

## *Hate speech on social networks and the relativization of the honor of public agents\**

### *Discurso de ódio nas redes sociais e a relativização da honra dos agentes públicos*

Alexandre de Castro Coura\*\*  
Leonardo Lamêgo Machado\*\*\*

#### Abstract:

New times tend to create new challenges. The growth of social networks brings new themes to be faced and freedom of expression as a relevant instrument of citizenship. It fosters a more democratic society that cannot be left out of the debate, especially when its limits occur, thus reaching the honor, intimacy, and the private life of those against whom the demonstrations are pronounced. In the name of the free manifestation, it is observed that every day more hate speech tends to intensify itself on social networks, raising the question of whether these when moderating the publications posted on their pages, do them impartially, free of ideologies, or economic appeals. As State institutions increasingly being the target of these virtual attacks, it is also relevant to demonstrate that the right to privacy, the private life, and honor of a person who proposes to be a public figure finds reasons for relativizing the legal protection given since they are more prone to control and criticism of the society of which they are representatives.

**Keyboards:** Expression. Intimacy. Freedom. Limits. Hate. Networks.

#### Resumo:

*Novos tempos tendem a criar novos desafios. O crescimento das redes sociais traz consigo novos temas a serem enfrentados, sendo a liberdade de expressão uma importante ferramenta de cidadania e fomentadora de uma sociedade mais democrática, principalmente quando se extrapolam seus limites, atingindo a honra, intimidade e a vida privada de outros. Em nome da livre manifestação, é possível observar que o discurso de ódio tende a se intensificar nas redes sociais, levantando o questionamento de possíveis moderações das publicações postadas nas suas páginas, bem como sobre suas imparcialidades ideológica e econômica. Com as instituições do Estado, alvo destes ataques virtuais, é importante também demonstrar que o direito à intimidade, à vida privada e à honra de uma pessoa enquanto figura pública encontra motivos para uma relativização da proteção legal, haja vista que estas pessoas estão mais propensas ao controle e crítica das sociedades que representam.*

**Palavras chaves:** expressão; intimidade; liberdade; limites; ódio; redes.

## 1 Introduction

Currently, and increasingly, there are new challenges brought by the influence of social networks on people's daily lives, including the possibility of sharing information and topics by anyone.

\* Artigo traduzido por Inteligência Artificial.

\*\* Doutor e mestre em Direito Constitucional pela Universidade Federal de Minas Gerais (UFMG). Ex-professor adjunto de Direito Material e Processual Penal da Universidade Federal do Espírito Santo (UFES). Professor de Teoria dos Direitos Fundamentais no Programa de Mestrado e Doutorado da Faculdade de Direito de Vitória (FDV). Coordenador do Grupo de Pesquisa Hermenêutica Jurídica e Jurisdição Constitucional (CNPq/FDV). Promotor de Justiça no Espírito Santo. Lattes: <http://lattes.cnpq.br/5164681013190401> Orcid: <https://orcid.org/0000-0001-7712-3306> e-mail: [acastrocoura@gmail.com](mailto:acastrocoura@gmail.com)

\*\*\*Mestrando em Direitos e Garantias Fundamentais pela Faculdade de Direito de Vitória (FDV). Técnico Judiciário do Tribunal Regional Eleitoral do Espírito Santo. Lattes: <http://lattes.cnpq.br/3499540983405542>. Orcid: <https://orcid.org/0000-0001-6702-4013>. E-mail: [leolamego@gmail.com](mailto:leolamego@gmail.com)

From the Constitutional Right to freedom, it is possible to notice the growth of posts on social networks, as well as the possibility of them becoming controversial opinions, personal attacks and hate speech.

The right to freedom of expression has limits that must be respected by those who use it to express their thoughts, positions, intentions and opinions; whether in the field of the real or virtual, combining with the honor, intimacy and private life of people who, in the same way as the former, have their guarantees provided for in the constitution.

Brazil today is a politically polarized country, where, especially in election times, the use of social media as a tool to disseminate hate speech is observed.

The Federal Supreme Court (STF) recognizes that the freedom of expression includes the right to inform, opine or even criticize, but with the possibility of clashing with some others contained in the Federal Constitution.

Taking into account the establishment by the Federal Supreme Court of inquiry 478 in 2019, whose one of the objectives is to investigate offenses carried out by social networks to its members, the present study, using the deductive method, will analyze the issue of attack and honor of public agents to verify a possible tendency to relativize their privacy and personality; since these are subject to a constant critical view by the whole society, even using jurisprudence emanating from this Court since 2012.

In this sense, it is questioned, in the light of the republican principle, whether it would be constitutionally appropriate to relativize the ordinary requirements of protection of the honor of the persons referred to and, consequently, to expand the freedom of expression of citizens in the event of criticism directed at public agents in the exercise of their functions, in view of the hypothesis that: would the position they occupy (public agents) entail the burden of criticism and demand by the citizen?

In this context, the present study also tries to make a portrait of hate speech in current times, as well as the way in which social networks proliferate and the way they act, trying to moderate these publications, despite the difficulty of carrying out such an act with real impartiality.

## 2 The principle of freedom of expression and its importance for democracy

Brazil was under a government resulting from a military coup, which had as one of its characteristics the suspension or suppression of several fundamental rights, especially the free expression of opinions and ideas. The latter suffered strong state control, with censors installed in the newsrooms of the media, determining what should or should not be disseminated, with beneficial and praising information from the regime prevailing as a priority.

The publication in the periodicals of the time of recipes for cakes or poems that replaced the articles censored by government agents is historic, both because the limitations were abruptly imposed by the censors, not giving time to change the report, as well as a disguised strategy of protest<sup>1</sup>.

With the arrival of democratization in the country, in the 80s, the legislator, aware of the difficult situation through which the right to the full exercise of manifestation in the *so-called years of lead*<sup>2</sup> passed, placed freedom of expression at the constitutional level, aiming to ban the instrument of censorship from the national legal system, mainly preventing rulers from using it as a means of perpetuating power.

Constitutional freedom of expression, then, comes to present itself as an important democratic instrument of protection so that everyone can express their opinions and criticisms, as well as receive information, being "directly associated with the guarantee of the dignity of the human person and democracy" (Rothnburg; Stroppa, 2015, p. 2).

Through freedom of expression, those who, without fear of being persecuted or intimidated, can come to exercise, defend or expose their opinions on a given subject,

---

<sup>1</sup> With the advent of the enactment of Institutional Act No. 5 (AI-5), on December 13, 1968, censorship came into force in the newsrooms of newspapers, causing them to protest in their own way. "The newspaper '*O Estado de S. Paulo*' starts to publish excerpts from '*Os Lusíadas*', an epic poem by the Portuguese Luís de Camões, in the spaces of the articles vetoed by the censors. The company's evening newspaper, '*Jornal da Tarde*', resorts to a similar artifice, publishing culinary recipes. It was a creative way to inform readers that newspapers were forbidden to disseminate certain news, which contributed to eroding the dictatorship with the middle class and the conservative public of '*Estadão*'. More than 1,100 matters of political content were vetoed, especially on repression. There were so many articles censored that the newspaper would end up publishing twice the 8,116 verses of Luís de Camões' sixteenth-century poem between December 1969 and January 1975, when the censors finally left the newsroom." Available at <http://www.memorialdademocracia.com.br/card/noticia-censored-da-lugar-a-camoes> Accessed on 07 May. 2021.

<sup>2</sup> In the late 1960s and early 1970s, at the same time that it was experiencing its period of economic miracle and modernizing pride, Brazil, governed by the military, set up the cruelest repressive system the country has ever experienced. These were the so-called "years of lead". Available at <https://www.camara.leg.br/radio/programas/279778-periodo-da-historia-do-brasil-conhecido-como-os-anos-de-chumbo/#:~:text=Nos%20%C3%BAltimos%20anos%20da%20d%C3%A9cada,chamados%20%22anos%20de%20chumbo%22>. Accessed on 07 May. 2021

externalizing their thoughts, including those that are related to their beliefs, ideologies, feelings and emotions. (Rothnburg; Stroppa, 2015).

With freedom of expression, it is possible to achieve a strengthening of citizenship, giving rise to the possibility of sharing knowledge of state public actions, allowing an increase in citizen interference, and consequently making public agents start to apply them correctly, seeking the good of the community.

Regarding the importance of the guarantee of expression in relation to the exercise of citizenship by all, Costa (2012, p. 7) coherently explains that

Safeguarding this right, the individual has the possibility of exercising his citizenship based on the knowledge of information and interfering directly and positively in public policies, demanding the fulfillment of the responsibility of the competent entities in carrying out actions whose scope is of public interest.

A society in which freedom of expression is curtailed is at the mercy of those who, benefiting from such a situation, mainly aim to silence dissenting voices and thus prevent contestation of their acts and power.

In Brazil, freedom of expression – in addition to its constitutional provision in Article 5 in its items IV, V, IX, inserted in the chapter related to fundamental rights and duties, and Article 220, which deals with the means of communication – is not restricted to such regulations, but is prescribed in treaties that Brazil has ratified, and may be cited mainly by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. both from the United Nations (UN); and, in the continental field, the American Convention on Human Rights of the Organization of American States (OAS) and finally the Declaration of Principles on Freedom of Expression.

The Declaration of Principles on Freedom of Expression in its item 1 makes the importance of the topic very clear when it emphasizes that "Freedom of expression, in all its forms and manifestations, is a fundamental and inalienable right, inherent to all people. It is, moreover, an indispensable requirement for the very existence of democratic societies."

The International Covenant on Civil and Political Rights (Brasil, 1992), in its Article 19, seeks to protect the right to express one's opinion, without, however, failing to provide that such rights may be restricted.

1. No one may be molested for his opinions.
2. Everyone shall have the right to freedom of expression; This right shall include the freedom to seek, receive and impart information and ideas of any kind, regardless of frontier considerations, orally or in writing, in printed or artistic form, or by any other means of their choice.

3. The exercise of the right provided for in paragraph 2 of this Article shall entail special duties and responsibilities. *Consequently, it may be subject to certain restrictions, which must, however, be expressly provided for by law* and that are necessary to:

- (a) to ensure respect for the rights and reputation of other persons;
- b) to protect national security, public order, health or morals. (*our emphasis*).

The treaties listed here, when addressing free expression at the same time, "provide for the limits to freedom of expression, corroborating the idea that no fundamental right is absolute" (Silva; Bolzan; Cigana, 2019, p. 221).

Returning to the 1988 Constitution, it is in its Article 5, item IV, *a priori*, it guarantees that everyone can freely express their thoughts, preventing, however, that such an act is done in such a way that it is impossible to identify the author; bringing with it, then, the first limitation to freedom of expression, which would be anonymity. (Brazil, 2018).

Thus, despite its importance in the democratic life of the country and a guarantee of human dignity, freedom of expression cannot be seen as a fundamental right of an absolutist nature, and may be limited by other constitutionally provided principles.

In the development of this study, therefore, we will try to emphasize the situations in which freedom of expression is limited, in order not to affect other constitutionally relevant rights, as well as the means of weighing which rights will really prevail.

### **3 The conflict between principles and limitations on freedom of expression**

At an initial moment, when it comes to freedom of expression, despite its importance for a more democratic society, its exercise cannot take place in an absolute way, since at certain times it tends to clash with other constitutional principles, and the dignity of the human person can be cited, given the scope of this study, the right to intimacy and private life.

There is a need to note that, at certain times, when having to decide between freedom of expression and other constitutional principles, in relation to the former, it is necessary to observe its prioritization, since "allowing the individual to express his opinions is considered a basic primacy of the democratic rule of law, and its value is not questioned" (Silva; Bolzan; Cigana, 2019, p. 222).

Due to its democratic importance for the evolution of society, the limitation of freedom of expression should always be seen as an exception, paying attention to the concrete case, without forgetting that they tend to lead to greater control of the powers that be.

Regarding the importance of safeguarding freedom of expression, Leite (2014, p. 9) emphasizes that

First, we must consider that the importance of freedom of expression, understood here as the effective protection of content, is directly proportional to the critical tone of what is disseminated. The more forceful and strong the commentary, the critical opinion, and may even be offensive, the greater the importance of guaranteeing freedom of expression.

In this sense, the silencing of the manifestations emanated by the members of a society through censorship has the power to kill their critical sense, especially in relation to the attitudes and acts of its rulers.

Having made these considerations, it is repeated that there are cases of relativizing the right to freedom of expression, especially when its exercise is done in a way that undermines the honor and intimacy of others, and when through it there is the externalization of hate speech or even when used to distort the reality of certain facts.

Within the scope of the Constitution, it has in its core rules and principles that will be the guide of actions for those who are subordinate to it, a fact that does not escape freedom of expression and communication (expression of thought, honor, intimacy, the right to information, etc.).

From time to time, in Law, situations arise in which rules conflict with other rules, as well as principles that end up colliding with each other, imputing to the constitutional interpreter the task of, in the specific case, deciding which of the norms best fits and, therefore, will prevail.

As for the rules, the "all or nothing" modality prevails, reason ends up submitting to the other, regulating the latter to matters under discussion, leading to the conclusion that if a conflict occurs between both, only one will be valid and will end up surviving the clash. (Barroso, 2004)

When dealing with rules and principles, in relation to the latter, Pedron Teaches; Ommati (2019, p. 88) that

Legal principles, unlike rules, do not have the legal consequences arising from their application or non-compliance. They do not intend to even establish conditions that make its application necessary; on the contrary, they enunciate a reason that leads to an argument and a certain direction.

When dealing with the absolute character or relativity of rights, considering freedom of expression, Dworkin (2010, p. 144) states that in relation to the first case, it cannot be disputed that it should be guaranteed to all, without distinction, while in relation to the second, a less absolute right, it is observed that

Rights may also be less than absolute: one principle may have to capitulate to another, or less to an intransigent policy with which it is in conflict over certain facts. We can define the weight of a right, admitting that it is not absolute, as its capacity to withstand such competition.

This explanation is consistent with the theme on which the study is based, in view of the need to face the conflict that arises between freedom of expression and the guarantee of protection, honor and intimacy of the individual, as well as the right to be informed and to have precepts provided for in the Constitution (Dworkin, 2010).

The same author (2010, p. 145) teaches, then, that one should not name as a right any political objective, but only those that have the power to modify collective goals in general.

Suppose, for example, that a man says that he recognizes the right of freedom of speech, but adds that such freedom must be left in the background whenever its exercise may be inconvenient to the public. He means, I imagine, that he recognizes the widely disseminated goal of collective well-being, but recognizes the distribution of freedom of expression only in the terms recommended by this collective goal for specific circumstances.

Continuing to expose his political theory, bringing up the issue of abstract rights as a general political objective, which at the moment of confrontation with another general objective must be harmonized and weighed in relation to this one according to the concrete situation that is presented, Dworkin (2010, p. 146) says that "politicians speak of a right to freedom of expression, to dignity or equality, without suggesting that these rights are absolute and without attempting to suggest their impact on particular and complex social situations".

Freedom of expression is closely linked to "the function that its appreciation represents an essential guarantee for the protection of the dignity of the individual" (Curry; Barros, 2018, p. 4), and, therefore, its limitation should be viewed with great caution by those responsible for applying such sanction.

Regarding the need to limit freedom of expression in order to prevent abuses, Carvalho (2013, p. 40) states that

In summary, it can be said that the right to freedom of expression is broad and guaranteed to all, but there are situations that may be limited. Seek limits of freedom of expression, in order to avoid abuses on social networks, without, however, mitigating the dignity of the human person, since communicating is the necessary and sufficient means for social and cultural development.

The 1988 Constitution, although it correctly provides for the prohibition of prior censorship of any type of expression of thought, does not guarantee that such a fact occurs judicially and that this fact also happens later in the case of publications (Leite, 2014).

At first, when it comes to the limitation on the use of freedom of expression, it is necessary to verify that there is no strong differentiation between the restriction that occurs previously through judicial means or through government censorship and that arising from subsequent

publication or manifestation of thought, and the effectiveness of the latter may be much more harmful than the first (Leite, 2014).

The same author (2014, p. 8) translates more clearly the problem of giving preference to prior censorship over the subsequent limitation of the right of expression when he says that

The resistance to the idea of prior restriction is understandable – especially in Brazil, where the end of the authoritarian regime is recent, but just over two decades ago. But we must do the right thing for the right reasons, that is, to prevent prior restriction to bring the assurance to those who express themselves that their speech will not be condemned, and not to simply procrastinate this judgment. From the point of view of those who speak out (and indirectly for democracy itself) legal certainty regarding the lawfulness of the content is essential: either the speech is protected or it is not!

Some personality rights can be limiting to freedom of expression. They have the characteristic that, if their violation occurs, the reparation for any losses does not necessarily tend to be converted into financial reparations, and resolution may occur by other means, such as the right of reply, including this being the means that can best guarantee freedom of expression, as will be seen below (Leite, 2014).

The importance of freedom of expression cannot be disregarded when there is a conflict with other fundamental rights, and priority should be given to it, as well as its primacy should only be removed when the critical tone used in its manifestation is sufficiently strong and forceful. It cannot be disregarded that the most scathing criticisms, even the offensive ones, can contribute to the evolution of the debate on a certain topic, because a manifestation that does not have a reason for censorship often has nothing to add (Leite, 2014).

Item X of Article 5 of the Federal Constitution brings the issue of the inviolability of intimacy, private life, honor and the image of people with the guarantee that the offended party will have the right to demand compensation in the event of moral or material damage due to the violation committed (Brasil, 1988).

The Article cited, however, in items IV and V, states that when the manifestation of the thought is considered offensive, the person who feels affected will have the right to reply – an assertion that is in proportion to the aggravation committed – and, as also provided for in item X, will have the right to compensation for material and moral damages, including in this case his image (Brasil, 1988).

Generally, what is found in legal circles is the prevalence of requests and consequent granting of compensation, some of which are responsible for the total unfeasibility of the person responsible for the demonstration, to the detriment of the right of reply. In other words, there is

a need, in concrete cases, to observe which of the two options will be more efficient for the debate as a whole.

The importance of having a preferential position in relation to freedom of expression over other rights, even the manifestation of thought that may affect the honor, intimacy or morality of the offended party, is that the right of reply tends to be the fairest way through which the State can ensure these rights (Leite 2014).

#### 4 Hate speech and social media's control of free speech

The growth of social networks has created an environment where people can come together for the most diverse activities, one of them being the expression of opinions, criticism, the demonstration of cultural and artistic manifestations, as well as the dissemination of information related to the most diverse subjects.

We live today in a world where, as Oliveira emphasizes; Gomes (2019, p 94),

It is impossible to think about the current democratic challenges without facing contradictory issues offered by the technological advancement of hyperconnected societies that has transformed the ways of life, social interaction and the construction of political debates.

Considered almost a free territory, internet users, often hidden behind *nicknames*<sup>3</sup>, have a false sense of impunity, which leads them to exercise their manifestations of thought without worrying about exceeding reasonable limits, affecting the honor of those to whom the posts are directed.

When talking about social networks, an example of what they have become is Facebook. Founded in February 2004, it is one of the most popular networks in the world, having approximately 2.8 billion users in 2020<sup>4</sup>, a number that exceeds the population of China, with approximately 1.4 billion inhabitants or corresponding to just over 13 times the population of Brazil<sup>5</sup>.

---

<sup>3</sup>*Nickname* or *nick* in abbreviated form, is an English word that means nickname, that is, a way to replace a person's first name. On the internet and in the digital world, *nicknames* are widely used to make a good impression, whether in electronic games, in online chat rooms, or in other services such as internet forums. Although a *nickname* serves as a substitute for a person's real name, there is not always an obligation to hide the real identity, as in some cases the user chooses to reveal his real identity, but continues to be called by his digital nickname or *nickname* (Available at <<https://seletronic.com.br/o-que-e-nickname/>> Accessed on 07 May. 2021).

<sup>4</sup>The social network had a revenue of \$28 billion in the last quarter of 2020, which represents a growth of 23.8% compared to 2019, and came even closer to the mark of 3 billion monthly active users (MAU), closing the year with 2.8 billion people online on the platform. Available at <<https://exame.com/tecnologia/facebook-fica-mais-perto-de-3-bilhoes-de-usuarios-ativos-e-receita-cresce-em-2020/>>. Accessed on 06 May. 2021.

<sup>5</sup>Data available at <<https://www.populationpyramid.net/pt/popula%C3%A7%C3%A3o/2020/>>. Accessed on 06 May. 2021.

This social network has the characteristics of being made up of users who interact with each other through profiles, integrating communities related to some self-interest, manifesting themselves by liking the posts made by other users or issuing opinions in the groups they are part of. There is also a space called a wall, where the user places various media (photos, videos, images) and also expresses their state of mind.

The growing globalization makes it possible for discourses of yesteryear, restricted to certain distant regions of the world, to now attract sympathizers in various parts of the globe, transforming problems, social manifestations or internal political struggles into a universalized discussion (Leite, 2014). Thus, in this globalization that they are inserted, social networks allow the manifestations of their users, on the most varied subjects, to spread quickly and widely, where the issue of time and space is expanded in relation to the real world. As an example, a post made in Brazil (or in any country) in a few seconds will be available to a user located miles away, such as in China.

Another innovation of current times that allows a greater dissemination of information is the popularization of the so-called *smartphones*, cell phones with internet access and that, with their applications, allow people to be connected online to events in the world.

Each user in possession of their devices becomes pseudo-journalists or "experts" on certain subjects, changing the center of the information previously monopolized by the old media, to the real time of the world wide web, making such information can be viewed from other angles, with the exception that such news cannot always be checked at the same speed as to its veracity.

About this new communication trend and its influence on the dissemination of information in today's world, Cardoso (2011, p. 82) describes that

This new form of "community journalism" is further simplified by the convergence of platforms: the possibility of placing any information in the web world through the mobile phone or making convergences of content through online networks not only lends itself to a greater globalization of social interaction through social networks, but also allows the almost simultaneous circulation of any fact that deserves the attention of its broadcaster.

The current change in the monopoly of information from the old means of communication in Brazil, with the migration of this same information to social media, especially social networks, is described by Malini and Antou (2012, p. 74), who observe that

Stories that demarcate a break with that Brazilian society of 89, which had a TV channel with a national newspaper, with *shares* of almost 80% during the Lula x Collor debate. And today, the same channel broadcasts the presidential debate trying

to maintain a <sup>6</sup> 30% share, competing with the truths of Internet users, who anticipate the journalistic editions and publish their impressions of the television debate, in real time on Twitter and other social media. (emphasis added)

Suddenly, Internet users found themselves with the power of communication in their hands, no longer tied to a single source of information, that is, now the news, speeches, debates of ideas and demonstration of ideals take place with a plurality of versions, having views from different angles.

In this regard, the engagement of the social network user can be cited as a positive factor in assuming a relevant role in guaranteeing the rights of minorities, giving voice to those who, in other times, succumbed to a discourse of the dominant elite, and that it is now possible to obtain social, economic and political gains for such groups, strengthening a more democratic society (Cardoso, 2011). This freedom of expression, despite the benefits for society as a whole, brings with it new challenges, where users of social networks invest themselves with an apparent freedom of the virtual world by disseminating the most varied manifestations of thought, often extrapolating the limits of freedom of expression.

It has already been seen that freedom of expression, despite being constitutionally ensured, cannot become an absolute right, and its relativity must be observed when it comes to achieve the honor against which it is oriented.

The manifestations and discussions held in the context of social networks are no different from those held in the real world, so it is essential that they are guided by respect for the rights of personality against whom they are usually channeled.

Social networks, in contemporary times, have had to adapt to the reality of hate speech that routinely occurs. Facebook, for example, in this new perspective, pressured by governments and civil society, seeks to moderate hate speech (racism, prejudice, pedophilia, violence against trans people, homophobia etc.).

On Facebook, most digital content that does not comply with the site's rules of conduct is removed by automatic filters, such as in the case of highly graphic sexual or violent content. There is also the possibility of reporting content by the user himself, by filling out a form notifying a moderation team that will later analyze the case, according to internal policies (Leite; Cardoso, 2015, p. 139).

Posts considered inappropriate are removed by these social networks based on their rules of use, however, from this point on, the question necessarily arises: what parameters do

---

<sup>6</sup> Concept of gauging the level of audience of a program in the audiovisual media. It is obtained by verifying the percentage of the number of viewers of a programme in relation to the levels of other competing programmes that took place in the same period. The usefulness of the concept of *share* is to allow a comparative analysis of the performance of a program. Available at: [https://www.infopedia.pt/\\$share-de-audiencia](https://www.infopedia.pt/$share-de-audiencia). Accessed on: 06 Feb. 2022.

companies like Facebook use to analyze what is hate speech? What are the criteria used to ban a user or remove a possible offensive or disseminating hate speech post? What actions are taken without such decisions "contaminating" ideologically or being influenced by financial motives?

In 2016, the newspaper *El País* published a report where a former Facebook employee denounces that news with a conservative bias was suppressed from the network's pages, which led the company to categorically deny it through a statement where it emphasizes that: "*We take accusations of bias very seriously. Facebook is a platform for people and perspectives from across the political spectrum.*"<sup>7</sup>

The question presented questions the policies for banning social networks, since in many cases the criteria for exclusion are not made clearly or presenting solid arguments.

There is a need to ask, by way of example, what Facebook means by hate speech? What is the network's position, politically? What does it consider a violation of freedom of expression and expression of thought? What is the influence of advertisers on the actions carried out by the network?

The CEO and founder of Facebook, Mark Zuckerberg, in an interview with the American newspaper *Washington Post* stated that:

People worry, and I also worry about the erosion of the truth. At the same time, I think people don't want to live in a world where you can only say things that tech companies decide are 100% true. I think these tensions are things we have to live with<sup>8</sup>.

The statement made here, which should certainly be matured, doctrinally, is how much power is transferred from the State to social networks, in relation to the right of the individual to express himself, make his criticisms and express his opinion.

Another caveat about moderation on social networks is how much the financial amount collected by social networks is taken or what profit these companies collect from ads on their pages, in view of the possibility of influencing users in their possible purchases. That is, what content and news do certain brands start to have their ads linked?

To get an idea of the importance of advertising on social networks, in the last quarter of 2019 Facebook had advertising revenue on its pages of 28.07 billion dollars or approximately 151.58 billion reais. There is even a great concern of the company about possible regulations of the European Community in order to hold the company responsible for illegal content posted

---

<sup>7</sup> Available at <[https://brasil.elpais.com/brasil/2016/05/10/tecnologia/1462874046\\_524079.html](https://brasil.elpais.com/brasil/2016/05/10/tecnologia/1462874046_524079.html)> Accessed on 07 May. 2021.

<sup>8</sup> Available at <<https://olhardigital.com.br/2019/10/17/noticias/zuckerberg-diz-defender-liberdade-em-anuncios-politicos-no-facebook-inclusive-mentiras/>> Accessed on 07 May. 2021.

on its platform and that tend to act negatively on its revenue, from the moment that the ads, currently uncontrolled, would be limited.<sup>9</sup>

The question that is obscure is: how can the company remain impartial or impartial in sensitive/risky discussions about what is or is not freedom of expression if its own freedoms to moderate publications on its pages are linked to what its advertisers think is right or wrong?

In the United States, in 2020, Facebook went through a boycott led by *the Stop the hate for profit* movement, against hate speech<sup>10</sup>. The question that arises is what does the civil movement by association consider hate speech? Bringing this hate speech to the ideological field, of what is good for the left and bad for the right and vice versa, is balanced on a thin line that exposes a huge danger to the impartiality of moderation, which can easily be transformed into veiled censorship on social networks.

People have their own way of thinking, their ideology, their political engagement and when they manage companies they end up imposing their ideals on them. That is, the political factor must be taken into account when Facebook moderates something that is not linked to "political correctness", but they are also influenced based on the vision of those who make it profitable, its advertisers.

The most recent controversy was the ban of the US president from social networks for probable apology for hate speech. This fact made Facebook create a group composed of the twenty "notables", <sup>11</sup>in order to decide whether the measure, which received the nickname of the Supreme Court of Facebook<sup>12</sup>, was correct.

---

<sup>9</sup> Available at <https://www1.folha.uol.com.br/mercado/2021/01/anuncios-no-facebook-dao-receita-recorde-a-gigante-das-redes-sociais.shtml#:~:text=Empresa%20registra%20receita%20de%20US,do%20%C3%BAltimo%20trimestre%20de%202019> Accessed on 08 May. 2021.

<sup>10</sup> Available at <https://tecnoblog.net/348366/facebook-perde-100-anunciantes-em-meio-a-boicote-de-empresas/> Accessed on 08 May. 2021.

<sup>11</sup>To ensure a global perspective, the Oversight Board has members from diverse cultural and professional backgrounds, reflecting the diversity of the Facebook community itself. These members were chosen because they have experience in deliberating in a thoughtful and collegial manner, demonstrate the ability to make and explain decisions based on a set of policies or principles, and are familiar with content and digital governance. Especially considered were individuals who demonstrated proficiency in online content moderation issues and had a history of working collaboratively on difficult issues to achieve a common goal. Available at: <https://www.oversightboard.com/meet-the-board/>. Accessed on: 06 Feb. 2022.

<sup>12</sup> "Supreme Court" is the pretentious nickname given to Facebook's Oversight Board, a body made up of 20 experts from around the world, whose work is independent of the company, according to the body's statute. The idea is to preserve freedom of expression with an independent trial. Available at: <https://www.poder360.com.br/futuro-indicativo/suprema-corte-do-facebook-anuncia-se-trump-continua-banido-mas-polemica-segue/> Accessed on: 08 May. 2021.

However, even if Facebook wants to give the air of something that supports its decision, there are always doubts about what its decisions are really loaded with, a fact well described in the report by Carvalho (2021) and published on the Poder 360 website<sup>13</sup>.

The thing is even more pathetic: Facebook does not have a list of who these "dangerous men" are. This dubiousness has always been the hallmark of Facebook. The company was against laws and now defends regulation. He gave Trump a platform for 4 years and, when he lost the election, he determined his ostracism. The Oversight Board appears to have the unstated function of disguising this behavior. All its members are of the highest level. There are law professors from Columbia University (Jamal Greene, a specialist in constitutional law), Stanford (Michael Mc Connel), universities in India and Israel, and even a Brazilian, Ronaldo Lemos, a law professor at the State University of Rio de Janeiro). None of this will free Facebook from disputes, whatever the decision on Trump. Facebook lacks the legitimacy that only elected governments have to make decisions. Without law, it will always look like Facebook has fixed the result by hand.

As previously seen, freedom of expression, given its importance for the development of society, as well as the strengthening of democracy, must be prioritized over the other fundamental rights that limit it, in accordance with the specific case.

Placing this important right at the whim of social networks can bring democratic damage in the future, from the use of a constitutional metaphor, to the creation of a "guardian" of freedom of expression within the internet, without knowing who will guard this "guardian".

Finally, there is a popular saying that "the stick that gives to Chico gives to Francisco", showing that a measure that is used in favor today, in the future can be used against this same person.

The problem deals with the concern of doctrine and the State in facing the possible moment that Facebook, in addition to "hitting Chico, begins to turn against Francisco", controlling them, without having a way to measure what effects on democracy this fact may cause.

## **5 The relativization of freedom of expression in the face of public agents in the face of the dissemination of hate speech on social networks**

The Federal Supreme Court, presided over by Justice Dias Toffoli, through Ordinance GP No. 69, opened an inquiry 4,781 with the name of "*fake news inquiry*", and Justice Alexandre de Moraes was appointed as rapporteur. In the initial order, the scope of the

<sup>13</sup> Available in <https://www.poder360.com.br/futuro-indicativo/suprema-corte-do-facebook-anuncia-se-trump-continua-banido-mas-polemica-segue/> Accessed on: 08 May. 2021.

investigations is detailed, including slanderous, defamatory and injurious speeches, which have to affect the honor of the ministers of the Court.

Brazil is currently a politically polarized country, where ideological clashes have become a constant in the field of social networks, with the Federal Supreme Court having taken a special place in this scenario, becoming a constant target, especially when its decisions become controversial and contrary to the thinking of groups that use the extremity as a basis for discourses.

It is necessary, then, to consider that public agents, when they choose to exercise their positions, tend to become more vulnerable to control and criticism by society in general, and the protection in relation to their intimacy and honor should be observed from a somewhat more reserved perspective.

Expressions of criticism or offenses based on freedom of expression, when they appear on social networks targeting public agents, need to be analyzed with a certain reservation, since they serve as a mechanism of scrutiny and accountability by the citizen who directly or indirectly chose them, a characteristic present in a Democratic State of Law.

The justices who make up the Supreme Court, as public agents, are no exception to the rule of exposure and criticism of their lives by society. In other words, the due excesses committed in the manifestations of thoughts that exceed these constitutionally allowed limits must be really investigated, as well as observed for the due process of law.

Justice Edson Fachin, in his vote contained in ADF 572 that deals with the analysis of the validity of the *fake news investigation*, cites one of the decision of the American Supreme Court on what to consider about the analysis of the honor of a public official.

But, in addition to the falsity of the statement, the Supreme Court established in the case of *New York Time Co. v. Sullivan*, that, when the unlawful conduct offends the honor of public officials, a volitional element classified qualified by *actual malice*, that is, by willful knowledge of the falsity of the information or by an extreme form of negligence, is required.

It can be seen, then, that U.S. jurisprudence requires, for the initiation of a lawsuit against a criticism that affects a public official, that the one who professed the attack acted aware that the statement was false or did not bother to ascertain whether the information was really true (ADF, 572, Minister Edson Fachin).

The Justice himself, in his vote, brings a doctrinal understanding of the need to observe that "*a jurisprudence that determines freedom of expression will only be set aside if the accusation proves, at the same time, the falsity of the statement and the actual malice (intent or extreme negligence of the agent)*" (ADF 572, Minister Edson Fachin, 2020).

Within the scope of the Brazilian Federal Supreme Court, it is worth highlighting the decision in which Justice Rosa Weber was the rapporteur, which dealt with possible offenses imputed by a candidate to his rival during the electoral campaign for mayor of Salvador in Bahia in 2012.

SUMMARY: SLANDER, DEFAMATION AND INJURY. STATEMENTS MADE IN AN ELECTORAL ENVIRONMENT AND FOR ELECTORAL PROPAGANDA PURPOSES. EMENDATIO LIBELLI. DISQUALIFICATION. ILLEGITIMACY *AD CAUSA* NOT RECOGNIZED. MERIT FAVORABLE TO THE ACCUSED. INCIDENCE OF THE PRINCIPLE OF FAVOR REL. PUBLIC FIGURES. STATEMENTS THEMATICALLY PERTINENT TO THE ELECTORAL DIALECTIC. ATYPICALITY OF CONDUCT. REJECTION OF THE CRIMINAL COMPLAINT. 1. The crimes against honor provided for in arts. 324, 325 and 326 of the Electoral Code are perfected when the offensive statements occur in the context of electoral propaganda or for such purpose and, once these objective elements of the type are met, they prefer the crimes provided for respectively in articles 138, 139 and 140 of the Penal Code, due to the principle of specialty. *Emendatio libelli* that is carried out in the form of article 383 of the CPP. 2. Unconditional public nature of criminal prosecution in crimes against honor provided for in electoral legislation. Active illegitimacy *ad causa* that is not declared in the concrete case, in attention to the principle of favor rei, given the possibility of judgment on the merits in favor of the accused. 3. The jurisprudence of this STF admits particular criteria to assess the offense to honor based on the greater or lesser public exposure of the offended person: (...) By dedicating himself to political militancy, the public man accepts the inevitable expansion of what the Italian doctrine usually calls the *zona di iluminabilit*, resigning himself to a greater exposure of his life and his personality to the comments and valuation of the public, in particular, of his opponents (HC 78.426-6-SP, Rel. Min. Sepúlveda Pertence, 1st Panel, DJ of 7.5.1999). 4. *Statements in the concrete case compatible with the dialectic of the political game, limited to the field of ideas, without adjectives or moral disqualification of the interlocutor, and pertinent to the electoral environment in which they were made, revealing atypical conduct regarding the crimes of slander, defamation and injury.* 5. Criminal complaint rejected on the basis of Article 395, III, of the CPP. (Inq 3546, Rapporteur (a): Justice ROSA WEBER, First Panel, judged on 09/15/2015, ELECTRONIC JUDGMENT DJe-196 DIVULG 09/30/2015 PUBLIC 10/01/2015) (emphasis added).

Information, criticism, contrary opinions coming from citizens against the ministers of the Supreme Court must be framed as slander, defamation or even injury and need analysis in the face of the concrete case; starting from, first, that such manifestations, most of the time, are clothed in a democratic expression of thought, fostering the actions of these agents so that, increasingly, they treat public affairs with more smoothness and zeal.

As previously said, in a polarized country and with the Supreme Court constantly being demanded to deal with controversial issues, rejection and criticism by the population become something utopian.

Imposing, as done by Justice Alexandre de Moraes, the immediate removal of users' accounts from social networks only ends up bringing to society an image of a Court that is immune to social control and scrutiny.

Such a measure would still be like "capturing smoke with a sieve"; because accounts (today) blocked or removed from the social media environment easily come back with new names.

When it came to the fact that the right of reply was sometimes emphasized to be more beneficial than the imposition of a financial penalty, since the former allows the affected person to be contradictory to society, demoralizing (possibly) those who attacked him.

The use of the instrument to deconstruct manifestations of hatred directed at the Supreme Court proves to be more fruitful – as opposed to slander, defamation and injury – and showing the population that its decisions are really based on feasible bases, rather than the image of a power supposedly above all.

By dealing with the need for open debate in a society in preference to judicial intervention, Leite (2014, p. 14), portrays well the position that should be put into practice by the STF.

Democracy presupposes conflict – of opinions, of worldview, of ideology – and this must be faced in the social environment and not simply annulled by the Judiciary. The supposed harmonization based on a maximum idea of effectiveness of the rights in conflict does not work in this case. It only camouflages a reality that is being built little by little, where citizens, out of fear or insecurity, feel prevented from publicly expressing their opinion.

It is not possible for the Federal Constitution to ensure that everyone is equal before the law and that the members of the Federal Supreme Court, responsible precisely for safeguarding it, place themselves on a level away from affronts and mistrust of society.

## 6 Conclusion

It is concluded, then, that the internet has come to change the relationship between people, bringing them closer and closer to each other; and (before) physical distances, are now "solved" by a mere click.

Social networks, as places where the most varied people congregate, are increasingly becoming a fertile field for the most diverse manifestations of thought, where individuals can expose their opinions, criticisms and points of view, but often without worrying about exceeding the limits defined in legislation.

At the same time, freedom of expression on social networks is gaining more and more importance, as a means of democratic exercise by all citizens, providing a strengthening of citizenship by allowing various manifestations (opinions, criticisms, compliments, suggestions, etc.), as well as requiring public agents to promote the collective good.

Freedom of expression, despite its relevance as a fundamental right relevant to human dignity, is not absolute, and must respect the limits established by other fundamental rights also provided for in the constitution. As a result, freedom of expression is limited by honor, intimacy, private life, manifestations of hatred and the search for truth.

The dissemination of hate speech by users of social networks, who through profiles or nicknames believe in the impunity of their manifestations, is increasingly present, and it is necessary for the companies that own it to implement a moderation mechanism on the content published on their pages.

With the implementation of committees on the decision of possible hate speech, such action forces companies to constantly monitor political and religious influences. In fact, the networks dependent on their advertisers should not allow the "contamination" of such discourses in the choice of what should or should not be published on their pages.

On the other hand, the same hate speech elects, in current times, state institutions, such as in Brazil the Federal Supreme Court. These measures are necessary to protect the members of the Federal Supreme Court against manifestations of possible slander, defamation and injury.

At the same time, the comments made to the Justices of the Supreme Court should be seen in a relative way, since as public agents they are/are more susceptible to criticism and demands, sometimes exacerbated by citizens.

## Reference

BRAZIL. [Constitution (1988)]. **Constitution of the Federative Republic of Brazil**: updated until EC No. 105/2019. Brasília: Supreme Federal Court, Secretariat of Documentation, 2019. Available at: <https://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/CF.pdf>. Accessed on: 01 out. 2020.

BRAZIL. **Decree No. 592, of July 6, 1992**. International Acts. International Covenant on Civil and Political Rights. Promulgation. Brasília: Presidency of the Republic, 1992. Available at: [http://www.planalto.gov.br/ccivil\\_03/decreto/1990-1994/d0592.htm](http://www.planalto.gov.br/ccivil_03/decreto/1990-1994/d0592.htm). Accessed on: May 12, 2021.

BRAZIL. Federal Supreme Court. **Inquiry: Inq 3546 BA - BAHIA 9984451-22.2012.0.01.0000**. Slander, defamation and injury. Statements made in an electoral environment and for electoral propaganda purposes. *Emendatio Libelli*. Downgrading. Active Illegitimacy "Ad Causam" not recognized. Merits favorable to the accused. Incidence of the principle of favor rei. Public figures. Statements thematically pertinent to the electoral dialectic. Atypical conduct. Rejection of the criminal complaint. Electronic Judgment DJE - 196, Released on September 30, 2015, Published on October 1, 2015. Rapporteur: Justice Rosa Weber, October 1, 2015. Available at:

<https://stf.jusbrasil.com.br/jurisprudencia/864005353/inquerito-inq-3546-ba-bahia-9984451-2220120010000>. Accessed on: 07 May 2021.

BRAZIL. Federal Supreme Court. **Inquiry 4,781 Federal District**. Criminal and Criminal Procedure. Non-occurrence of parliamentary inviolability (CF. art. 53, caput). Constitutional possibility of arrest in flagrante delicto of a federal deputy for the practice of a non-bailable crime (FC, art. 53 § 2). Need for the Chamber of Deputies to deliberate on its maintenance. Referendum decision. Rapporteur: Justice Alexandre de Moraes, May 26, 2020. Available at: <https://www.conjur.com.br/dl/inq-4781.pdf>. Accessed on: 01 out. 2020.

BRAZIL. Federal Supreme Court. **Precautionary measure in the allegation of non-compliance with a precept Fundamental 572 Federal District**. Allegation of non-compliance with a fundamental precept. ADPF. GP Ordinance No. 69 of 2019. Preliminaries overcome. Judgment of precautionary measure converted on the merits. Sufficiently instructed process. Incitement to close the STF. Threat of death and imprisonment of its members. Disobedience. Request dismissed in the specific and specific circumstances of fact exclusively involved with the contested ordinance. Limits. Informational piece. Follow-up by the public prosecutor's office. Binding Precedent No. 14. Object limited to manifestations that denote an effective risk to the independence of the judiciary. Protection of freedom of expression and of the press. Rapporteur: Justice Edson Fachin, June 18, 2020. Available at: <https://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=TP&docID=754371407>. Accessed on: 01 out. 2020.

BARROSO, Luís Roberto. Collision between freedom of expression and personality rights. Weighting criteria. Constitutionally adequate interpretation of the Civil Code and the Press Law. **Journal of Administrative Law**, Rio de Janeiro, v. 235, p. 1-36, 2004. Available at: <https://bibliotecadigital.fgv.br/ojs/index.php/rda/issue/view/2468>. Accessed on: 21 Apr. 2021.

CARVALHO, Mário Cesar. Facebook's Supreme Court announces whether Trump remains banned, but controversy continues. **Poder 360**, [s.l.], 05 May 2021. Available at: <https://www.poder360.com.br/futuro-indicativo/suprema-corte-do-facebook-anuncia-se-trump-continua-banido-mas-polemica-segue/>. Accessed on: 08 May 2021.

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. **Declaration of Principles on Freedom of Expression**. [S.l.]: IACHR, 2007. Available at: <https://www.cidh.oas.org/basicos/portugues/s.convencao.libertade.de.expressao.htm#:~:text=1.,inerente%20a%20todas%20as%20pessoas.&text=O%20acesso%20%C3%A0%20informa%C3%A7%C3%A3o%20em,garantir%20o%20exerc%C3%ADcio%20desse%20direito>. Accessed on: May 12, 2021.

CURRY, Scheila Patrícia de Borba; BARROS, Bruno Mello Correa de. Hate speech and new technologies: a look at the limits of the right to freedom of expression on social networks. In: RESEARCH JOURNEY, 10.; EXTENSION DAY OF THE LAW COURSE, 9., 2018, Santa Maria. **Annals** [...]. Santa Maria: FAMES, 2018. p. 1 – 23. Available at: <http://metodistacentenario.com.br/jornada-de-direito/anais/10a-jornada-de-pesquisa-e-9a-jornada-de-extensao-do-curso-de-direito/artigos/6-as-novas-midias-e-os-direitos-na-sociedade-informacional/discursos-de-odio-e-novas-tecnologias.pdf>. Accessed on: 10 Apr. 2021.

DWORKIN, Ronald. **Taking rights seriously**. Translation: Nelson Boeira. 3rd ed. São Paulo: WMF Martins Fontes, 2010.

EX-EMPLOYEE of Facebook says that conservative news was deleted. **El País**, Madrid, 11 May 2016. Technology. Available at: [https://brasil.elpais.com/brasil/2016/05/10/tecnologia/1462874046\\_524079.html](https://brasil.elpais.com/brasil/2016/05/10/tecnologia/1462874046_524079.html). Accessed on: 07 May 2021.

HELDER, Darlan. Facebook loses 100 advertisers amid corporate boycott. **Tecnoblog**, [s.l.], 26 jun. 2020. Available at: <https://tecnoblog.net/348366/facebook-perde-100-anunciantes-em-meio-a-boicote-de-empresas/>. Accessed on: 08 May 2021.

LEITE, Fábio Carvalho. Freedom of Expression and the right to honor: new guidelines for an old problem. In: CLÈVE, Clèmerson Merlin; FREIRE, Alexandre (ed.). **Fundamental rights and constitutional jurisdiction: analysis, criticism and contributions**. São Paulo: Revista dos Tribunais, 2014. p. 395-408. Available at: [https://www.researchgate.net/profile/Fabio-Leite/publication/305348127\\_Liberdade\\_de\\_Expressao\\_e\\_direito\\_a\\_honra\\_novas\\_diretrizes\\_para\\_um\\_velho\\_problema/links/5789776608ae5c86c99ae863/Liberdade-de-Expressao-e-direito-a-honra-novas-diretrizes-para-um-velho-problema.pdf](https://www.researchgate.net/profile/Fabio-Leite/publication/305348127_Liberdade_de_Expressao_e_direito_a_honra_novas_diretrizes_para_um_velho_problema/links/5789776608ae5c86c99ae863/Liberdade-de-Expressao-e-direito-a-honra-novas-diretrizes-para-um-velho-problema.pdf). Accessed on: 15 Apr. 2021.

LEITE, Rodrigo de Almeida; CARDOSO, Gabriela Santos. The arbitrariness of the censorship parameters on Facebook and the prohibition of the Femen page. **Artemis Magazine**, [s. l.], v. 19, p. 137-143, 2015. Available at: <https://periodicos.ufpb.br/index.php/artemis/article/view/26208>. Accessed on: June 17, 2021.

LIST of countries ordered by population size. PopulationPyramid.net, [s.l., 2020]. Available at: <https://www.populationpyramid.net/pt/popula%C3%A7%C3%A3o/2020/>. Accessed on: 10 out. 2021.

MALINI, Fabio; ANTOUN, Henrique. Monitoring, leaks and anonymity in the democratic revolutions of the internet's social networks. **Fronteiras-estudos midiáticos**, São Leopoldo, v. 14, n. 2, p. 68-76, 2012. Available at: <http://revistas.unisinos.br/index.php/fronteiras/article/view/fem.2012.142.01/992>. Accessed on: 12 set. 2021.

NEEDLEMAN, Sarah E. Facebook ads give record revenue to the social media giant. **Folha de São Paulo**, São Paulo, 27 jan. 2021. Market. Available at: <https://www1.folha.uol.com.br/mercado/2021/01/anuncios-no-facebook-dao-receita-recorde-a-gigante-das-redes-sociais.shtml#:~:text=Empresa%20registra%20receita%20de%20US,do%20%C3%BAltimo%20trimestre%20de%202019>. Accessed on: 08 May 2021.

Censored NEWS gives way to Camões. Memorial da democracia, [s. l., 2021]. Available at: <http://www.memorialdademocracia.com.br/card/noticia-censurada-da-lugar-a-camoes>. Accessed on: 07 May 2021.

OLIVEIRA, André Soares; GOMES, Patrícia Oliveira. The limits of freedom of expression: fake news as a threat to democracy. **Revista Direitos e Garantia Fundamentals**, Vitória, v.

20, n. 2, p. 93-118, May/Aug. 2019. Available at: <https://sisbib.emnuvens.com.br/direitosegarantias/article/view/1645>. Accessed on: June 15, 2021.

PEDRON, Flávio Quinaud; OMMATI, José Emílio Medauar. **Contemporary Law Theory: An Analysis of Legal Theories** by Robert Alexy, Ronald Dworkin, Jürgen Habermas, Klaus Günther and Robert Brandom. Rio de Janeiro: Lumem Juris, 2019.

ROTHENBURG, Walter Claudius; STROPPIA, Tatiana. Freedom of expression and hate speech: the discursive conflict in social networks. **Electronic Journal of the Law Course at UFSM**, Santa Maria, v. 10, n. 2, p. 450-468, 2015. Available at <https://periodicos.ufsm.br/revistadireito/article/view/19463>. Accessed: June 15, 2021.

SAMPAIO, José Adércio Leite. **Right to intimacy and private life: a legal view of sexuality, family, communication and personal information, life and death**. Belo Horizonte: Del Rey, 1998.

SILVA, Rosane Leal da; BOLZAN, Bárbara Eleonora Taschetto; CIGANA, Paula Fabíola. Freedom of expression and its limits on the internet: an analysis based on the perspective of the Organization of American States. **Revista Direitos e Garantia Fundamentals**, Vitória, v. 20, n. 1, p. 219-250, Jan./Apr. 2019. Available at <https://sisbib.emnuvens.com.br/direitosegarantias/article/view/1092>. Accessed on June 17, 2021.

TRAMARIM, Eduardo. Period of Brazilian history known as the "years of lead". **Rádio Câmara**, Brasília, [202-?]. Chamber is history. Available at: <https://www.camara.leg.br/radio/programas/279778-periodo-da-historia-do-brasil-conhecido-como-os-anos-de-chumbo/#:~:text=Nos%20%C3%BAltimos%20anos%20da%20d%C3%A9cada,chamados%20%22anos%20de%20chumbo%22>. Accessed on: 07 May 2021.

TAVARES, Marcus. What is nickname?. **Seletronic Notícias**, [s.l.], 15 set. 2018. Available at: <https://seletronic.com.br/o-que-e-nickname/>. Accessed on: 07 May 2021.

VITÓRIO, Tamires. Facebook gets closer to 3 billion active users and revenue grows in 2020. **Examination. Invest**, [s.l.], 27 jan. 2021. Available at: <https://exame.com/tecnologia/facebook-fica-mais-perto-de-3-bilhoes-de-usuarios-ativos-e-receita-cresce-em-2020/>. Accessed on: 06 May 2021.

ZUCKERBERG says he defends freedom in political ads on Facebook; including lies. **Olhar Digital**, [s.l.], 17 out. 2019. Available at: <https://olhardigital.com.br/2019/10/17/noticias/zuckerberg-diz-defender-liberdade-em-anuncios-politicos-no-facebook-inclusive-mentiras/>. Accessed on: 07 May 2021.

Received: 05/15/2021  
Accepted: 11/30/2021