dedicate ourselves to presenting the mission *custos vulnerabilis* assigned to the Public Defender's Office and its action as *amicus communitatis* to correlate its function to the idea of institutional mediation, as Honneth proposes.

2. A literature review on access to justice and the Public Defender's Office

As stated in the Introduction, this paper explores three specific categories: 1st) access to justice; 2nd) the theory of recognition; and 3rd) the Public Defender's Office (*custos vulnerabilis* and *amicus communitatis*). In this sense, this section is specifically aimed at conducting a literature review on access to justice and the performance of the Public Defender's Office to identify how the academic literature on the subject has evidenced the importance of recognition as a dimension of substantial access to justice, from the presence or absence of emphasis on the role of the Public Defender as *custos vulnerabilis* and *amicus communitatis*.

First, we outlined some categories relating to the themes, later using them as search parameters in the Capes[1] Journals Portal platforms and the Brazilian Digital Library of Theses and Dissertations (BDTD).[2] The descriptors applied in the research were: a) "acesso à justiça"; b) "reconhecimento"; c) "Defensoria Pública"; d) "*custos vulnerabilis*"; e e) "*amicus communitatis*" – it should be noted that these parameters were used in several combinations explained below to try to locate papers that contained the maximum number of these terms or expressions, simultaneously.

1 https://www.periodicos.capes.gov.br/
2 https://bdtd.ibict.br/vufind/

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The first combination attempted involved the categories "acesso à justiça", "reconhecimento", and "Defensoria Pública". The Brazilian digital library of theses and dissertations returned 31 published papers, while the journal portal yielded 12 results. However, this combination was soon discarded, as we noticed that the term "reconhecimento" encompassed other meanings, far removed from Axel Honneth's "recognition theory" (2003). In addition, we varied the categories "Defensoria Pública" and "reconhecimento", replacing them with "Defensoria" and "teoria do reconhecimento", respectively. However, this measure did not affect the results observed above.

Subsequently, in isolation, we tried the expression "*amicus communitatis*", which did not bring any results on any of the platforms accessed. Something similar occurred when we used the term "*custos vulnerabilis*", which did not return research published in the Brazilian Digital Library of Theses and Dissertations. Although this second term pointed to eight results in the Capes Journals Portal, we chose not to consider it due to the low number of papers to be analyzed – the same goes for the combination between "*custos vulnerabilis*" and "acesso à justiça", which only returned three results on the journal portal.

In addition to the low number of results, the research that generated the papers did not necessarily address the Public Defender's Office, which is the central object of our investigation. This required a new combination of search descriptors in the repositories.

It is also worth mentioning that we considered categorizing "Axel Honneth" as a search parameter since his work was dedicated to the development of the "recognition theory", but we ruled out the possibility due to the high degree of specificity this could bring to the results, even excluding the view of other philosophers who addressed the same theory.

Finally, on July 26, 2023, we used the combination "acesso à justiça" and "Defensoria Pública", which returned 148 results on the Capes Journal Portal and 180 in the Brazilian Digital Library of Theses and Dissertations. Given the expressive result, we chose to apply the filters "subject" and "is (exact)". In the Journal Portal, these criteria were refined only for papers in Portuguese, generating 14 academic products[3].

3 The refined search for "subject" in BDTD yielded 45 publications, 43 theses, and two dissertations. Therefore, we chose to continue with the academic literature located on the Capes Journal Portal due to the high number of papers found, which would make this analysis unfeasible.

Therefore, this literature review will focus on the 14 papers located on July 26, 2023, by applying the filters "subject", "is (exact)", and "Portuguese language", and the search terms "acesso à justiça" and "Defensoria Pública", in the Capes Journal Portal. Thus, we will address the primary arguments of each of the studies found to understand the perspective of scientific articles on the role of the Public Defender's Office in the search for access to justice.

Before analyzing the arguments presented in the papers, we must emphasize that our intention is not to criticize possible absences of an approach similar to what we seek to carry out. The objective of the literature review is not to judge as deficient work that has another sample size, an epistemological view, or jusphilosophical conception different from ours.

The purpose is to situate the reader in the field of scientific productions on the topic addressed, which will allow us to identify possible divergences of understanding or congruences between the perspectives of the papers. In addition, knowing the publications on the subject can underpin our ongoing research and foster a dialogue in the academic community.

Another pertinent comment concerns the limits of the scope of research, despite having been done in a repository that has credibility in the Brazilian scientific community. Although the Capes Portal is an important tool, some relevant papers may not have appeared among the results since they escape the filters and descriptors used in the search. It is necessary to understand that, without criteria and refinements, researching all scientific literature would be unfeasible, which is why we justify which terms and methods were used.

The first text analyzed (Ferreira, 2013) addresses access to justice as an element of the existential minimum and the Public Defender's Office as an institution responsible for materializing it. In this sense, the author works on 1) the existential minimum from the doctrinal and jurisprudential perspectives; 2) the treatment given by the doctrine to the effectiveness of social rights and their evolution over time, pointing to the discussion on the 'limits of the possible'; 3) access to justice as a fundamental right and instrumental element of the existential minimum; and 4) the performance of the Public Defender's Office in the realization of the fundamental right to access to justice and the effectiveness of social rights. In this fourth point, the author limited himself to the constitutional text, stating that the Public Defender's Office would have "not only the responsibility of guaranteeing the representation in court of the interests of

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those in need but also the provision of comprehensive and free legal aid" (Ferreira, 2013, p. 163, our translation).

Given these points, the author (Ferreira, 2013) concluded that 1) the existential minimum is subject to limitations, such as the 'limits of the possible'; 2) the existential minimum can be considered a material criterion to ensure the effectiveness of social rights; 3) access to justice should be considered a fundamental right and an instrumental element of the existential minimum; and 4) the Public Defender's Office, in the exercise of its duty, can ensure access to justice. For the author, the Public Defender's Office is directly related to actions focused on legal aid to those without financial resources. Throughout the article under analysis, no concern with vulnerabilities other than economic or community action was highlighted. Likewise, no attention was paid to issues related to recognizing vulnerable individuals and social groups.

The second paper analyzed (Santos, 2013, p. 107) has as its central objective "to better understand the Public Defender's Office of Rio de Janeiro based on the intersection of views between public defenders and those assisted". Thus, field research was conducted through interviews with the two groups – public defenders and those assisted. The author concluded that 1) the Public Defender's Office in Rio de Janeiro does not enjoy so much social prestige and has a precarious structure; 2) those assisted by the Public Defender's Office are moderately satisfied with the service provided; and 3) there is a welfare vision among public defenders, "who see the poor in a romantic way, as victims of the Brazilian social structure" (Santos, 2013, p. 123, our translation). However, no critical reflection was detected in this article regarding the institution's audience (in fact, there is an explicit economic limitation), nor concerning the forms of action related to the concepts of *custos vulnerabilis* and *amicus communitatis*.

The third paper (Melo, 2013) aims to evaluate the structuring and implementation of the Public Defender's Office. The author examined the legislation concerning the institution chronologically and looked at the jurisprudence of the Federal Supreme Court. Thus, he concluded that 1) there is a concern of the Federal Supreme Court with the institution and the role it plays in promoting access to justice for a socioeconomically underprivileged population; 2) it is possible to infer by the absence of government interest in promoting and consolidating the Public Defender's Office in the federative states. Again, no discussion was found on the importance of recognition as a dimension of access to justice, nor the role of the Public Defender's Office as *custos vulnerabilis* and *amicus communitatis*.

The fourth article (Alcântara; Castilho, 2013, p. 138, our translation) "addresses access to justice services as a social right acquired through the use of territory by the Public Defender's Office of Pernambuco". In its development, we 1) addressed the correlation between territory and access to justice; 2) evaluated the constitutional role assigned to that institution; and 3) collected and analyzed data regarding the profile of the audience served by the Public Defender's Office, the location of this audience within the municipality of Recife, and the territorial strategies carried out by the institution. Thus, the authors concluded that 1) it is the poorest people who most seek the service; and 2) there is a lack of a territorial action strategy – "in other words, the service seems to be where its audience is not" (Alcântara; Castilho, 2013, p. 170, our translation).

As for the article described above, although there was no critical reflection on the Public Defender's Office's performance beyond the economic criterion, the authors (Alcântara; Castilho, 2013) managed to capture an important nuance of the performance as *amicus communitatis*: the need to bring the institution closer to its assisted audience. Thus, this paper demonstrates the importance of recognition, to a certain extent, by emphasizing (the lack of) a characteristic of the Public Defender's Office to its performance as a "friend of the community".

The fifth paper (Vieira; Radomysler, 2015) expresses the importance of recognition as a dimension of access to justice and, although it does not use the expressions *custos vulnerabilis* and *amicus communitatis*, it highlights the characteristics of these forms of action. This is because the central objective of the research is "to identify the role of the Public Defender's Office in promoting the recognition of differences" (Vieira; Radomysler, 2015, p. 455, our translation). To fulfill this purpose, we analyzed institutional practices that conform to the abovementioned concepts, such as specialized centers, affirmative actions, data production, and popular participation mechanisms.

Thus, the authors (Vieira; Radomysler, 2015) concluded that 1) after some legislative changes, the Public Defender's Office was inserted into another normative paradigm of legal service and access to justice policy, focused on the promotion of human rights, the protection of collective demands, and institutional action in favor of socially stigmatized groups; 2) the use of the income criterion does not include all demands for justice in terms of participatory equality – since "redistribution and recognizance are two irreducible dimensions" (Vieira; Radomysler, 2015, p. 475, our translation);

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and 3) the lack of recognition produces obstacles to access to justice and imposes difficulties on the exercise of rights by vulnerable groups.

The sixth paper analyzed (Rocha, 2005), which consists of an extended abstract, demonstrates the essentiality of the Public Defender's Office and its significant transformative role as its central objective. To fulfill the purpose, the author focused on two "misconceptions that prevent it from exercising its role of social inclusion, essential to the effectiveness of Justice" (Rocha, 2005, p. 2, our translation): 1) the idea that access to justice equals access to the judiciary; and 2) the conception that the Public Defender's Office only interests the needy. Therefore, the author called for promoting the institution: "the fact is that promoting the Public Defender's Office is promoting the Brazilian people" (Rocha, 2005, p. 4, our translation).

Despite the author's effusive defense of the Public Defender's Office, we understand that Rocha's text does not highlight the importance of recognition as a dimension of substantial access to justice. Nor does it emphasize the role of the Public Defender's Office as *custos vulnerabilis* and *amicus communitatis*. As demonstrated above, the research exalts the institution but does not propose critically analyzing its characters.

The seventh article (Soares, 2012, p. 391, our translation) "explains the model the Public Defender's Office implemented in São Paulo, whose conception, structure, and form of action contain democratic characteristics and social participation, innovative in legal practice". This research was guided by documents made available by the Public Defender's Office and interviews with Public Defenders from São Paulo. The author concluded that 1) "the definitive transition from court aid to legal aid is still distant" (Soares, 2012, p. 402, our translation); and 2) that the Public Defender's Office of the State of São Paulo has suffered difficulties in strengthening itself due to the presence of over 60,000 active attorneys working through an agreement with the Brazilian Bar Association.

Regarding the research described in the previous paragraph, although it points to a model whose conception, structure, and form of action espouse democratic characteristics and social participation, we have not been able to clearly detect evidence that denotes the importance of recognition as a dimension of access to justice. However, there is an indication, albeit timid, when defending the "definitive transition from legal aid to assistance"; of an approach to community and out of court action, which allows us to conclude that there is a theoretical agreement between this research and the concepts of *custos vulnerabilis* and *amicus communitatis*.

The eighth article (Haddad; Soares, 2009a, p. 383) analyzes the obstacles for the Public Defender's Office of the State of São Paulo "to expand the possibilities of access to justice to the socioeconomically deprived population, replacing court aid with quality legal assistance". To this end, documentary and field research was conducted through interviews with Public Defenders from São Paulo. The authors concluded that the services offered by the institution "do not yet meet the growing demands of the socioeconomically disadvantaged population due to political resistance and the operational limits of its structure" (Haddad; Soares, 2009a, p. 395).

In our opinion, the eighth text does not highlight the importance of recognition as a dimension of substantial access to justice, nor does it emphasize the role of the Public Defender's Office as a *custos vulnerabilis* and *amicus communitatis*. We have not even detected an in-depth discussion about what "quality legal aid" would be and what practices would be absorbed by such an idea.

The ninth paper (Maders, 2011) aims to contribute to the debate concerning the legitimacy of the Public Defender's Office to file class action cases. Thus, we addressed the general and historical aspects of a class action suits, the role of the Public Defender's Office in the protection of collective and diffuse rights, and how this would affect access to justice and discussed the legitimacy of the institution to propose that procedural type of filing.

Faced with such discussions, the author (Maders, 2011) concluded that 1) the protection of meta, trans, or supra-individual rights by the Public Defender's Office is a considerable advance in the Brazilian legal system, as it implies the expansion of access to justice; and 2) the Public Defender's Office should be considered an instrument to face all obstacles to access to justice, including promoting alternative means of justice. Although the conclusions point to the institution as a strong instrument for democratizing access to justice, reinforcing even its extrajudicial action, we could not detect a focus on the characteristics of recognition or actions as *custos vulnerabilis* and *amicus communitatis*.

The tenth article (Oliveira, 2007, p. 59, our translation) aims to "awaken interest in this important state function (Public Defender's Office) that is so underprivileged and the reflections of the lack of the institution in the life of the population, especially the poorest individuals". Thus, the author addressed the relationship between law and society, the judiciary's role in achieving social justice, and the history of the Public Defender's Office in the Brazilian legal system. In conclusion, the Public Defender's Office was never treated with the urgency deserved.

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In a certain way, the author approaches the idea of a community-friendly institution by denouncing the lack of the Public Defender's Office in the lives of the population, especially those most in need of financial resources. She defends the Public Defender's Office as a protector of the vulnerable, even restricted to economic vulnerability. It is not precisely the perspective defended in our paper since the research analyzed (Oliveira, 2007) has traces related to a form of action that is still assistentialist and judicializing. However, as mentioned, some indications place that institution as a defender of the vulnerable and friend of the community.

The eleventh paper (Fensterseifer, 2016, p. 11, our translation), which consists of a doctoral dissertation, aimed to "undertake a study on the current constitutional and infra-constitutional legal regime of the Public Defender's Office in Brazil". To do so, the author: 1) addressed the legal concept of needy and the legal regime of special protection for vulnerable individuals and social groups in Brazil's 1988 Constitution; 2) addressed the treatment given to the Public Defender's Office by the 1988 Federal Constitution; and 3) evaluated the normative dimensions related to the entitlement of individuals and social groups vulnerable to be eligible for comprehensive legal aid provided by the Public Defender's Office.

The said doctoral dissertation (Fensterseifer, 2016) brought the following conclusions: 1) there is a new paradigm of action for the Public Defender's Office, which meant a break with the old classical conception of individualistic liberal features in favor of the legitimacy to act, at the individual and collective levels, in the protection and promotion of the fundamental rights of entitlement of people in need; 2) the new normative framework consecrated the social fundamental right to full and free legal aid to vulnerable individuals and social groups; 3) the State is responsible for progressiveness regarding the adequate structuring of the Public Defender's Office. In summary, the text under analysis allowed us to observe the characteristics of the *custos vulnerabilis* mission assigned to the Public Defender's Office. Therefore, we can affirm that such research has shown, to a certain extent, the importance of recognizing vulnerable individuals and groups.

The twelfth text (Freitas, 2013), which is a master's thesis, aims to answer whether unions have been effective in defending the rights of their members. In conclusion, the author stated that the representation in court through the unions has not been the most consistent in the face of the current factual reality, with no obstacle for the Public Defender's Office to also act in the labor courts. In this sense, although subtly, the thesis

above demonstrated assent to the theoretical categories addressed in this research. This is because it defended a collective action for the Public Defender's Office related to protecting a social group recognized as vulnerable (the working class). However, we emphasize that such an approach is timid, without any express mention of the institution as *custos vulnerabilis* or *amicus communitatis*, reaching only a few aspects of these concepts.

The thirteenth article (Haddad; Soares, 2009b) is only an English version of the eighth paper (Haddad; Soares, 2009a) discussed in this section. Thus, recalling our conclusion, the text does not highlight the importance of recognition as a dimension of substantial access to justice, nor does it emphasize the role of the Public Defender's Office as a *custos vulnerabilis* and *amicus communitatis*.

The last paper analyzed in this section (Faustino; Batitucci; Cruz, 2023, p. e2314, our translation) aims to analyze how Public Defender's Offices "have sought to expand the use of out of court methods of conflict resolution". To accomplish this, qualitative research was carried out, using secondary sources to describe the Brazilian scenario regarding access to justice, the forms of conflict management, and the constitution of Public Defender's Offices in Brazil. Likewise, questionnaires were sent to the public Defender's Offices, and interviews were conducted within the scope of the Public Defender's Office of the State of Minas Gerais.

The authors (Faustino; Batitucci; Cruz, 2023) pointed out that: 1) the Public Defender's Offices recognize the importance of expanding extrajudicial action, but this would not be a priority; and 2) institutions still do not promote access to justice in a broad sense since their efforts are still primarily linked to legal action. This article demonstrated a concern with elements of an action as *amicus communitatis*, as observed in Section 4. Therefore, to some extent, it emphasized the importance of recognition as a dimension of substantial access to justice, even if indirectly.

Given the articles reviewed, we noted that most focused on access to justice from the perspective of legal aid to economically disadvantaged individuals, without highlighting other forms of vulnerability or issues related to the social recognition of groups and individuals. However, a few studies have stood out when addressing broader aspects of access to justice, including the dimension of recognition as a relevant element for effecting that right and the role of the Public Defender's Office as a provider of legal assistance to those in need and a defender of the rights of stigmatized and socially disadvantaged groups.

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Among such highlighted papers, we mention the research of Vieira and Radomysler (2015), who emphasizes the importance of recognition in the field of public defenders, and Fensterseifer (2016) and Faustino, Batitucci, and Cruz (2023), who highlight more forcefully characteristics of actions as *custos vulnerabilis* and *amicus communitatis*, even without mentioning such terms expressly. However, we emphasize that most of the texts analyzed do not deepen the discussion on such dimensions, focusing mainly on traditional legal aid.

Therefore, we can conclude that the academic literature on the subject has not sufficiently demonstrated the importance of recognition as a dimension of substantial access to justice, nor has it highlighted the role of the Public Defender's Office as *custos vulnerabilis* and *amicus communitatis*, except for the research cited above.

3. Recognition as a dimension of access to justice: a look at institutional mediation

As previously explained, this section aimed to describe recognition as a dimension of access to justice in terms of the philosophical theory developed by Axel Honneth (2003). First, it should be mentioned that the theorist is product of the so-called third generation of the Frankfurt School, having been directly guided by Jurgen Habermas (Voirol, 2008).

Thus, we can affirm that Honneth was inserted in a philosophical current that held the attempt to reconcile the tensions between theory and practice as one of its most important characteristics, always from a critical bias to the predominant social institutions. Likewise, we must also point out that the emphasis given to the author was primarily due to the tone he used when analyzing the most diverse theoretical currents – even his predecessors at the Frankfurt School were criticized due to a sociological deficit that reduced the historical process to a dimension of domination over nature, called reification (Fuhrmann, 2013).

On the other hand, Honneth believed Habermas' research "recovered an aspect forgotten by Critical Theory[4] in its past: the articulation between the system and the world of everyday life" (Fuhrmann, 2013, p. 82). However, his mentor would also not

4 The ideal of rationality pursued by critical theory is oriented to the search for emancipatory potentials in such a way that a counterpoint is made to domination, oppression, and, finally, the reification of the subject by *modus operandi* of capitalism (Honneth, 2008, p. 389-390).

have overcome the instrumentalized view of human actions and social relations since, according to the theory of communicative action, conflicts would be directly associated with a "dual model of linguistic theoretical domination, that is, in the precarious mediation of dialogue between social groups and institutions" (Fuhrmann, 2013, p. 82).

Unlike his predecessors, Honneth (2003) perceived that social struggles originated from negative moral experiences (disrespect) experienced by individuals to affect their subjectivities. From this premise, the philosopher launched into discussions about the first end object of his theory: (social) justice.

To contextualize the previous paragraph, it is important to clarify that the debate around the concept of justice became heated after John Rawls's *A Theory of Justice* was published in 1971. We had a real theoretical polarization between two currents of thought: on the one hand, the liberals, and on the other, the communitarians. However, Honneth was not compatible with either current – for him, such a moment denoted an "abyss between philosophical theory and political praxis" (Simim, 2017, p. 398). However, despite the reservations at that theoretical moment, the German philosopher (Honneth, 2003) did not intend to discard the theories of justice from before, but only indicate their limitations to contribute to the debate.

In this sense, the philosopher indicated three structural flaws observed by him in discussions concerning the concept of justice: 1) the fundamental procedural scheme[5]; 2) the idea of distributive justice; and 3) the fixation on the State as the only agency for promoting justice (Simim, 2017, p. 398). In summary, the debate between communitarians and liberals pointed to an ideal of social justice that took care of the "minimum material existence for individuals to be free and pursue their life plans without depending on interaction partners" (Simim, 2017, p. 399).

Thus, the concept of justice was too closely related to the paradigm of redistribution of goods. Therefore, the material task of justice would be to ensure a distribution of valued goods, equitably allowing members of society to pursue their personal desires (Simim, 2017, p. 399).

In contrast to the idea above, Honnethian political philosophy gave rise to another conception of social justice, which does not focus on a "shallow elimination of

5 The fundamental proceduralist scheme represented "a union between the 'principle of form', according to which all principles of justice must be capable of being conceived as a result of the common formation of the will, and its 'material component', namely that social justice must be projected as a form of guarantee of personal autonomy" (Simim, 2017, p. 401).

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inequality, but on the prevention of humiliation and contempt" (Fuhrmann, 2013, p. 88). Thus, Axel Honneth's studies do not fall under the ideals of equitable or egalitarian distribution of consumer goods but rather on the recognition and dignity of individuals and social groups. Thus, Honneth (2003) inserted himself into the discussions regarding the concept of justice, not only criticizing the ideas of his predecessors but offering his own theory.

He (Honneth, 2003) began from the Hegelian concept of formal ethics[6] and formulated an intermediate idea "between Kantian morality present in the liberal atomist project" and "communitarian ethics, which has the spontaneous natural formation of values in a community as a unique form of good life that does not accept external criticism" (Simim, 2017, p. 403, our translation). In other words, in constructing his idea of recognition, Honneth (2003) captured the Hegelian premise that forming human identity presupposes experiences of intersubjective recognition. With this starting point, he revisited the studies in the social psychology of Georg Herbet Mead, who contributed to the concept with the theoretical equivalents of the stages of self-recognition.

In short, from the two perspectives indicated above, Honneth built his social theory of normative content to clarify the processes of social change from "normative pretensions structurally inscribed in the relationship of reciprocal recognition" (Honneth, 2003, p. 155). Thus, according to this philosophical category, the reproduction of social life is carried out under the imperative of reciprocal recognition because subjects can only reach a practical self-relationship when they learn to conceive themselves as their social recipients from the normative perspective of their interaction partners.

In this prism of approach, we must mention that recognition is achieved through three standards (Honneth, 2003, p. 156): a) love[7] – in this sphere of recognition, family, erotic, friendly relations, etc. are considered; b) legal recognition (Right)[8] – considered

6 Formal Hegelian ethics was fixed on the conditions of personal self-realization of the subjects, distancing itself, for example, from the Kantian universalist morality of respect for all as ends in themselves. From the conceptual revitalization offered by Honneth, ethics began to encompass the whole of intersubjective conditions necessary for individual self-realization as normative assumptions (Simim, 2017, p. 403-404).

7 "loving relationships should be understood here as all primary relationships, insofar as they consist of strong emotional bonds between a few people, according to the pattern of erotic relationships between two partners, friendships, and parent/child relationships" (Honneth, 2003, p. 159, our translation).

8 "For law, Hegel and Mead perceived a similar relationship in the circumstance that we can only arrive at an understanding of ourselves as bearers of rights when we possess, conversely, a knowledge about what obligations we must observe in the face of the respective other: only from the normative perspective of a 'generalized other', which already teaches us to recognize the other members of the collectivity as bearers of rights, can we also understand

as the normative and institutional justice dimension; and c) the solidary assent[9] – understood as social esteem, that is, the relationships of the individual towards the social environment in which they are inserted.

However, Honneth (2003) also indicated the existence of social pathologies that function as true antitheses to the patterns of recognition mentioned above, which consist of the experiences of disrespect. These pathologies damage the subjectivity of individuals in such a way as to mutilate their positive self-understanding, built on successful experiences of recognition. Thus, the experiences of disrespect are not unjust only because they attack the freedoms of individuals, but because they negatively affect the identities of those affected. These pathologies are subdivided into three categories: a) maltreatment;[10] b) deprivation of rights;[11] and c) degradation.[12]

In his later work, more precisely in *Sofrimento de indeterminação* (2007) and *O direito da liberdade* (2015), Honneth pointed to an idea that mitigated the problems of the social pathologies mentioned: institutional mediation. In fact, the German philosopher gradually distanced himself from the idea of a *fight* for recognition and departed to an institutionalized conception of justice, which was forged from a normative reconstruction of ideals and values that are fundamental to modern democratic societies, such as the right to freedom (Souza, 2017). This theoretical turn occurred, above all, because Honneth (2015) realized that, given the complexities of modern societies, individuals would have low chances of success when waging individual struggles for recognition and that the support of certain social institutions would be of fundamental importance for their freedom project.

ourselves as a person of law, in the sense that we can be sure of the social fulfillment of some of our claims" (Honneth, 2003, p. 179, our translation).

9 "to reach an unbreakable self-relationship, in addition to the experience of affective dedication and legal recognition, human subjects also need a social esteem that allows them to refer positively to their properties and concrete capacities" (Honneth, 2003, p. 198, our translation).

10 In short, the experience of mistreatment consists of the withdrawal, with physical or psychological violence, of the possibility of an individual to freely enjoy their body.

11 Deprivation of rights consists of a mode of disrespect that keeps the subject or social group "structurally excluded from the possession of certain rights within a society" (Honneth, 2003, p. 216). This can occur through the violation of guarantees already enshrined in the legal system or, even, by the failure of the legislator to recognize rights to a certain group.

12 To capture the premise behind the experiences of degradation, we must clarify that the pattern of recognition of social esteem is a normative type built from the sum of the most diverse individual properties of those who make up the social environment, resulting in a reference system for moral evaluation of individuals and for cultural self-understanding of society. This form of disrespect is materialized through experiences that remove, to some degree, the possibility of the affected subjects to conduct their own lives as something valuable within the collectivity in which they are inserted. In a nutshell, degradation consists of a form of social devaluation.

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Thus, at this time, Honnethian philosophy was directed towards the institutional conditions necessary for exercising freedoms in modern societies. More than that, Honneth (2015) was concerned with how social institutions could act to reduce conflict and maximize freedoms. The idea of institutional mediation emerged from all this theoretical construction, ultimately aiming to strengthen freedoms – thus, we indicate the second purpose of the theory of recognition: freedom.

In this sense, the significant contribution of the late work of Honneth (2007), as said, was to expose that such relations of reciprocal recognition can be sustained through the mediation of social institutions. This occurs because individuals can be recognized by their equals, by virtue of their most particular characteristics within the framework of the various social institutions and public spheres of formation of political will (Honneth, 2015). In other words, it is the social institutions that enable the symmetrical distribution of recognition of the individual capacities of the subjects involved, thus inducing practical freedom and individual emancipation.[13]

However, to enable this last point, it is necessary to cover some characteristics within the scope of the social institutions involved and in the current institutional normative order (Honneth, 2015). In summary, these characteristics are a) the current law as a facilitator of communication between institutions and individuals; b) the legitimacy of social institutions for the formation of communicative and pedagogical spaces; and c) the fluidity of Law and social institutions involved in mediation processes.

Regarding the first of the characteristics mentioned above – the right as a facilitator of communication between institutions and individuals – we will return, albeit briefly, to the discussion between recognition and redistribution. According to Honneth (2015), law cannot be understood as a mere instrument for distributing fundamental rights and guarantees for institutional mediation to work. On the contrary, law should be a facilitator of communication between the various social institutions, removing the focus on the formal categories of rights and the judicial process, and addressing the "formation and diffusion of an even broader legal awareness that disseminates the broad notion of mutual respect and recognition of the prerogatives linked to the formation of individual identity" (Filho; Feres, 2016, p. 145). Thus, respect and

13 "According to the author, by distributing roles and social positions that generate behavior expectations, institutions maintain a potential space for distributing recognition that can reflect a true theory of justice, based on which the subject experiences his freedom" (Filho; Feres, 2016, p. 142, our translation).

understanding would come to be seen as proper categories of law, and not mere benevolence or social tolerance.

In this sense, with interinstitutional and intrasocial communication facilitated by law, Honneth (2015) believed that a second characteristic would arise within social institutions: the formation of communicative spaces with a pedagogical bias. This characteristic of Honneth's theory of justice presupposes a break, albeit partial, with the state sanctioning model, in which institutions would be almost exclusively responsible for executing individual and collective prerogatives approved in law (Filho; Feres, 2016, p. 145). From such a break, institutions should preventively and pedagogically introduce into societies the guarantee that new perceptions of good life can be freely constituted, thus consolidating the recognition of individual differences and specificities.

Therefore, institutional mediation and law should also be seen as fluid instruments of social change, aimed at the "continuous collective reconstruction of the values immanent to institutions" (Filho; Feres, p. 146) to represent communicative spaces that reinforce relations of reciprocal recognition. Thus, a fundamental premise of institutional mediation is to enable the constant improvement of the social normative horizon so that value can be attributed to the cultural differences existing between individuals in the same society and "remove the emphasis from state coercion to place it in the shared process of attributing meaning to legal structures" (Filho; Feres, p. 146).

In this perspective, we believe that the Public Defender's Office may exercise the role of institutional mediator in favor of the neediest social groups in terms of recognition experiences as a result of its mission as *custos vulnerabilis* and its performance as *amicus communitatis*. This is because, in summary, such an institutional mission elevates the Public Defender's Office to the level of guardian of the vulnerable, which will be covered in the next section.

4. From legal aid to *custos vulnerabilis* and *amicus communitatis*: the evolution of the Public Defender as an institutional mediator

In this section, we aim to present the Public Defender's Office through its mission as *custos vulnerabilis* and acting as *amicus communitatis* as a possible institutional mediator, in terms of recognition theory (Honneth, 2015). However, before discussing the functions assigned to that institution, we should briefly discuss the emergence and

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evolution of the Brazilian Public Defender's Office. In this sense, at first, it should be mentioned that the institution has the Federal Prosecution Services as its foundation.

In fact, Brazilian solutions for the provision of free legal aid to the needy before the Federal Constitution of 1988 were the responsibility of the states, and can be summarized in three fronts of action: 1) the creation of a specific public body for this purpose; 2) the attribution of such a function to an existing institution, such as the Prosecution Services; and 3) the remuneration of private attorneys who met the demands of the population in economic vulnerability with public resources (Moreira, 2017). The solution most used by the states was to assign the assistance role to their Prosecution Services. Therefore, it is stated that the Public Defender's Office originated from that institution.

In this sense, it is also important to clarify that the defense model was only consolidated in the Brazilian legal system with the advent of the Federal Constitution of 1988. However, such consolidation was only possible after arduous disputes with other actors in the justice system, especially private attorneys and other categories of public servants, who worked in free legal aid to the needy (Moreira, 2017).

The Public Defender's Office was created by the Constituent Assembly of 1988 to materialize "free and comprehensive legal aid to those who prove insufficient resources" (Article 5, LXXIV, our translation).[14] The Federal Constitution did not bring any objective criterion to measure the "insufficiency of resources", "using only another concept, of needy, to define the target audience of the Public Defender's Office" (Vieira; Radomysler, 2015, p. 457, our translation). Thus, due to such constitutional omission, the institutional evolution of the defense body was marked by the fulfillment of the individual demands of low-income citizens (Vieira; Radomysler, 2015, p. 460).

This scenario is perfectly compatible with the discussions regarding access to justice of the 1980s and 1990s, in which they indicated the need for that guarantee to be extended to the economically marginalized population. Therefore, the public policies of "integral and free assistance", at first, had an eminently redistributive bias, such as the performance of the Public Defender's Office, in dissonance with the Honnethian philosophy.

However, "based on the reforms in the Judiciary Branch that began with Constitutional Amendment No. 45/2004, a new dimension was given to the Public Defender's

14 "The constitutional provision of the Public Defender's Office sought to concentrate the policy of access to justice for needy individuals in a uniform model of 'public servant attorneys' for the whole country" (Moreira, 2017, p. 651).

Office" (Vieira; Radomysler, 2015, p. 458, our translation). Its actions focused on the promotion of human rights, the defense of collective interests, multidisciplinary care, extrajudicial conflict resolution, and rights education. Naturally, meeting the individual interests of low-income citizens also continued to have space in this scope of action.

Another important milestone for the evolution of the Public Defender's Office came from Law No. 11488/2007, which amended Law No. 7347/1985 – this normative instrument legitimized the Public Defender's Office to act in the protection of collective, diffuse, and homogeneous individual rights, granting it legitimacy to propose class action suits. It should be noted that the emergence of the term *custos vulnerabilis* stems from a discussion about the active legitimacy of the Public Defender's Office for class action suits. This is because the National Association of Members of the Federal Prosecution Service (Conamp) questioned this legitimacy through the Direct Action of Unconstitutionality (ADI) No. 3,943.

On the occasion of the ADI mentioned above, one of the primary theses defended by the Association was that attribution of legitimacy to the Public Defender's Office would mean usurping the function *custos legis* of the Federal Prosecution Service. Therefore, Maurílio Casas Maia (2014) created the expression *custos vulnerabilis* as a didactic resource to explain that the Public Defender's Office is not responsible for defending the legal order but for the "constitutional mission of defending the vulnerable" (Filho; Rocha; Maia, 2020, p. 50).

From this perspective, "on the occasion of the creation of the term, first of all, the constitutional mission of the Public Defender's Office was focused on with an institutional collective bias [...]. Subsequently, with an institutional intervention perspective..." (Filho; Rocha; Maia, 2020, p. 50, our translation). Thus, we can see that, at first, the mission of guarding the vulnerable was directly associated with the possibility of the Public Defender's Office filing class action suits to defend the interests of its assisted groups. At a later moment, this mission gained an interventionist character – that is, the Public Defender's Office could intervene in legal proceedings to defend the interests of vulnerable social groups. In fact, such a form of defensory intervention has positive results at the Superior Court of Justice (STJ).[15]

15 The first decision of the STJ to recognize the Public Defender's Office's function *custos vulnerabilis*, with an interventional-procedural character, was given in the records of the Special Appeal No. 1.712.163/SP. The fact addressed the controversy regarding the mandatory supply of imported drugs not registered by Anvisa through health plans. At one point, the Federal Public Defender's Office, observing that any decision rendered in the case

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We must also mention Complementary Law No. 132/2009 in this set of legislative changes that legitimizes the Public Defender's Office as an institutional mediator, which amended Article 3 of Complementary Law No. 80/1994, including among the objectives of the Public Defender's Office: a) "the primacy of human dignity and the reduction of social inequalities"; b) the "affirmation of the Democratic State of Law"; and c) the "prevalence and effectiveness of human rights".

The same legal provision established as institutional functions of that body: a) to "exercise the defense of the individual and collective interests of children and adolescents, older adults, persons with special needs, women victims of domestic and family violence, and other vulnerable social groups that deserve the State's special protection" (Art. 4, XI, of Complementary Law No. 80/1994, our translation) and b) to "act in the preservation and reparation of the rights of victims of torture, sexual abuse, discrimination, or any other form of oppression or violence, providing monitoring and service to the victims" (Art. 4, XVIII, of Complementary Law No. 80/1994, our translation).

Finally, let us mention Constitutional Amendment No. 80/2014, which amended Article 134 of the Federal Constitution, making the Public Defender's Office an "expression and instrument of the democratic regime" and saying it should act in the "promotion of human rights".

In this sense, all the legislative reforms highlighted above – among others not commented on in this text - have raised the Public Defender's Office to a new normative paradigm, "which overcomes that linked to the concept of needy due to insufficient financial resources and the exercise of legal services linked to individual processes" (Vieira; Radomysler, 2015, p. 459, our translation) and legally justify the assignment of *custos vulnerabilis* and its unfolding as *amicus communitatis* to that institution. Therefore, the Public Defender's Office began to have legitimacy to act on demands directly related to the recognition of vulnerable groups and promote institutional mediations:

> The role of the Public Defender is inserted in the search for the democratic inclusion of vulnerable groups, aiming to guarantee their participation and influence in political and social decisions so as to not be ignored in the composition, maintenance, and transformation of the society in which they are inserted (Filho; Rocha; Maia, 2020, p. 60).

could affect the sphere of the rights of vulnerable individuals or social groups, pleaded for entry into the procedure as *custos vulnerabilis*. The magistrates of the Second Section of the Superior Court of Justice unanimously admitted the intervention of the Public Defender's Office as *custos vulnerabilis* in the terms put forward by the Rapporteur Judge Moura Ribeiro.

As we can see, the institution was delegated the function of mediating the interests of a population that constantly suffers from disrespect, with the Public Defender's Office providing them with spaces for participation and influence in political and social decisions. However, for that to happen, the Public Defender's Office must be more than *custos vulnerabilis*, becoming *amicus communnitatis*.

In this context, it is important to note that the term *amicus communitatis* (originally, "*amicus communitas*") was introduced by professor and jusphilosopher Daniel Gerhard from the Faculty of Law of the Universidade Federal do Amazonas (FD/UFAM) – in 2015, the topic was addressed in co-authorship with Edilson Santana (DPU) and Maurilio Maia (DPE/AM). The term proposed a sociopolitical and philosophical approach to the concept of community, presenting the Public Defender's Office as an ally of the courts (*amicus curiae*) and a "friend of the communities", because it must take a position of proximity to them, representing their interests and strengthening democratic pluralism. Thus, the mission of the Public Defender's Office would be to promote an inclusive democracy in the judicial and extrajudicial spheres (Maia, 2015, p. 620).

In general terms, the *amicus communitatis* is a form of defensory action that consists of an expression of the mission *custos vulnerabilis*. This form of action requires the institutional initiative of the Public Defender's Office to seek greater proximity to their assisted communities, allowing public defenders to (re)learn the desires and interests of their audience. Likewise, it should materialize through preventive and diligent action, which enables the handling of conflicts, the promotion of awareness of rights, and any other practices that promote the recognition of individuals and social groups assisted.

The concept of *amicus communitatis* adopted in this article, summarized in the paragraph above, consists of a simple expansion of the original idea of Gerhard and Maia (2015). This concept refers to the role of the Public Defender as a representative and spokesperson for the interests of marginalized and excluded communities, which should ensure their representativeness in spaces of power. In constructing the idea, Gerhard and Maia (2015) compared the Public Defender to the messenger Hermes from Greek mythology, who connected different realities and translated the messages between them. Thus, like Hermes, the Public Defender should act as a bridge between their assisted communities and the decision-making spaces, translating the cries of those communities before the government power and the courts.

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In this sense, in the original idea, the Public Defender, while *amicus communitatis*, should seek the recognition of vulnerable individuals and social groups, effecting the democratic inclusion of those in need of legal and political representation. We emphasize that, for its practical materialization, it is necessary that the Public Defender's Office institutionally adopt a form of diligent and preventive action, which allows its members to approach the reality experienced by their assisted audience.

5. Final Remarks

Initially, it should be remembered that the central objective of this article is to analyze the relationship between access to justice, recognition, and the performance of the Public Defender's Office as *custos vulnerabilis* and *amicus communitatis*. Thus, we divided the research into three specific objectives: a) conduct a literature review on access to justice and the performance of the Public Defender to situate how academic literature has been addressing the subject under analysis; b) describe recognition as a dimension of access to justice in terms of the philosophical theory developed by Axel Honneth; and c) present the Public Defender, through its mission as *custos vulnerabilis* and acting as *amicus communitatis*, as a possible institutional mediator, under recognition theory.

Given the scientific articles identified in the Capes repository, we noted that most focused on access to justice from the perspective of legal aid to economically disadvantaged individuals, without highlighting other forms of vulnerability or issues related to the social recognition of groups and individuals. However, a few studies have stood out when addressing broader aspects of access to justice, including the dimension of recognition as a relevant element for effecting that right and the role of the Public Defender's Office as a provider of legal assistance to those in need and a defender of the rights of stigmatized and socially disadvantaged groups.

Among such highlighted papers, we mention the research of Vieira and Radomysler (2015), who emphasizes the importance of recognition in the field of public defenders, and Fensterseifer (2016) and Faustino, Batitucci, and Cruz (2023), who highlight more forcefully characteristics of actions as *custos vulnerabilis* and *amicus communitatis*, even without mentioning such terms expressly. However, we emphasize that most of the texts analyzed do not deepen the discussion on such dimensions, focusing mainly on traditional legal aid, generally individualized, non-structural, and without community engagement.

Therefore, we can conclude that the academic literature on the subject has not sufficiently demonstrated the importance of recognition as a dimension of substantial access to justice, nor has it highlighted the role of the Public Defender as *custos vulnerabilis* and *amicus communitatis*, except for the research cited above.

In the second section, we present the aims of recognition theory (social justice and freedom), explain how this philosophical current was inserted in the debate concerning the concept of justice, demonstrate how the purposes of recognition theory are built from the so-called "recognition patterns" and deconstructed from the experiences of disrespect, and understand the idea indicated by Honneth to mitigate the social pathologies arising from the experiences of disrespect: institutional mediation.

Thus, we believe that Honneth brought two important contributions to be considered when regarding access to justice: 1) overcoming the idea that justice should focus on issues related to the mere material redistribution of rights by proposing an approach centered on the recognition and dignity of individuals and social groups; and 2) a new perspective of action for justice institutions (institutional mediation), which should promote rights as a facilitator of communication between institutions and individuals and the formation of communicative spaces with an eminently pedagogical bias to enable collective reconstruction of the values immanent to institutions, valuing cultural differences and assigning a new meaning to legal structures. Therefore, we conclude that the recognition theory philosophically justifies the Public Defender's Office as an institutional mediator.

In the third section, we dedicate ourselves to presenting the mission *custos vulnerabilis* assigned to the Public Defender's Office and its actions as *amicus communitatis* to correlate its function to the idea of institutional mediation. Thus, considering that such attributions confer a comprehensive and transformative performance on the Public Defender, directed to the defense of the rights of groups and individuals in situations of socioeconomic vulnerability, it is possible to affirm that the institution has the potential to position itself as an institutional mediator par excellence.

Through diligent and preventive action, the Public Defender's Office should recognize vulnerable groups, ensuring their participation and influence in political and social decisions, which makes it an important agent in the search for democratic inclusion and the construction of a more egalitarian and just society. In addition, by acting as *amicus communitatis*, the institution assumes the role of representative and

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spokesperson of marginalized and excluded communities, acting as a bridge between these groups and the spaces of power, translating their demands and complaints before the courts and government.

Therefore, by materializing such forms of action, the Public Defender's Office will effectively approach the role of institutional mediator, seeking to promote social pacification, the guarantee of rights and the construction of a more just and inclusive society. Therefore, the constitutional text, provided for in the chapeau of Article 134, is realized as the Public Defender's Office represents expression and instrumentalization of the democratic regime, not only provoking jurisdiction, but guiding and promoting human rights in out of court spaces, in conjunction with vulnerable individuals and collectives fighting for justice.

In summary, Honneth's theory of recognition presents a normative perspective of social justice that highlights the importance of reciprocal recognition in the formation of human identity. Institutional mediation becomes a fundamental instrument to promote mutual recognition and freedom in contemporary societies, and the Public Defender's Office can play a relevant role in this process of guaranteeing access to justice and the recognition of vulnerable populations, provided that it assumes the mission as effective *custos vulnerabilis* institutionally, acting as *amicus communitatis*.

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