

HUMAN RIGHTS, FAMILY POLICIES AND UPR/UM: A LOOK AT THE PREVENTION OF DOMESTIC VIOLENCE

DIREITOS HUMANOS, POLÍTICAS FAMILIARES E RPU/ONU: UM OLHAR PARA A PREVENÇÃO DE VIOLÊNCIAS INTRAFAMILIARES¹

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RESUMO

A presente pesquisa faz uma reflexão acerca das Recomendações da Revisão Periódica Universal, feitas ao Brasil no quarto ciclo (2022-2026), delimitando-as no tocante à violência intrafamiliar cujas violações de direitos humanos atingem os grupos vulneráveis da 'criança ou adolescente', 'mulher' e 'pessoa idosa'. Esta delimitação se deu em razão do aumento da violência intrafamiliar, principalmente, nesses três grupos. A partir desse recorte, procurou-se analisar as políticas familiares como uma forma de prevenção à violência no âmbito familiar, bem como qual a atuação do Estado Brasileiro para reduzir, prevenir e dirimir tal violência atendendo, assim, às Recomendações da RPU/ONU no atual ciclo. Este estudo empírico possui uma abordagem qualitativa a partir de um olhar interdisciplinar aproximado das Ciências Sociais. Concomitantemente à análise de políticas familiares baseadas em evidências, iniciou uma pesquisa exploratória nos sítios eletrônicos oficiais e nos bancos de dados estatais para fins de levantamento de informações sobre violações de direitos humanos.

Palavras-Chave: Direitos Humanos. Revisão Periódica Universal. Violências Intrafamiliares.

ABSTRACT

This research reflects on the Universal Periodic Review Recommendations made to Brazil in the fourth cycle (2022-2026), delimiting them with regard to intra-family violence whose human rights violations affect the vulnerable groups of 'children or adolescents', 'women' and 'elderly people'. This delimitation occurred due to the increase in intrafamily violence, mainly in these three groups. Based on this perspective, I sought to analyze family policies as a way of preventing violence within the family, as well as the actions of the Brazilian State to reduce, prevent and resolve such violence, thus meeting the UPR/UN Recommendations in the current cycle. This empirical study has a qualitative approach from an interdisciplinary perspective close to the Social Sciences. Concomitantly with the analysis of evidence-based family policies, I began an exploratory search on official websites and state databases for the purpose of gathering information on human rights violations.

Keywords: Human Rights. Universal Periodic Review. Intra-Family Violence.

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INTRODUCTION

The protection of individual and social rights was boosted by the Declaration of Human Rights in 1948. Since then, many treaties and international conventions have contributed to the establishment of these rights in the domestic sphere of the States.

Among the international documents for the defense of human rights, in addition to the Universal Declaration of Human Rights, we highlight the International Pact on Civil and Political Rights (1966) and the International Pact on Economic, Social and Cultural Rights (1966). These instruments, created within the framework of the United Nations (UN), integrate the International Charter of Human Rights thus forming a legal framework on which is based the possibility for this institution to observe and monitor whether its States-Members are asserting human rights to their citizens.

The human rights mechanisms of the UN "are bodies that monitor and cooperate with the obligations and commitments assumed by member countries of the United Nations under treaties and other international human rights instruments" (UN, United Nations High Commissioner for Human Rights, 2011). These mechanisms for the supervision and monitoring of human rights can be divided into two types: bodies based on the UN Charter and bodies created by international human rights treaties.

The UN is a supranational institution and its actions, instruments and decisions do not have coercive power; however, they have great importance on the international level due to their ethical-humanitarian character (Duarte, Filho, Silva, 2016). According to the UN Charter, there are three human rights mechanisms: the Human Rights Council, which is an intergovernmental body whose main functions are to analyse serious and systematic human rights violations and to develop international human rights law; the Universal Periodic Review (UPR) whose procedure involves reviewing the human rights obligations and commitments of each of the 193 States Members of the United Nations; and Special Procedures, which deal with country-specific situations or issues whose themes are global. These procedures refer to the mechanisms established by the former Human Rights Commission.

The present work aims to reflect on the recommendations of the Universal Periodic Review, made to Brazil in the fourth cycle (2022-2026), delimiting them regarding domestic violence whose human rights violations affect vulnerable groups of 'child or adolescent', 'woman' and 'elderly person'. This delimitation of study was due to the increase in domestic violence, especially in these three groups. From this clipping, it

was sought to analyze family policies as a way of preventing violence in the family sphere, as well as the action of the Brazilian State to reduce, prevent and resolve such violence, thus meeting the Recommendations to the UPR/ UN in the fourth cycle.

The present empirical research has a qualitative approach from an approximate interdisciplinary view of the Social Sciences. Concurrently with the analysis of previous studies and evidence-based family policies, an exploratory search was initiated in official websites and state databases for the purpose of collecting information on human rights violations.

1 THE CURRENT BRAZILIAN SCENARIO REGARDING DOMESTIC VIOLENCE

Violence in the family is a complex social problem, with the need to analyze the conflict in several layers, because its consequences affect the entire family system (affective dimension of the conflict), which is also a victim of this crime.

For the purpose of this study, domestic violence is considered to be any form of abusive relationship whose action (or omission) is characterized by physical, sexual, psychological, property and/or involving deprivation or neglect in the family. Such offenses are also characterized by isolated conduct or those that extend in time, either continuously or cyclically.

In this research, a cut was made in the vulnerable groups for analysis of official data, examining them regarding victims 'children or adolescents', 'women' and 'elderly people'. The interest of the author in this study was due to the exponential increase in human rights violations of these groups, especially in the last two years (2023 and 2024), and such violence occurs in the family sphere and it is directly related to the integrity of the victim (mental, physical, neglect, patrimonial), with negligence being the most recurrent kind of violation when observing the groups 'child or adolescent' and 'elderly person'.

According to release on official website³, reports of human rights violations during the carnival of 2024 increased by 38% compared to the same period in 2023. Once again, the majority of cases involve suspected crimes against children and

³Informações disponibilizadas no site www.agenciagov.ebc.com.br; Empresa Brasil de Comunicação. Disponível em: <https://agenciagov.ebc.com.br/noticias/202402/numero-de-denuncias-registradas-pelo-disque-100-cresce-38-durante-o-carnaval-de-2024>. Site do MDH: <https://www.gov.br/mdh/pt-br/assuntos/noticias/2024/fevereiro/numero-de-denuncias-registradas-pelo-disque-100-cresce-38-durante-o-carnaval-de-2024>. Último acesso em: 26/8/2024.

adolescents. Among these complaints, most involve negligence, and it is possible to observe that there was an increase of 54% in relation to this violation comparing the aforementioned periods. Another alarming fact is that most of these crimes occurred in the family environment (home where the victim and the suspect reside).

Also according to the mentioned survey, during the carnival of 2024, violations against elderly people appear in second place, followed by violations against women. In this case, the records are included in 'Call 180', which is a female service channel.

According to official data released by the National Human Rights Ombudsman (ONDH) of the Ministry of Human Rights and Citizenship, in the last three and a half years, among the complaints of human rights violations, the most affected vulnerable groups are respectively: "child or teenager", "elderly person" and "woman". In these three groups, the violation of the integrity of the victim (mental, physical, negligence, patrimonial) reaches the highest number. In the first two groups, the highest rate of violence occurs in the "house where the victim and the suspect reside", followed by the "house of the victim". Regarding the "woman", when observing the rape scenario, in the years 2021 and 2022, the "house where the victim and the suspect reside" is the highest index being followed by the "house of the victim". And in the years of 2023 and 2024 (until August 19th of 2024) there is an inversion in these two scenarios of the violation.

Reports of violence against 'child or adolescent' increased more than 50% from 2022 to 2023. In 2022, 151,592 complaints of violence against children or adolescents were registered, 109,828 for violence to the integrity of the victim (mental, physical, negligence, property). In 2023, there were 228,519 complaints, of which 222,180 for violence against integrity. In both years, more than 60% of the violence against the integrity of the victim occurred in the "house where the victim and the suspect reside", that is, within the family.

In the first half of 2024 alone, 333,029 complaints were registered, exceeding the total value of 2023. Of these, 140,259 are violations against the rights of children and adolescents (that is, more than 40%), with 136,677 being violations against the integrity of the victim. It is important to note that, of this number, 112,597 reports of violence against the integrity of the victim are crimes of negligence, and more than 60% of these crimes occurred in the family environment.

This scenario is no different when we analyze the data on violence against the elderly and against women.

In 2024, until mid-August, 115,141 reports of violence against elderly people were registered. Number corresponds to 80% of the registration in the whole year of 2023 (total of registrations in 2023: 143,912 complaints). In 2022, 95,954 complaints were made and 80,727 in 2021. The numbers recorded in the years 2022 and 2021 are lower than the records of only the first half of 2024, which draws our attention. In relation to the rape scenario, the largest number of complaints is concentrated in the 'house where the victim and the suspect reside' and 'victim's home'.

Regarding violence against women, considering all violations in the period analyzed (year 2021 to mid-August 2024), we had a significant increase in the registration of complaints by 'Dial 100' and 'Call 180' in 2023, mainly in the first half of 2024, that has already submitted more than 75% of complaints compared to the whole year of 2023. In that break of years, when we analyze the violation scenario, we have the 'house of the victim' followed by the 'house where the victim and the suspect reside, with the exception of 2022 when there was an inversion of these locations.

It should be noted that the complaints refer to the number of reports of human rights violations and in the same complaint may contain one or more human rights violations. In the present research, only the number of records of complaints was taken into consideration.

Given the above data, it is possible to affirm that in the three groups of vulnerable, object of the present research, the reports demonstrate that violations of the integrity of the victim occur, in their highest percentage, in the family circle. This should be the environment of safety and comfort (material, emotional and spiritual) for all its members, because the family is the first living environment of the individual and is where the first personal ties are formed, is the place where you learn the first values and develop the first social skills and competencies.

Taking care of the family system is one of the aspects of the main international documents on human rights, as well as in the special legislations aimed at protecting these groups, such as the Statute of the Child and the Adolescent and the Statute of the Elderly. One of the strands of the Maria da Penha Law is based on social and preventive policies.

2 FAMILY POLICIES: A LOOK AT THE PREVENTION OF DOMESTIC VIOLENCE

The Family is the first organization of people. Enshrined in the Universal Declaration of Human Rights and the American Convention on Human Rights as the natural and fundamental core of society, with special protection for society and the State⁴.

The Brazilian Constitution of 1988, in its article 226, states that the family is the basis of society and should be protected by the State. When we analyze the special laws that protect children and adolescents, women and the elderly observe the care of protection and promotion of these groups in their families, being recognized to them the right of family and community coexistence⁵.

As it is observed, the national and international legislative field recognizes the family as the first institution of society and its importance that deserves to be protected by the State and by society itself. However, the official data analyzed above allow us to affirm that the family system needs care and that the normative field alone is not able to bring protection to the family and its members. Data also shows that the highest number of reports of human rights violations against "children or adolescents," "elderly people," and 'women' occur in "the house where the victim and suspect reside" and in "the house of the victim. Another significant fact in the case of 'children or adolescents' is that most violations concern neglect and maltreatment.

It should be noted that many of the current social disorders arise within the family as a result of vulnerabilities, imbalance, and domestic violence. It is necessary to turn our attention to family policies that defend, promote, and protect the family and all its members, supporting the education and development of citizens, as well as their economic and social prospects, preparing them for the job market and life in society.

From the perspective of preventing violence and social vulnerabilities, family policies have stood out. Evidence-based studies and research have shown that actions involving parents and/or family members have an impact that is, on average, nine times greater than interventions aimed only at children and adolescents (Rocha *et. al.*, 2018).

⁴A Declaração Universal dos Direitos Humanos estabelece, em seu artigo 16.3 que "a família é o núcleo natural e fundamental da sociedade e tem direito à proteção da sociedade e do Estado". O Pacto de San José da Costa Rica (Convenção Americana sobre Direitos Humanos, artigo 17.1) define que "A família é o elemento natural e fundamental da sociedade e deve ser protegida pela sociedade e pelo Estado".

⁵Lei nº 8.069, de 1990 – Estatuto da Criança e do Adolescente (ECA), artigos 4º, 19, 87, VI, 197-C, § 1º. Lei nº 10.741, de 2003 – Estatuto da Pessoa Idosa, artigo 3º.

Research shows that, regardless of ethnicity or culture, behavioral disorders occur less frequently in family systems that remain cohesive and integrated (Fox et al., 2004; Kumpfer et al., 2002).

A recent study examined the initial effects of a parenting program on reducing the risk of child maltreatment in highly deprived communities in Cape Town, South Africa. This program aimed to change parental behaviors through a series of training sessions on how to manage parent-child relationships, using nonviolent disciplinary strategies and participatory community methods. The results provided evidence of effectiveness in reducing the risk of child maltreatment by improving positive parenting behavior (Lachman et al., 2017; apud Brazil, 2020).

Internationally, these studies have led states to invest increasingly in programs whose interventions strengthen families and teach relational skills so that parents and/or guardians can supervise, discipline, and communicate with their children in a more affective and effective manner. This path leads to the prevention of risky behaviors, such as the use of alcohol and other drugs (Brazil, 2020; Sanchez, 2022).

From a health perspective, there is consensus in the literature that strengthening family ties creates a united and cohesive family system, which is considered a preventive measure for the development of healthy and sociable children. (Furlong et al., 2013).

In the same sense, we can find research that shows that a family system united, favorable to the well-being of its members, reduces the likelihood of behavioral disorders, violence, as well as the risk of children developing some psychological suffering, regardless of the culture in which they are inserted (Matsukura; Fernandes; Cid, 2012).

The participation of parents and guardians in school activities brings favorable results to learning and avoids school dropout. Studies also show that "The amount of time spent on educational activities is associated with improvements in the cognitive functioning of children" (Brazil, 2020).

The European Prevention Curriculum states that research on the "Strengthening Families Program: For Parents and Youth 10-14" applied in the USA has shown that it produced unanticipated results, such as a reduction in crime, depression, as well as better school results. "The «cross-effects», such as school success and the reduction of behavioral problems, contribute to increase the economic benefits and public health of the community" (EMCDDA, 2019).

Evidence-based programs to strengthen family ties have shown that the family has a primary role in the emotional and intellectual education of children, as well as in coping with many social conflicts, such as domestic violence, child abuse and addiction to alcohol and related drugs.

3 UNIVERSAL PERIODIC REVIEW (UPR/UN): FOURTH CYCLE AND THE CONFRONTATION OF THE BRAZILIAN STATE TO THE VIOLATION OF HUMAN RIGHTS OF 'CHILD OR ADOLESCENT', 'WOMAN' AND 'ELDERLY PERSON'

3.1 Brief considerations on the Universal Periodic Review⁶

The Universal Periodic Review (UPR/UN) is a unique process involving a review of the implementation of human rights by all Member States of the UN. This monitoring mechanism is a process conducted by the State itself, under the care and guidance of the Human Rights Council of the UN, which allows each of them to declare what actions have been taken to improve promotion, the protection and enforcement of human rights in their countries and to comply with their obligations in this regard.

This mechanism aims to improve the human rights situation in all countries and address human rights violations wherever they occur. In this way, the UPR is a unique instrument for the promotion and protection of human rights and at the same time for international monitoring. This supervision takes place in cycles with intervals of four and a half years and has particularities that make it a unique mechanism and different from other procedures. One of these specificities is that, in a first moment, the review of the human rights situation in each country is done by the states themselves, who evaluate themselves to prepare their reports and submit them to the UN.

The mechanisms for monitoring of the UN, promoting and protecting human rights are voluntary and - as mentioned above - there is no form of official punishment on states in case of non-cooperation. However, the Human Rights Council may veto - as a member of this Council - states that do not submit their reports to the UPR. In addition, states do not want to be exposed as a country that does not cooperate or is not respecting human rights (Duarte, Felipe, 2022).

⁶Para uma maior compreensão sobre o processo da Revisão Periódica Universal, indico a leitura do capítulo “NOTAS SOBRE A UNIVERSAL PERIODIC REVIEW (UPR) E O BRASIL”, escrito por mim em coautoria com a professora doutora Fernanda Duarte e publicado na Coletânea REDHIPAS “Inseguranças Globais, Direitos Humanos e Sustentabilidade”, Volume II. Curitiba: Editora CRV, 2022.

Brazil voluntarily submits to the Universal Periodic Review and, since its creation until now, we have observed four cycles (2008-2011; 2012-2016; 2017-2021 and 2022-2026). In general, the themes of the Recommendations received (and accepted) in the last Cycle deal with universal and transversal issues concerning the legal framework for implementation, civil, political and economic rights, social and cultural rights, rights of children and adolescents, of women, and other specific groups.

The mechanism of the Universal Periodic Review is intended to improve the human rights context in all Member States of the UN, believing that it is both a means of monitoring and an instrument for promoting and protecting these rights.

3.2 Recommendations of the 4th Cycle - UPR/UN - and the Public Policies of the Brazilian State in confronting the violation of human rights of vulnerable groups 'child or adolescent', 'elderly person', 'woman'.

When examining the 301 Recommendations accepted by Brazil in the fourth cycle of the UPR and considering the cut proposed for this research, we searched for the expressions "domestic violence" (6 Recommendations), "family violence" (no Recommendation), "intrafamiliar violence" (no Recommendation), "violence against women" (5 Recommendations), "violence against children and adolescents" (4 Recommendations), "violence against elderly people" (no Recommendation) and "elderly people" (no Recommendation).

In the report delivered to the UN in March of 2023, Brazil rejected two Recommendations that referred to the promotion of policies to support and strengthen the Family.

Aiming to verify the existence of public policies that focus on the prevention of human rights violations of 'child or adolescent', 'woman' and 'elderly person', as well as the defense, protection and promotion of these vulnerable groups, was made an exploratory search on the websites of the Ministry of Human Rights and Citizenship (National Secretariat for Children and Adolescents and National Secretariat for the Elderly), the Ministry of Women and the Ministry of Development and Social Assistance, Family and Fight against Hunger (National Secretariat for Care and Family Policy/SNCF).

Searching the official website of the Ministry of Human Rights and Citizenship, no action or program offered by the Brazilian State was found

(management 2023-2026), having as its core the prevention of violations to the human rights of 'children and adolescents' and/or the promotion and protection of this vulnerable group. There are courses on related topics. It may be noted that, by Decree 11.533 of 2023, the Intersectoral Commission to Combat Sexual Violence against Children and Adolescents was established within this Ministry. However, no action from this Commission was found.

Regarding the elderly, the National Secretariat of the Elderly/MDH has a Working Group (GT) to deal with financial and patrimonial violence. Regarding negligence, physical and mental violence, violations in which the greatest number of complaints occurs, no action or program was found.

When we observe the policies aimed at the defense of women, we have the program on 'Woman living without violence', which has among its actions the implementation of units of the House of Brazilian Women (action already existing previously); restructuring of the Call 180; Promotion of educational measures and continuous awareness campaigns to tackle all forms of violence against women.

On the website of the Ministry of Women, it is also possible to find the National Pact for the Prevention of Femicide (in the previous administration, we had the National Plan to Confront Femicide), without, however, specifying exactly the actions and programs that compose it in the practical field.

In a survey conducted at the National Secretariat for Care and Family Policy (SNCF/MDS), no program was found that has as its core the protection of the family or the prevention of violation of human rights to the family or its members. In August of 2024, it was possible to find social assistance programs (material), such as the Family Grant and Brazil Without Hunger or, still, Adequate and Healthy Food Program and Access to Food and Water etc. Currently, the 'Women Thousand' program is registered, that aims to increase the schooling of domestic workers, a 'Training and Initiatives in Care' program whose purpose is to offer training activities (courses) and the project on 'Cuidoteca' (Care Library), public service of reception and night care for children with and without disabilities, free of charge and accessible to those responsible who study (basic or academic education), carry out professional qualification courses or still maintain their working day in the night period.

Finally, it is important to note that when analyzing the third cycle, the Special Advisory of International Affairs of the Ministry for Women, the Family and Human Rights (MMFDH) was responsible for the production of the official half-time report and

the final official report of the Brazilian State presented to the UPR/ONU. However, when searching the website of the Ministry of Human Rights and Citizenship for this fourth cycle, it was not possible to find which body or advisory board is responsible for monitoring the recommendations made to Brazil, as well as the reports (half-time and final). Also note that no records or data were found about the current cycle of the Universal Periodic Review.

CONCLUSION

It is necessary to point out, once again, that this research has an exploratory qualitative approach with analysis of the mapped data, seeking the interdisciplinary dialogue between law and social sciences, which allows us to "look" beyond the dogmatic field of the "must-be", thus extending this interpretative study to the real field of facts ("being" field). Concomitantly with the analysis of previous studies and evidence-based family policies, an exploratory search was initiated in official websites and state databases for the purpose of collecting information on human rights violations. The quantitative data found helped in understanding the state of the response to these violations of the State.

It was possible to observe that, in the last four years, among the reports of human rights violations, the most affected vulnerable groups are respectively 'child or adolescent', 'elderly person' and 'woman'. In these three groups, the violation of the integrity of the victim (mental, physical, negligence, patrimonial) reaches the highest number. In the first two groups, the highest rate of violence occurs in the "house where the victim and the suspect reside", followed by the "house of the victim". In relation to the "woman", when observing the rape scenario, we have the "house of the victim" with the highest index, followed by the "house where the victim and the suspect reside". This means that, in the three groups of vulnerable mentioned, the reports show that violations to the integrity of the victim occur, in their highest percentage, in the family environment.

Based on these data, this research was limited to observing intrafamiliar violence with a focus on the aforementioned vulnerable groups from the perspective of the Universal Periodic Review (UPR/UN - 2022-2026), seeking to discuss whether the Recommendations made to Brazil in the fourth cycle have been fulfilled by the

Brazilian State taking into consideration the family policies of protection and prevention of human rights violations.

With a look at the prevention of intrafamilial violence, scientific evidence-based studies, whether international or national, demonstrate that family policies to strengthen bonds bring positive results, especially in the field of education, intergenerational affection, and prevention of crime, drug use and domestic violence.

Confronting the Recommendations relevant to domestic violence whose human rights violations affect vulnerable groups of 'child or adolescent', 'woman', 'elderly person' with the field of public policies at the federal level and making a diagnostic assessment of the mapping carried out, it is possible to understand that the Brazilian State, in this last cycle of the UPR (2022-2026), has no actions or programs that have as core the protection of the family.

In previous research⁷, it was possible to detect that public family policies were carried out by the National Secretariat of the Family, belonging to this Ministry in the years 2019-2022, aiming at strengthening family relations, overcoming and facing social challenges in the family sphere and preventing domestic violence. In the thematic "Family", the action of this Secretariat was transversal, interministerial and had strong and active action within the MMFDH for the protection of families. With the extinction of the National Secretariat for the Family in January of 2023, the projects that were being executed are no longer available for implementation.

Although international documents and the Brazilian Federal Constitution of 1988 recognize the family as the basis of society, it was also possible to observe that in the last cycle of the UPR, among the recommendations received and accepted by Brazil, the current government has rejected two of them and both deal with the protection of the Family.

According to the United Nations Office on Drugs and Crime/UNODC⁸, one of the specialized agencies of the UN, interventions to prevent risk behaviors involving parents and/or other family members have an impact nine times greater than interventions aimed only at children and adolescents. Surveys⁹ in Brazil suggest that programs to strengthen family ties have the potential to improve family relations, with

⁷Pesquisa de pós-doutoramento em Direito, pelo PNP/CAPES do PPGD/UNESA. Projeto de pesquisa: "Direitos Humanos e a violência doméstica e familiar contra a mulher: uma perspectiva a partir da Revisão Periódica Universal/ONU".

⁸Prevenção ao uso de drogas: implantação e avaliação de programas no Brasil. (ROCHA *et al.*, 2018).

⁹Relatório de Avaliação do Programa Famílias Fortes. Relatório disponível em: chrome-extension://efaidnbmnnibpcajpcglclefindmkaj/file:///C:/Users/Ana%20Paula/Downloads/Brochura_ilustrada_FamiliasFortes_6_meses_vf.pdf. Último acesso em: 13/10/2023.

emphasis on reducing stress and episodes of domestic aggression; on the other hand, strengthens dialogue and increases the bond between family members. This study also highlights the potential for a 60% reduction in negligent parenting style in participants of family strengthening programs.

Thus, the promotion of family policies, programs, actions, services and benefits aimed at strengthening parental and intergenerational ties should be a priority for the Brazilian State. Evidence-based research data prove that family policies aim to act in the defense, promotion and protection of the family and all its members, as well as in the prevention of violence, and actions can be developed in an intersectoral and inter-institutional way, because it is a transversal policy theme that involves the articulation and integration of organs and entities of public administration, the private sector, Third Sector entities and the whole society.

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