

The Case of the Emasculated Boys of Maranhão: The Importance of the Organization of American States and the Universal Declaration of Human Rights in Combating Human Rights Violation

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Abstract

This article addresses the case of violation of human rights of children and adolescents, called “The case of the emasculated boys of Maranhão,” making an inference to the importance of the 75 years of creation and the Organization of American States and the Universal Declaration of Human Rights, highlighting the importance of these international laws in the search for justice. It starts from the perception that the State inertia was a substantial element in the destruction of the Fundamental Rights of children and adolescents, as well as contributing to the high number of murders with emasculations and greater vulnerability resulting from the State’s lack of commitment, with the realization and implementation of the best interests of children and affected peripheral communities. This work aims at contributing to the debate and dissemination of the substantiality of the Organization of American States and the Universal Declaration of Human Rights, as a tool to combat historically known violations to contain new violations. The methodology used in the present study used the inductive approach, descriptive and exploratory procedure, and bibliographic and documentary research techniques.

Keywords

Universal Declaration of Human Rights, Organization of American States, Vulnerability, Dignity of the Human Person, Case of the Emasculated Boys of Maranhão

1. Introduction

Initially, it is emphasized that explaining human rights goes back to a recent past in which the violation of these rights did not contrast with the ethical reason for the existence of the law nor with the legality of the norms, since they were drawn up without observing these standards or lacking of proportionality and reasonableness; from this perspective, law was not seen as an instrument of social transformation capable of implementing the Democratic Rule of Law (Streck, 1999).

In this historical past, Nazism, the two world wars, armed conflicts in the East, or the case of emasculated boys that occurred in the State of Maranhão can be highlighted as landmarks of violation, which are capable of leading to the pondering that such events cannot be repeated due to the seriousness of the violations they represented.

Talking about human rights requires understanding that they arise not only from altruism and solidarity but from the real need to assume a national and international commitment to democratic and equal treatment of all people, including, depending on the specific case, legal, administrative, and diplomatic agencies to ensure differentiated treatment depending on the nature of the violation suffered to ensure justice or reparation (Sowell, 2017).

Human dignity as an intrinsic value of the human being is linked to civil law, politics, labor, criminal rights, or any matter capable of subjecting the individual to treatment that degrades their quality of “being.” In the universe of human rights, the right to a life free from slavery, torture, and deprivation of liberty without fair trial are basic rights guaranteed to any individual as they are inseparable elements of the everyday life of any being (Lafer, 1991).

When analyzing the law and legal system, it is essential to consider humanitarian guidelines. It is not enough for the law to establish norms; it must also provide crucial societal benefits and protections, including access to healthcare, jurisdictional provision, and public security. The State has a clear responsibility to support individual growth, and failure to do so may necessitate seeking international protection. This concept has been discussed by Barroso (2020) and Lafer (1991), and it is a fundamental principle that cannot be ignored.

Jellinek (1970) and Theodoro (2009) believe that the primary goal of any political organization within a State is to ensure the well-being of individuals and communities. Additionally, the authors state that through positive status or status civitatis, individuals gain the legal capacity to demand positive benefits from

the State. This means that individuals have the right to claim something from the State that it is obligated to provide.

The purpose of the norm is to govern human relations under an order that corroborates the recognition that every human being has the right to have rights; in this sense, the existence of a norm incompatible with human dignity must succumb to the primacy of the immeasurable value of these rights, so that Human Rights in the national or international aspect enshrine a new era of rights and freedoms (Lafer, 1991; Barroso, 2020).

In this aspect, the importance of mechanisms such as the Universal Declaration of Human Rights, the Organization of American States, and the Pact of Saint Joseph of Costa Rica, among other international bodies that encourage the protection of the human person regardless of nationality, is essential.

Human Rights, in common sense, suffer severe criticism due to the social stigma that they contribute to the protection of people dedicated to criminal activities; however, democracy, understood as the set of rules that guide decisions and behaviors, state which procedures are authorized, protects society in general of actions that tarnish its freedom or integrity, considering every being as deserving of the possibility of claiming Human Rights in the face of violations (Bobbio, 1997).

In this sense, in past and current moments in the history of humanity, people or social groups have suffered violations and deprivation of their Fundamental Rights. According to Sowell (2017), there are minorities in society that can naturally suffer suppression of rights and should be seen as preferential groups, which, due to the situation they experience, can have comparative advantages over other members of the same society; children, older people, people with disabilities, among others, are some examples (Sowell, 2017).

Furthermore, this scientific article aims at externalizing the relevant aspects of the Organization of American States and the Universal Declaration of Human Rights, celebrated 75 years of existence in the international legal environment, which are used as a tool in the search for reparation for damages caused by action or omission of the State or third parties, as seen in the empirical case of the emasculated boys in Maranhão.

Additionally, looking at this issue of human rights violations, associating it with the empirical case of emasculated boys and other cases of violations perpetrated in the Brazilian territory, which will be mentioned throughout this work, a natural concern arises about what is the best strategy to guarantee Human Rights so that the people, understood as the owner of the prerogatives of existence of the Democratic Rule of Law, do not have their rights violated, and when violated, have their legitimate right to repair the damage (Lafer, 1991; Sarlet, 2018).

The present study's methodology employed the inductive approach, descriptive and exploratory procedure methods, and bibliographic and documentary research techniques (Marconi & Lakatos, 2007; de Sousa Gustin, Dias, &

Nicácio, 2020).

2. Protection of Human Persons in Brazil from the Federal Constitution of 1988

The 1988 Constitution demarcates, in the legal sphere, the process of democratization of the Brazilian State by consolidating the break with the military authoritarian regime installed in 1964. In this new period, guarantees and fundamental rights were consolidated to protect all citizens against actions or omissions that expose Brazilian society to vulnerabilities (Piovesan, 2013).

From this scenario, Human Rights gained an unprecedented amount of importance in the internal normative body through Fundamental Rights, which, in the current conception, emerged as a product of the fusion of several sources, from traditions rooted in multiple past civilizations to the combination of natural law, philosophical, religious, and legal thoughts (de Moraes, 1998).

In this sense, it is important to emphasize that the protection of Fundamental Rights arises from demands for the valorization of life, a sufficient condition for dignity, an attribute inherent to the human condition itself. Thus, within the scope of the internal legal order, the equation of Human Rights strengthens the dialogue between constitutional Human Rights in the internal sphere and Human Rights on the international agenda (de Barcellos, 2011).

In the sphere of Brazilian Constitutional Law, the dignity of the human person is ensured as a principle of universal value established as the foundation of the Republic and, in this way, it is a basic assumption of the internal order that ensures respect for the dignity inherent to the condition of a human person. Thus, by establishing human dignity as the foundation of the Republic, the Constitution establishes the binding logic that the entire internal order must, systematically, value the maintenance of dignity for human beings (Streck, 1999).

However, legal systems are constructions and have a reason to exist based on needs determined by life in society; based on this, the Constitutional protection of the human person was formulated, which arises from the historical need to preventively foresee situations of violation of rights, both internally and internationally, in which there were serious violations of Human Rights (de Tarso Brandão, 2020).

When handling protections for the human person, the Federal Constitution presents a set of existential rights that, when affirmed, gain normative force and enforceability in the legal system, which enable the individual to guarantee that the State in its sovereignty will not allow the integrity or any substantial element of human life to be violated by a third person, by the State itself or in any other way that results in vilification or that fails to observe the constitutional values enshrined in the human person in Brazil (Streck, 1999).

Thus, although the doctrine draws conceptual differences between Human Rights and Constitutional Fundamental Rights, it is understood that Human Rights are substantial pillars in the settings of Fundamental Rights, as they are

universal guarantees but require confirmation in the Constitutions, to inherit the status of Fundamental Law with supremacy amongst other Laws and, consequently, manifest their protection of life against all forms of violence, slavery, exploitation or degrading situations that remove the ability to lead a full life with freedom in the individual or collective aspect of the autonomy of the will (Piovesan, 2019).

A relevant aspect to highlight is the effectiveness of Human Rights, enshrined in the Constitutional text, since the non-correspondence between the real and the postulated implies non-compliance with the agreed commitment, given the social dynamics of democratic regimes since, as precepted by Bobbio (1997), being in transformation is its natural state.

From this perspective, respect for human dignity is recognized as a fundamental requirement to guarantee basic freedom and equality, thus aiming to mitigate the vulnerability faced by people (Bobbio, 1997). Therefore, the evolution of human dignity to reduce vulnerabilities and protect citizens' rights is a development based on collective ethical consciousness, requiring respect for certain principles and values inherent to the human condition (Sousa & Chai, 2016).

The Federal Constitution brought a true scenario of valuing the human person, which is typical of the transformations in societies, especially those that opted for democracies and people's government, based on values, norms, and principles that attach intangible characteristics to the human beings, considering them all to have equal value before the law, without distinction of any kind, the inviolability of the right to life, liberty, equality, security and property (Bobbio, 2004).

In this sense, the Constitution rests on the dignity of the human person, the conception that makes the person the foundation and purpose of society and the State; this context confers a unity of meaning, value, and agreement to the system of Fundamental Rights that impacts on the protection of the human being even in the private sphere, such as the protection of work free from exploitation of labor similar to slavery or a situation of social vulnerability, in which the citizen will have the right to a basic family income, guaranteed by the public authorities themselves, through programs and policies whose purpose is the integration and enhancement of social well-being (Miranda, 2010).

For Bonavides (2001), the normative force that emanates from the fundamental principle of the dignity of the human person and its legal density in the constitutional system recognizes it as a supreme principle in the hierarchy of norms, since, according to da Silva (2016), this principle attracts the content of all other Fundamental Rights.

In this sense, it is immeasurable to highlight that in democratic governments, the burden of rights has elevated the human person to the apex of the construction of the State, in which the State gears itself as a framework, that is, as a manager of all activities and aimed at serving it, can contradictorily violate fundamental rights and Human Rights (Piovesan, 2019).

Such violations must precisely be avoided since the reality of social inequalities is already a limiting factor in human development, and when associated with bureaucracy, inoperability, or ineffectiveness resulting from the State or due to its omission, an even more severe context of vulnerability and fragility.

By incorporating the universal values of protection for the human person, the Federal Constitution commits itself to ensure that those under its jurisdiction in all areas of their life, whether social, private or intimate, are not subjected to situations that violate, degrade, exploit or generate extreme misery for the human person, even when in intrauterine life until the moment of old age, therefore their commitment to human values is indisputable so that society is not weakened by the authoritarianism of the government or by the inoperability of the State entity itself (Comparato, 2015).

According to the 1988 Federal Constitution, the dignity of the human person is a foundational principle for establishing a democratic State of Law, supported by Article 5, which outlines the inviolability of essential rights such as life, liberty, and security (Brasil, 1988). The constitution's recognition of social rights, including education, healthcare, security, and child protection, as fundamental to a dignified life further proves this principle (Brasil, 1988). These social rights are integral to maintaining a just and equitable society, underscoring the importance of upholding human dignity (Brasil, 1988).

As precepted by Sarlet (2006), the dignity of the human person is linked to the unique condition of each individual, emerging from their existence in society, reflecting a social dimension, since there is equality between everyone before the Law. In this sense, The Federal Constitution, in Article 5, establishes equality between all, without any form of distinction, thus guaranteeing the fundamental bases for the protection of all citizens.

In this sense, according to de Tarso Brandão (2020), Human Rights are understood as sets of legal situations, derived from the social nature of human beings, considered essential for their dignity and full development in society, in specific historical contexts, which are recognized and guaranteed through international treaties and conventions, signed by Brazil.

Still, from this perspective, for Luño (2006), Human Rights are interpreted as a conjuncture of capabilities and structures that, in different historical periods, outline the needs for dignity, freedom, and equality and, therefore, must be guaranteed and supported by the legal system, National and international. Consequently, it is understood that the continuous evolution of Human Rights reflects the value demands of societies.

It is essential to consider cultural and religious factors when discussing human dignity, as they shape a country's identity (Munanga & Gomes, 2006). Brazil is a secular state, which means that there is no official religion, and all religious beliefs are respected (Brasil, 1988). The country's religious diversity has led to policies aimed at social assistance, such as providing communities with basic food and hygiene supplies (Governo do Mato Grosso, 2020). Culture is a dynamic

matrix encompassing religion, art, music, dance, and politics, and has played a significant role in promoting the dignity of vulnerable groups in Brazil, such as through expressions like capoeira (Munanga & Gomes, 2006). According to IPEA - Instituto de Pesquisa Econômica Aplicada (2018), protecting religious freedom and cultural diversity in a democratic state promotes human dignity and aligns with the objectives of SDG 16, which seeks to create peaceful societies and effective institutions. By ensuring equality and preventing religious prejudice, Brazil's culture promotes inclusion and upholds the dignity of all individuals, a fundamental principle enshrined in the Federal Constitution (Brasil, 1988).

For Sarlet (2006), dignity is seen as an intrinsic quality of the human person, being irrevocable and inalienable, thus constituting an element that qualifies the human person. Therefore, dignity must be protected and recognized so that these guarantees are duly implemented and it is for this reason that Sarlet (2006) attributes social and state duties, since it is the obligation of society and, above all, of the State to protect the dignity of the human person, especially when they are fragile.

However, despite these social and state guarantees, Chai (2007) understands that a society is formed systematically and can face different types of risks, since being part of a social environment is, therefore, implying exposure to these risks. In this sense, knowing that society is facing risks, North (1990) states that institutions have the function of reducing uncertainty in the face of risks and must be structurally stable since it is institutional development that will determine the risks.

3. The Importance of the Organization of American States and the Universal Declaration of Human Rights as a Tool for Justice in the Face of Violation of Human Rights

The concept of Human Rights is elucidated as the set of rights and guarantees recognized as immanent to human beings, simply because they are people. These rights are independent of culture, political positioning, religion, nationality, or economic status. It is a minimum guarantee of universal rights and freedoms to be respected with universal validity for all peoples individually or collectively and at any time, in such a way that they reveal an unequivocal supranational character (Ramos, 2014; de Moraes, 2021).

The Universal Declaration of Human Rights was approved on December 10, 1948, at the United Nations General Assembly. This document was fundamental in establishing essential guarantees for all human beings who need protection against violations of their rights due to discrimination based on race, color, gender, language, or nationality (Unicef Brasil, 1948).

The Universal Declaration of Human Rights celebrated 75 years in December 2023, a historic milestone in the search for dignity and equality among all people. It was promulgated three years after the end of the Second World War as a response to crimes against humanity committed during the First and Second

World Wars (de Araújo & Neto Lima, 2022).

The central objective of the Universal Declaration of Human Rights is to protect the rights to freedom and equality and guarantee the preservation of a dignified life. The UDHR has become a substantial legal basis for international organizations and for national Constitutions, such as Brazil, which adopted the humanitarian bases of the Universal Declaration in its Constitution in accordance with the evolution of the social body (de Moraes, 1998).

The Universal Declaration of Human Rights, in its art. 1, states that all people are born free and equal in dignity and rights; it is crystal clear that far beyond formal equality, the UDHR aims for material equality, one in which there is no xenophobia, racism, LGBTphobia, ableism, discrimination based on gender, prejudice religious or discrimination based on social class, because everyone is respected to the extent of their inequalities and their individualities are considered as part of democratic plurality (Piovesan, 2019).

When postulating about Human Rights and dignity, we genuinely seek respect, protection, or promotion of these rights in the face of any form of discrimination by the State or in the private sphere of social relations (Sarlet, 2018).

In the Democratic States, human value is non-negotiable. It does not depend on a person's awareness of their own dignity, since even lawbreakers have access to such rights, as the penalties of the law are imposed on them. Still, in the meantime, violations of their lives are not permitted, with the use of torture, slave labor, or any event that goes beyond the penalties of the law and that threatens the offender's survival (Bobbio, 1997).

There is no need to talk, therefore, about Human Rights with distinction between people without considering aspects that allow the fair development of human beings, especially preferential groups, in which children and adolescents notably lack full protection to the extent of their need for differentiated treatment to ensure their development (Veronese, 2013).

However, when there is a conflict between two or more fundamental rights or guarantees, the interpreter must use the principle of practical agreement or harmonization to coordinate and combine the legal assets in conflict, preventing Human Rights from being distorted and benefiting subject practitioners of criminal acts (de Moraes, 2021).

Since its foundation, the Universal Declaration has played a fundamental role in improving and developing institutions, organizations, norms, and supranational bodies aimed at promoting and defending Human Rights. Although it declares rights inherent to all human beings, it also creates a commitment for all countries in the international order to facilitate the permanent realization of human rights (Comparato, 2015).

In this regard, it is stated that international responsibility is what ensures the effectiveness of norms at an international level. In this way, non-compliance by action or omission with internationally agreed norms by the signatories of agreements and conventions gives rise to the obligation to repair the damage by

the violating States (*Comissão Interamericana de Direitos Humanos, 2006*).

After the Charter of Human Rights of 1948, there was an appreciation of Human Rights, as an element intertwined with the human being and essential to the law, since by adopting the UDHR parameter, sovereignties manifest their international position in favor of human life without violations (*Unicef Brasil, 1948*).

Even though Brazil has adopted the perspective of a democratic and citizen Constitution, this status does not guarantee the security of Brazilians against the violation of Human Rights since, as *Bobbio (2004)* postulates, the serious problem of current times in relation to human rights is no longer how to base them but rather how to protect them (*Bobbio, 2004*).

It is evident that Human Rights must be seen as a priority not only in relation to the vertical effectiveness of the State and individuals but also horizontally between individuals and their peers and transversally between companies and individuals, as the violation of Fundamental Rights can originate from any of these relationships (*Ramos, 2014*).

In this reasoning, slave labor, child exploitation, human trafficking, and organ trafficking, among others that can be pointed out, are cited as an example of Human Rights violations already observed in society and, in this context, it is stated that having international entities and national organizations based on human protection and dignity to seek justice is substantial, especially when the national bodies themselves are silent (*Piovesan, 2019*).

In addition to the framework of the Universal Declaration of Human Rights, the Organization of American States (OAS) is considered an important international body, which initially began between October 1889 and April 1890, when the first American International Conference took place in Washington. However, this body was officially founded in 1948 in Bogotá, Colombia, the date on which the charter of the Organization of American States and the signatory countries were established (*Brasil Ministério das Relações Exteriores, 2023*).

To achieve its most important objectives, the OAS is based on central pillars, which are democracy, human rights, security, and development. Currently, 35 of the 36 countries in the Americas are part of its network of international articulations and the jurisprudence of the Commission and the Inter-American Court of Human Rights is valid in all countries subject to its jurisdiction (*Piovesan, 2019*).

Achieving human rights in Brazil is a complex and challenging task requiring multidisciplinary actions due to the country's social and economic situation. According to the Human Development Index (HDI), Brazil's socioeconomic status is multifaceted. While the government has made significant strides in areas such as health and primary education, as evidenced by its medium HDI classification, obstacles remain, particularly regarding income inequality and uneven access to critical services, which vary across regions and socioeconomic groups. Brazil's education and healthcare systems also require enhancements to ensure complete human development.

Brazil's economy faces several challenges, including high unemployment, fis-

cal instability, and financial market volatility. These challenges are compounded by persistent income inequality and insufficient investments in infrastructure and education. Brazil's social issues include urban violence, unequal access to essential healthcare and education services, and concerns related to social inclusion and the protection of human rights.

The COVID-19 pandemic has further complicated matters, exacerbating the country's socioeconomic impacts and challenging public health management. Effective public policies and coordinated efforts between the government, private sector, and civil society are urgently required to address these challenges and promote inclusive and sustainable development.

Although progress has been made, mainly due to the hyperconnected world we live in, which has generated international pressure to bring about change, new measures have been implemented rapidly, resulting in irreversible consequences, as observed in the case of the Emasculated Boys in Brazil.

4. The Case of the Emasculated Boys of Maranhão and the Violation of Human Rights

The crime known nationally and internationally as “the case of the emasculated boys” is the fact that occurred in Maranhão between 1991 and 2003, in which 28 children and adolescents between 4 and 15 years old were victims of the serial killer Francisco Das Chagas Rodrigues de Brito. This case became emblematic of the cruelty in which the crimes were committed and the modus operandi used by the serial killer.

The murders, which occurred in the municipalities of Paço do Lumiar, São José de Ribamar, and São Luís, the capital of the State of Maranhão, involved the capture, death, and removal of sexual organs from victims who were always male and underage (Barros, 2015).

In addition to emasculation, according to the investigative records, signs of rape, mutilation of one of the hands, and cuts across the body were found on the children's bodies, revealing a particular style of thinking and carrying out crimes. However, because the victims lived in a situation of exclusion and social inequality and the criminal always chose a deserted and difficult location to carry out the murders, it made it possible for Francisco das Chagas to choose his victims while also facilitating the hiding of the corpses, which made his arrest difficult and took a long time (Ministério Público do Maranhão, 2018). Faced with the news of the several murders, the impunity of the attacker, and the ineffectiveness of investigations, entities protecting children and adolescents mobilized in the search for justice, reparation for the damages caused to the families of the victims, and punishment of the aggressor (Ministério Público do Maranhão, 2018).

In this sense, the Marcos Passerini Center for the Defense of the Rights of Children and Adolescents formulated two complaints against the Brazilian State before the Inter-American Commission on Human Rights - IACHR, an organi-

zation of the Organization of American States - OAS, denouncing the inefficiency of the Brazilian State in resolving the murders of Raniê Silva Cruz and Eduardo Rocha da Silva and Raimundo Nonato da Conceição that gave rise to cases No. 12,426 Raniê Silva Cruz and No. 12,427 Eduardo Rocha da Silva and Raimundo Nonato da Conceição at the OAS IACHR (Barros, 2015).

The Inter-American Commission on Human Rights is always the first body of the inter-American system to be called in this situation, as its mission is to accept complaints of violations of rights, carry out studies, prepare reports, formulate recommendations to the Member States of the Organization of American States and forward cases without resolution within the internal sphere of its signatories to the Court (Piovesan, 2019).

In these cases, the passive pole of the demands are the national States, and the pleas can be requested individually, by a group of individuals, or by non-governmental organizations in the face of violations committed by action or omission of agents from any of the spheres of public power (Brasil Ministério das Relações Exteriores, 2023).

In the case of the emasculated boys, the complaints, made through the Center for the Defense of the Rights of Children and Adolescents Marcos Passerini, sought the identification of the perpetrators and their punishment in accordance with the Law, so that it could put a stop to the deaths of other children for the same crime. Material assistance was also requested for the families of victimized children and adolescents due to the situation of high social vulnerability (Ministério Público do Maranhão, 2018).

As observed in the attempts at a friendly solution, since the protocol of petitions before the Organization of American States, in 2001, the Brazilian State Government demonstrated a lack of interest in concluding an agreement, assuming the burden of recognizing the errors, failures, and responsibilities arising from the unsuccessful investigations and of the configuration of omission, once a decade had already passed since the first murder with emasculation (Ministério Público do Maranhão, 2018).

With the repercussions of the case in the national and international media, it was suggested that this was a case of state omission because it involved poor children. Consequently, Brazil began to prioritize investigations into the murders. However, only in December 2003, two years after international pressure, mechanic Francisco das Chagas, who confessed to being responsible for all the crimes, was finally arrested (Ministério Público do Maranhão, 2018).

Given this scenario, it is clear that the Brazilian State failed to protect the peculiar situation of development and the best interests of children and adolescents, rights ratified in the Constitution of the Republic, in the Statute of Children and Adolescents (*Estatuto da Criança e do Adolescente*) - ECA and other norms aimed at ensuring that infants are recognized not only as objects of protection but as beings entitled to national and international rights as they have their own personality as subjects of rights (Comissão Interamericana de Direitos

Humanos, 2006).

In this sense, in addition to the primary violence perpetrated by the serial killer against children, there was a secondary violence, carried out by state bodies incapable of solving the case, which also contributed to the perpetuation of crimes over time (Veronese, 2013).

4.1. The Case of the Emasculated Boys before the Inter-American Commission on Human Rights (IACHR)

As stated, in the cases of emasculated boys, there was an apparent state failure to protect these adolescents, as this is a typical parental duty of the family, shared with the State, since the Federal Constitution, in article 227, establishes guarantees and duties, essential for children and adolescents, providing the right to life, health, education, dignity, freedom, in addition to the obligation to protect against all types of discrimination, violence and oppression at national and international levels (Liberati, 2015).

The American Convention on Human Rights establishes several guarantees, including the right to life, which no one can arbitrarily be deprived of. Furthermore, the protection of the rights of children and adolescents is established, with the role of family, society, and the State to guarantee their well-being regardless of the factual situation perpetrated (Piovesan, 2019; Brazil, 1988).

In this regard, in the Mapiripán case of Colombia, the massacre of civilians was reported to the Inter-American Court of Human Rights, which the Court stated that avoiding responsibility or merely recognizing difficult circumstances in the Colombian reality, would not mitigate or would remove the State's legal and social obligation to investigate and punish paramilitary groups, responsible for the deaths of civilians in the country, as well as the burden of repairing the damage caused (Piovesan, 2019).

This same perspective was aired by the Court in the case of the emasculated boys from Maranhão since there were 12 years of State omission, in which Francisco das Chagas moved freely through the national territory, carrying out emasculations in two states of the Brazilian Federation, demonstrating a scenario of investigative failure and, due to this ineffectiveness, 28 children and adolescents had their lives cut short, posing State responsibility for what happened (Ministério Público do Maranhão, 2018).

By denouncing Brazil in the Inter-American Court, the objective was to seek justice and real protection for poor and needy children in a situation of helplessness on the outskirts of the State of Maranhão. In this reasoning, the candidates proposed a conciliatory solution, in which a friendly agreement could be reached with the Brazilian State (Comissão Interamericana de Direitos Humanos, 2006).

Not only did the petitioning entities seek the investigation and conviction of those guilty of the crimes, but also the adoption of reparatory and preventive measures, as well as the implementation of public policies to support victims'

families and public policies aimed at society that effectively protect children and adolescents of violence or cases similar to crimes or damages caused by the violation of an international obligation (Ministério Público do Maranhão, 2018).

In this sense, the doctrine of complete protection proclaimed by the Child and Adolescent Statute (ECA) is understood in the sense of prioritizing the guarantee of the personality of children and adolescents, providing full access to citizenship with absolute priority in the physical and moral, psychological, spiritual and social aspects, so that their development is not violated by any act or discrimination (Grinover, 2019; Liberati, 2015).

In 2004, there were numerous meetings about the possibility of a conciliatory agreement between representatives of the Federal Government, the State Government, and the applicant entities; however, initially, there was no consensus regarding the accountability of the State of Maranhão and Brazil for the government's omission in the period from 1991 to 2003 (Comissão Interamericana de Direitos Humanos, 2006).

The celebration of the Friendly Settlement Agreement was definitively signed on December 15, 2005, in a ceremony held in the city of São Luís. Although dignity is not something that needs to be postulated or claimed, because it arises from the human condition itself, in the case of the emasculated boys in Maranhão, the application to international bodies was inevitable due to the State Government's lack of interest in solving and providing appropriate treatment for the seriousness of the situation (Ministério Público do Maranhão, 2018).

At the time of the crimes, Brazil was already a signatory to the Organization of American States, having been part of it since its foundation in 1948, as well as making an international commitment to following guidelines for the protection of Human Rights in 1992, when it became part of the American Convention on Human Rights, also called the Pact of Saint Joseph of Costa Rica, approved by Legislative Decree No. 27/92, and promulgated by Decree No. 678 of 1992 (Brasil, 2005).

Furthermore, art. 19 of the American Convention on Human Rights states that every child has the right to the protective measures that their condition as a minor requires from their family, society, and the State (Comissão Interamericana de Direitos Humanos, 2006).

In this aspect, any argument would not justify disrespect for human values and principles of human dignity present both in the text of the Constitution of the Federative Republic of Brazil and in the American Convention on Human Rights.

Irrefutable is, therefore, the abandonment of the theory of irregular situation and the adoption of the theory of full protection Veronese (2013), a fact that constitutes the responsibility of the Brazilian State for the deaths that it could have avoided if the stance of full protection of children and adolescents had been adopted at the time of the criminal acts (Comissão Interamericana de Direitos Humanos, 2006).

By referring the case to the International Court, the petitioners, on behalf of their families, have requested justice for the loss of their children without due mobilization from the State in solving the murders in progress during the 12 years of inaction of the investigating entities.

In this sense, the Brazilian State was denounced for the configuration of indirect responsibility, that resulting from acts carried out by private individuals, in the face of which the State failed to fulfill its duty to protect its citizens or prevent events that were serious to human dignity when it failed in the investigations and punishment of the serial killer (*Ministério Público do Maranhão, 2018*).

In the agreement signed between the Government of the State of Maranhão, the Brazilian State, non-governmental petitioning entities Justiça Global and the Center for the Defense of the Rights of Children and Adolescents, Father Marcos Passerini and the Organization of American States, the State of Maranhão recognized the insufficiency of results in the lines of investigation, the mistakes and difficulties in solving the cases, the structural deficiencies of the security system and the substantial need for a solution to prevent vulnerable circumstances of children and adolescents (*Ministério Público do Maranhão, 2018*).

The agreement also involved the payment of a special monthly pension in the amount of R\$500.00 (five hundred) reais for 15 (fifteen) years to the victims' families, by the State of Maranhão, in addition to their inclusion in basic income grant and popular housing social programs, planned to name a public building in symbolic honor of the child victims, as well as encourage the fight against sexual violence against children and adolescents in the State of Maranhão (*Ministério Público do Maranhão, 2018*).

The Friendly Settlement Agreement was signed in December 2005, giving the State compensation for the damages suffered by families, under the commitment to ensure a better childhood for children and adolescents by installing more security and public policies aimed at alleviating the situation of poverty of peripheral communities (*Ministério Público do Maranhão, 2018*).

However, in 2013, the petitioners appealed to the Commission on Human Rights and Minorities of the Legislative Assembly of Maranhão, which held a meeting to denounce non-compliance with the agreement. At the time, the president of the Commission, deputy Eliziane Gama, reported the non-compliance and demanded responses from the competent bodies in 15 (fifteen) days (*Assembleia Legislativa do Estado do Maranhão, 2013*).

On the same occasion, prosecutor Márcio Thadeu, head of the São Luís children and youth prosecutor's office, highlighted that failure to comply with the agreement constituted a violation of Human Rights through omission since the agreement dealt not only with economic reparation but also with measures to prevent new cases (*Assembleia Legislativa do Estado do Maranhão, 2013*).

Maria Ribeiro, president of the State Council for the Rights of Children and Adolescents, was also present and suggested that the Marcos Passerini Defense

Center forwarded information on the current status of the agreement to the Organization of American States (*Assembleia Legislativa do Estado do Maranhão, 2013*).

The case of the emasculated boys in Maranhão was an attack on Human Rights and a portrait of the horror that can occur when there is no public policy agenda that values the human dignity of the population in general, but above all, of the most needy and invisible part of society, who lack income, education, safety, health, food, work, among other absences that directly impact the development of these needy communities (*Ramos, 2014*).

4.2. Important Jurisprudential Precedents on Human Rights as a Tool of Justice in the Inter-American System

As a jurisprudential precedent that corroborates the substantiality of the inter-American system of protection of Human Rights, the Cosme Rosa Genoveva case, also known as the Favela Nova Brasília case, is cited, in which Brazil was denounced and condemned by the Inter-American Court of Human Rights, for the death of 26 people in raids carried out by the Civil Police of Rio de Janeiro in 1994 and 1995 in Favela Nova Brasília (*Comissão Interamericana de Direitos Humanos, 2017*).

In accordance with the American Convention, when a protected right or freedom is violated, it is determined that the injured party's avail to the violated right or freedom must be ensured. However, in situations where it is impossible to provide reparations to the offended person, it is ordered that the consequences of the measure or situation that resulted in the violation be repaired, with the payment of fair compensation to the family of the injured party (*Comissão Interamericana de Direitos Humanos, 2017*).

From this perspective, Brazil, on its merits, was ordered to repair the damage related to the Favela Nova Brasília case. The recognition of State responsibility, in this case, revealed the vulnerability of communities and society, in the face of the Brazilian police system itself, which, in the name of the State, should act for social pacification; however, in the face of their incursions, primary and direct harm to the victims was generated, as well as secondary harm when those responsible for crimes and violations were not punished (*Comissão Interamericana de Direitos Humanos, 2017*).

Another important decision occurred in the case of Gomes Lund and others, also called "Guerrilha do Araguaia," which refers to the detention, torture, and forced disappearance of approximately 70 people in the Araguaia region in the state of Tocantins in the Brazilian army operations, undertaken between 1972 and 1975, during the period of Brazil's military dictatorship (*Comissão Interamericana de Direitos Humanos, 2010*).

In this context, the State had the objective of implementing actions to exterminate all members of the "Guerrilha do Araguaia" movement, which also included peasants and members of the PCB, the Brazilian Communist Party,

which occurred successfully. The Inter-American Court condemned Brazil in November 2010, and it was held responsible for the violations in the Araguaia region when the dictatorial regime was in force in the country (Paiva; Heemann, 2020).

According to data from the Inter-American Court, Brazil recognized its responsibility for the deaths and disappearances that occurred during the period of the military regime, paid compensation to the families of 59 victims, published in 2007 the book *Direito à Memória e à Verdade - Special Commission on the Dead and Missing Politicians*, and carried out acts of a symbolic and educational nature, which promoted knowledge of the facts that occurred during the military regime (Comissão Interamericana de Direitos Humanos, 2010).

In this specific case, the sentence of the Inter-American Court, which imposed an international obligation on Brazil for violating several rights of approximately 70 dead and missing people, demonstrates the substantiality of the human rights protection mechanisms, without which, as shown during the time and procedural progress at the IACHR, there would be no reparation (Paiva & Heemann, 2020).

In the meantime, in addition to the case of the emasculated boys in Maranhão and the jurisprudence listed above, there were other episodes in which Brazil violated the rights guaranteed in the Universal Declaration of Human Rights and the commandments of the Federal Constitution. As an example, it is possible to mention the Carandiru massacre, the Candelária massacre, the Carajás massacre, and the case of the Fazenda Brasil Verde workers.

The Carandiru massacre, which occurred in October 1992, occurred as a result of an action by the São Paulo State military police at the Carandiru detention house and resulted in the deaths of 111 prisoners. It is important to highlight that most of those in custody were still awaiting a court ruling (Agência Brasil, 2023).

Regarding the Candelária massacre, which took place in July 1993 in Rio de Janeiro, eight homeless infants were executed by military police in front of the Candelária Church, which gave its name to the barbarity (Agência Brasil, 2023).

The Carajás massacre occurred in the municipality of Eldorado dos Carajás, in the State of Pará, in April 1996, in which 19 landless rural workers were killed by military police (Agência Brasil, 2023).

Finally, the case of workers at Fazenda Brasil Verde, in which Brazil was accused of slave labor between the years 1989 and 2000, at Fazenda Brasil Verde. In the 2000s, two young people managed to escape, and a complaint was filed with the Inter-American Commission, with the subsequent rescue of more than 80 workers in Modern Slavery on the property (Comissão Interamericana de Direitos Humanos, 2016).

Furthermore, it is important to clarify that the case of the workers at Fazenda Brasil Verde was the first conviction of the Brazilian State in the Inter-American Court of Human Rights in a matter involving slave labor. Furthermore, this was

the first time that the Inter-American Court of Human Rights recognized the existence of structural and historical discrimination, where workers did not have the financial resources to survive with dignity (Paiva & Heemann, 2020).

The Inter-American Court has established numerous legal precedents seeking to promote and protect human dignity by addressing violations of fundamental human rights following the Universal Declaration of Human Rights. These precedents have played a crucial role in shaping the development of international protection for human rights.

Following the atrocities of the two world wars, society began to understand the need to establish minimum parameters of respect for human rights (Velo and Gamba, 2021), marking a significant historical milestone (de Barcellos, 2000). As a result, international forums were established, and States worldwide began to sign treaties and establish entities dedicated to promoting and protecting human rights. Despite the widespread consensus around the essential value of human beings, human rights violations continue to occur around the world. This emphasizes the legal obligation of States (Ribeiro & Boaventura, 2020) to address issues related to human rights protection (da Silva, Ferraz, & da Silva, 2019). In Brazil, the Federal Constitution has established the duty of the family, society, and the State to ensure that children and adolescents receive life, health, food, and education protections. These fundamental rights aim to guarantee the country's best possible development of childhood and youth.

The State must manage public policies to reduce school dropouts, improve school facilities, and provide qualified professionals to instruct them. It must also work with society to provide security and adequate food to ensure that children and adolescents, particularly the vulnerable, have a less hostile and violent environment. The Statute of Children and Adolescents – ECA, states that children and adolescents enjoy all the fundamental rights inherent to the human person (Brasil, 1988; Zapater, 2019). To materialize this protection, a set of actions involves the State, society, social institutions, and the family. Various bodies, such as the Guardianship Council, the Children and Youth Court, schools, churches, and support and social service institutions, are engaged in the care and protection of children and adolescents' physical and mental integrity.

The Inter-American Court has issued numerous decisions and opinions about human rights violations, which serve as valuable legal references for States worldwide. For example, in the *Ximenes Lopes v. Brazil* case, the Court held that the State must ensure that detained persons are treated with dignity and respect for their human rights.

The Court has also found that States have a duty to provide adequate education to children and adolescents and to protect them from violence and exploitation. In conclusion, promoting and protecting human rights are an essential component of any just and equitable society.

The legal precedents established by the Inter-American Court serve as valuable references for States worldwide, and it is the legal obligation of States to ad-

dress issues related to human rights protection. By working with society, social institutions, and the family, States can promote the fundamental rights of citizens, particularly among vulnerable groups, and ensure that children and adolescents receive the protection they need to thrive and develop.

5. Conclusion

Human rights are conceived as essential prerogatives for the dignity and full development of human beings in society. Therefore, the protection of these rights is not restricted only to the State's scope but implies a collective commitment by society to ensure the dignity of each individual, especially those considered socially vulnerable, such as children and adolescents.

From the perspective of the case of the emasculated boys, it becomes evident that the State failed to guarantee the protection of the lives of those adolescents, as well as re-victimizing the victims' families by failing to solve the murders and not attributing the due gravity to the case, revealing institutional gaps and weaknesses in the protection and security system, which should ensure the integrity and well-being of all citizens, especially the most vulnerable.

The importance of the Universal Declaration of Human Rights, as well as the Inter-American Commission on Human Rights of the Organization of American States, has become apparent in the 75 years of validity of both international legislations, which have received numerous demands to hold the violating or careless States accountable for the existence of a situation that violates rights inherent to human existence.

In this context, the Inter-American Court's importance is evident—given the vast jurisprudence and reparations it operates through hearings, convictions, and agreements with States that violate the agreed international responsibility—since without such legislation, the access to and fulfillment of Human Rights and Fundamental Rights of vulnerable people or groups would be severely harmed.

The failure of institutional provision remains clear since the case of the emasculated boys was only resolved through international intervention, demonstrating how fundamental they are to guarantee the dignity of the human person.

Along this path, it was also concluded that it is up to the State, society, and each individual to ensure the protection and promotion of human dignity, especially to avoid the worsening of violations of Fundamental Rights, so that it is possible to build a more just, egalitarian and truly democratic society, in which everyone enjoys a dignified and fulfilling life.

It remains clear that the fight against Human Rights violations is a daily exercise of management and supervision by the Public Entity and, by extension, by the community, which must report, when aware of such situations.

In short, considering that Human Rights must be preserved and protected, when the inertia of state bodies favors the worsening of the violation of the rights inherent to the human person, international law must be sought as a pro-

tective apparatus.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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