

FREEDOM AND PRODUCTION OF KNOWLEDGE: ACADEMIC FREEDOM AND ITS FOUNDATIONS

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Recebido em: 19/02/2018
Aceito em: 18/11/2019

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Abstract: The purpose of this work is the principle of academic freedom, analyzed in the constitutional and infraconstitutional scope, indicating its possibilities and limits in relation to the fundamental right to education and the requirement to preserve pluralism of ideas, especially those resulting from the interaction between freedoms which comprises it (of teaching, unduly called freedom of teaching, of learning, of researching and of disseminating knowledge). Considering these questions, the article goes on to propose the adoption of the term academic freedom as the most appropriate and representative when referring to the various freedoms involved in educational processes and production of knowledge. It also concludes that the Federal Constitution contains academic freedom within the framework of the fundamental right to education and as an instrument of guaranteeing pluralism of ideas, not as freedom itself.

Keywords: Academic freedom. Freedom to teach. Freedom of teaching. Freedom to learn. Freedom to search. Freedom to spread knowledge.

Resumo: O objeto deste trabalho é o princípio da liberdade acadêmica, analisado no âmbito constitucional e infraconstitucional, indicando as suas possibilidades e limites frente ao direito fundamental à educação e à exigência de preservação do pluralismo de ideias, em especial, aqueles decorrentes da interação entre as liberdades que a compõe (de ensinar, denominada indevidamente de liberdade de cátedra, de aprender, de pesquisar e de divulgar o conhecimento). Considerando essas questões o artigo caminha no sentido de propor a adoção do termo liberdade acadêmica como o mais adequado e representativo quando se faz referência às diversas liberdades envolvidas nos processos educativos e de produção do conhecimento. Também conclui que a Constituição Federal contém a liberdade acadêmica no âmbito do direito fundamental à educação e como instrumento de garantia do pluralismo de ideias, não como liberdade em si mesma.

Palavras-chave: Liberdade acadêmica. Liberdade de ensinar. Liberdade de cátedra. Liberdade de aprender. Liberdade de pesquisar. Liberdade de divulgar o conhecimento.

1. INTRODUCTION

At this moment in Brazilian history, where it is on the agenda of political discussion the project *school without parties*³ and intellectual intolerance is observed in many academic spaces, it is necessary to analyze, in an objective way, what is effectively the scope of academic freedom (of teaching, learning, researching and disseminating knowledge) within the Brazilian law.

In this sense, this article seeks to confront the following problem: what is the scope and limits of academic freedom under the Federal Constitution of 1988? The hypothesis proposed is that this freedom is not absolute and is not confused with the (political) freedom of expression and opinion, and its outlines are defined by its relation to the fundamental right to education and to the principles contained in the constitution about that right.

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³ School without parties: <https://www.programaescolasempartido.org/>

Reaction to school without parties: <https://professorescontraoescolasempartido.wordpress.com/>

School without parties law project:

<http://www.camara.gov.br/proposicoesWeb/fichadetramitacao?idProposicao=1050668>

The text begins with the presentation of the relationship between academic freedom, tolerance and appreciative critical debate based, in particular, on the critical rationalism of Karl Popper. In the sequence, it shows the right to education - right of access to knowledge - as a fundamental right and the pluralism of ideas as a non-negotiable democratic principle, thus situating, from this context, academic freedom within the scope of the Federal Constitution.

In this sense, this work is a reflection on the need to guarantee the freedoms of teaching, researching and disseminating knowledge and at the same time respecting the student's freedom to learn and the freedoms of belief and conscience of all citizens.

2. ACADEMIC FREEDOM

Albert Einstein, referring to the necessary freedom in the production of knowledge, calls it *academic freedom*, in the following terms:

By 'academic freedom', I understand the right to conduct research aimed at knowing the truth, the right of the intellectual to publish and teach what he considers to be true. This right also implies, on the part of the intellectual, that he does not seek to disguise any aspect of what he considers to be true. Any restriction of academic freedom impedes the good diffusion of knowledge and thus constitutes an obstacle to the elaboration of a judgment that can lead to rational actions. (1994, p.206)⁴.

In the view of Popper (197-a, 2006) tolerance, especially political, religious and academic, is fundamental to the existence and preservation of this freedom. On the other hand, *intellectual responsibility* is also necessary. Tolerance is directly related to ethics, and ethics presupposes freedom, but also conscience and responsibility.

The relation between freedom and tolerance (respect⁵), on the one hand, and the production and socialization of knowledge, on the other, shows the proximity between politics, ethics and science. In order to have a democratic society, freedom and respect are necessary, the same indispensable requisites for scientific production.

Considered these requirements, academic freedom cannot be seen as freedom of mere opinion or belief. The academy must be⁶ the privileged space of the sciences and the humanities, of the truth-seeking processes of knowledge, which are subject to criticism, and can be refuted because

⁴ Translated by the authors from the portuguese: "Por 'liberdade acadêmica', entendo o direito de realizar pesquisas visando conhecer a verdade, o direito que tem o intelectual de publicar e de ensinar o que considera como verdade. Esse direito implica também, por parte do intelectual, que ele não busque dissimular nenhum aspecto do que considera como verdadeiro. Toda restrição à liberdade acadêmica impede a boa difusão dos conhecimentos e constitui, dessa forma, obstáculo à elaboração de um julgamento que possa levar a ações racionais". (1994, p. 206).

⁵ The expression tolerance is the one used originally by Popper. However, it does not adequately express the respect that must exist in relation to what is different, especially in the political, social and cultural fields. Tolerating is not respecting, neither accepting. For this reason, in this text will be used from this moment, instead of the expression tolerance, the expression respect.

⁶ It is known that in the real world it is not always "is", for this we used "should be". Also in the academia there are interdicts and patrols.

structured on the basis of logical arguments and, wherever possible, in empirically verifiable facts⁷. Bachelard points out that science is opposed to opinion:

Science, both by its necessity of crowning and by principle, is absolutely opposed to opinion. If, in a given question, it legitimates opinion, it is for reasons other than those that give rise to opinion; so that opinion is, by right, always wrong. Opinion *thinks* badly; does not *think*: it *translates* needs into knowledge. In designating objects for utility, it prevents them from knowing them. Nothing can be based on opinion: first of all, it must be destroyed. It is the first [epistemological] obstacle to be overcome. It is not enough, for example, to correct it in certain points, maintaining, as a sort of provisional morality, a provisional vulgar knowledge. The scientific spirit forbids us to have an opinion on issues we do not understand, on issues that we cannot formulate clearly. (1996, p.18)⁸.

'Our spirit has the irresistible tendency to consider as clearer the idea that he often uses'. The idea thus gains an intrinsic abusive clarity. With use, ideas are unduly *valued*. (1996, p.19, emphasis by the original author)⁹.

Academic freedom has in one of its faces the freedom of the scientist, the researcher, the teacher. On the other side, the freedom of criticism by the scientific and academic community, necessarily included the students. It only makes sense with the possibility of Critical Appreciative Debate (CAD).

The instrument of progress and expansion of knowledge is criticism¹⁰ - the critical attitude as a process of choice, of decision. Through criticism - self-criticism and intersubjective critique - the validity of arguments is analyzed. The Critical Appreciative Debate (CAD) - a term used by Popper

⁷ Being objective: the academy should not be a place of *thinklogy*, *pseudoscience*. Although, considering contemporary epistemologies, it is not possible to find the *final truth* of the knowledge produced by the sciences (reason enough to justify the need to maintain academic freedom), it is the scientific knowledge, still, the most reliable knowledge, the one with the greatest degree of approximation of a possible truth, and it cannot be replaced only on the basis of opinions and beliefs lacking an empirical basis, logically unsustainable or already historically refuted.

⁸ Translated by the authors from the portuguese: "A ciência, tanto por sua necessidade de coroamento como por princípio, opõe-se absolutamente à opinião. Se, em determinada questão, ela legitima a opinião, é por motivos diversos daqueles que dão origem à opinião; de modo que a opinião está, de direito, sempre errada. A opinião pensa mal; não pensa: traduz necessidades em conhecimentos. Ao designar os objetos pela utilidade, ela se impede de conhecê-los. Não se pode basear nada na opinião: antes de tudo, é preciso destruí-la. Ela é o primeiro obstáculo [epistemológico] a ser superado. Não basta, por exemplo, corrigi-la em determinados pontos, mantendo, como uma espécie de moral provisória, um conhecimento vulgar provisório. O espírito científico proíbe que tenhamos uma opinião sobre questões que não compreendemos, sobre questões que não sabemos formular com clareza. (1996, p.18)."

⁹ Translated by the authors from the portuguese: "Nosso espírito tem a tendência irresistível de considerar como mais clara a idéia que costuma utilizar com frequência'. A idéia ganha assim uma clareza intrínseca abusiva. Com o uso, as idéias se valorizam indevidamente. (1996, p.19)."

¹⁰ In order to better understand the relations between freedom, rationality and criticism present in this section, the following readings are suggested: RODRIGUES, Horácio Wanderlei; GRUBBA, Leilane Serratine. **Conhecer Direito I: a teoria do conhecimento no século XX e a Ciência do Direito**. Florianópolis: Fundação Boiteux, 2012. Available at: <http://funjab.ufsc.br/wp/?page_id=1819>; and RODRIGUES, Horácio Wanderlei. O processo como espaço de objetivação do Direito. **Revista do Direito**, v. 34, jul-dec. 2010, p. 75-96. Available at: <<http://online.unisc.br/seer/index.php/direito/article/viewFile/1811/1230>>.

(1975, 2002) - allows us to decide which explanations and solutions must be completely eliminated, which must be partially eliminated and which survive, even if provisionally. In opposition to the critical attitude, there is the dogmatic attitude¹¹, which is characterized by seeking to always confirm the hypothesis presented and to avoid all attempts to refute it.

Although he acknowledges that the starting point may be common sense, Popper (1975) argues that the instrument of progress and expansion of knowledge is criticism - critical attitude as a process of choice, of decision. And the critical discussion is governed by regulatory ideas, among which it is necessary to highlight: (a) the idea of truth; (b) the idea of logical and empirical content; and (c) the idea of truth content of a theory and its approximation to truth. (POPPER, 2001).

That the idea of truth rules the critical discussion can be seen in the fact that one critically discusses a theory hoping to eliminate *false* theories. This proves that we are guided by the idea of seeking *true* theories. [...].

The logical content of a theory is *the class of its consequences*, that is, the set or class of all propositions which can *logically derive* from the theory in question - which will be all greater as the greater the number of consequences. [...].

The empirical content of a theory can therefore be described as the set or class of empirical propositions excluded by theory - which is to say, the set or class of empirical propositions that contradict the theory. [...].

The idea of approximation to truth - as the idea of truth as a regulating principle -presupposes a *realistic view of the world*. It does not presuppose that reality is what our scientific theories describe, but it presupposes that there is a reality and that we and our theories - which are ideas that we ourselves create and are therefore always idealizations - can approach more and more of a proper description of reality, if we use the four-stage model of trial and error. (POPPER, 2001, pp. 36-39, grifes from the original author)¹².

¹¹ Popper (197-b, 1975, 1978), referring specifically to scientific knowledge, emphasizes that it is necessary not to completely discard the dogmatic attitude; without the defense of the old theory there would be no way to adequately test the explanatory force of the theory presented in its place. In this sense, a moderate dose of dogmatic attitude is fundamental, since it allows the deepening of the Critical Appreciative Debate and a closer approximation of the truth - a greater objectification of the knowledge.

¹² Translated by authors from the portuguese: "Que a idéia de verdade rege a discussão crítica pode ver-se no facto de se discutir criticamente uma teoria na esperança de eliminar teorias falsas. Isto prova que somos guiados pela idéia de procurar teorias verdadeiras. [...]. O conteúdo lógico de uma teoria é a classe das suas consequências, ou seja o conjunto ou classe de todas as proposições que podem derivar logicamente da teoria em questão – que será tanto mais elevado quanto maior for o número de consequências. [...]. O conteúdo empírico de uma teoria pode pois ser descrito como o conjunto ou classe de proposições empíricas excluídas pela teoria – o que quer dizer, o conjunto ou classe de proposições empíricas que contradizem a teoria. [...]. A idéia de aproximação à verdade – tal como a idéia de verdade enquanto princípio regulador – pressupõe uma visão realista de mundo. Não pressupõe que a realidade seja como as nossas teorias científicas a descrevem, mas pressupõe que existe uma realidade e que nós e as nossas teorias – que são idéias que nós próprios criamos e por isso são sempre idealizações – nos podemos aproximar cada vez mais de uma descrição adequada da realidade, se empregarmos o modelo de quatro fases de tentativa e erro. (POPPER, 2001, p. 36-39)."

The Critical Appreciative Debate requires objectivity in the process of knowledge production, avoiding the attempt to justify it or prove its *truth* based on personal experiences. Subjective experiences, convictions, beliefs, feelings can under no circumstances justify an utterance, the logical relations existing within each system of statements, or those existing between various systems of statements. (POPPER, 197-a). There are no criteria of truth, there is no operation that allows to find out if a thing is true or not.

Considering criticism as an irreducible assumption of a serious search for truth, the idea of academic freedom as absolute and unlimited freedom of expression - mere individual freedom to express opinion - does not hold. It is necessary to think today an academic action based on respect and critical appreciative debate. In order to do so, it is necessary to overcome the dominant individualist vision, replacing it with a new perspective of academic action, based on a shared freedom (teachers, researchers and students) and contextualized, consistent with a contemporary idea of solidarity.

Freedom, when thought from the perspective of ethics, is necessarily accompanied by awareness and responsibility. It is not possible to ignore, in the academic field, minimum ethical limits. This implies an academic freedom that acquires meaning in relation to the other, in tolerance of the other, and in openness to criticism. If it is only individual freedom from one of the poles of the relation, it has no meaning; if intolerant it has no meaning; if it is closed to criticism, it has no meaning. The human being is only human while living in relation to the other. Academic action must be aware of this ethical premise.

There seems to be no greater divergence - in democratic societies that recognize the scientific valued pluralism - on the need to guarantee academic freedom. And it is in this sense that we understand that the Federal Constitution has followed; but it guarantees not academic freedom as freedom of expression, broad and unrestricted, but as middle freedom, which presents itself as a shared freedom rather than as a purely individual freedom. It is this perspective that will guide the analysis presented in the next sections of this article.

3. ACADEMIC FREEDOM AND THE RIGHT TO EDUCATION

Education, as a fundamental social right¹³, is included in article 6^o of the Federal Constitution¹⁴. The constitutional text also states in its article 205¹⁵ that education is not an end in

¹³ About the right to education, read: RODRIGUES, Horácio Wanderlei. Direito à educação: acesso, permanência e desligamento de alunos do ensino superior. *Sequência*, Florianópolis, CPGD/UFSC, a. XXVI, n. 52, p. 201-216, jul. 2006. Available:

<<http://periodicos.ufsc.br/index.php/sequencia/article/view/15207/13832>>.

¹⁴ Art. 6 The following are social rights: education, health, food, work, housing, transportation, leisure, security, social security, maternity and child protection, assistance to the homeless, in the form of this Constitution. Translated by the authors from the portuguese: "Art. 6º São direitos sociais a educação, a saúde, a alimentação, o trabalho, a moradia, o transporte, o lazer, a segurança, a previdência social, a proteção à maternidade e à infância, a assistência aos desamparados, na forma desta Constituição".

¹⁵ Article 205. Education, the right of all and the duty of the State and the family, shall be promoted and encouraged with the collaboration of society, aiming at the full development of the person, his preparation for the exercise of citizenship and his qualification for work. Translated by the authors from the portuguese: "Art. 205. A educação, direito de todos e dever do Estado e da família, será promovida e incentivada com a

itself, but a means for citizens to develop as individuals, to actually exercise their citizenship, and to qualify for work¹⁶.

The extent and manner in which this right is registered in the constitutional text demonstrates the value attributed to it: a fundamental right that must be guaranteed to all Brazilians in an indiscriminate and universal way.

With regard specifically to academic freedom, the Federal Constitution deals with this issue in the scope of the right to education, more specifically in Title VIII, Chapter III, Section I, Article 206. This article presents the general principles according to which the educational process must be developed, and for the purposes of this work, items II and III are especially important:

Art. 206. The teaching will be taught on the basis of the following principles:

[...];

II - freedom to learn, teach, research and disseminate thought, art and knowledge;

III - pluralism of ideas and pedagogical conceptions, and coexistence of public and private educational institutions;

*[...].*¹⁷

colaboração da sociedade, visando ao pleno desenvolvimento da pessoa, seu preparo para o exercício da cidadania e sua qualificação para o trabalho”.

¹⁶ In the same sense is the infraconstitutional forecast contained in article 2º of Law nº 9.394/1996 - Education Guidelines and Bases (LDB) -, in the following terms:

Art. 2º. Education, the duty of the family and the State, inspired by the principles of freedom and the ideals of human solidarity, aim at the full development of the student, his preparation for the exercise of citizenship and his qualification for work. (Translated by the authors from Portuguese: “Art. 2º. A educação, dever da família e do Estado, inspirada nos princípios de liberdade e nos ideais de solidariedade humana, tem por finalidade o pleno desenvolvimento do educando, seu preparo para o exercício da cidadania e sua qualificação para o trabalho.”).

And according to article 1º of the same Law:

Art. 1º. Education encompasses the formative processes that take place in family life, in human coexistence, in work, in educational and research institutions, in social movements and civil society organizations, and in cultural manifestations. (Translated by the authors from Portuguese: “Art. 1º. A educação abrange os processos formativos que se desenvolvem na vida familiar, na convivência humana, no trabalho, nas instituições educacionais e de pesquisa, nos movimentos sociais e organizações da sociedade civil e nas manifestações culturais.”).

¹⁷ Translated by the authors from the Portuguese:

“Art. 206. O ensino será ministrado com base nos seguintes princípios:

[...];

II - liberdade de aprender, ensinar, pesquisar e divulgar o pensamento, a arte e o saber;

III - pluralismo de idéias e de concepções pedagógicas, e coexistência de instituições públicas e privadas de ensino;

[...].”.

Article 3º of Law nº 9.394/1996 (LDB) reaffirms these freedoms guaranteed by the Constitution, and even broadens them:

Art. 3º. The teaching will be taught on the basis of the following principles:

[...];

II - freedom to learn, teach, research and disseminate culture, thought, art and knowledge;

III - pluralism of ideas and pedagogical conceptions;

IV - respect for freedom and appreciation of tolerance;

It is also important to highlight, on this topic, article 207 of the Federal Constitution. It expressly brings the guarantee of so-called *university autonomy*, of which academic freedom is also part:

*Art. 207. Universities have didactic-scientific, administrative, financial and patrimonial autonomy, and shall obey the principle of inseparability between teaching, research and extension*¹⁸.

The Federal Constitution of 1988 also contains another provision, article 209, which deals more strictly with academic freedom: the institutional freedom to teach¹⁹.

Art. 209. Education is free to private initiative, subject to the following conditions:

I - compliance with the general norms of national education;

*II - authorization and evaluation of quality by the Public Power*²⁰.

The freedom to teach, in this bias, guarantees educational institutions²¹ that, in compliance with the general norms of education and the curricular guidelines, can freely construct their pedagogical projects, being, however, submitted to evaluative processes by the public power.

In spite of the apparent clarity of the constitutional statements about academic freedom - teaching, learning, research and dissemination - to enable the production and diffusion of *knowledge*, without ideological or religious ties (Article 206), and the extension of the university autonomy (article 207), its defense in the political and epistemological field is still fundamental.

[...]. (Translated by the authors from the portuguese: *Art. 3º. O ensino será ministrado com base nos seguintes princípios:*

[...];

II - liberdade de aprender, ensinar, pesquisar e divulgar a cultura, o pensamento, a arte e o saber;

III - pluralismo de idéias e de concepções pedagógicas;

IV - respeito à liberdade e apreço à tolerância;

[...].

¹⁸ Translated by the authors from the portuguese: "Art. 207. As universidades gozam de autonomia didático-científica, administrativa e de gestão financeira e patrimonial, e obedecerão ao princípio de indissociabilidade entre ensino, pesquisa e extensão."

¹⁹ About the freedom of teaching of Higher Education Institutions, see: RODRIGUES, Horácio Wanderlei. Controle público da educação e liberdade de ensinar na Constituição Federal de 1988. In: BONAVIDES, Paulo; LIMA, Francisco Gérson Marques de; BEDÊ, Fayga. (Coord.). **Constituição e Democracia: estudos em homenagem ao Professor J.J. Canotilho**. São Paulo: Malheiros, 2006. Also: RODRIGUES, Horácio Wanderlei. O direito educacional brasileiro e o alcance da garantia constitucional da liberdade de ensinar. In: FERREIRA, Dâmares (coord.). **Direito Educacional: temas educacionais contemporâneos**. Curitiba: CRV, 2012. p. 135-148.

²⁰ Translated by the authors from the portuguese: "Art. 209. O ensino é livre à iniciativa privada, atendidas as seguintes condições:
I - cumprimento das normas gerais da educação nacional;
II - autorização e avaliação de qualidade pelo Poder Público."

²¹ Although this provision expressly refers to private institutions, the conditions it contains are also mandatory for public institutions. The latter is implicit, since it is necessary to consider that what the State requires of private initiative in the educational sphere is equivalent to what it demands of itself, since education has a public nature.

On the other hand, it is also necessary, considering the peculiarities inherent to academic freedom, as seen in the first section of this article, not to confuse, in a complete way, with the political freedom of expression provided for article 5, section IX of the Federal Constitution, also known as freedom of opinion.

It is important to make clear that academic freedom has its own contours and contexts, due to the fact that it is a freedom linked to a fundamental right for which the right to education serves as an instrument. By its turn, freedom of expression, as well as freedom of conscience (CF, art. 5, item VI), are broad and practically unrestricted political freedoms.

4. FREEDOM OF TEACHING AS ABSOLUTE FREEDOM: AN INSTEADABLE RIGHT TO THE FREEDOM OF LEARNING

It can be said that *freedom of teaching*²² is the more traditional denomination that is conferred to academic freedom in teaching activities. The analysis of this aspect of academic freedom is that will be privileged in this section.

Before entering into the more detailed analysis of the theme, it is important to verify how the academic freedom to teach, with the denomination of freedom of teaching, has already been present in the Brazilian legal system in an express way. The Federal Constitution of 1934 was the first to predict it, in its article 155, in a very objective way:

*Art. 155. The freedom of teaching is guaranteed*²³.

In 1946 the constitutional text brought it inserted among the principles to be adopted by the teaching legislation, specifically in item VII of article 168:

Art. 168. The teaching legislation shall adopt the following principles:

[...];

*VII - freedom of professorship is guaranteed*²⁴.

The constitutional decree of 1967 placed the freedom of professors in the broader context of the right to education, inserting it in section VI of paragraph 3 of article 168:

Art. 168. Education is the right of all and will be given at home and at school; equality of opportunity must be assured and based on the principle of national unity and on the ideals of freedom and human solidarity.

[...].

Paragraph 3 - The education legislation shall adopt the following principles and norms:

[...];

²² About the freedom of teaching (liberdade de cátedra), see: RODRIGUES, Horácio Wanderlei; MAROCCO, Andréa de Almeida Leite. Liberdade de cátedra e a Constituição Federal de 1988: alcance e limites da autonomia docente. In: CAÚLA, Bleine Queiroz et al. **Diálogo ambiental, constitucional e internacional**. Fortaleza: Premius, 2014. v. 2. p. 213-238.

²³ Translated by the authors from the portuguese: "Art. 155. É garantida a liberdade de cátedra."

²⁴ Translated by the authors from the portuguese: "Art. 168. A legislação do ensino adotará os seguintes princípios:

[...];

II - é garantida a liberdade de cátedra.

VI - freedom of teaching is guaranteed²⁵.

In the Constitution of 1988 the freedom of teaching does not have express provision. It may, depending on the interpretation adopted, be seen as arising from other freedoms literally provided for in the constitutional text. One possibility would be to see it as a kind of the genre of *freedom of expression*, provided for in article 5, item IX of the Federal Constitution, which declares freedom of expression of intellectual, artistic, scientific and communication activity, regardless of censorship or license. This is not the position adopted in this text.

It is possible to visualize the freedom of teaching also within article 206, which provides about the guiding principles of teaching and the freedom of production, transmission and reception of knowledge, specifically in section II, which contains the *freedom to teach*, alongside freedom to learn and to research and disseminate knowledge. This statement is complemented with the content of subsection III that contains the pluralism of ideas and the pluralism of pedagogical conceptions.

This second perspective is the one adopted here, and from now on will be used the expression *academic freedom to teach* to indicate the freedom given to teachers in the scope of their teaching activities. In this way, we want to make it clear that the freedom of teaching - no longer expressly foreseen in the constitutional text - is contemporaneously presented as the academic freedom to teach of the teacher, with the limits imposed by the other principles, freedoms and guarantees linked to the fundamental right to education, and can at no time be confused with broad freedom of expression.

These principles, freedoms and guarantees inserted in the text of article 206, should be contextualized in the scope of the greater right, which is the right to education (article 6º of the Federal Constitution). An education that, according to the constitutional text, article 205, guarantees "*the full development of the person, his preparation for the exercise of citizenship and his qualification for work.*"

In this sense, an unrestricted academic freedom to teach (all power to the teacher, individually considered), able to limit the integral formation of the student, damages the fundamental right to education and is not compatible with Federal Constitution. The academic freedom to teach, expressed in article 206, is, on the one hand, a freedom that divides space with the academic freedom to learn from the students and, on the other, coexists with the broader guarantees of pluralism of ideas and pedagogical approaches, constituting, as a whole, the guiding principles of the greater right, which is the right to education.

These constitutional principles have the purpose of guaranteeing the pluralism of ideas and conceptions within the scope of the teaching-learning process. They also seek to guarantee the didactic-scientific autonomy of teachers, without ignoring the students' right to learn. In this sense,

²⁵ Art. 168. A educação é direito de todos e será dada no lar e na escola; assegurada a igualdade de oportunidade, deve inspirar-se no princípio da unidade nacional e nos ideais de liberdade e de solidariedade humana.

[...].

§ 3º - A legislação do ensino adotará os seguintes princípios e normas:

[...];

VI - é garantida a liberdade de cátedra".

they allow teachers to express their own academic points of view regarding content under their responsibility, when several are recognized in the specific area of knowledge.

The academic freedom to teach also authorizes the teacher to use methods, methodologies, strategies and instruments of his choice, among those legally and pedagogically authorized and recognized (it is the pluralism of pedagogical conceptions present in the subsection III of article 206 of the Constitution, previously transcribed).

In this context, in addition to the choices more properly related to didactics - class type and activities, technological resources, etc. - it is also included the freedom of choice of texts and works among those who - individually or as a whole - contemplate the content to be taught and allow access to the pluralism of ideas present in the specific field of knowledge.

On the other hand, it is necessary to verify if the academic freedom to teach protects the values, ideological and religious manifestations that have no correlation with the subject taught, as well as those that profess prejudices and discriminations prohibited by our constitutional and legal order.

The Federal Constitution of 1988 guarantees, alongside the academic freedom to teach (of the teacher), the academic freedom to learn (of the student); textually, this one even precedes it. Such freedoms can in no way be understood or interpreted separately, since they are two linked rights and freedoms.

Therefore, it is not possible to treat the two constitutional principles separately. The constitutional text itself has chosen to place them within the same subsection, which reinforces the idea that both must always be analyzed together; one can not be thought without the other.

If the academic freedoms of teaching and learning were absolute, one would nullify the other. As constitutional principles, it is necessary to seek their harmonization, attributing to them interpretations that maintain both and that allow the main and originating right, the right to education, to occur in an effective, plural and reaching its objectives in the field of student training.

That is, along with the academic freedom to teach is, on an equal footing, the academic freedom to learn, freedom that belongs, in the pedagogical relation, to the other pole of the teaching-learning process. Therefore, if the academic freedom to teach authorizes the teacher to expose his or her own academic points of view, the academic freedom to learn (the right to full teaching) of the students imposes on the teacher also to expose the other points of view and theories about the specific content, as well as its fundamentals, in a symmetrical and balanced way.

It also imposes that, being contained in research traditions recognized by the academic community, the other theories and positions can be adopted by the students to the detriment of those espoused by the teacher. From Article 206 of the Federal Constitution, where the academic freedoms of teaching and learning are situated, expresses the pluralism of ideas as a principle for teaching.

In this sense, the academic freedom to teach does not support the imposing and unilateral values, ideological and religious manifestations that disrespect the students' freedom to learn and do not correlate with the content to be taught. It is hoped that the teacher will expose all points of view - or at least the main ones - concerning the content under his responsibility, always

proposing a critical perspective. And to him is also guaranteed the possibility of freely exposing his own academic positions on this same subject ... but not just them.

Therefore, respecting the right to education, the academic freedom to learn from the student and the pluralism of ideas, the academic freedom to teach guarantees the teacher, in the perspective of the exercise of his activity, the manifestation of his academic choices. However, their students also need to access other positions and theories accepted by the respective area of knowledge.

The academic freedom to teach - viewed broadly and as academic freedom - manifests itself within a broader set of rights and guarantees, guidelines and planning, of which it receives objective conditions to be fulfilled in its exercise. If, on the one hand, one should not neglect situations in which the State, under the justification of quality control, promotes undue interference, it is also necessary not to neglect, on the other hand, situations in which teachers and institutions, in the name of academic and institutional freedom to teach, disturb the right to education, the academic freedom to learn and all other rights and guarantees inherent in the democratic state of law and a plural society in its values, ideologies and beliefs.

It is important to emphasize that, in a context of many changes, the freedom to choose what will be taught requires the teacher to understand that teaching is more than transmitting knowledge, it is especially to help students in their own knowledge.

Considering all of the above, it is possible to affirm that the *academic freedom to teach*, as *freedom attributed to teachers*, must be understood and interpreted in relation to the fundamental right to education and other constitutional principles, especially those about the freedom of learning, of the students, and pluralism of ideas, not in an isolated way.

The independent enunciation of the term freedom to teach can generate a misleading idea of its scope. Freedom to teach is one of the freedoms that make up academic freedom, that which is assigned to faculty members as a guarantee that the teacher can freely express his or her academic points of view (in a reasoned way) about the content under his responsibility, not being, however, possible to deny students the access to other points of view or seek to impose on them certain religious beliefs or political ideology. It cannot, therefore, be seen as the full and absolute freedom of directing the disciplines and contents under its responsibility.

It should also be emphasized that academic activity cannot be confused with the associative, partisan and religious activities that the teacher eventually maintains in his personal life. Academic activity has its own guidelines and criteria - the search for truth, the appreciative critical debate, etc. - as already seen in the specific section of this article.

The academic freedom to teach is inseparable from the constitutional context of 1988: it allows teachers to express their own academic points of view regarding the subject taught, but it does not allow them to omit information about other forms of understanding the world and, in particular, the content under its responsibility.

It is important to highlight, considering the importance of the academic freedom to teach and to learn in the scope of the teaching-learning process, that in each educational institution the teacher should consider, when planning a certain content or activity (whether or not in subjects), its specificities and the context in which it is found (course, area, pedagogical project, etc.).

According to article 211 of the Federal Constitution, there are organized educational systems in the country. And according to article 214, there is a national education plan, which, among other objectives, aims at improving the quality of education, training for work and promoting the country at the humanistic, scientific and technological levels.

The existence of educational systems and national planning implies the establishment of common guidelines; and within these guidelines, content, skills and minimum skills to be sought in the training of graduates.

If the Constitution dictates that there be planning that leads to improve teaching, there should be a diagnosis of what exists and what needs to be improved, which includes adopting criteria of what is best.

If the Constitution establishes that there is a planning that leads to professional training, there should be a diagnosis about what kind of professionals the system is forming and what professionals the country effectively needs, which includes the adoption of professional profiles to be sought.

If the Constitution defines the necessary humanistic, scientific and technological promotion of the country, there should be a diagnosis of public and private policies in these areas and what should be implemented for the future, which includes the adoption of parameters for what are humanistic training, scientific and technological.

There is, therefore, the definition, considering these objectives of educational systems, the minimum that must be object of the teaching-learning process. The academic freedom to teach exists as an instrument of the right to education - it is a medium freedom, which implies that it must be guaranteed to allow the set objectives to be attained and those minimums to be effectively fulfilled. If it comes as a hindrance it is because it is being misrepresented.

However, before proceeding, it is necessary to warn about the risks of a central state planning system that eliminates the institutional and teaching freedoms of teaching. The existence of strategic planning carried out by the State is fundamental, but it needs to contain spaces of freedom that allow educational institutions and teachers to innovate and move forward. This implies that planning must be developed through guidelines that are reasonably open and flexible and that do not prevent them from adapting to emerging societal and market needs.²⁶

Educational planning, in this sense, is not a limitation of the academic freedom to teach, but an instrument to guarantee the academic freedom to learn that the students have. It exists to guarantee the fulfillment of the constitutionally defined educational objectives and comply with the infraconstitutional legislation that materializes the current guidelines for educational systems.

²⁶ As an example, the State may direct resources to certain priority areas of training, but it cannot prevent the private sector from investing in other areas that are not at that time a priority in terms of public policies.

The plan and the teaching program to be developed by the teacher should not be isolated plans, which basically seek to fulfill their personal satisfaction. They must be a specific planning of a moment in the educational process and, as such, must be effectively integrated into the broader planning of the course and institution. In addition, the planning of the teaching activity must start from a diagnosis of the reality, that considers the needs and the expectations of the students.

When teaching actions are planned, improvisation is avoided and, through the use of appropriate strategies, a greater probability of reaching the proposed objectives is guaranteed. It also makes better use of time, consumes less energy, and carries out work more safely.

Planning also inhibits improvisation, more effectively guaranteeing the academic freedoms of teaching and learning, and in particular, guaranteeing that which is the main educational right in the 1988 Federal Constitution, namely the right to education.

5. FREEDOM TO RESEARCH AND TO DISCLOSE KNOWLEDGE

For Popper (1978) there are two major groups of obstacles to the progress of science, both of a social nature: economic obstacles and ideological obstacles. Among all the ideological obstacles, he points out as the greater the ideological or religious intolerance, commonly combined with dogmatism and lack of imagination.

Popper (1978) also warns about the danger that occurs when intellectuals and scientists fall in love with ideologies and beliefs and begin to teach and disseminate only what is endorsed by them. According to him, this occurs when a theory, even if scientific, becomes intellectual fashion, a substitute for religion, a entrenched ideology.

Popper (1978, 2006) makes another critique that seems pertinent and applicable both to the social sciences and to the natural sciences: the danger from the new and gigantic organizations of research. This model has the characteristic of training scientists and directing research in the interests of those who sponsor them, leaving aside the approximation to truth as the main reference of science. Another danger is the amount of publications that can stifle the good and rare ideas that make science effectively move forward. New ideas are precious and need to be discovered and fostered by criticism.

According to Popper and Lorenz (19--) our universe is biologically and intellectually open. It is not a universe of truths or certainties, but of rebuttal of errors. For Popper (197-a, 2006) to develop freely is typical of the scientific debate, being necessary not to establish prohibitions that put limits to the possibilities of research. Free discussion is the basis of free thought, and without it there is no formation of free opinions. The evolution of knowledge presupposes this freedom, and must occur through the elimination of competing theories within a process of critical selection.

The objectivity and rationality of science do not arise from the objectivity and rationality of scientists, who are human beings, and as such, equipped with subjectivity and even passion, but of rationality, identified in the critical attitude towards problems. The search for the elimination of errors through intersubjective criticism is that allows the gradual construction of objective knowledge. And it presupposes the publicity of the knowledge produced. (POPPER, 197-a, 1978, 2002).

For Popper (197-a), if there is objectivity, a rational criticism may occur. In every *rational discussion* (both of science and philosophy), according to Popper, the method that must be used is to

clearly expose the problem and to critically test the various solutions proposed. In addition, criticism will be possible and fruitful if we state the problem as precisely as possible, enunciating the proposed solution in a sufficiently clear and amenable way to be critically examined.

The principles that underlie any rational discussion, that is, any discussion at the service of the search for truth, are properly *ethical* principles. I would like to present three of these principles: 1) The principle of fallibility: Perhaps I am wrong and perhaps you are not right. But it is also possible that no one is right. 2) The principle of sensible discussion: We want to try to present, as impersonally as possible, our reasons for and against a certain, and criticizing, theory. 3) The principle of approximation to truth. Through objective discussion we almost always approach the truth and come to a better understanding; even when we have not reached an agreement. (POPPER, 1995, pp. 106-107)²⁷.

These three principles are, in Popper's (1995) thought, at the same time, principles of the theory of knowledge and principles of ethics, since they imply, among other things, tolerance. If it is possible to learn from another, and if one wishes to do so in the process of seeking the truth, one must go beyond tolerating; it is necessary to recognize the other as a potential bearer of the same rights. We can learn much from the discussion, even when it does not lead to consensus; it helps to realize the weak points of the theories.

If I can learn from you and I want to do it in the interests of the search for truth, then I have not only to tolerate you, but also to recognize you as potentially bearing the same rights; the potential unity and equal rights of all men is a prerequisite of our willingness to discuss rationally. Also important is the principle that we can learn a lot from the discussion; even when it does not lead to union. For the discussion can teach us to understand some of the weaknesses of our position. [...] The pursuit of truth and the approach to truth are other ethical principles; such as the idea of intellectual honesty and fallibility that leads us to a position of self-criticism and tolerance. (POPPER, 1995, pp. 108-110)²⁸.

²⁷ Translated by the authors from the portuguese: "Os princípios que subjazem a qualquer discussão racional, quer dizer, a qualquer discussão ao serviço da busca da verdade, são propriamente princípios éticos. Gostaria de apresentar três desses princípios: 1) O princípio da falibilidade: Talvez eu não tenha razão e talvez tu não tenhas razão. Mas também é possível que nenhum tenha razão. 2) O princípio da discussão sensata: Queremos tentar apresentar, o mais impessoalmente possível, as nossas razões pró e contra uma certa, e criticável, teoria. 3) O princípio da aproximação à verdade. Por meio de uma discussão objectiva aproximamo-nos quase sempre da verdade e chegamos a um melhor entendimento; mesmo quando não chegamos a acordo. (POPPER, 1995, p. 106-107)".

²⁸ Translated by the authors from the portuguese: Se posso aprender contigo e quero fazê-lo no interesse da busca da verdade, então tenho não só de te tolerar, mas também de te reconhecer como potencialmente portador dos mesmos direitos; a potencial unidade e igualdade de direitos de todos os homens é um pressuposto da nossa disposição para discutirmos racionalmente. É também importante o princípio de que podemos aprender muito pela discussão; mesmo quando ela não conduz à união. Pois a discussão pode ensinar-nos a compreender alguns dos pontos fracos da nossa posição. [...] A busca da verdade e a

This perspective contains the recognition of the fallibility of knowledge, based on the idea of objective and insecure knowledge. It replaces the intellectually dishonest practice of not recognizing errors and affirming truths based on arguments of authority. The task now consists precisely in the search to avoid errors, but also in their identification, learning with them, maintaining a position of self-criticism and rational and objective criticism.

According to Popper (1978, 2006) an unbiased scientist, without values, would be an inhuman scientist. This means that scientific objectivity can only be explained by social categories such as competition, tradition, social institutions, plural publications, political tolerance and freedom of expression.

[...] competition (both from individual scientists and from different schools); tradition (namely, the critical tradition); social institution (such as publications in different periodicals and by different competing publishers, discussions at congresses); the State Power (namely, the political tolerance of free discussion).

In this way, smaller details such as the social or ideological environment of the researcher eliminate themselves over time, although they obviously always play their role in the short term. (POPPER, 2006, p.104).

The popperian perspective shows that in the exercise of the freedom to research and to disseminate knowledge there are elements that allow to separate knowledge of opinion, that make possible the separation between science and pseudoscience, to demarcate minimally what is objective knowledge and what is mere subjectivity, belief or ideology. In this case, institutions are, as a rule, able to fulfill the role of securing these freedoms while eliminating the excesses they may produce, without the need for more effective state planning such as educational system.

FINAL CONSIDERATIONS

Considering all the issues discussed in this article, it is possible to affirm that academic freedom actually involves a set of freedoms: teachers' freedom to teach, students' freedom to learn, researchers' freedom to research and freedom to divulge the knowledge. Also, it is contained in the fundamental right to education and as an instrument of guaranteeing pluralism of ideas, not as a freedom in itself.

In the context of this set of freedoms contained in academic freedom, it is necessary to consider that when it comes to the production and dissemination of knowledge - research itself - one faces a situation that is partially different from the present pedagogical relationship of the formal educational process. In the first case we have freedoms exercised between cognoscent subjects that are in a hypothetical equivalent level of methodological domain and content - researchers; in the second we have freedoms exercised between cognitive subjects in different phases of knowledge domain - teachers and students.

aproximação à verdade são outros princípios éticos; tal como a ideia da honestidade intelectual e da falibilidade que nos conduz a uma posição de autocrítica e à tolerância. (POPPER, 1995, p. 108-110).

This makes the freedoms of research and dissemination of knowledge almost unrestricted, considering that the different areas of knowledge have their traditions and mechanisms of elimination of knowledge that have not been minimally corroborated. The freedom to teach places themselves in a partially different relationship, considering that the student as a whole does not have sufficient elements that allow him to exercise the contradiction and guarantee his right of full access to knowledge.

About the academic freedom to teach, guaranteed to teachers, it is important to highlight: (a) within the scope of the subject under their responsibility, even in the context of a specific pedagogical project, he maintains the space of manifestation of their positions and convictions, but he must, in respect to the right to education, also provide students with access to other positions and theories accepted by the respective area of knowledge; and (b) in the didactic-pedagogical scope, it maintains autonomy of choice, respecting the necessary adaptation between means and ends; the options must be appropriate to the contents, skills and abilities to be worked on.

It is in this second sense of the teacher's freedom to teach that the traditional freedom of teaching is usually identified. It coexists in the constitutional text with a set of other constitutional principles, in particular freedom of learning and pluralism of ideas. And, as a principle, the right to education is placed in the context of the normalization of a fundamental right, in the base of which it needs to be interpreted and put into effect.

What the Federal Constitution of 1988 guarantees to the teacher is not the right to state his or her unreasoned opinion or unreasonable belief. What is guaranteed is the right to expose their positions in a reasoned way, allowing their questioning and even their refutation. If this is not the case, the academic space will be little different from other social spaces where mere opinion and belief proliferate on the basis of ideological or supernatural faith alone ... and it should not be so.

It is understood, in this sense, that the Federal Constitution of 1988 advanced in the direction of surpassing the freedom to teach as freedom of expression, purely individual, replacing it by the academic freedom to teach, shared and contextualized. And this presupposes the Critical Appreciative Debate, not compromising, in academic circles, as the manifestation of mere opinion or belief.

Alongside to the academic freedom to teach there is the academic freedom to learn, freedom that belongs, in the pedagogical relationship, to the other pole of the teaching-learning process. If on the one hand the academic freedom to teach authorizes the teacher to expose his or her own academic points of view, the academic freedom to learn from the students imposes on the teacher also to expose the other points of view and theories about the specific content, as well as its fundamentals. It is the fundamental right of the student to have access to the plurality of ideas and theories that exist on the contents that make up the school curriculum.

As for the freedom to research, it is the broadest of those inserted within the scope of academic freedom: one can not place limits on the search for truth. But there is a necessary counterpart: the guarantee of the Critical Appreciative Debate. The knowledge produced must be publicized and submitted to the academic community; and if objectively refuted, based on data of reality, abandoned. The advancement of knowledge occurs through the freedom to research; but your

test submission is what will define whether it survives (corroboration) or dies (refutation). And this procedure - the scientific method - is essential to avoid pseudoscience.

Academic knowledge, in order to have ample freedom of movement in teaching-learning activities, must be properly grounded and have logical coherence. Academic freedom cannot be sustained when it is merely an instrument for the dissemination of personal truths (opinions) because of religious or ideological beliefs or beliefs. The space for this kind of freedom exists and is broad, but it is not the academic space.

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COMO CITAR ESSE DOCUMENTO:

RODRIGUES, Horácio Wanderlei; OLIVEIRA, Amanda Muniz. FREEDOM AND PRODUCTION OF KNOWLEDGE: ACADEMIC FREEDOM AND ITS FOUNDATIONS. *Revista do Direito*, Santa Cruz do Sul, n. 58, p. 66-83, dez. 2019. ISSN 1982-9957. Disponível em: <<https://online.unisc.br/seer/index.php/direito/article/view/11666>>. Acesso em: _____. doi:<https://doi.org/10.17058/rdunisc.v0i58.11666>.