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The Materialization of Personality Rights in the New Configuration of Legal Protection within the Democratic Rule of Law in Brazil

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Abstract

In the Democratic Rule of Law, where excessive judicialization and procedural delays challenge the effectiveness of individual and collective guarantees, this article aims to unveil the means of concretizing personality rights—an inseparable core of the essential marrow of human existence—through alternatives to traditional judicial litigation. Proceeding from the recognition that such rights, although belatedly enshrined in positive law, are fundamental pillars of human existence, the study investigates how the role of extrajudicial services and consensual methods of dispute resolution may offer more agile, less bureaucratic, and more autonomy-driven responses without forsaking legal certainty. Methodologically, the research adopts a deductive approach, engaging classical and contemporary legal doctrine, recognizing pure personality rights, statutory provisions, and empirical data, in order to demonstrate desjudicialization as a reaffirmation of access to justice in its substantive dimension: less formalism, greater protection. The relevance of the study emerges through a critique of the traditional model; it proposes a preventive reconfiguration of legal protection, whereby notarial services, mediation, and arbitration are established as legitimate tools of citizen emancipation. The study concludes that by prioritizing extrajudicial pathways for the (re)solution of conflicts, the legal system optimizes resources and strengthens the very core of the democratic project: justice that not only arrives but arrives in time, with effectiveness and in respect for human uniqueness and for the principles upon which these public institutions base their outreach.

Keywords

Dejudicialization, Judicial Delay, Legal Certainty, Dispute Resolution

1. Introduction

Personality rights represent the legal protection of the most intimate and inalienable attributes of the individual, such as the right to life and physical integrity, rights over one's body, liberty, privacy (honor, secrecy), and personal identity, among others. Although recognized later in comparison to property rights, their consolidation within the legal system reflects the evolution of a society that prioritizes the protection of the individual's moral and physical integrity—the very essence of what constitutes a person. In the Democratic Rule of Law, regarding the tension between personality rights and the obstacles imposed by the traditional model of judicial litigation, one must ask: how can the realization of these rights be ensured in the face of the crisis of access to justice and the overload of the Judiciary?

A citizen who, after years of emotional distress, decides to end a failed marriage, instead of facing months—or even years—of judicial proceedings filled with formalities, resolves everything with their former spouse in a single visit to the notary office, with legal security and without the harshness of litigation; a family who, after the loss of a loved one, needs to divide the estate: instead of being entangled for years in a judicial probate proceeding, resolves the matter within weeks through a public deed. These are not hypothetical scenarios but realities are already possible in Brazil, thanks to a transformative movement: dejudicialization.

While the Brazilian Judiciary faces a chronic crisis—with more than 83 million pending cases, structural delays, and growing popular distrust, as indicated in the Justice in Numbers Report of 2024—dejudicialization emerges as an efficient counterpoint, transferring to the extrajudicial sphere all matters that do not demand effective jurisdiction, but merely legal security, oversight, and formalization.

But what, after all, is dejudicialization? Far beyond a mere "diversion of claims" it represents a reconstruction of access to justice. It is not limited to easing the burden on the courts; it empowers citizens, allowing them to resolve their disputes autonomously without renouncing state guarantees. It embodies the constitutional principle of efficiency (Federal Constitution, Article 37) in its purest form: the State does not need—and should not—intervene where society itself can self-regulate, provided that the limits of law and public order are respected.

However, this advancement encounters resistance. Brazil still fosters a culture of litigation, a legacy of a system that, for decades, treated judicial proceedings as the only legitimate means of conflict resolution. Lawyers, judges, and even citizens often regard extrajudicial mechanisms with suspicion as if they were a "second-class justice." Such a view, however, ignores an irrefutable fact: justice delayed is justice denied. When a probate proceeding takes years to conclude, when a person's name—a pure attribute of personality—requires endless proof and the rekindling of emotional wounds to be altered, or when a divorce becomes an exhausting judicial battle, there is no "victory" for either party—only the failure of a system that has not adapted to the real needs of society.

This article argues that the guarantee of Law, as an applied social science, must not lag behind. On the one hand, judicial proceedings ensure binding state deci-

sions; on the other, their slowness, formalism, and costs may hinder effective protection. Thus, the general objective of this study is to analyze the realization of personality rights in the context of dejudicialization. Specifically, it seeks to 1) revisit the theoretical and historical foundations of personality rights; 2) examine the challenges faced by the Judiciary in protecting these rights; 3) evaluate the effectiveness of extrajudicial mechanisms, such as civil registries, mediation, and arbitration, in safeguarding these prerogatives; and 4) propose reflections on reconfiguring legal protection to prioritize less bureaucratic and more accessible pathways.

Methodologically, the study adopts a deductive approach, starting from consolidated theoretical premises in classical and contemporary doctrine, combined with qualitative analysis of legislation, jurisprudence, and recent empirical data. The bibliographic research encompasses authors such as Szaniawski (1993), Dinamarco (1987), Cappelletti & Garth (1988), as well as recent studies on dejudicialization and the effectiveness of notarial services.

The qualitative analysis of empirical data was based on the collection of public information made available by the National Council of Justice (Conselho Nacional de Justiça, CNJ), particularly through the "Justice in Numbers" report, and was supplemented by statistical data from the Brazilian Association of Notaries and Registrars (Associação dos Notários e Registradores do Brasil, ANOREG/BR). The data were selected through intentional sampling (non-probabilistic sampling based on relevance criteria), prioritizing information that highlights the volume of pending judicial cases, the impact of dejudicialization, and the role of extrajudicial services in the enforcement of rights. The analytical techniques employed involved the categorization and interpretative analysis of the data, aiming to identify patterns, trends, and impacts within the Brazilian justice system.

The justification for this work lies in the need to rethink access to justice from a preventive perspective, aligned with the principle of human dignity and procedural effectiveness, treating procedure as an instrumental means. It concludes, finally, that this study reinforces the thesis that dejudicialization, far from emptying the judiciary, enhances the practical realization of fundamental rights, reaffirming the Democratic Rule of Law in its mission to guarantee effective and timely justice, while reasserting the centrality of Personality Rights and their intrinsic nature.

2. Personality Rights: Historical Genesis, Concept, and Protection within the Legal System

For a long historical period, national legal systems predominantly favored the protection of tangible rights directly related to material goods and patrimonial legal relationships. Only gradually did certain individual rights, intrinsic to human nature, become the object of recognition by legal doctrine, legislation, and, more recently, jurisprudence.

In the study of the evolution of constitutional rights, it is observed that, both nationally and internationally, personality rights were recognized only belatedly

compared to human rights already enshrined in major European and North American international declarations. As Szaniawski (1993) teaches, an important figure in the development of legal thought and particularly relevant to this study for his approach to the concept of personality and its distinction from other rights, though without diminishing the fundamental importance of other rights to the individual, personality rights seek to safeguard the integrity of human dignity, preventing and protecting against any violation, and ensuring full personal and social development.

In legal doctrine, however, conceptual difficulties arise in clearly delimiting the scope of personality rights. Some scholars, such as Mazur (2012), propose a distinction between fundamental rights and personality rights based essentially on their distinct historical origins: while the former are traditionally established within public law through constitutions, the latter find their primary codification in civil law codes, reflecting their private law nature.

Historically, Szaniawski (1993) and Mazur (2012) highlight that personality rights have ancient origins, tracing back to Greek law (hybris) and Roman law (iniuria), thus predating the emergence of fundamental rights, which consolidated only in the modern era. Szaniawski further emphasizes that the modern concept of the human person developed substantially throughout the Middle Ages, influenced by social transformations, conflicts, and philosophical currents, culminating in the legal foundations that today govern both personality rights and fundamental rights.

More specifically, the twentieth century, marked by the tragic events of World War II, provided greater clarity and consolidation of personality rights within the constitutions of various nations, which began to include general clauses aimed at protecting human dignity. A significant milestone in this process is the Universal Declaration of Human Rights, adopted in 1948 by the United Nations General Assembly, which emphatically proclaims the intrinsic dignity of all individuals as the essential foundation for securing freedom, justice, and global peace (United Nations, 1948).

Siqueira and Ruiz (2015) point to the recognition of a general right to personality in post-war Germany, arising from the jurisprudential interpretation of Articles 1 and 2 of the Grundgesetz (German Basic Law). In Brazil, personality rights are strongly anchored in the Constitution, frequently associated with the fundamental principle of human dignity enshrined in Article 1, item III, of the 1988 Federal Constitution (Brasil, 1988). Furthermore, they are extensively regulated in the Civil Code of 2002, in Articles 11 through 21, reinforcing their relevance within the legal protection of individuals (Brasil, 2002).

A comparative analysis between the Brazilian and Portuguese Civil Codes, conducted by Carvalho (2013), reveals significant convergence regarding preventive and reparative measures adopted to safeguard personality rights, illustrating the affinities between the two legal systems in the protection of human dignity.

Given this historical and normative context, it becomes clear that personality

rights have progressively consolidated as fundamental elements in the protection of human dignity, transcending national borders and assuming a universal character. From their initial recognition to contemporary times, these rights have been crucial in building more just and democratic societies.

In light of the dynamic transformations characterizing contemporary society, there is a pressing need for a constant evolution in the protection of personality rights, which must keep pace with emerging ethical and social demands, as highlighted by Cupis (2008). This adaptation, however, must not imply the emptying or trivialization of these fundamental rights, but rather ensure their ongoing modernization in harmony with the constitutional values that underpin them.

Maintaining the balance between the necessary flexibility to embrace new forms of human personality expression and the preservation of the essential core of these rights—those prerogatives intrinsically linked to the human person, constituting true pillars of the human condition within the legal system—is imperative. From this perspective, interpretive evolution must always safeguard the inviolable and imprescriptible character of these rights, ensuring that their application to new social realities does not compromise their primary function of protecting the individual's moral, physical, and psychological integrity.

Personality rights are fundamental to the definition and protection of the human being's essence within the legal order. As Cupis (2008) points out, these rights are essential, constituting the core of personality itself. They integrate the very notion of personhood and encompass fundamental aspects such as life, honor, freedom, and name. The importance of these rights is so paramount that, without them, a person would lose their raison d'être, their identity, and their dignity as an individual.

On the classification of personality rights, according to Adriano De Cupis:

> "I: The Right to life and physical integrity; 1: the right to life; 2: the right to physical integrity; 3: the right over separated body parts and the corpse. II: The Right to liberty. III: The right to honor and privacy: 1: (including, among other manifestations, the right to one's image); 3: the right to secrecy. IV: The Right to personal identity: 1: the right to a name (including surname, pseudonym, and extrapersonal names); 2: the right to a title; 3: the right to a figurative sign. V. The Moral Right of the author" (Muniz, 2002: p. 145).

On the classification of personality rights, according to Alberto Bittar:

> "a) Physical rights: bodily integrity: the body; the organs; the limbs; the image. b) Psychological rights: mental integrity: liberty, privacy, confidentiality. c) Moral rights: moral patrimony: identity; honor; manifestations of the intellect" (Muniz, 2002: p. 146).

The right to life constitutes the fundamental and primordial principle from which all other personality rights emanate. In close correlation with this essential right is honor, intrinsically linked to social recognition and mutual respect within interpersonal relationships, and name, a highly personal and distinctive element

that individualizes the subject, carrying their personal and family legacy.

Fermentão (2006) teaches that personality rights, once incorporated into the legal system, guarantee each individual that their most essential aspects, such as honor, image, and privacy, are respected and protected. These rights are inalienable and enduring, demonstrating the fundamental importance that the law attributes to them.

The protection of these rights is indispensable for the full and free development of any individual. The Judiciary, by recognizing and guaranteeing personality rights, not only applies the established law but also reaffirms the ethical and moral values that underpin a democratic society (Siqueira & Paiva, 2016). The protection of these rights, therefore, is not limited to their formal recognition by the legal system; rather, the system must ensure appropriate means for their realization and effective protection in the event of violations.

Through the analysis of classical authors, this study seeks to demonstrate that it is grounded in the so-called pure personality rights. Nevertheless, as already outlined herein, it is necessary to recognize not only the intrinsic rights of the person but also the instruments that confer effectiveness upon them, which enable the full development of personality. Such instruments, by ensuring the effectiveness of the fundamental rights of the human person, are equally relevant and indispensable within the legal order.

3. Procedural Protection of Personality Rights: Access to Justice and the Crisis of the Judicial Model

With regard to the instrumentalization of means to ensure the effective realization of personality rights in accordance with the promotion of the legal order, we, therefore, turn to the legal process as an instrument for the enforcement of substantive rights. Nevertheless, we are guided by the teachings of Professor Dinamarco (1987: pp. 133-134):

> "To establish the purposes of the legal process is also to reveal the extent of its utility. It is a human institution imposed by the State, and its legitimacy must be grounded not only in its capacity to achieve objectives but also in the manner in which these objectives are perceived and experienced by society. Hence, the importance is accorded to the purpose of the procedural system and the exercise of jurisdiction. The teleological awareness, including the specification of all intended objectives and the way they interact, constitutes an essential element within the instrumentalist framework of the legal process: without fully understanding its instrumentality and supporting it on these pillars, it would not be possible to treat it as a true methodological premise, nor to derive from it any scientifically useful consequences capable of improving the judicial service. In other words, the instrumentalist perspective of the legal process is, by definition, teleological, and the teleological method invariably leads to the understanding of the process as an instrument designed to achieve the selected objectives".

Dinamarco (1987) is of particular relevance to the present study insofar as he sheds light on the close relationship between the procedure and the Constitution, highlighting two fundamental aspects of this connection. First, the Constitution establishes the normative foundation of procedural law, ensuring its conformity with the constitutional principles that govern it. Second, the procedural system itself functions as a safeguard of the constitutional order, whether through the review of the constitutionality of laws and administrative acts or by securing fundamental rights and freedoms.

From this perspective, when asserting in this work that procedure constitutes an instrument for the enforcement of substantive rights, the intention is not to reduce it to a mere procedural mechanism, but rather to recognize it as a vehicle for the realization of justice and the full observance of constitutional norms within the legal system. Jurisdiction must, therefore, be analyzed within a broader context, taking into account its impact on the organization and stability of society. In this vein, elements such as the role of the judge, procedural guarantees, and access to justice must align with constitutional values, ensuring that the procedural system effectively promotes justice and legal certainty (Menezes & Soares, 2024).

A critical stance is thereby adopted against the view that places judicial action and subjective rights at the center of the procedural system. According to the conception here rejected, the procedure would serve merely as a means of defense against the violation of individual rights. Such a perspective clearly resonates with the earliest historical periods, when legal thought revolved almost exclusively around a single value: patrimony. However, the evolution of legal thought has demonstrated that jurisdictional protection is aimed at individuals seeking the resolution of their disputes, whether positive or negative in nature. Accordingly, jurisdiction is not an end in itself, but a mechanism for ensuring the maintenance of legal order and the legitimacy of judicial decisions. In this regard, Dinamarco's analogy (Dinamarco, 1987: p. 137) becomes particularly apt:

> "The flaw of positivist thought lies precisely in the limited scope of its solutions. It investigates the effects that the exercise of jurisdiction produces upon the legal system, yet it leaves in obscurity what truly holds relevance and substantive value: the function of law itself within society. It is as if an astronomer were to content himself with examining the Earth's rotations and its revolution around the Sun, while neglecting to consider the trajectory of the solar system itself toward the Apex".

Dinamarco's analogy illustrates the limitations of a merely formalistic view of jurisdiction, one that disregards its true purpose within society. Let us propose our own analogy: similarly, a justice system that focuses solely on guaranteeing the right of action without considering the promptness and effectiveness of decisions resembles a pastor who preaches words of comfort and hope but does nothing to aid his community in times of need; or a lawyer who accepts a case but never files the initial petition, leaving the client indefinitely without a response; or a judge who mechanically reads the law without interpreting its purpose in light of the

concrete reality of those subject to the jurisdiction; or, finally, a physician who diagnoses a disease but fails to prescribe the appropriate treatment to cure the patient. In the same sense, guaranteeing a right necessarily entails enabling access to justice, which is achieved through the effective resolution of disputes, thereby not only recognizing the right in theory but also concretizing it in practice. Thus, we resume the discussion on the instruments and the protection of personal rights with respect to access to justice in the current context. In this regard, reflections are offered on the impacts of the phenomenon identified.

The fundamental right of access to justice is expressly enshrined in Article 5, item XXXV, of the 1988 Federal Constitution, guaranteeing all citizens the right to judicial review whenever there is a threat or violation of rights. From this constitutional provision, it becomes evident that access to justice is intimately connected with the principle of human dignity, as it is through such access that fundamental rights attain full efficacy. The effectiveness of access to justice ultimately ensures respect for dignity, allowing fundamental rights to be realized in the practical lives of citizens (Brasil, 1988). Within the Brazilian historical context, access to justice has been shaped since the colonial period, heavily influenced by European, particularly Portuguese, legal traditions. However, the colonizers introduced into the Brazilian legal system their own customs and a precarious judicial organization that remained largely inaccessible to the majority of the population, thus perpetuating a scenario of social and economic exclusion concerning the attainment of judicial protection. This reality restricted access to the judiciary to the economically privileged classes, further deepening social inequalities and hindering the full realization of fundamental rights.

According to Siqueira & Ruiz (2015), it is vital that all citizens, regardless of their economic circumstances, have the possibility of seeking protection of their rights before the judicial system, as provided for in the Constitution. The right of access to justice in the Brazilian legal framework finds its origins in the express guarantee introduced in the 1946 Constitution of the Republic, which stipulated that no injury to individual rights could be excluded from judicial review. This provision was expanded and consolidated under the current Constitution of the Federative Republic of Brazil of 1988 (Article 5, XXXV) (Brasil, 1988). For Abreu (2008: p. 31), in his words:

> "Access to justice ranks among the major concerns of contemporary society. From a legal perspective—particularly with regard to civil procedure as an instrument for the resolution of disputes—the political and social repercussions of the issue are significant, being essential within the broader framework of democracy and the Social Rule of Law".

Over the years, several mechanisms have been established to ensure access to justice within the Brazilian legal system, such as the work of the Public Defender's Office (Complementary Law No. 80/1994), the creation of the Special Civil and Criminal Courts (Law No. 9.099/1995), and the constitutional provision of free legal aid (Article 5, LXXIV, of the 1988 Federal Constitution), among others.

However, alongside the establishment of these institutions, a strongly litigious culture has developed, marked by a tendency of parties to submit nearly all disputes directly to a judge for adjudication. Under this line of thought, which is here rejected, access to justice would be equated merely with access to the judiciary. Indeed, as Cappelletti and Garth (1988) point out, although the expression "access to justice" presents conceptual complexity, it is essential to identify its purposes for an adequate understanding of the judiciary's role in guaranteeing rights. According to the division proposed by Cappelletti and Garth (1988), access to justice can be understood through three main dimensions: 1) judicial assistance for the economically disadvantaged, 2) protection and representation of diffuse and collective interests, and 3) a broader conception of access to justice, which encompasses alternative and simplified means of dispute resolution. In this sense, it is precisely the third dimension identified by the author that best aligns with the central objective of this study, as it emphasizes extrajudicial and streamlined mechanisms for the concrete realization of rights of personality.

In this context, although the State bears the constitutional duty to ensure universal access to justice, the practical difficulties faced by the judiciary in light of the widespread culture of judicialization of conflicts are evident (Rosa, 2015). Bueno and Sanchez (2021) affirm that the high volume of cases, combined with the increasing complexity of disputes, overwhelms courts and judges, creating conditions conducive to delays in case resolution. Thus, procedural legislation, although regarded as an instrument of legal order, proves limited when confronted with the need for efficient management of the excessive number of claims. Recent studies conducted by Menezes and Soares (2024) indicate that judicial delay, in addition to undermining the effectiveness of justice, also weakens public confidence in the judicial system. Molin and Lago (2023) similarly converge with this view, asserting that delays in dispute resolution generate dissatisfaction, frustration, and public disillusionment with the functioning of legal institutions. This situation arises both from normative gaps and from structural and operational deficiencies within judicial bodies.

Another relevant aspect concerns the role of judges. Magistrates face a significant daily challenge: the pressing need to reconcile the thorough analysis of case files with the normative requirement to issue decisions within reasonable timeframes. This reality directly conflicts with the principle of the reasonable duration of proceedings, enshrined in the Constitution and in Article 4 of the Code of Civil Procedure (CPC/15), as well as with the provision of Article 226 of the same statute, which establishes a preferential chronological order for the adjudication of cases. It is unrealistic to expect judges to consistently meet the deadlines of five days for issuing procedural orders, ten days for interlocutory decisions, and thirty days for final judgments (Brasil, 2015; Brasil, 1988). Although such legal obligations seek to ensure fairness and organization in case management, they may lead judges toward superficial analyses. Given the exorbitant number of cases filed, it becomes practically unfeasible for magistrates to examine each case in detail with the care nec-

essary for the full realization of justice. Consequently, there is a risk of inadequately reasoned or even erroneous decisions, which compromises legal certainty, increases the rate of appeals, and often results in additional workload for the judiciary.

Parallel to this, a topic that receives little attention is the worsening of working conditions for judges. Facing evident professional exhaustion due to the disproportionate accumulation of tasks, the risk of mental and emotional illness among magistrates is significantly heightened. Thus, the excessive volume of cases and the structural limitations of the Judiciary reveal a concerning scenario, demanding effective measures capable of reconciling procedural celerity, legal certainty, and the well-being of those responsible for the application of the law (Menezes & Soares, 2024). In this context, particularly concerning the protection of the rights of personality, one of the challenges lies precisely in the inherent subjectivity of the balancing process conducted by the judge, who must carefully weigh the rights of personality against other practical circumstances present in the specific case. Moreover, an additional challenge is mentioned by Szaniawski (1993), who identifies normative gaps as a limiting factor for the full protection of the rights of personality. According to the author, it is the responsibility of the Judiciary, vested with interpretative competence, to fill such legislative insufficiencies in pursuit of the effective realization of individual rights. Therefore, beyond seeking a swift judicial response, the judicial system must possess the interpretative capacity to adapt to emerging social needs.

In this regard, Zanini et al. (2018) emphasize that the evidentiary analysis plays a decisive role in ensuring the effective protection of the rights of personality. Given the complexity involved in the judge's assessment of evidence, concerns arise regarding the Judiciary's actual capacity to render technically sound judgments without generating collateral harm. It is suggested that the subjective weight of judicial balancing, combined with the challenges and limitations faced by the courts, may compromise both legal certainty and the quality of judicial decisions.

4. Extrajudicial Mechanisms: How to Strengthen the Protection of Rights of Personality?

As emphasized by Coutinho (2020) and Molin and Lago (2023), the effective protection of the rights of personality requires a strategic approach aimed at conflict prevention and the concrete safeguarding of these rights. According to the authors, an effective system cannot be merely reactive, that is, limited to providing redress after the harm has occurred, but must, above all, establish conditions that promote the respect for and spontaneous observance of rights of personality within the social sphere. In this context, the present study advocates for the role of notarial and registry services under the perspective of dejudicialization, emphasizing the possibility of preventive protection of the rights of personality and the instrumental role these rights play. It proposes an analysis of how such extrajudicial entities may contribute to the avoidance or prompt resolution of conflicts, thus ensuring

legal certainty in social relations and fostering effective protection of rights of personality.

Preventive action finds support in legal scholarship, as highlighted by Santos (2007), Molin and Lago (2023), among others, who stress the relevance of public registries in guaranteeing and protecting personal attributes such as image and privacy, particularly considering the need for careful treatment of personal data and the confidentiality inherent to the handling of such records. Undeniably, the legal formalization of personality begins with the civil registration of birth before extrajudicial services, an act that constitutes the initial milestone of the State's and society's recognition of the individual. In this regard, considering the "instrument" as the legal act or fact capable of ensuring the enforcement of rights, notarial and registry services emerge as closely aligned with constitutional principles, particularly the foundational value of human dignity, expressly enshrined in the Federal Constitution (Brasil, 1988). Furthermore, it is important to highlight Law No. 6.015/1973 (Public Records Law), which assigns to registry offices the important mission of formalizing and preserving legal acts and facts, ensuring their authenticity, effectiveness, and legal certainty, thereby creating the essential conditions for the exercise, protection, and social recognition of the rights guaranteed therein (Brasil, 1973).

To better conceptualize dejudicialization, it can be understood in two main forms: first, when it occurs after the initiation of judicial proceedings, seeking to transfer or extinguish the jurisdictional competence over certain acts; and second, through preventive dejudicialization, which consists of adopting mechanisms that inhibit the necessity of resorting to the judiciary from the very inception of the dispute. Alternative dispute resolution methods encompass instruments such as conciliation, mediation, and arbitration, which can be employed both within ongoing judicial proceedings and extrajudicially, that is, without the formal involvement of the Judiciary. In essence, such methods aim to foster amicable settlements between parties, reducing both the time and costs typically associated with dispute resolution. Their connection with dejudicialization is both direct and significant: by offering consensual or arbitral means of conflict resolution, alternative methods serve as instruments for relieving the traditional judicial system. When applied prior to the initiation of a lawsuit, they prevent judicialization; when employed during the course of a judicial proceeding, they promote partial dejudicialization of the dispute, either through court-sanctioned settlements or by transferring the resolution to extrajudicial bodies.

Thus, it is observed that alternative dispute resolution methods integrate the dejudicialization movement both preventively by inhibiting the birth of judicial claims and correctively by intervening in already judicialized disputes, allowing their resolution without the necessity of final adjudication by the court. From the perspective of dejudicialization, particularly with regard to the right of personality concerning one's name, the enactment of Law No. 14.832/2022 stands out as a paradigmatic example of the benefits brought about by the assignment of extraju-

dicial competencies to notarial and registry services. This legislation introduced substantial amendments to the procedure for changing a civil name, allowing such modifications to be carried out directly before the Civil Registry of Natural Persons (Registro Civil das Pessoas Naturais, RCPN) without the need for judicial intervention. Articles 56 and 57 of this Law are of particular importance, as they establish simplified and less bureaucratic procedures for the alteration of given names, thereby ensuring greater celerity and facilitating individuals' access to the realization of this right of personality (Soares et al., 2023: p. 59).

Following the enactment of the Law under analysis, recent studies have reported a significant increase in name changes, and corrections carried out through extrajudicial means, thereby reinforcing its practical effectiveness. According to data gathered by Soares et al. (2023), whereas in the years prior to the new legislation, annual name changes averaged approximately 1.800 records, between June and December 2022—already under the new law—there was a remarkable increase to 4.970 alterations. These figures clearly demonstrate the effectiveness of dejudicialization in ensuring greater autonomy for individuals in defining their legal identity, thus significantly strengthening the protection of the rights of personality concerning one's name. Nevertheless, in the following terms:

> "The average Brazilian citizen experiences a certain reverential fear when entering a courthouse, regardless of the specific matter to be addressed therein. The mere act of entering the forum, by its very nature a formal environment, instills this perception in the citizen. Such a perception proves deeply detrimental to mediation, as it hinders the understanding that this method of conflict resolution bears little or no resemblance to adjudicated state solutions. An informal environment, one that makes the parties to mediation feel at ease and comfortable enough to engage in frank dialogue, revealing their true interests so as to allow the mediator to genuinely assist them in reaching an agreement, is therefore essential" (Hill, 2018: p. 134).

In this context, the inseparable connection between the activities of extrajudicial services and the democratization of access to justice is reaffirmed, ensuring that every individual, from birth, has efficient means to fully exercise their fundamental rights in accordance with the guiding principles of the Democratic Rule of Law. Delegates of notarial and registry services act as agents of the State, performing functions such as the authentication and registration of legal acts, thereby conferring publicity, security, and effectiveness upon them. The public relevance of these duties stems directly from the Federal Constitution, which, in Article 236, establishes that notarial and registry services shall be exercised privately under State delegation (Brasil, 1988). Thus, the activities of these delegates transcend the mere formalization of documents, encompassing the careful verification of the legality and regularity of acts submitted for registration pursuant to Law No. 8,935/1994 (Brasil, 1994). It should also be emphasized that admission to notarial and registry functions is subject to the rigorous constitutional requirement of public competi-

tive examination, as expressly determined by Article 37 of the Federal Constitution, thereby ensuring the technical and ethical qualifications necessary for the exercise of these activities (Brasil, 1988).

In support of this view, Ceneviva (1996) clarifies that the role of the delegate goes beyond the mere formalization of legal acts, requiring a meticulous analysis of the parties' capacity and legitimacy, as well as verification of the act's compliance with the prevailing legal system. According to the author, notarial or registry qualification consists of a technical activity aimed at ensuring that acts submitted for registration or authentication possess full legal validity, thereby safeguarding legal certainty and preventing future disputes through clear and formally regular documentation. As addressed by Brandelli, the figure of the "delegated officer" is a cornerstone in the understanding of the extrajudicial services system. Specialized doctrine defines the notarial function as a legal-cautionary activity of a public nature exercised exclusively by the notary. According to this interpretation (Brandelli, 1998), it is an impartial activity aimed at guiding individuals in the proper identification of their subjective rights, providing them with appropriate legal security both for transactional purposes and for potential evidentiary needs. This function presents well-defined structural elements: a specific content (legal assistance in the voluntary realization of rights), a determined object (subjective rights in the process of being realized), and a clear purpose (to guarantee the legal certainty of such rights in conformity with the demands of legal transactions and their future proof). As a typical activity of the notary, it concretely manifests through the practice of the notarial acts themselves.

The definition proposed by Brandelli (1998) regarding the delegate, whose primary function is to confer legal certainty through impartial and preventive action, is recalled. Just as a judge exercises impartiality when adjudicating disputes, the delegate, in a comparable position, acts with neutrality by providing legal guidance to the parties involved, preventing conflicts, and offering effective and prompt solutions to citizens. Consequently, notarial and registry services, when strengthened within the framework of dejudicialization, represent valuable instruments for the protection of rights of personality, providing an efficient, secure, and legitimate alternative for the realization of rights, thereby contributing substantially to a justice that is genuinely fair, accessible, and attuned to social reality. The strengthening of citizenship presupposes the development of a culture of autonomy in conflict resolution, one that values individuals' capacity to defend their rights through appropriate and civilized means without relying exclusively on state intervention. To that end, the expansion of consensual and extrajudicial methods is advocated as effective instruments of social pacification (Campilongo, 2011; Makowiecky Salles, 2016: pp. 297-300).

However, with the filing of lawsuits, an unconscious social expectation is consolidated that it is the exclusive responsibility of the State to resolve disputes. Although judicial proceedings ensure guarantees such as the right to an adversarial process and encourage amicable settlement, once a dispute is submitted to judicial

review, it becomes dependent upon the decisional authority of the Judiciary. In this context, individuals' capacity to seek joint and consensual dispute resolution is weakened, as is their engagement with the executive and legislative branches in the pursuit of the realization of rights (Campilongo, 2011; Makowiecky Salles, 2016: pp. 296-301). As Loureiro (2016) points out, procedural law is characterized as an eminently remedial system, whose purpose lies in the application of substantive norms to already existing conflicts. In contrast, the author affirms that notarial and registry law plays a primarily preventive role, aiming to confer upon legal acts and transactions a presumption of certainty, validity, and effectiveness before third parties.

In this regard, although similar in their goal of ensuring legal certainty, there are fundamental distinctions between notarial and registry activities. The notary, for instance, acts at the preliminary stage of legal transactions, directly assisting the parties from the outset of negotiations through to their formalization, ensuring clarity regarding the legal consequences of the acts performed. The notary's prior involvement enables the parties to understand the rights and obligations at stake, thereby providing legal security from the inception of the act (Loureiro, 2016). Corroborating this view, Valadares (2021: pp. 81-82) stresses that the functions of extrajudicial services are subject to strict State oversight, which monitors their activities to ensure that delegated competencies are exercised in full compliance with constitutional principles and administrative legality. In this sense, it is important to highlight that extrajudicial activities also have as their central objective the effective protection of rights of personality, providing legal certainty, particularly in situations requiring social sensitivity, such as those involving individuals in conditions of vulnerability. Such protection is provided through the impartial delivery of services, ensuring balance in social relations and respect for the material equality of the parties involved while carefully observing the particularities of each concrete case (Ceneviva, 1996; Loureiro, 2016).

Given the configuration of notarial and registry activities and the challenges posed by the pervasive delays in the Judiciary, the pursuit of extrajudicial solutions becomes imperative, in line with the contemporary "Multi-Door Court System" model established by the 2015 Code of Civil Procedure (Valadares, 2021: p. 81). Thus, while judicial procedural law deals with the resolution of disputes after their emergence, notarial law prevents conflicts through the qualified action of the notary, whereas registry law guarantees the publicity, validity, and effectiveness of acts before third parties and the State. As previously discussed in this study, numerous acts have already been dejudicialized, and others may yet follow, demanding ongoing study, research, and both social and legal commitment. Ultimately, dejudicialization represents a significant advancement, particularly in transferring certain judicial functions to extrajudicial offices. It proves to be an effective means of ensuring access to justice and citizenship, addressing demands that the judicial system was unable to meet promptly and accessibly. Dejudicialization enables broader, faster, and more secure access to justice, alleviating pressure on the

courts and their personnel while facilitating the realization of rights through extrajudicial means (Farias, 2011; Loureiro, 2016).

5. Final Considerations

The analysis undertaken has demonstrated that the effectiveness of protecting rights of personality within a Democratic Rule of Law cannot rely solely on a model that privileges judicial activity as the unique and exclusive avenue for resolving conflicts—whether positive or negative—under penalty of perpetuating the systemic crisis that afflicts the judiciary. The excessive volume of claims, procedural delays, and consequent ineffectiveness are also rooted in the failure to ensure the reasonable duration of proceedings.

Similarly, actions for moral damages arising from violations of the personal image may lose their reparatory meaning when the harm is perpetuated within the social and digital spheres while the judicial process awaits adjudication. Dejudicialization through alternative and appropriate dispute resolution mechanisms emerges as a complementary tool to address these dysfunctions. Mediation and extrajudicial conciliation, as regulated by Law No. 13.140/2015, offer instruments capable of consensually resolving disputes.

Dejudicialization, as a legal phenomenon, is consolidating itself as a pragmatic alternative to the Judiciary's crisis—an ethical and functional imperative of a society that demands accessible and fair justice. The shift of disputes, formerly monopolized by the judicial route, toward extrajudicial mechanisms, supervised by the State but free from excessive formalism, points to a civilizational evolution aligned with the constitutional principles of human dignity, administrative efficiency, and legal certainty. The Brazilian experience, although marked by cultural and structural resistance, demonstrates that procedural rationalization—whether through notarial, registry, or consensual dispute resolution mechanisms—places the citizen back at the center of the system, enabling the autonomous resolution of demands without renouncing state protection.

Extrajudicial divorce, probate, adverse possession, and civil registry corrections, among other institutions, are not mere concessions to pragmatism but rather civilizational achievements embodying the maxim that delayed justice is denied justice. Overcoming the traditional litigious paradigm, however, requires more than isolated legislative reforms; it demands a social and legal reeducation wherein lawyers, extrajudicial services, judges, and society at large recognize that the pacification of conflicts does not exhaust itself within judicial proceedings. Mediation, arbitration, conciliation, and supervised notarial acts should not be viewed as exceptions or optional alternatives, but rather as preferential means of realizing substantive rights. The Judiciary, far from being supplanted, is strengthened in its constitutional mission by focusing on cases where its intervention is truly indispensable: those involving actual controversies that demand the exercise of sovereign jurisdiction.

The movement toward dejudicialization is both irreversible and necessary. Its

deepening depends on continued dialogue among doctrine, jurisprudence, and legislation, always guided by the principles of reasonableness, proportionality, and equal access to justice. Ultimately, Law, as an applied social science, must not merely accompany but anticipate the demands of society, transforming procedural obstacles into pathways for citizen emancipation. The justice of the future, or perhaps of the present, will be that which, without forsaking its solemnity, knows how to simplify itself, drawing closer to the citizen and effectively ensuring the fundamental right to be heard, attended to, and pacified.

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Conflicts of Interest

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

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