

## **Media and Democracy: How Communication Policies in Seven Countries Protect the System From Authoritarianism**

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**Mídia e Democracia: como as políticas para a comunicação de sete países protegem o sistema do autoritarismo e dos monopólios**

**Medios de Comunicación y Democracia: cómo las políticas de comunicación de siete países protegen al sistema del autoritarismo**

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**Abstract:** This article offers the results of a comparative analysis of public communication policies in Brazil, South Africa, Argentina, Australia, Japan, Mexico and Portugal from the perspective of studies on media hegemony and democratisation. It analyses, based on the legislation of each of the countries, the normative instruments to combat monopolies, the rules for granting broadcasting concessions and the confrontation with political and economic parallelism. It starts by observing the deregulation of markets, the existence of private monopolies and power struggles in the field of communication as a global trend, until reaching the conclusion that some countries have legal mechanisms in place that are seeking to promote democracy in the media, while others still need to create or implement policies in this area.

### **Keywords:**

Political parallelism, Economic parallelism, Media. Monopoly, Democracy

**Resumo:** Este artigo oferece resultados de uma análise comparada das políticas públicas para a comunicação do Brasil, África do Sul, Argentina, Austrália, Japão, México e Portugal sob a perspectiva dos estudos sobre hegemonia e democratização da mídia. Analisa, a partir da legislação de cada um dos países, os instrumentos normativos para combate de monopólios,

as regras de concessão de radiodifusão e o enfrentamento ao paralelismo político e econômico. Parte-se da observação da desregulamentação dos mercados, da existência de monopólios privados e disputas de poder no campo da comunicação como tendência global até se atingir a conclusão de que alguns países contam com mecanismos legais e que buscam efetividade para promoção da democracia na mídia, enquanto outros ainda demandam a criação ou a efetivação de suas políticas para a área.

**Palavras-chave:**

Paralelismo político, Paralelismo econômico, Mídia, Monopólio, Democracia

**Resumen:** Este artículo ofrece los resultados de un análisis comparativo de las políticas públicas de comunicación en Brasil, Sudáfrica, Argentina, Australia, Japón, México y Portugal desde la perspectiva de los estudios sobre hegemonía mediática y democratización. Analiza, a partir de la legislación de cada uno de los países, los instrumentos normativos de lucha contra los monopolios, las reglas de otorgamiento de concesiones de radiodifusión y la confrontación con el paralelismo político y económico. Comienza observando la desregulación de los mercados, la existencia de monopolios privados y las luchas de poder en el campo de la comunicación como una tendencia global, hasta llegar a la conclusión de que algunos países cuentan con mecanismos legales que buscan promover la democracia en los medios, mientras que otros aún necesitan crear o implementar políticas en esta área.

**Palabras clave:**

Paralelismo político, Paralelismo económico, Medios de comunicación, Monopolio, Democracia

**1. Introduction**

Freedom of the press and the right to information, conditions for the full exercise of citizenship, remain the object of struggle for professionals and sectors of the public in the face of repeated attacks by agents of the State and the market. It is possible to highlight the recent attacks suffered by journalists under the Jair Bolsonaro administration in Brazil; the extremist positions of members of the Chega party in Portugal; the attacks and budget cuts made to public broadcasters by President Javier Milei in Argentina. At the same time as they suffer from pressure, attacks and outbursts of authoritarianism from those in political power,

digital coronelismo<sup>1</sup> remains alive, with the maintenance of close relations between political leaders and those with economic power (Douvan & Pontes, 2023).

This article explores the relationships between governments, companies and broadcast media, their exchanges of influence and control mechanisms adopted in different contexts, based on the study of the legislation of Brazil, South Africa, Argentina, Australia, Japan, Mexico and Portugal. It is, therefore, a comparative study of broadcasting systems based on the legislation enacted up to 2022. In each country, different dynamics of forces shape the communication systems, some with historical ruptures that removed the influence of capital over editorial decisions, but which kept the relationship of dependence on governments open. Others have legal codes that limit both political and advertiser influence over the editorial of media companies, but there are still potentially dangerous gaps in civil participation in media regulation (Nazareno, 2020).

The lack of diversity in media ownership and the favoritism of certain groups by authoritarian states led to the creation of privileges that extended to redemocratizations (as in the case of Brazil, Mexico, South Africa, Portugal and Argentina), which raises the need for a categorization that takes into account the way in which changes in influence occur between the media, the dominant classes/market and governments. Because of this, the concept of political parallelism, described by Hallin and Mancini (2010), is discussed. The authors start from the original “party-press parallelism”, in which newspapers defend the agendas of the parties to which they are affiliated. In the new arrangement, called political parallelism, the media reflects political positions, partisanizing their agendas according to the influence of the governments of the day. The concept, therefore, concerns political culture and its influence on the media.

Control over information, or the “wild deregulation of the system” handed over to the market, can lead to different forms of media instrumentalization, such as clientelism – described in Brazil by Liedtke (2003), Dória (2012) and Lobato (2017) –, concentration of ownership and the consequent low level of pluralism. The antonym of the latter is an elementary demand of democracy and one of the foundations that enables the exercise of citizenship (Becker, 2001).

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<sup>1</sup> Coronelismo is a Brazilian term that indicates the power of an elite to control political decisions. The term was coined to represent the power of agrarian elites during the Old Republic (1889-1930), and is used as a metaphor for contemporary forms of oligarchic interference in sectors of public interest. The term is commonly used to refer to the control of groups that control the media.

Due to this set of elements, this article discusses the regulations for broadcasting and their main consequences in each of the seven countries from the interface of media democratization, which includes editorial freedom, public and private economic pressures on media companies and these on politics, in addition to the plurality of systems in terms of variety of actors and editorial policy.

## **2. Methodology**

This research is part of a larger project that encompasses the political, social and economic aspects of broadcasting regulation in seven countries: South Africa, Argentina, Australia, Brazil, Japan, Mexico and Portugal. The criteria for selecting the countries were established based on the search for an understanding of the regulations applied in different regions of the planet, with distinct cultures and social histories. However, the inclusion or not of a country in the research followed previously established parameters, in order to objectively evaluate the process. The criteria initially established were: representation of the continents (South America, Central/North America, Europe, Asia, Africa and Oceania); territorial extension and population similar to Brazil; time of democracy/redemocratization similar to Brazil's; history of media concentration. After the first screening, we began to establish an idiomatic approximation of the countries and assess the documents and literature available for the work.

Since Brazil is the country where the research is conducted, it becomes the central focus of the study, and is the axis from which the methodologically established comparisons begin. Considering Brazil as the basis for comparison, Argentina was chosen to represent South America in the comparative process. Regarding Central America, Mexico was chosen because it best suited the pre-established boundaries. South Africa and Japan make up the sample because they represent Africa and Asia, respectively, and have a history of democratization, easily accessible regulations, studies on the media listed in the following sections, and a large population. Australia represents Oceania, has a federal system, a large population and territory - like Brazil -, and has media codes available for research. The choice of Portugal as the representative of Europe took into account its historical and linguistic proximity to Brazil, the availability of literature and documents for analysis, the relatively recent history of redemocratization, and the situation of media concentration.

Bibliographic review and documentary analysis are used as methodological instruments to carry out this research (Sá-Silva et al., 2009); (Cellard, 2008). These are methods that are similar in the researcher's action, but distinct in terms of content, which,

when combined, can provide the basis for the construction of analytical and descriptive criteria. Sá-Silva et al. (2009) differentiates the bibliographic review because the object is characterized by texts written in a scientific manner. The documentary analysis undertaken here refers to the study of official documents (Cellard, 2008). Vieira (2021) points out that through the bibliographic review it is possible to systematically verify what has already been produced on the topic in question, with a temporal, focus, geographic, linguistic or any other parameter that the researcher stipulates, as highlighted by Lima and Mito (2007).

To develop this analysis, we start from Hallin and Mancini (2010) and use the terms political and economic parallelism to indicate the influences of each of these groups on the media. Finally, we develop valences applied to public policies for the media of each of the countries with the aim of characterizing and classifying the point at which each one finds itself when the goal is to control the authoritarian influences of the State and capital. Objectively, based on the reflections of Hallin and Mancini (2010) on political parallelism and its effects. The rules for the media of each country considered in this research are assessed for the existence of: 1) prohibition and ways to sanction the practice of monopolies and oligopolies; 2) clear and objective standards for granting operating licenses; 3) guarantees against political interference in the process of granting and operating broadcasters; 4) guarantees against economic interference in the information content of media organizations. The theoretical basis for these criteria will be discussed in section 2, and the approach in legislation will be discussed in sections 3, 4 and 5.

### **3. Oligopolies, public debate and parallels**

The organization of communication conglomerates/oligopolies is a characteristic of the systems of all seven countries studied. In this scheme, media control is restricted to a small group of people, who in turn may have cooperative relationships rather than competition, a characteristic of oligopolies, as indicated by Habermas (2014). The author explains that the concept of the Bourgeois Public Sphere (BPS) is established in the formation of a space for debate that brings together both state agents and private individuals interested in discussing issues that concern collective effects, such as trade relations, security and health. The BPS, therefore, is not established as a movement, as a group organized to take power for itself, but rather as an environment in which one seeks to discuss and rationalize power. However, the BPS is not public in the broad sense, since it does not represent general interests but rather those of the bourgeoisie that composes it, as an interpretation of translator Denilson Werle (Habermas, 2014) explains.

In this public sphere, expanded by the media, communicative power – that is, whoever is able to express their set of ideas in the mass media – gives and takes away legitimacy from the actors involved in deliberative democracy. In ideal operating conditions, the media would be oriented towards ensuring maximum enlightenment for citizens, equipping them with the set of knowledge necessary to discuss and deliberate in society. Habermas (2014, p. 67; 77) asserts that societies are becoming increasingly complex, which demands that the political system be open to multiple preferences. In the interpretation of translator Werle (Habermas, 2014), as societies become more dynamic, they surrender to the techniques of the mass media. These establish themselves as those responsible for granting prestige to authorities, politics becomes a spectacle broadcast live to the masses who are unable to participate in the debate – and it is the masses themselves who legitimize political programs based on what they learn through the media.

For Habermas (2014, p. 140; 212), a major factor in the media's failure to fulfill its pluralistic function is the economic colonization of the public sphere – or the co-optation of the press. Since the public sphere is the environment for political discussions that are autonomous from the State, there is a demand for a broad and diverse set of information. However, the subsidies that the public media sphere can provide to citizens are jeopardized when there is no necessary diversity. Private media demand funding, which can come from both public and private entities. Economic colonization occurs when the media moves away from trying to fulfill its ideal role of providing information and other pluralistic content and meets the demands of advertisers, or resorts to merely diversionary or sensationalist publications with the aim of attracting a larger audience.

This procedure can be seen in its practical application when looking at political and economic parallelism. Hallin and Mancini (2010) developed a study on media systems and their communication and political models, and in this work they apply the analytical category of political parallelism: “the level at which the structure of the media system was parallel to that of the party system” (Hallin & Mancini, 2010, p. 41), that is, the media acts to reflect political positions, both actively and reactively, when led to do so by pressures or favors promoted by the political system. The parallelism described by the authors has a series of gradations, however, the focus solely on the political aspect makes the model incomplete in view of the challenges assessed in this work, since economic activities influence more clearly the media scenario analyzed. Habermas's (2014) perspective also applies to this context as it describes the privatization of the public sphere, the dominance of small civil society groups with great economic powers over the public debate agenda.

It is important to note that the less professionalized the media organization is, the greater the possibilities for its political instrumentalization, as argued by Dahl (2015), and in line with the discussion on political parallelism, as explained by Hallin and Mancini (2010). The authors list the need to verify objective elements in order to assess the degree of professionalism of the media. Based on this inspiration, four categories are listed to be applied to the broadcasting systems of the countries analyzed. Categories 1, 2 and 4 (respectively: prohibition and ways to sanction the practice of monopolies and oligopolies; clear and objective standards for granting operating licenses; guarantees against economic interference in the information content of media organizations) are directly related to the delimitation of broadcasting as a field of public debate targeted for colonization by private interests. Category 3 (guarantees against political interference in the concession and operation process) and 2 also concern the instrumentalization of the media for political purposes, as a way of preventing concessions directed at supporters in civil society.

The performance of these functions by the State (political society) can have an ambiguous meaning: while it is possible to establish regulations based on democratic principles, in which cultural and ideological organizations are respected equally and the management of broadcasters is carried out by professionals guided by a code of ethics, it is also possible to restrict plural freedoms of speech, restrict the diversity of ownership of broadcasters and instrumentalize them as hegemonic propaganda departments. The control of information, or the “savage deregulation of the system” handed over to the market (Hallin & Mancini, 2010, p. 72) can lead to different ways of instrumentalizing the media, such as clientelism.

#### **4. The fight against monopolies and oligopolies**

In Brazil, the Federal Constitution points to the democratization of the media, but its articles are not supported in practice. The Brazilian media landscape was highly concentrated during the dictatorship, which culminated in a redemocratization with legislative concerns to increase plurality in the media. These concerns are expressed in articles 220 to 224, and refer to the organization of the media. Section 5 of article 220 identifies the prohibition of organizing media companies into monopolies or oligopolies. However, since this and other articles were not regulated by Congress, they have no normative content (Aguiar, 2014), which leads to inertia in the face of conglomerates.

The situation is similar in the Japanese system. In that country, five large private media conglomerates are established and make it difficult for new competitors to enter

(Nazareno, 2020). However, unlike Brazil, which has constitutional articles on monopolies and oligopolies in the media, the Broadcasting Act (Japão, 1950a; 1950b) does not demonstrate such concern. The element that stands out is the structural difference in the organization of the media. In Brazil, not only is media ownership concentrated, but the exploitation model is predominantly private. In Japan, the public network NHK plays the role of technological development, content production, open channels in multi-programming, statutory requirements for content plurality, and cooperation with the private system (Nazareno, 2020).

Nazareno (2020) explains that, like Organizações Globo in Brazil, NHK is also dominant in audience ratings and has few competitors in terms of reach and relevance – if it can even be said that it faces competition – but in Japan this is not treated as a detriment to democracy, the right to information or citizenship, given that a series of criteria are met by the group's broadcasters, such as meeting the demands of civil society and reporting on programming and revenue.

These features are also observed in Argentina and Mexico, which are closer to Brazil in practical rather than legal terms. Both countries have promoted profound legal changes in recent decades, but the changes in regulations have not yet been fully implemented, especially with regard to media ownership and guarantees against parallelism (Moraes, 2016), since the broadcasting system remains highly concentrated even after the reforms of the last decade (Muñoz et al., 2022).

Chapter 2 of the Argentine Constitution guarantees consumers and users the right to protection of their health, economic interests, adequate and truthful information, freedom of choice, and fair and dignified working conditions. Under this explanation, the Constitution determines that it is the State's responsibility to restrict monopolies and regulate conflicts and services. It is worth noting that the Argentine text names the right to information as being protected from monopolistic practices. Although the text is not as direct as the Brazilian one, the regulatory function of the State is articulated in the Ley de Medios. Twelve of its articles address the fight against monopolistic practices and establish regulations for operating licenses. However, this set of articles was overridden by amendments to the Law via decrees in 2015. In short, while addressing diversity of ownership and plurality, article 45 of the third title (amended in 2015) allows the same person to hold up to 15 open radio and television licenses nationwide and up to 3 licenses per location. What we see with the amendment is the legalization of the ownership of a large number of broadcasters, which serves the interests of the Clarín group (Moraes, 2016). Even so, the Buenos Aires conglomerate has a much larger

range of broadcasters and other media companies and nothing is done, since Clarín wins successive court injunctions with the justification of providing broad public service (Moraes, 2016, p. 155). For Rauschenberg (2018), the Argentine Ley de Medios emerged as a great hope for changing the scenario of media concentration, mainly with the glimpse of its potential to foster public debate, as argued by Habermas (2014) and Hallin and Mancini (2010). However, the effort to revitalize broadcasting in the country ended up clashing with the increase in neoliberal policies that reinvigorated traditional media conglomerates.

In Mexico, one of the main legal elements is to prohibit concentration and cross-ownership, although it is not clear how many licenses are allowed per individual, which is not mentioned in the constitutional reform (México, 2014). The country is the only one to include all four categories of analysis of power struggles in its Constitution, but even so, this is not synonymous with the enforcement of legal prescriptions, since the country stands out as one of those with the most concentrated media ownership in the world, with a significant influence on national politics.

This aspect is discussed by Gómez (2020), who reproduces the mathematical model of the Herfindahl-Hirschman Concentration Index to demonstrate the reduction in market concentration in free-to-air television since 1995. The author argues that the sector improved after the reform and the start of operations of a third national television network, with the index falling from 8,334 in 1995 to 4,729 in 2018. However, the data show that the biggest drop in concentration in Mexican television broadcasting occurred between 1995 and 2013, before the reform but with the growth of TV Azteca over Televisa. The drop in the index during the period was 2,882 points, while after the entry of a third player, the drop in concentration was 723 points until 2018, with Televisa continuing to maintain its audience concentration at around 62% (Gómez, 2020). In the specific case of radio stations, the Acir and Radiorama groups own, respectively, 16% and 11% of the total number of licensed stations in the country, as highlighted by Huerta-Wong and Gómez (2013).

Paradoxically, given the data presented by Gómez (2020), since 2013, Article 28 of the Mexican Constitution has prohibited media monopolies and, through the instrumentalization in the Official Gazette of the Federation (México, 2014), which establishes the IFT, determines “punishment” for monopolistic practices. In the same publication, a marker against economic parallelism is created, with the prohibition of cross-ownership of media outlets. However, the legal situation has not proven to be more effective than the economic power of the private groups that dominate broadcasting in the country,

which still maintains more than half of the audience concentrated in its broadcasting outlets (Muñoz et al., 2022).

Unlike Latin American countries and similar to Japan, in Portugal the control of monopolies is not a constitutional concern. However, there are five laws that prohibit the practice of monopolies and oligopolies in the media. And it is at this point that Portugal joins the group of Brazil, Argentina and Mexico, since academic publications and reports from the regulatory body demonstrate that the concentration of ownership is a reality in the country and that the distribution of licenses reordered on average every five years does not result in the demobilization of concentration (Silva, 2005). However, the Portuguese system goes further and is followed only by Australia in establishing the obligation of transparency for media companies regarding their owners, that is, shareholders must be listed and, by the end of the first half of each year, each media outlet must publish a statement of its revenues (Portugal, 2007).

In addition to the annual declaration of ownership and revenue, in Portugal the volume of individual concessions permitted must be taken into account. For example, the Radio Law (Portugal, 2007) allows an individual to own up to 50% of the media in a specific coverage area. This can be of considerable value in regions with limited supply, such as those with one to five media companies. In larger cases, however, a monopoly scenario may arise, with a single group owning half of the media outlets with regional reach, since at the national level ownership of more than 10% of the media outlets is prohibited. The annual reports of the Portuguese Communications Regulation Authority (2021) show that little has changed in terms of concentration before and after the legal reforms, with the same business groups that were formed with the post-dictatorship privatizations maintaining their power. Although the ERC itself points out that the laws have not substantially changed the concentration of media in broadcasting, Espírito Santo (2007) argues that this set of obligations can be understood as a mechanism to clarify to citizens the origin and interests of the information they consume through the disclosure of ownership and origin of resources.

In South Africa, the context in which the constitution was drafted explains why concentration of ownership was not a concern. The first regulatory body was created at a time of redemocratization, privatization of some state broadcasters and promotion of community broadcasters. In other words, there were no private or state monopolies that would raise legislative concerns, other than the privatization of six broadcasters of the South Africa Broadcast Corporation (SABC), as noted by Angelopoulos and Potgieter (2013).

Anti-monopoly rules in the media only emerged in South Africa in the late 1990s, when the global trend towards the predominance of commercial media and the consequent risk, albeit paradoxical, to diversity and plurality was observed, as Bagdikian (2018) points out. Angelopoulo and Potgieter (2013) point out that since the beginning of the privatization process of part of the country's large public network, instead of creating a more diverse media environment, there has only been a transfer of the state monopoly to the commercial one. Laws were created with the aim of balancing the media. Angelopoulo and Potgieter note that the number of free-to-air commercial broadcasters is tiny, with 10 active licenses, compared to the volume of community broadcasters, which total more than three thousand. However, the audience remains concentrated on commercial broadcasters, which have national reach and many sources of investment. The Broadcasting Act has achieved some success in implementing its provisions, particularly with regard to the deconcentration of ownership through the promotion of community media, with the creation of new broadcasters, which penetrate communities isolated from large centers and receive financial and technological support to begin their activities (África do Sul, 2010).

Australia offers the broadest set of rules to prevent monopolies, based on the Broadcasting Act (Austrália, 1992). A characteristic of Australian oligopolies compared to those of other countries is the element of regionality. The only networks authorized to operate on a national scale are the public ABC and SBS, while commercial and community broadcasters are divided between regions (states) and localities. However, groups with high economic power have spread across different states and localities, owning some percentage of the channels or being the main shareholder. This leads to the creation of powerful conglomerates that do not have direct national reach, but do so through internalization.

The key fact is that in Australia this occurs despite the most comprehensive legislation regarding the control of company ownership. The law sets out guidelines, such as prohibiting a person from exercising control over more than one commercial broadcaster, and explains the conditions for someone to exercise such control. The Broadcasting Act determines that a person cannot own more than one television station in the same coverage area or own stations in different areas that reach more than 75% of the country's population. This example, which, according to Christofletti (2018, p. 11), is the hallmark of media monopolies around the world, demonstrates that, above all, "media power is political power". This is true not only in the sense of direct elections, but also in obtaining favors and benefits, controlling the public agenda, the ability to penetrate homes and generate influence.

## 5. Objective rules for concessions

The existence of objective rules for concessions is linked to the existence of monopolies or oligopolies, since it is understood that such rules set the tone for the organization of the system. In all scenarios studied here, impediments to commercial monopolies are defined by constitutions and codes for the media. The rules, in turn, go beyond the control of ownership, and can establish criteria for content, professionalization and other elements.

The Brazilian Constitution establishes guidelines for granting operating licenses. Article 222 states that only Brazilians born or naturalized or foreign companies headquartered in Brazil have the right to operate media outlets. The guidelines for concessions continue in Article 223, which centralizes the granting and renewal of broadcasting licenses in the Executive Branch and establishes a 15-year validity period for television licenses and a 10-year validity period for radio licenses. These provisions are supplemented by specific laws, including those that predate the Constitution itself, such as the Brazilian Telecommunications Code (CBT). However, it is not possible to find criteria for evaluating concessionaires' proposals or mechanisms for ensuring compliance with the law. In the absence of a regulatory body, independent of the State and the market, that is responsible for monitoring and applying sanctions, the rules for concessions are more subject to instrumentalization, at the mercy of the interests of the market and the State.

The Brazilian model of centralizing actions in the figure of the head of the Executive Branch is similar only to that practiced in Japan. The Japanese Constitution does not mention specific elements that fit into the group of categories analyzed here, but the Broadcasting Act delegates to the Prime Minister and his Minister of Communications the deliberations on all matters related to the media. This management model, which does not have control mechanisms independent of political power, lacks professional security and predictability in the management of the system. One materialization of this is the possibility of censorship political interference, with the silencing of sensitive issues or the overvaluation of government actions.

Another country where the professionalization of the system has reached a higher level is Australia. It can be said that it is the country that best formally organizes its communication system among those compared here. Its legislation is centralized in the Broadcasting Services Act (Australia, 1992), which establishes guidelines, sanctions, a regulatory body and requirements for its autonomy. Paradoxically, the concentration of media ownership is still a problem in the country, so much so that in 2006 the Media Ownership Bill

was published, with the aim of addressing issues that are being avoided by large communication groups.

The provisions developed in the Australian Broadcasting Act regarding the rules for concessions are comprehensive, ranging from the most common in all countries, such as the determination that each operating license is individual and complies with a specific coverage area, to the establishment of a standard of technical and informational quality for productions. The criteria used by the ACMA to decide whether or not to grant the license relate to the number of broadcasters of each modality per region – a number that may increase as the population grows – and the potential for common public return that the competitor can offer. However, it is worth noting that the 1992 law does not even propose to dismantle the conglomerates that already existed in the country at that time, but rather to prevent their advances or the formation of new ones.

With the country divided into seven major regions and several isolated locations, a bidder for a regional or local license must ensure that it can meet the information needs of that area. Licenses are valid for five years. The ACMA issues guidelines on the content required for each location, in addition to monitoring and receiving complaints from citizens regarding the quality of information. Furthermore, decisions on new licenses must be publicized and competition, when there is space in the spectrum, must be widely publicized. Australian law also provides for a two-year grace period for the purchase and sale of concessionary broadcasters, which, as in South Africa, are subject to evaluation by the regulatory body. Similarly, for the purposes of renewing licenses, if the concessionaire has violated the Broadcasting Act or committed a civil violation, it may decide to cancel the renewal. This decision, however, is open to interpretation by ACMA agents.

Since 2006, with the publication of the Broadcasting Services Amendment, a series of changes have been implemented, such as the removal of barriers to foreign ownership of broadcasting companies with the justification of increasing diversity in the offer of content. However, like Australian owners, commercial media are subject to assessment by the Australian Competition and Consumer Commission (ACCC), which assesses whether the acquisition of new licenses harms competition. The same company is allowed to own a radio station, a television station and a printed newspaper in each coverage area, provided that this is approved by the ACCC.

Argentina has also made significant progress in its legislation in recent decades. Like Australia, it complies with UNESCO's recommendation (Mendel & Salomon, 2011) regarding the centralization of directives in a legal code and establishes an independent body

that operates according to this code. The Ley de Medios presents elements that organize the competition for new radio and television concessions, while at the same time extending its domains over existing monopolies and oligopolies. Argentina has also managed to take a step forward in relation to other countries in clarifying the criteria and minimum requirements for granting an operating license, so that the rules for concessions make it possible to bring together some ideas, such as strengthening democracy by maximizing the plurality of voices and diversity of media ownership, formal barriers to the formation of oligopolies, and promoting the development of community and non-profit media.

Once the license is granted, it is valid for 10 years. The license is automatically extended for another five years and, if there is interest in continuing to operate, a formal request must be submitted for a new extension, this time for another 10 years. If for some reason the concessionaire decides to sell, the buyer is subject to the same scrutiny as the original concessionaire. However, this does not mean that these rules are enforced in the face of the judicial action that grants successive injunctions to the Clarín conglomerate to maintain its operating model.

Like South Africa, Argentina and Australia, Portugal's concession rules establish a public tender model guided by the national regulatory body. The country has the smallest population of all the countries studied here, but issues regarding the lack of plurality and diversity in the media are still highlighted. So much so that the Assembleia da República (2007) and Assembleia da República (2010) laws advocate non-concentration, plurality and diversity. Portugal does not have a regulatory framework for concessions as well structured as Argentina, Australia and South Africa, but it is still considerably ahead of Brazil and Japan. In addition to territorial coverage requirements, minimum capital values for operators, production proposals that safeguard the public interest, regular fiscal situation and sufficiency and quality of human and technical resources are described. Once these elements are established, it is up to the ERC to work towards the diversification of ownership and pluralization of voices in the media and to establish technical criteria to be required when holding tenders.

When observing the Mexican Constitution, rules were inserted that guide the process of granting new operating licenses, such as the guarantee of acquisition, administration and operation of media by the indigenous community in Article 2. A pertinent consideration made in the constitutional text is the recommendation for maximum competition in bidding processes as a way of preventing concentration phenomena that are contrary to the public interest and, thus, in contrast to what occurs in Portugal, in no case can the economic factor

be decisive in the choice of the concessionaire. This factor is described as a positive advance for the system by Gómez (2020), although Muñoz et al. (2022) emphasize that economic power continues to be a factor of privileges in the country. Title 4 of the Federal Telecommunications Law establishes the concession regime. The Federal Telecommunications Institute of Mexico is responsible for the entire process of the competition until the signing of the concession and monitoring the work, checking the technical, legal and administrative capacity of the concessionaire.

For concessions of each purpose, such as public, commercial, private, non-profit, community and indigenous, specific elements are highlighted to be fulfilled by the concessionaires, but they all have in common the obligation to contribute to national development, to informative plurality and to combat all types of prejudice. The importance of this disconnection from the economic aspect occurs because of the possibility of expanding the discourses produced beyond the financially well-structured circles, primary requirements in the concession process of other countries. In terms of regulations, Mexico is the only country that moves away from the others in the sense of expanding media diversity, however, in practical terms, the prevalence of the Televisa and Azteca conglomerates is an impediment to democratizing the sector.

When considering the rules for concessions, it is clear that although all countries have some type of regulation, the strength of hegemonic groups reduces their efficiency. Even so, there are initiatives that seek to democratize the system, always without the support of those already established. Bagdikian (2018, p. 322) shares the view of Moraes (2016) who concisely observes that conglomerates behave in a way that preserves their market share and thus maintains their profits and, if necessary, co-opts parliamentarians to defeat democratic initiatives in Congress.

## **6. How each country faces parallelism**

Political and economic parallelisms are two of the main elements that promote the debate on political hegemony (Liguori & Voza, 2017) and the privatization of the public sphere (Habermas, 2014). It is understood that parallelisms occur in any system, from the most amateur to the most professionalized; however, in the latter, more effective barriers and remedies are developed to prevent journalism and cultural productions from becoming hostages of hegemonic interests, that is, without openness to contradiction, to pluralism, in short, to democratic ideals (Dahl, 2015).

Based on the elements identified for the analysis, the Japanese case can be considered paradoxical, since no reports of parallelism have been identified in the country, while at the same time the entire broadcasting system is linked to the Prime Minister. This is precisely one of UNESCO's main concerns (Mendel & Salomon, 2011) regarding the independence of the media and, more specifically, of the press. The system directly linked to the head of the Executive, as is the case in Brazil, is constantly susceptible to political interference, such as the use of concessions and advertising funds as bargaining chips. In Japan, there are some cultural barriers to this type of articulation of political power. Abuses of economic power, whether through advertisers' harassment of journalism or conglomerates' harassment of the government, are prohibited by the Broadcasting Act and the Radio Act, both from 1950.

In Brazil, not only are there no effective institutional guarantees against parallelism, but counter-hegemonic movements have historically lacked the necessary strength to block the expansion of monopolies and oligopolies. In Brasil (2008), Law 11.652/08 is the only one aimed at directly placing embargoes on political parallelism. This is the law that establishes the principles and objectives of public broadcasting, operated since then at the national level by the Empresa Brasil de Comunicação (EBC). In article 2 of its declaration of principles, attention is paid to humanistic and democratic values, and to “autonomy in relation to the Federal Government to define the production, programming and distribution of content in the public broadcasting system” (Brasil, 2008, n/p.).

However, unlike public broadcasters in the other countries studied here, EBC does not have any oversight support that would enforce its prerogative of autonomy, so much so that its content and form are shaped according to the government in power, including blatant proselytism (Intervozes, 2020; Sardinha, 2020) prohibited by article 3 of the same Law. Another element that casts doubt on its autonomous status is an internal contradiction to EBC's functions established by the Law, such as the express authority in art. 8 to provide communication services to the Federal Government and distribute federal administration advertising. Since its creation, it has not been possible to ascertain EBC's real autonomy, since it was set up as a propaganda agency for the Federal Government, fulfilling the function of uncritical state dissemination of the former NBR channel instead of practicing public journalism. For commercial media, independence has been guaranteed since the CBT and the Press Law, which historically has not prevented authoritarian actions, such as AI-5.

Regarding what is called economic parallelism in this work, four laws address the issue, however without determining means for monitoring. Thus, cross-ownership and discriminatory prices, prohibited by art. 7 of Law 12.485/2011 (Brasil, 2011), seem to be

something legalized when one observes the commercial activity of Organizações Globo (MOB, 2021). The other three laws reaffirm impediments to monopolies and establish the need for 70% of the capital of companies to be Brazilian-born or naturalized.

Many of the laws deal with economic parallelism, but it is possible to understand that it occurs in a strict way, since it only considers the direct ownership of the media through monopolies, concentration of ownership or cross-ownership, but nothing is covered in relation to the pressures of advertisers who abolish the barrier between editorial and commercial (Schudson, 2010), and thus no artifices are created to protect the production of information from the guidelines of the advertising market. The literature describes that this is the main responsible for shaping information according to its interests – which are different from social ones – and yet most of the laws are only responsible for preventing State interference in the media, which demonstrates the prevalence of neoliberal ideology (Moraes, 1997, p. 133).

Like Brazil, Argentina and Mexico are countries whose systems are not only prone to political and economic interference, but also occur systematically. In Argentina, political interference in the media is prohibited by the Media Law (Ley 26.522 de Servicios de Comunicación Audiovisual), a way of ensuring the independence of public broadcasters and also providing peace of mind to commercial entities. However, those who exercise the role of monitoring political parallelism – when there is someone to monitor – are chosen and paid by the government itself. Although the oversight body Ente Nacional de Comunicaciones (Enacom) is also defined as independent, the choice of its president is the result of a unilateral political decision by the President of the Republic. As in Japan, it is not possible to infer that this move poses an immediate risk to the system, but it does generate distrust in relation to the position adopted by the regulatory body regarding the government's actions with regard to the media.

Mexico, on the other hand, is the country where the practice of economic parallelism in the opposite direction is most evident: of the media over politics. Political parallelism has not been present in a notable way since the end of the hegemony of the Institutional Revolutionary Party (PRI) in the early 2000s (Gálvan, 2013). The substantial reduction in the political use of the media can be, at least in part, attributed to Article 6 of the Mexican Constitution, which prohibits forms of political interference, such as the prohibition of any form of censorship; and to Article 134, which defines the training, educational and guidance purpose, without personalism or promotion of political figures in government propaganda –

while at the same time an independent regulatory body (IFT) is established to monitor, edit acts and apply sanctions.

However, the IFT's actions seem to encounter obstacles when it comes to dealing with cases of economic parallelism. Among the IFT's responsibilities is the creation of a plan to break up media conglomerates (México, 2014), which has not been implemented. The failure to break up this monopoly, which at first glance may seem like a simple delay in implementing the law, has deep roots and is being demonstrated throughout Latin America.

When analyzing another reality, it is observed that in the Constitution of the Portuguese Republic, Article 38 jointly provides guarantees against political and economic parallelisms. These include the guarantee of media independence from political power and the market, in the latter case with remedies for the concentration of property. This is complemented in Article 81, which establishes the State's duty to combat monopolistic practices for the functioning of markets and thus correct inequalities, eliminate large estates and promote social equality and economic and social well-being.

These elements are articulated in ordinary laws, which complement the regulatory framework. The ERC Statute states that the regulatory body is responsible, among other things, for ensuring the economic and political independence of the media. And as a way of ensuring that the Portuguese Social Communications Regulatory Entity itself is less susceptible to manipulation, as is the case with Empresa Brasil de Comunicação, the members of its board cannot have any connection with media companies or with political functions.

Although Portugal has the least concentrated media environment among all the countries analyzed, media entrepreneurs still offer organized resistance to legislative actions that restrict their powers (Pereira, 2007). The Press Law (Portugal, 1999) also establishes that news companies must publish their editorial guidelines, so that readers know the ideological origin of the approaches they receive. This factor is important from the point of view of the struggles for hegemony.

The Portuguese Television Law (2007) opens a flank against parallels that is only comparable to the Japanese national prohibition on religious and political proselytism. In its article 12, not only is the concession of broadcasting stations to political and religious entities prohibited, but it also prohibits them from financing the stations. With this, Portugal manages to establish some standardization for the principle of autonomy in relation to the market that other countries do not do. In cases such as Argentina (2009), the Catholic Church has the right to explore concessions; Australia, Mexico and South Africa allow religious people to

occupy a place in the media or finance their activities; and, in Brazil, almost 40% of the spectrum is dominated by religious groups (Haussen, 2004; Lobato, 2017).

Due to the recognition of its negative consequences for society as a whole, economic parallelism has been receiving great attention in Portugal. In 2020, Regulation 835 of the Communications Regulatory Authority (ERC) ratified the transparency rules regarding the means of financing broadcasters. It is clear that one of the merits of the legislative action and of the Portuguese ERC is the creation and implementation of mechanisms for financial transparency in the media. The same occurs in South Africa and Australia, which still require the finances of media companies to be held in a national bank, but without the need to disclose their balance sheets to the public in a broad manner. Transparency is an important mechanism to prevent the biased use of journalistic and cultural productions, such as cases of cross-ownership in the media or the use of journalism to defend the interests of advertisers.

South Africa has mechanisms similar to those found in Portugal. Guarantees against political and economic parallelism can be found in the Broadcasting Act and the Community Broadcasting Services Regulation. The laws are ratified by a decision published in the Government Gazette (África do Sul, 1999, 2010). The independence of the media in general with regard to censorship practices is defended in the general principles of the Broadcasting Act. Furthermore, the Constitution of South Africa itself leaves no room for interpretations that distort the defense of human rights. While defending freedom of expression and artistic expression, it clarifies that every right brings with it responsibilities and limits, that is, freedom of expression is guaranteed, but does not generate the prerogative to violate individual or collective rights and human dignity. Therefore, no press entity is subject to censorship, but all are under the supervision of the regulatory body Icasa (Independent Communications Authority of South Africa) to answer for their actions. Another important element of the South African media, similar to Japan and Australia, is the valorization of public broadcasters as maintainers of “identity, universal access, unity and diversity” (África do Sul, 1999) and also of social well-being.

However, the existence of public media does not represent an end to inequality in communication, the lack of diversity and plurality. It is not possible to say that the Portuguese RTP, the Argentinean Public TV, the EBC or the South African SABC have the same autonomy as the NHK and, to a lesser extent, the two Australian networks, ABC and SBS. What differentiates the NHK from the others is that its financing does not depend on political will and its workforce is highly professionalized, and it does not accept staff nominations (Japão, 1950a; 1950b). The Portuguese RTP, the Argentinean Public TV, the

SABC and the EBC have statutes aimed at the common good, administrative and editorial independence, but are subject to the annual budget allocation decided by the legislature and committed by the Executive. Financial dependence on political power raises doubts about the capacity to act independently and, if necessary, to act against government interests.

Australia has laws that establish criteria for enforcement by the regulatory body. The first of these elements prohibits exclusive broadcasting contracts from preventing free access for the majority of the population. Part 10A of the Broadcasting Act defines “anti-hoarding” provisions, also understood as barriers to unfair competition in the acquisition of programs or events. In short, any broadcaster that acquires the rights to broadcast an event must do so. This is a way of curbing a common practice in Brazil, in which a conglomerate acquires events solely to undermine competition. In Australia, if this occurs, the public broadcasters ABC and SBS take over the broadcast.

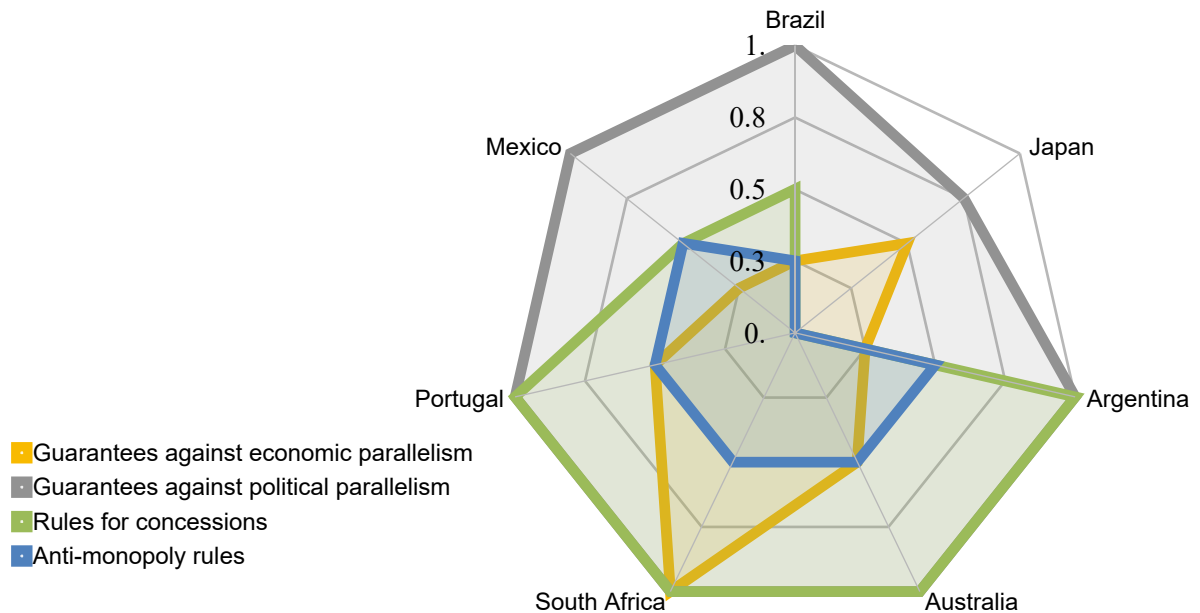
## **7. Final Considerations**

Dealing with codes for the decentralization of media ownership is directly related to economic decentralization, but not only to it. To an even greater extent, symbolic production is discussed. This means that although media conglomerates represent a highly profitable commercial niche, their greatest asset lies in their ability to guide the population on what and how to think (Noelle-Neumann, 2010), on how to behave and which social problems to worry about. The consideration of the role of broadcasting also extends to digital media which, despite common sense understanding them as the path to freedom, behave like conglomerates and enhance hegemonic discourses. The Internet enhances the content distribution capacity of large groups, which have infrastructure for coverage and production that is far superior to that of independent and amateur agents who are part of this environment.

In short, Moraes (1997) observes that the media organized in conglomerates are the holders of the information agenda, always guided according to the hegemonic ideology and act in its maintenance by creating their own intellectuals, professionals trained in the broadcasters themselves or academics hired for no greater merit than defending the market and its deregulation.

Graph 1 presents a visual model of media regulations to ensure that the system is imbued with anti-monopoly standards, rules for concessions and guarantees against parallelism. Each category is given a value of 0 if there is no code that addresses the issue and is not naturally put into practice. A value of 0.25 goes to those that have a standard but it is not effective. Half a point (0.5) for partial effectiveness, 0.75 for those that do not have a

standard but the precepts are implemented and 1 point for those that have a code and effectiveness.



**Graph 1.** Visual Modelo f Media Regulations. (Org.: Alexandre Stori Douvan)

It is clear that guarantees against political parallelism are present in all countries, but the same does not occur with economic parallelism. It is understood that this occurs due to the interdependent relationship between commercial media and the political system in maintaining hegemony and, as changes in the order of the system require political action and consequent loss of support from the sector that controls a considerable part of the influence over civil society, nothing is done other than to ensure that the conglomerates continue to operate. The only country in which the order of things occurred differently was South Africa, but due to a complete change in the social framework.

From the perspectives of each country, it is clear that Argentina, Australia, South Africa and Portugal ensure the effectiveness of their concession models, even though they themselves have structural problems that lead to monopolies, concentration and low plurality. Brazil and Mexico, in turn, do not even fully implement the rules they have.

In all countries, there are significant moves in policies to prevent state action to coerce or guide the editorial line of the media. Mechanisms that prevent this form of political parallelism are considered essential by Hallin and Mancini (2010), who describe the history of state authoritarianism in several countries. However, the analysis shows that the same

legislative effort is not made to inhibit the actions of groups with high economic power, to which commercial media are susceptible. The due diligence that regulations have in relation to state action is left aside when it comes to regulating market action, which Schumpeter (1984) highlights as the prevalence of neoliberal ideals over contemporary societies and Habermas (2014) calls the private colonization of the public sphere.

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