

## ACADEMIC FREEDOM UNDER THREAT BY THE “ESCOLA SEM PARTIDO” BILL IN BRAZIL

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A free and democratic society must be built on the right to freedom of expression. If the citizen are free to decide who they will vote for, and which ideas or propositions to support and promote, they must be free to communicate their ideas with each other, and to attempt to persuade others to their positions. Also, people must have access to information regarding the functioning of government. It is difficult to have meaningful democratic participation, or democratic accountability, when the government conceals information from the public, and starves the public of information regarding its functioning. On the other hand, no one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of the Nation. Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise, our civilization will stagnate and die. This article, therefore, aims to understand the “academic freedom” as the fundamental right that democratically legitimizes teachers and students to construct scientific critical reflections regarding themes that permeate contemporary society. It is closely related to freedom of expression and speech, which is a key principle to the development of an open and democratic government. In Brazil, the *Escola sem Partido* Bill proposes ideological neutrality in schools and universities, rendering unfeasible debates on issues of political, economic and social relevance. Furthermore, it seeks to understand the fundamental right to education from the individual perspective, rather than comprehending its public and collective character in the political formation of citizenship of the people.

### §1 – FREEDOM OF SPEECH

The free expression of thought implies a right of freedom that has a close relationship between the state and the individuals. After all, freedom of expression becomes important when it is used to criticize government or certain aspects of social reality, to debate the ideas of the majority, or to question the status quo. Thinking about the democratic ground and the possibility that others also have the same right to challenge their ideas on the debate scene, freedom of expression can and should serve to test the maturity of

political institutions, questioning what is right or wrong, especially on the decisions made by the people's representatives<sup>1</sup>.

The initial premise guiding freedom of expression in contemporary experience is that the state should not interfere with the content presented by the different media (neutrality), which leads to the prevalence, at least at first, of the idea of non-state interference and the maximization of freedom of information. In countries that value democracy, the manifestation of contrary ideas needs to be preserved; therefore, a public agent cannot censor the freedom of those who protest a particular policy or criticize the government. After all, the democratic state is unfeasible without the freedom of expression of the political participants involved in determining the core values for defining the ‘we’ of the political community<sup>2</sup>.

To this end, it must be acknowledged that freedom of expression has at least two necessary fields. Both fields claim protection from the positive and negative dimensions of such freedom rights. Freedom of information is concentrated on the side of those who seek to add new content to the deliberative arena of a democratic society, and as such find their historical antagonist in state censorship. Therefore, content producers need to be protected from arbitrary state intervention by claiming in their defense the negative sense of freedom. On the other hand, citizens have the right to be well informed. Such an aspect of freedom of expression emphasizes the democratic character of the communicational public sphere, thus focusing on the addressees. Also, a possible state action to preserve the plurality of deliberative spaces is not completely ruled out, always aiming to increase the knowledge about the contents conveyed in the deliberative arena<sup>3</sup>.

The prohibition of state censorship aims to guarantee private freedom, exercised in a restricted forum, and freedom in its public face. It is, here, for the State, to enable the free transit of ideas in the spaces of deliberation for the conformation of the objectives to be shared by the political community, factors that guide the choices made by citizens. Censorship, on the other hand, would consist of an illicit state action, aiming to monitor information mechanisms and content transmitted through them. The constitutional prohibition of censorship aims to prevent state

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<sup>1</sup> J. CRETELLA JUNIOR, *Liberdades Públicas*. São Paulo, Bushatsky, 1974, p. 55.

<sup>2</sup> E. BARENDT, *Freedom of speech*. OUP Oxford, 2005, pp. 100-120.

<sup>3</sup> As HESSE notes “The full scope of these guarantees opens here, too, only in view of their twofold character: they are, on the one hand, subjective rights, and precisely both in the sense of the rights of defense and the rights of political cooperation; On the other hand, they are prescriptions of negative competence and constitutive elements of the objective democratic and state-legal order. Without the freedom of opinion and freedom of information, without the freedom of modern ‘mass media’, the press, radio and film, public opinion cannot be born, the development of pluralistic initiatives and alternatives, as well as the ‘Political will’ formation are not possible, publicity of political life can not be, equal opportunity of minorities is not assured effectively and political life in a free and open process can not develop. Freedom of opinion is, therefore, to the democratic order of the ‘simply constitutive’ Fundamental Law. ” See K. HESSE, *Elementos de direito constitucional da República Federal da Alemanha*. Porto Alegre, Sergio Antonio Fabris Ed., 1998, pp. 302-303.

control over the content of communicative productions. What, as we know, does not mean exempting from liability, criminal or civil, those who produce messages residing outside the legal protection of fundamental rights in question<sup>4</sup>.

With regard to the public sphere, the content expressed by individuals can find (not unanimous) arguments in the sense of their sealing when the speech conveys hate messages<sup>5</sup>, intolerance or unbearably offensive<sup>6</sup>. Aiming to broaden the spectrum of protection of freedom of expression, it should be considered that even bodily, silent and other non-obvious symbolic ways of communication should find constitutional protection<sup>7</sup>. This perspective is intended to include not only of private artistic expressions. Protests and different forms of public demonstrations claiming rights or opposing certain government practices should also be supported. Therefore, freedom of expression can be treated as the impediment to the manifestation of judgments, opinions and criticisms on topics in dispute, facts, ideas and other events that may be exposed in (and for) the public.

However, it is not only possible to deal with the negative dimension of rights. The State is no longer seen as necessarily an enemy of freedoms.<sup>8</sup> This argument can be removed by the recognition that rights also claim a positive act of authority, which implies, of course, political and economic costs. It is valid for safeguarding freedom of expression and information. A right exists and is protected by the State that develops its safeguard policies financed, among other means, through taxation, assuming cost shared by members of the political community.<sup>9</sup> Therefore, it is nothing new

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<sup>4</sup> Take as an example the case of racism provided for in the Brazilian Constitution “Art. 5, XLII – the practice of racism constitutes an unenforceable and unenforceable crime, subject to the penalty of imprisonment under the law.”

<sup>5</sup> See J. E. OMMATI, *Liberdade de expressão e discurso de ódio na Constituição de 1988*. Rio de Janeiro, Lumen Juris, 2012.

<sup>6</sup> The difficulty in defining the content of what society considers “morally offensive” can undoubtedly raise multiple questions. In this case, it refers to the historical practice of seeking to prevent or limit publications with pornographic or offensive content to religions, as in the case of *The Last Temptation of Christ* (1988). Conceptual inaccuracy ultimately allows discretionary abuses by state agencies to forget the importance of state activities and their decisions to be public and motivated. Precisely, SARMENTO teaches “It must be avoided at all costs that this fundamental right, so important for the vitality of democracy and for individual self-realization, becomes hostage to majority moral doctrines and conceptions of the ‘politically correct’ prevailing in each historical moment. Freedom of expression exists not only to protect opinions that are in keeping with the values nurtured by the majority, but also those that shock and harm.” D. SARMENTO, “A liberdade de expressão e o problema do hate speech”, *Revista de Direito do Estado*, No. 4, out./dez. 2006, p. 56.

<sup>7</sup> R. KOATZ, “As liberdades de expressão e de imprensa na Jurisprudência do Supremo Tribunal Federal”, in: D. SARMENTO; I. SARLET. *Direitos Fundamentais no Supremo Tribunal Federal: balanço e crítica*. Rio de Janeiro, Lumen Juris, 2011, p. 441.

<sup>8</sup> “El liberalismo clásico supone una dicotomía radical entre Estado y ciudadano. Nos enseña a ser recelosos del Estado e identifica la libertad con un gobierno limitado. La Tradición de la libertad de expresión construye sobre esta visión del mundo cuando reduce la libertad de expresión a la autonomía, y define la autonomía para significar la ausencia de interferencia gubernamental.” (O. FISS, *Libertad de expresión y estructura social*. México D.F., Fontamara, 1997., pp. 28-29).

<sup>9</sup> Admittedly, the quality and extent of rights protection depends on private expenditures as well as public outlays. Because rights impose costs on private parties as well as on the

that the State often adopts an active stance for the promotion of certain rights.<sup>10</sup> In terms of freedom of expression, therefore, the importance of the State acting as a guardian of the integrity of public discourse is revealed.

As FISS notes, the state's active position in this field should be to ensure that the public listens to everything they should listen to it, that is, to maximize information for correct deliberation in public arenas<sup>11</sup>. The role of the State would not be to interfere in the expression of groups that will express themselves, but to seek to preserve public debate by maintaining the necessary conditions for the political community to exercise its self-government. For democracy to be strengthened, as many versions on the same topic as possible must circulate. The construction of citizenship depends on access to as many perspectives as possible on a given subject and, later, on the realization of particular forum reflections on the subject. The active state's stance is not only aimed at ensuring free expression, but also the preservation of deliberative spaces so that the audience can have access to a frank debate on the issues it deems relevant. The concern, also with the recipients, aims to ensure the improvement of collective self-determination.

## § 2 – THE FREEDOM OF EXPRESSION OF SCIENTIFIC THINKING OR “ACADEMIC FREEDOM”

The school, whether at the level of elementary school, high or higher, is the space held to guarantee teachers and students the exercise of freedom of expression of scientific thinking, as established in item IX, article No. 5, of the Brazilian Constitution<sup>12</sup>. School Education is considered an unavailable right due to directly serving interests related to the individual and public sphere. It is a personal right, since its ownership belongs to the individual, not being accepted as legitimate the conduct of third parties aimed to limit, restrict or violate that right. Citizenship, on its turn, is one of the basis of the Federative Republic of Brazil, expressly provided at the Article 1 of the Brazilian Constitution of 1988.

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public budget, they are necessarily worth more to some people than to others. “[...] Freedom of the press is more valuable to someone who can afford to purchase dozens of news organizations than to someone who sleeps under one newspaper at a time.” (S. HOLMES, C.R.SUNSTEIN, *The Cost of Rights: why liberty depends on taxes*. New York: W.W. Norton & Company, 1999, p. 21).

<sup>10</sup> There is a consensus in Brazil today about the need for a substantive conception of the principle of equality, implying a close look at the different real conditions that separate human beings in the concreteness of their existence, so as to require that dissimilar situations be addressed, by means of public policies specially designed, appropriately, all for overcoming the tragic inheritances that, unfortunately, embrace many among us. It is, therefore, agreed that the State must demand more than formal satisfaction of fundamental law or omissive or commissive action to prevent or repress unacceptable discrimination. It is the duty of the State to act positively to reduce social inequalities. See C.M. CLÉVE, *Temas de direito constitucional*, 2 ed. Belo Horizonte, Fórum, 2014, pp. 167-168.

<sup>11</sup> O. FISS, *El efecto silenciador de la libertad de expresión*. Isonomía, No. 4, 1996, p. 22.

<sup>12</sup> Constitution of the Federative Republic of Brazil. Available at: <http://www.planalto.gov.br/> Accessed on: December 10, 2019.

ARAÚJO and SERRANO notes that “The expression citizenship, indicated here as the basis of the Republic, does not seem to be limited to the possession of political rights, but, in different sense, it seems to be more comprehensive meaning, nucleated in the idea, expressed by Hannah Arendt, of the right to have rights. It follows, in this step, that the idea of citizenship comes closely intertwined with the dignity of the human being.”<sup>13</sup>

In this context, the school is the place of preparation of individuals for the exercise of citizenship. It is the opportunity to have access to formal technical education, besides living with plural realities and with diversity, a prevalent and indispensable characteristic in democratic societies. At schools and universities, children, adolescents, young people and adults live with diversity and social pluralism, and, in addition, have the opportunity to build values, to live with the new, to experience experiences different from those typical of their family environment, build and deconstruct beliefs and values; revisit concepts; learn to live with the new; recognize the different; internalize new experiences, that is, to build democratic society through the preparation for the exercise of citizenship. That is why, the moment when the constituent legislature casts citizenship as one of the basis of the Federative Republic of Brazil, and as one of the fundamental objectives “the promotion of the good of all, without prejudice of origin, race, sex, color, age or any other forms of discrimination” (Article 3, item IV of the Federal Constitution of 1988)<sup>14</sup>, it certainly intended to build a more free, fair, and supportive society from the school context.

In the same way, the Declaration of Human Rights of 1789, in its article 11, was clear in stating that “the free communication of thoughts and opinions is one of the most precious rights of man; every citizen can therefore speak, write and express himself freely, subject to liability for the abuse of this freedom in the cases determined by law”<sup>15</sup>.

Specifically with regard to the freedom to teach, it turns out that the Brazilian Constitution of 1988 addresses the theme in the context of the right to education, provided for in Articles 206, 207 and 209<sup>16</sup>. Article 206 states that teaching should be taught on the basis of the principles of freedom to learn, teach, research and disseminate thought, art and knowledge; pluralism of ideas and pedagogical conceptions, and coexistence of public and private educational institutions. The freedom to teach, as well as other fundamental rights, must be exercised legitimately and lined up with the democratic legal-constitutional system to which it is in.

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<sup>13</sup> L. ARAÚJO, V. SERRANO, *Curso de Direito Constitucional*. 8. ed. revista e atualizada. São Paulo, Saraiva, 2004, p. 79.

<sup>14</sup> Constitution of the Federative Republic of Brazil. Available at: <https://www.planalto.gov.br/> Accessed on: December 10, 2019.

<sup>15</sup> Universal Declaration of Humans Rights. Available at: [https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank\\_mm/anglais/cst2.pdf](https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/cst2.pdf).

<sup>16</sup> Constitution of the Federative Republic of Brazil. Available at: <https://www.planalto.gov.br/> Accessed on: December 10, 2019.



That is, freedom of teaching cannot be seen as the right of the teacher to say, teach and unilaterally impose what he believes, ignoring scientific foundations. In order to be promoting the critical debate, the teacher must constantly be willing to revisit his way of understanding, reading and analyzing preexisting scientific propositions<sup>17</sup>.

Both in the constitutional text and in the unconstitutional legislation, there are parameters used to guide the interpretation and understanding of the dimension of academic freedom in the Democratic Rule of Law. That is, "the freedom to teach, in this bias, guarantees educational institutions that, fulfilled the general standards of education and curriculum guidelines, can freely build their pedagogical projects, being, however, subjected to processes public authorities"<sup>18</sup>

The freedom to teach, understood as academic freedom, consists of the legitimacy conferred on the teacher to conduct the teaching-learning process from a critical-epistemological perspective, and cannot suffer any state interference in the sense of withdraw the right to expose and debate scientifically in the classroom space. The State is responsible for establishing general parameters of content that will integrate the curricular matrix of each school cycle, emphasizing that the teacher cannot ignore such parameters and conduct the training of his students in any way he/she wishes. Also, the classroom should be seen as a place of discursive and critical construction of reflections from the national curricular parameters, emphasizing that the role of the teacher is to stimulate the systemic, comparative and scientific view (not dogmatic-informative) of themes that permeate the plural reality of contemporary society marked by diversity.

The act of teaching is materialized in the right to learn, that is, both teacher and student teach and learn in the school environment. The teacher can use pedagogical methodologies, strategies and conceptions to work in the classroom plural and transdisciplinary analyses of themes that integrate the curricular parameters. On the other hand, the freedom to conduct the teaching-learning process does not guarantee the teacher the right to “catecate” his students with ideologies that profess discrimination, prejudice, exclusion, marginality and inequality. Such a statement is essential in this context to demonstrate that the theory of fundamental rights in the Democratic Rule of Law is the legal framework that legitimizes the exercise of academic freedom. The classroom must be a space for inclusion, equality, freedom of expression of thought, solidarity.

The teacher will be responsible for stimulating and proposing reflections that enhance respect for others, seeking to clearly demonstrate that scientific knowledge is a skilled tool to protect,

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<sup>17</sup> C.R. BASTOS, *Curso de Direito Constitucional*. 19.ed. São Paulo, Saraiva, 1998, p. 187.

<sup>18</sup> H.V. RODRIGUES, A. MAROCCO, “Liberdade de cátedra e a Constituição Federal de 1988: alcance e limites da autonomia docentes”, in B. Q. CAÚLA et al. *Diálogo ambiental, constitucional e internacional*, Fortaleza, Premius, 2014. v. 2. pp. 213-238.

not to exclude the human person. The imposition of dogmas and unilateral conceptions of the world hurts the democraticity of teaching, because the construction of the discursive space in the classroom should guarantee the teacher and students the legal equality of opportunity in the construction of scientific knowledge. Therefore, the teacher cannot limit himself to imposing subjective and unilateral views in the way of understanding legal phenomena. Respect for the knowledge of the student<sup>19</sup>, the awareness of the unfinished<sup>20</sup>, the conviction that change is possible<sup>21</sup> and the understanding that education is a form of intervention in the world<sup>22</sup> are acceptable means to the understanding that freedom to teach, when exercised with legitimacy, ensures the student a transdisciplinary and epistemological formation.

In this field, it is observed that academic freedom cannot be seen or understood as the unrestricted right to exercise freedom of opinion, beliefs, proselytizing and subjectivism. The academic space is intended for the testing of scientific knowledge, the deconstruction of dogmas, the demonstration of relativism of the supposed truths, the resignification of aprioristic judgments and the constant refutability resulting from findings criticism. Therefore, it constitutes the teacher's duty not to prophesy dogmas, but to substantiate his propositions in rationally scientific parameters and references.

Then, why and what is the academic freedom? First, to evidence the infinity of knowledge and relativity of scientific propositions when understood in the epistemological perspective. Second, to allow teachers and students to lucidity in understanding the insignificance of existentialism. Third, to discursively construct theories that can be used as a mechanism of intervention and social inclusion. Fourth, to allow teachers to exercise with legitimacy the right to think in the academic space, without state interventions in order to strategically propose scientific reflections, limiting the democratic space of epistemological reflections. Fifth, to allow the teacher to learn by teaching, be constantly open to debate and resignifications, with full awareness of the “unfinished”. The critical debate, based on the objectivity of rational knowledge, is the great reference for the exercise of academic freedom with democratic legitimacy by the professor. Therefore, the choice of

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<sup>19</sup> P. FREIRE, *Pedagogia da Autonomia – Saberes Necessários à Prática Educativa*. São Paulo: Paz e Terra, 2011., pp. 32.

<sup>20</sup> In fact, according to FREIRE the unfinished of being or its inconclusion is characteristic of vital experience. Where there is life, there is unfinished. (P. FREIRE, *Pedagogia da Autonomia – Saberes Necessários à Prática Educativa*. São Paulo: Paz e Terra, 2011., pp. 50).

<sup>21</sup> P. FREIRE, *Pedagogia da Autonomia – Saberes Necessários à Prática Educativa*. São Paulo: Paz e Terra, 2011., pp. 75.

<sup>22</sup> As a specifically human experience, education is a form of intervention in the world. Intervention that, in addition to knowing the contents well or poorly taught and / or learned, implies both the effort to reproduce the dominant ideology and its unmasking. Dialectic and contradictory, education could not be just one or the other of these things. Neither just breeder nor just debunker of the dominant ideology. (P. FREIRE, *Pedagogia da Autonomia – Saberes Necessários à Prática Educativa*. São Paulo: Paz e Terra, 2011, pp. 96).

learning methods (comparative, critical, historical, empirical, quantitative, qualitative, for example), in the context of the curricular parameters previously established by the State, is one of several ways to allow the exercise of scientific freedom of thought in the academic sphere. Such freedom must be exercised with legitimacy and without excesses, that is, the teacher will be responsible for constructing his scientific reflections from the curricular parameters previously instituted, besides not being able to use the classroom space to verbalize content that stimulates discrimination, prejudice, racism, misogyny, unequally or any kind of exclusion and marginality.

### § 3 – THE *ESCOLA SEM PARTIDO* BILL AND ITS OFFENSE TO THE ACADEMIC FREEDOM

On March 23, 2015, Bill 867 was proposed in Brazil, whose specific objective is to include, among the guidelines and bases of national education, the "School without A Party Program". The bill's purpose is to change Article 3 of the Law No. 9.394/96 (Law on Guidelines and National Education Base<sup>23</sup>), to include among the principles of teaching respect for the convictions of the student, their parents or guardians, giving precedence to family values on school education in the aspects of related to moral, sexual and religious education. Article 2 of Bill 867 establishes that national education will meet the following principles: "I- political, ideological and religious neutrality of the State; VII – the right of parents to receive moral education that is in accordance with their own convictions"<sup>24</sup>.

In addition, in Article 3 it is stated, "The practice of political and ideological indoctrination, as well as the dissemination of content or the performance of activities that may be in conflict with the religious or moral convictions of parents or guardians, are prohibited. In Article 4, the project makes clear the duties of teachers, which are: "I - it will not take advantage of the captive audience of students, with the aim of co-opting them for this or that political, ideological or partisan current; II - will neither favor or harm students because of their political, ideological, moral or religious convictions, or lack thereof; III - will not make political-party propaganda in the classroom or encourage its students to participate in demonstrations, public acts and marches; IV - when dealing with political, socio-cultural and economic issues, will present to students, fairly, the main versions, theories, opinions and competing perspectives about it; V - will respect the right of parents to receive moral education that is in accordance with their

<sup>23</sup> Federal Law No. 9.394/96 – Lei de Diretrizes e Bases da Educação. Available at: [http://www.planalto.gov.br/ccivil\\_03/leis/l9394.htm](http://www.planalto.gov.br/ccivil_03/leis/l9394.htm) Accessed on: December 12, 2019.

<sup>24</sup> PL 867/2015. Available at:

<https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=1050668>. Accessed on: December 5, 2019.



own convictions; VI - will not allow the rights guaranteed in the previous items to be violated by the action of third parties, within the classroom”.

The author of this legislative proposal makes it clear that this is an initiative of students and parents "concerned about the degree of political-ideological contamination of Brazilian schools, at all levels: from primary to higher education". The author of the proposal also praises that teachers and authors of textbooks have been using their classes and their works to try to obtain the adherence of students to certain political and ideological currents, aiming that students could adopt patterns of judgment and moral conduct (especially sexual morals) incompatible with those taught to them by their parents or guardians. It makes it clear among the justifications that the goal is to prevent the practice of political and ideological indoctrination in schools, and the usurpation of the right of parents to receive moral education that is in accordance with their own convictions.

To think of the school with an extension of family and religious values is to deny its collective character and to remove its essential function, namely, the broad debate of plural issues that significantly mark the diversity prevailing in contemporary society. In addition, it is a way of deleting and marginalizing those students who do not fit the standards of morality imposed by these family entities that dictate in the school space their way of segregating and excluding all those who do not identify with their values. It is a mean of fostering exclusion, marginality, invisibility of "said" minorities, creating an environment of deep segregation and hostility. The school delimits spaces; defines the social roles that will be assumed by each individual throughout their lives; includes, while excluding people; states what each can or cannot do; defines the places of small and large, boys and girls;<sup>25</sup>

It is in school that we learn solidarity, build sociality, sociability, ethnicity and learn that the realities of the world go far beyond the values reproduced by the family. The text of the Brazilian Constitution of 1988 and the Law of Guidelines and Base of National Education proposes the stimulation of dialogue between family and school, in order to make it clear that the school is a locus of broad free and democratic debate of plural issues. Therefore, to the family is not given the right to remove from teachers the autonomy of teaching and transform the school into a breeding space of dogmas and ideologies that often do not contemplate the diversity and plurality typical of any school environment. Moreover, the family does not enjoy the legal legitimacy of limiting the right of freedom of expression of students to build their training according to their scientific convictions. That is why this bill is studded with vices of constitutionality, especially because it

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<sup>25</sup> See G.L. LOURO, *Gênero, Sexualidade e Educação – uma perspectiva pós-estruturalista*. Petrópolis, Vozes, 2014.

directly contradicts the provisions of Article 206 of the Brazilian Constitution of 1988, which is clear to establish that teaching will be taught on the basis of the principles of freedom to learn, teach, research and disseminate thought, art and knowledge, in addition to pluralism of pedagogical ideas and conceptions.

Considering that politics is a scientific debate and that the political formation of individuals is essential for the exercise of citizenship, emphasizing that the teacher is the one who holds the legal legitimacy to build and foster political debates in the school, it is evident that this legislative proposal beyond clearly unconstitutional denotes the purpose of institutionalizing censorship in Brazil. A third ground of appeal to justify the unconstitutionality of the above mentioned legislative proposals is in Article 1. of the Brazilian Constitution of 1988, which is categorical in predicting that the Federative Republic of Brazil constitutes a Democratic Rule of Law and has as foundations political pluralism and citizenship.

The school is the space aimed at promote the political formation of individuals, allowing themselves to know theories and propositions that explain historically and sociologically the current events. It is the opportunity that the citizen has to read and understand the lines between history, surpassing the purely dogmatic and ideological conceptions. Education seen as a subjective fundamental right must be interpreted in the Democratic Rule of Law in an extensive and systematic way, allowing teachers and students to broad freedom of scientific thinking, so that they can build and deconstruct theories, conceptions of the world and revisit experiences from critical rationality. A fourth legal base skilled at demonstrating the unconstitutionality of bills on screen is in Article 3, item IV of the 1988's Constitution, which provides that it is a fundamental objective of the Federative Republic of Brazil to promote the good of all, without prejudices of origin, race, sex, color, age and any other forms of discrimination. Given all of the above, the bill shows: a) Offense to article 206, item I of the Brazilian Constitution of 1988, which is clear in establishing that teaching will be taught based on the principles of freedom to learn, teach, research and disseminate thought, art and knowledge; b) Violation of Article 206, item II of the constitutional text, which proposes as one of the guiding principles of Brazilian teaching the pluralism of pedagogical ideas and conceptions; c) Failure to comply with caput, items II and V of Article 1 of the current Brazilian Constitution, which is categorical in establishing that the Federative Republic of Brazil constitutes a Democratic Rule of Law, based on citizenship and political pluralism. This constitutional provision, systematically interpreted from the reasons previously presented, shows that the classroom is the democratic space for debate on political issues, considering that the citizen formation of our population passes directly by understanding the scientific foundations of the entire

historical-social and economic context to which it is inserted; d) Contrary to Article 3., item IV of the democratic constitution, which is clear in establishing that it constitutes a fundamental objective of the Federative Republic of Brazil to promote the good of all, without prejudice of origin , race, sex, color, age and any other ways of Discrimination. In this sense, the school should be seen as a space for inclusion, not segregation and marginality. At a time when their bills aim to ban the debate on gender issues in the school field will certainly foster school violence, bullying and gender discrimination; and e) Violation of the freedom of chair, fundamental right expressly provided for in Article 5, item IX of the Brazilian Constitution of 1988, which expressly provides that the expression of intellectual, artistic, scientific and communication activity is free, regardless of censorship or license.

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