

UNIVERSITY COLLEGE DUBLIN

European Master's Degree in Human Rights and Democratisation
A.Y. 2018/2019

IN FAVOR OF AN EMANCIPATORY EDUCATION
There is no neutrality

Author: Fernanda Fadda Hartt Pereira
Supervisor: Dr. Graham Finlay

Abstract

By analyzing the current debate that is taking place in Brazil about the neutrality of education, the thesis addresses the question of how schools should deal with stereotypes, prejudices and stigmas. This question is intrinsically related with the role of education in integrating marginalized groups and it will be analyzed from the concept of pluralism that a neutral education and an emancipatory or democratic education support in the fields of: (i) moral and religious conceptions, specifically regarding the teaching of gender identity; (ii) political-partisan issues; and (iii) political themes. In this regards, arguments are presented in defense of an emancipatory education, based on the understanding that education is a political act where there is no neutrality.

Table of Contents

Introduction	6
I. The current debate about education in Brazilian society	7
1. Bills under debate in the Chamber of the Deputies	8
1.1. The hardening of the debate in 2019	10
2. The main provisions of the proposals	11
2.1. Bills on Neutral Education	11
2.1.1. Bills against Indoctrination (before 2019)	11
2.1.2. The Substitutive of the rapporteur	13
2.1.3. Main changes proposed in 2019	13
2.2. Bills on Democratic Education	15
3. Examples of the scope of application of Bills on Neutral Education	18
3.1. Sexual-moral-religious neutrality	18
3.2. Political-ideological-partisan neutrality	20
II. Presentation of the arguments	22
1. Arguments in favor of a neutral education	22
1.1. Justifications of Bills on Neutral Education	22
1.2. Rapporteur of the Commission: approval of Bills against Indoctrination	25
1.2.1. Duties of the Teacher	26
A) First duty of the Teacher	26
B) Second duty of the Teacher	26
C) Third duty of the Teacher	27
D) Fourth duty of the Teacher	27
a) Is it possible for teachers to act with ideological neutrality or impartiality when dealing with political or religious themes?	28
b) Would this undermine the critical reasoning of teachers and students?	28
c) Are students so susceptible of being influenced?	29

E) Fifth duty of the Teacher	30
F) Sixth duty of the Teacher	31
1.2.2. “Ideology of Gender”	32
2. Arguments against a neutral education and in favor of a democratic education	35
2.1. The argument of Neutrality	36
2.1.1. About the neutrality of the State	36
2.1.2. About political and ideological neutrality as an educational principle	36
2.2. About the roles of State and family in Education	39
2.3. About the right of parents to have their children receiving the moral and religious education that is in accordance with their own beliefs	40
2.4. About the prohibition of the transmission of contents or the performance of activities in conflict with religious or moral convictions of parents or guardians	41
2.5. About “Ideology of Gender” and the prohibition of applying “gender ideology”, the term “gender” or “sexual orientation” in schools	44
2.6. In defence of a Democratic Education	50
2.6.1. Constitutional and International background: an emancipatory education	50
2.6.2. Justifications of Bills on Democratic Education	52
2.6.3. How should be a school for a democratic society?	53
2.6.4. What, then, would be the solution for the legitimate problem of ideological harassment in the classroom?	55
III. Analysis of the arguments	59
1. Pluralism: convergence between a neutral and an emancipatory education	60
2. Pluralism in the field of religious and moral conceptions	61
2.1. Delimitating the divergence: Gender Studies	62
3. Analysis of the teaching of Gender in Schools	63
a) The myth about the social constructivist view of gender	64
b) What is the reason for talking about gender in society?	65
c) If it is about diminishing the distance between men and women	

in society, what is the reason for the argument about homosexuality?	66
d) Is gender against family?	69
e) Why is it important to talk about gender in schools?	70
f) What is the aim of teaching gender?	72
g) Why do I understand parents or students cannot individually oppose to the teaching of gender based on moral and/or religious grounds?	73
4. Deconstructing stigmas, stereotypes and prejudices (in general, not only about gender). The transformative role of education.	77
5. The values of an emancipatory education in practice: UERJ	81
6. Political-partisan propaganda, students unions and demonstrations	84
7. Education as a political act: there is no neutrality.	87
Conclusion	93
Bibliography	97
Annex 1: Complementary provisions of Bills on Neutral Education and Bills on Democratic Education	100
Annex 2: Legal Framework.....	105
Annex 3: Open letter from the academic center of students of the Faculty of Law of UERJ	109

Introduction

This thesis is aimed to answer how education should deal with stereotypes, prejudices and stigmas. This question will be assessed in the context of the current debate that is taking place in Brazilian society related to an alleged neutrality of education.

In order to develop this analysis, it will be presented, in the first chapter, the content of bills in favor of a neutral education, and, in opposition to them, the content of bills in favor of a democratic or emancipatory education (all of them presented before the Brazilian Parliament). In the second chapter, it will be exposed the arguments (i) in favor of a neutral education, (ii) against a neutral education, and (iii) in favor of a democratic or emancipatory education. In the third chapter, the debate will be analyzed from the concept of pluralism that both positions embrace in the fields of: (i) moral and religious conceptions, specifically regarding the teaching of gender identity; (ii) political-partisan issues; and (iii) political themes.

This debate is illustrative of the role of cultural transformation of education, representing the Brazilian experience of a broader issue related with the integration of marginalized groups. As the process of marginalization was instrumentalized also through education, it is inevitable that education plays a reverse role in the process of integration of these groups. In this context, arguments are presented in support of an emancipatory education as an important tool in the process of integration of inferiorized and marginalized groups, critically assessing deep-rooted prejudices, stereotypes and stigmas that were socio-historically naturalized. In this regards, the concept of neutrality in education is expressly denied.

I. The current debate about Education in Brazilian society

Should education be neutral? The answer to this question is the backdrop of a controversy about the character of education in Brazil and about the right of parents to give to their children the education they consider adequate.

The institutionalization of this debate goes back to 2004, when the movement “School without Political Party” (“Escola sem Partido”) was created, after one of the leaders of the movement, Miguel Nagib, had heard that the History teacher of his daughter was extolling Che Guevara’s virtues during the classes¹. According to the website² of the movement, School without Political Party is an informal and non-profitable association of Brazilian parents and students, that do neither have any political-ideological character nor association with any political party, but it is concerned with the level of political-ideological contamination of Brazilian schools, since basic education until the university level.

Since 2014, the visibility of the movement has been increasing, when its proposals were converted into bills, presented to both state and municipal legislative houses of Rio de Janeiro. By the end of 2016, bills defending the proposals of the movement “School without Political Party” had already been presented in eleven federal states³. Some of them have been approved, giving rise to the judicialization of the matter before the Federal Supreme Court (“*Supremo Tribunal Federal*”, hereinafter “**Supreme Court**” or “**STF**”). In a search in the website of STF, it was identified 6 (six) judicial actions, where the disconformity of these laws with the Brazilian Federal Constitution has been argued⁴. In three of them, it has already been provided a provisional decision by the rapporteur, Minister Luís Roberto Barroso, suspending the effects of these laws until the

¹ Marília Márcia Cunha da Silva, ‘Entre Dom Pedro, partidos e saias: acompanhando a controvérsia entre o Colégio Pedro II e o Escola sem Partido’ (41° ANPOCS Annual Conference. GT 24 – Pluralismo, Identidade e controvérsias sociopolíticas, Caxambu, October 2017) 11.

² <<https://www.programaescolasepartido.org/movimento>> accessed 31 May 2009.

³ Marília Márcia Cunha da Silva, ‘Entre Dom Pedro, partidos e saias: acompanhando a controvérsia entre o Colégio Pedro II e o Escola sem Partido’ (41° ANPOCS Annual Conference. GT 24 – Pluralismo, Identidade e controvérsias sociopolíticas, Caxambu, October 2017) 11.

⁴ ADI n° 5537/AL; ADPF n° 465/TO; ADPF 461/PR; ADPF n° 522/PE; ADPF 467/MG; ADPF 457/GO.

final judgment by the plenary of the Court⁵, but we do not have a final decision yet regarding the constitutionality of these laws.

The grounds of these decisions will be examined in Chapter 2, where the arguments of each side of the debate will be analyzed in details. The important here is to highlight that the laws whose constitutionality is under examination by the Supreme Court reflect, to a great extent, the provisions of the bills that are currently under debate in the Chamber of the Deputies, which will be examined in Section 1.

So, the current situation is that, while in the municipal and state levels some laws have already been approved and their unconstitutionality has been argued before the Supreme Court, in the federal level the bills with similar provisions are under analyses by the Legislative.

1. Bills under debate in the Chamber of the Deputies

The controversies under debate can be outlined by the set of bills that are currently under joint examination by the Chamber of the Deputies. As of May 24, 2019, there were a total of 16 bills (5 were submitted only in 2019)⁶ relating to the character of Education in Brazilians schools.

The first bill was presented in 2014, with the aim of including, among the principles that guide the teaching⁷, the respect to the convictions of the student, their parents and guardians, giving precedence to the values from the family order over school education in the aspects relating to moral, sexual and religious education (Bill n°

⁵ STF, ADI n° 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017; STF, ADPF n° 465/TO, Rel. Min. Roberto Barroso, decision issued on August 24, 2018; and STF ADPF 461/PR, Rel. Min. Roberto Barroso, decision issued on June 16, 2017.

⁶ Bills nos. 7180/2014; 7181/2014; 867/2015; 6005/2016; 502/2019; 246/2019; 1859/2015; 5487/2016; 10577/2018; 10659/2018; 8933/2017; 9957/2018; 10997/2018; 1189/2019; 258/2019; 375/2019.

⁷ These principles are provided in article 3 of the Federal Act on Guidelines and Bases of National Education (Federal Act n° 9.394/96).

7.180/14). A second bill, presented in 2015, aims to include in the Federal Act on Guidelines and Bases of National Education (Federal Act n° 9.394/96, hereinafter “**LDB**”), the programme “School without Political Party”, whose aim is to forbid, in school, the practice of political and ideological indoctrination, as well as activities in conflict with the religious or moral conviction of parents (Bill n° 867/2015).

Both bills are attached to joint assessment, together with others that discuss related issues. In short, other bills aim to (i) prohibit the adoption of forms that tend to apply “ideology of gender”, the term ‘gender’ or sexual orientation at school (Bill n° 1.859/2015 and Bill n° 10.577/2018); (ii) prohibit the orientation and distribution of textbooks about sexual diversity orientation to children and teenagers at public schools (Bill n° 5487/2016); (iii) include the provision that the teaching about sexual education will only be taught to the student with parental authorization (Bill n° 8933/2017); and (iv) prohibit political, moral, religious or ideology of gender indoctrination at schools (Bill n° 10.659/2018 and Bill n° 9957/2018)⁸. All these bills will be hereinafter referred together as “**Bills against Indoctrination**”.

In addition to these Bills against Indoctrination, there are others also attached to joint examination by the Chamber of the Deputies that intend to make opposition to these ideas, defending: (i) the establishment of the programme called “Free School”, in opposition to “School without Political Party” (Bill n° 6005/2016); and (ii) the institution of the National Policy on Freedom to Learn and Teach (Bill n° 10.997/2018). These 2 bills will be hereinafter referred together as “**Bills in favor of Free School**”.

In 2016, a Special Commission (hereinafter, the “**Commission**”) was created to opine on this set of bills. From 2017 to 2018, public hearings were realized under the scope of this Commission with representatives from civil society, professors, philosophers, experts, students, pedagogues, rectors and lawyers.

⁸ Among these bills that are attached to joint assessment, there is another one (Bill n° 7.181/2014) whose object is not relevant for our analysis. In sum, it foresees that national curricular parameters for the school education should be provided by law (so, by the Parliament and not anymore by the Executive) with ten-year validity.

The opinion of the rapporteur of the Commission (“voto do relator”) was issued on May 8, 2018 and complemented on October 30, 2018, and November 28, 2018. The rapporteur concluded for the approval of the Bills against Indoctrination, (except for Bill n°s 7.181/2014 which is not relevant for our debate as stated in footnote 8), and for the rejection of Bills in favor Free School. In his vote, he joined the main propositions of Bills against Indoctrination into one new proposal, hereinafter referred to as “**Substitutive**” (see item 2.1.2). After his opinion, some dissenting opinions were issued throughout 2018. The main arguments presented by both sides will be analyzed in Chapter 2.

1.1. The hardening of the debate in 2019

After the results of the parliamentary and presidential election at the end of 2018, the expectation was that the political pressure in favor of the approval of Bills against Indoctrination would increase in 2019. This expectation proved correct with the presentation, in the beginning of 2019, of: (i) bill n° 246/2019, that is a new version of the programme “School without Political Party”; and (ii) bill n° 258/2019, that reaffirms the main ideas exposed in the Bills against Indoctrination. In sum, the intention behind these new bills seems to be to reopen the discussion with a hardening of the proposals, taking advantage of the support of the new congressmen.

The opposition, expecting this act, reacted, presenting 3 (three) new bills in 2019: (i) Bill n° 502/2019, called “Escola sem mordça” (which means “School without Gag”); (ii) Bill n° 1189/2019 that establishes the programme “Democratic Education”; and (iii) Bill n° 375/2019, also called Free School.

All these 5 (five) new bills presented in 2019 are attached to joint examination together with the Bills against Indoctrination and Bills in favor of Free School. As said before, there are a total of 16 (sixteen) bills expecting voting by the Chamber of Deputies. Together, they will be referred as “**Bills**”, but they also will be separately referred into two groups: “**Bills on Neutral Education**” (that are Bills against Indoctrination plus bill n° 246/2019 and bill n° 258/2019) and “**Bills on Democratic**

Education” (that are Bills in favor of Free School plus Bill n° 502/2019, Bill n° 1189/2019 and Bill n° 375/2019).

In the next section, we will present the main provisions of Bills on Neutral Education and Bills on Democratic Education. Further details about the substance of the proposals are provided in Annex 1. In Chapter 2, we will present the arguments that support their respective approval.

2. The main provisions of the proposals

2.1. Bills on Neutral Education

The rapporteur of the Commission (whose opinion was concluded in 2018) prioritized the analysis of Bill no. 867/2015, considered the main one among the Bills against Indoctrination, as, to some extent, it comprises the subjects related to the other bills. In this sense, in order to analyze the main proposals in favor of a neutral education we will (i) present the main provisions of Bill no. 867/2015; (ii) highlight some adjustments made by the rapporteur in the Substitutive; and (iii) add the main new provisions of bills presented in 2019, which, together with the bills approved by the rapporteur, integrate the set of Bills on Neutral Education. More details about the provisions and bills not mentioned herein are provided in Annex 1.

2.1.1. Bills against Indoctrination (before 2019)

According to the Bill n° 867/2015, national education should be guided, among others, by the following principles: (i) political, ideological and religious neutrality of the State, (ii) pluralism of ideas in the academic environment; and (iii) right of parents to have their children receiving the moral education that is in accordance with their own beliefs.

In article 3 of Bill n° 867/2015, it is foreseen the prohibition, in the classroom, of political and ideological indoctrination, as well as the transmission of

contents or the performance of activities that can be in conflict with religious or moral convictions of parents or guardians of the students.

The most popular topic of Bills against Indoctrination (the ones presented before 2019) is provided in articles 4 and 5 of Bill n° 867/2015: the proposal of affixing, in all classrooms⁹ and teachers' room, a poster with the following "duties of the teacher":

First duty of the Teacher: The teacher will not take advantage of the mandatory audience of students with the aim of coopting them for any political, ideological or partisan current.

Second duty of the Teacher: The teacher will neither favor nor harm students due to their political, ideological, moral or religious convictions, or the lack of them.

Third duty of the Teacher: The teacher will neither make political-partisan propaganda at classroom nor urge students to take part in demonstrations, marches and public manifestations.

Fourth duty of the Teacher: when dealing with political, sociocultural and economic issues, teachers should present to students, in a fair way – what means to say, with the same depth and seriousness -, the main versions, theories, opinions and oppositional perspectives related to them.

Fifth duty of the Teacher: Teacher should respect the right of the parents that their children receive the moral education that it is aligned with their own convictions.

Sixth duty of the Teacher: Teacher will not permit that the rights guaranteed by the previous items be violated by act of third parties, inside classroom.

⁹ Except for basic education, in which case the poster will be affixed only in the teachers' room.

2.1.2. The Substitutive of the rapporteur

The main adjustments made in the original proposal by the rapporteur of the Commission were the substitution of article 3 of Bill n° 867/2015 (referred above) by another that intends to include, among the principles that guide the teaching¹⁰, the respect to the convictions of the student, their parents and guardians, giving precedence to the values from the family order over school education in the aspects relating to moral, sexual and religious education (as originally proposed by bill n° 7.180/14).

Also, the rapporteur proposed the inclusion of a paragraph in article 3 of LDB providing that “*Education will not develop teaching policies, nor will adopt school curriculum, compulsory disciplines, nor even in a complementary or optional way, that tend to apply gender ideology, the term ‘gender’ or ‘sexual orientation’*”. This inclusion encompasses the proposal object of bills n° 1.859/2015 and n° 8933/2017.

2.1.3. Main changes proposed in 2019

As Bill n° 867/2015, the new Bill n° 246/2019 also has the aim of instituting the Programme “School without Political Party”. The main differences are:

- (i) Duties of the teacher: the wording of some duties were adjusted as follows:

First duty of the Teacher: The teacher will not take advantage of the mandatory audience of students with the aim of ~~coopting them~~ ~~for any~~ *promoting their own interests, opinions, conceptions or political, ideological, partisan ~~current~~ religious and moral preferences.*

Second duty of the Teacher: The teacher will neither favor nor harm *or compel* students due to their political, ideological, moral or religious convictions, or the lack of them.

(...)

¹⁰ In article 3 of LDB.

Fifth duty of the Teacher: Teacher should respect the right of the parents that their children receive the moral *and religious* education that it is aligned with their own convictions.

Sixth duty of the Teacher: Teacher will not permit that the rights guaranteed by the previous items be violated by act of *students or* third parties, inside classroom.

- (ii) The inclusion of the right to record classes: “Students are guaranteed the right to record classes in order to allow for the best absorption of the content taught and to enable the full exercise of the right of parents or guardians to be aware of the pedagogical process and to evaluate the quality of the services provided by the school” (article 7).
- (iii) The inclusion of restriction to students union’s activities: “It is forbidden to students unions to promote political-partisan activity” (article 8).

In addition, Bill n° 246/2019 gave new wording for provisions that were either excluded or complemented with the wording of other bills by the rapporteur in the Substitutive. These are the case of the following dispositions:

- (iv) Gender issues: instead of using the wording of the proposals object of bills n° 1.859/2015 and n° 8933/2017 to complement Bill n° 867/2015, as did the rapporteur in his opinion, Bill n° 246/2019 foresees that “*The Public Power will neither interfere in the process of sexual maturation of students nor allow any form of dogmatism or proselytism in the approach to gender issues*” (article 2).
- (v) “Psychological manipulation” instead of “indoctrination”: as the *caput* of article 3 of the Bill n° 867/2015 (that provided about “indoctrination”) was excluded in the Substitutive, it was included in the Bill n° 246/2019 a provision on psychological manipulation in the following terms: “*It is forbidden to use psychological*

manipulation techniques aimed at obtaining students' adherence to a particular cause” (article 3).

From the analysis of these dispositions, it seems that the new proposal, on one hand, hardens the original proposal; and, on the other hand, it gives new wording for provisions that were either excluded or changed by the Substitutive, with the aim of reopening the discussion on these issues.

In sum, these are the main proposals of Bills that defend a neutral education. Further details are provided in Annex 1.

2.2. Bills on Democratic Education

In reaction to the Bills on Neutral Education, 5 (five) bills were elaborated opposing to the dispositions mentioned before.

The first one (Bill no. 6.005/16) foresees the establishment of the programme “Free School”, which should be guided by the following principles, among others: (i) the free manifestation of thought; (ii) the pluralism of ideas and pedagogical conceptions; (iii) the secularity and the respect for religious freedom, and freedom of belief and non-belief, without imposition and/or coercion in favor or against any kind of religious doctrine or its absence; (iv) the education against prejudice, violence, social exclusion and stigmatization of people by color of the skin, social origin or condition, disability, nationality, sexual orientation, gender identity and/or expression or any other discriminatory pretext; (v) the respect for ethnic, religious, ideological and political plurality and to the free expression of sexual orientation and gender identity and/or expression; (vi) the democratic management of public education, with the participation of students, teachers and legal responsible for the children, parental or not; and (vii) the stimulation, by the school and/or academic community, of student democratic organization in students unions, academic centers and similar. These principles should be interpreted in order to guarantee freedom, plurality and respect for human rights, not being invocated to allow the authoritarian imposition to students of ideas and conceptions from teachers and authorities (article 2, paragraph 1).

In addition, it is forbidden the practices of any kind of censorship of political, ideological, philosophical, artistic, religious and/or cultural nature to students and teachers. It is guaranteed the free expression of thoughts and ideas, observing human rights, democratic principles and rights and guarantees provided by the bill, the Federal Constitution and international human rights treaties ratified by Brazil (article 2).

The bill reinforces that the freedoms of expression and manifestation will be guaranteed to teachers and students, allowing the knowledge of different points of view and the democratic and respectful debate of ideas and worldviews, without confusing freedom of expression and manifestation of thought with prejudice, discrimination and/or hate speech (article 2, paragraph 2).

Furthermore, schools should keep posters in visible places where it is stated that:

It is guaranteed to teachers and students:

I – the free manifestation of thought, in accordance with the Federal Constitution;

II – the right to freedom of intellectual manifestation and expression and the freedom to learn, teach, research, read, publish and divulge culture, knowledge, thought and arts, without any kind of censorship or repression;

III – the right to address political, sociocultural and economic issues, in the classroom or outside it, with freedom and plurality of opinions and thoughts.

And that, at school:

I – there is no place for prejudice and stigmatization of people by the color of the skin, social origin or condition, disability, nationality, sexual orientation, gender identity and/or expression or any other discriminatory pretext;

II – children should be educated against all forms of discrimination, social exclusion and physical and symbolic violence, promoting the respect for the difference and the celebration of diversity and democratic plurality.

The second bill (Bill n° 10.997/2018) provides that videos or audios can only be recorded upon express consent of whom will be filmed or recorded during classes or any other activity of teaching (article 6).

Regarding the bill that institutes the programme “School without Gag” (Bill n° 502/2019), it adds that (i) the teaching of religious content is restricted to a specific discipline of facultative frequency in public schools as determined by article 210, paragraph 1 of the Constitution, and that (ii) it is not allowed that religious dogmas interfere with the content of disciplines that are grounded on technical and/or scientific knowledge based on scientific expression accepted by significant number of professionals in that area of knowledge (article 2, paragraph 2).

Regarding the fourth bill (Bill n° 1189/2019), it institutes the programme “Democratic Education”, in accordance with the following principles, among others: (i) promotion of human rights through discussion of themes related to race and ethnicity, religion, gender, gender identity, sexual orientation, people with disabilities, among others; (ii) promotion of practices, activities and contents that contribute to confronting all forms of prejudice, discrimination and violence; (iii) democratic management of public education; (iv) free association of students through academic unions, academic centers, student directories and similar forms of organization; and (v) secularity of the state (article 1).

According to this bill, the management of public elementary schools will be done by teachers of basic school education, through election by the school communities, by direct and secret vote, and through school councils or equivalent, respecting the provisions of article 14 of LDB.

The bill also provides that the recording of classes and other pedagogical activities will be subject to the prior authorization of the responsible education professionals in public and private educational institutions; and that the recording of

classes and other pedagogical activities without their prior consent is an attempt of censorship and of embarrassment of the freedom of teaching and learning (article 4).

Lastly, Bill n° 375/2019 repeats some provisions already provided in the previous bills, adding that (i) school education presupposes the strengthening of the relationship of solidarity and trust between education professionals, students and the school community; and that (ii) it is prohibited in the teaching environment any actions tending to limit the informational universe of students or to impose to schools that they do not transmit any content which parents or guardians do not agree with. This bill also repeats that videos or audios can only be recorded upon consent of whom will be filmed or recorded during classes or any other activity of teaching (article 3).

In sum, these are the main proposals of the Bills that defend a democratic education. Further details are provided in Annex 1.

3. Examples of the scope of application of Bills on Neutral Education

What is the object of investigation of Bills on Neutral Education? Why are they being proposed?

In order to make clearer the scope of application of these bills, it will be presented concrete examples that are representative of the supposed lack of both sexual-moral-religious and political-ideological-partisan neutrality in schools.

3.1. Sexual-moral-religious neutrality: “*boy wears blue and girl wears pink*”.

In 2014, a transgender student wore the skirt instead of the trousers from the school uniform of a traditional public school in Rio de Janeiro, Colégio Pedro II (hereinafter the “**Pedro II School**”). At the occasion, the school asked the student to change the skirts by trousers, arguing that the school’s rules provide a distinction between male and female uniforms. As the student, at that time, was enrolled with a male name

and skirts were part of the female uniform, the student could not wear the skirt from the uniform. The order was obeyed by the student.

Nine days after, students organized a “saiato”: around 15 boys and girls went to the school wearing skirts in support of their friend. According to the news¹¹, the event gained the support of the school management for promoting sexual diversity.

Two years later, in September 2016, some rules of the school were revised and, among them, the distinction between male and female uniforms was excluded. This exclusion, however, gave rise to protests organized by some parents of students. Some of them gave interviews as part of the movement “Mothers in favor of School without Political Party”. There is also a group in a social media entitled “Parents of Pedro II School against Ideology of Gender and Indoctrination of Students”¹².

In October 2016, parents organized a protest on Copacabana Beach against ideology of gender at Pedro II School and in favor of a school without political party. The protest had the participation of the archbishop of Rio de Janeiro, Dom Orani Tempesta, and of Jair Bolsonaro (current President of Brazil, at the time federal deputy)¹³.

In short, the message disseminated was: Pedro II school is stimulating boys to use skirts and teachers are stimulating students to be homosexual. The exclusion of the distinction between male and female uniforms was evidence of the promotion of ideology of gender at Pedro II School.

As the number of bills in the federal, state and municipal levels suggests, this debate is not an isolated one. Indeed, the message of the evangelical pastor and new Minister for “Woman, Family and Human Rights”, Damares Alves, only one day after

¹¹ ‘Meninos do colégio Pedro II vão à escola de saia em apoio a colega transexual’ *O Globo* (Rio de Janeiro, 10 September 2014) <<https://oglobo.globo.com/sociedade/educacao/meninos-do-colegio-pedro-ii-vao-escola-de-saia-em-apoio-colega-transexual-13893794>> accessed 31 May 2019.

¹² *In*: Marília Márcia Cunha da Silva, ‘Entre Dom Pedro, partidos e saias: acompanhando a controvérsia entre o Colégio Pedro II e o Escola sem Partido’ (41° ANPOCS Annual Conference. GT 24 – Pluralismo, Identidade e controvérsias sociopolíticas, Caxambu, October 2017) 13.

¹³ *In*: Marília Márcia Cunha da Silva, ‘Entre Dom Pedro, partidos e saias: acompanhando a controvérsia entre o Colégio Pedro II e o Escola sem Partido’ (41° ANPOCS Annual Conference. GT 24 – Pluralismo, Identidade e controvérsias sociopolíticas, Caxambu, October 2017) 14-15.

the beginning of Jair Bolsonaro's mandate as president, on January 2, 2019, was clear: we are in a "new era in Brazil", in which "boy wears blue and girl wears pink"¹⁴.

3.2. Political-ideological-partisan neutrality: Paulo Freire is Marxist

Paulo Freire, the most recognized and respected Brazilian educator in the world, who was awarded the title of patron of Brazilian education in 2012, is accused by the defenders of Bills on Neutral Education of being an educator based on Marxist philosophy, which is an ideology. According to this point of view, as Brazilian education should be neutral and not guided by any ideology, his title should be revoked and his philosophy should be expelled from schools¹⁵.

The attacks to Paulo Freire are not new¹⁶. In May, 2017, when it was completed 20 years since the educator's death, the deputy Eduardo Bolsonaro (son of Jair Bolsonaro, member of the Commission and one of the main defenders of the Bills on Neutral Education in the Chamber of Deputies) posted in his Facebook account that Freire "*did not understand of pedagogy, but only used to take to schools Karl Marx's struggle of classes*". In June, 2018, Eduardo Bolsonaro posted again criticism to the educator: "*Paulo Freire, disciple of Antonio Gramsci, thinks that schools are places not for the transmission of knowledge but for the transformation of society. For Freire, the important thing is not a student to get good grades, but to have 'critical sense', read: to shout 'out Alca'¹⁷, 'out IMF', 'out FHC', 'out Temer'¹⁸, 'out Bolsonaro' (...)*".

¹⁴ 'Menino veste azul e menina veste rosa' *Folha de São Paulo* (São Paulo, 3 January 2019). <<https://www1.folha.uol.com.br/poder/2019/01/menino-veste-azul-e-menina-veste-rosa-diz-damare.shtml>> accessed 31 May 2019.

¹⁵ In: Pedro Araújo, 'Você não gosta de mim, mas Harvard gosta: alvo de Bolsonaro, Paulo Freire é referência em universidades do exterior' *PE notícias* (2 May, 2019) <<http://penoticias.com.br/blog/index.php/2019/05/02/voce-nao-gosta-de-mim-mas-harvard-gosta-alvo-de-bolsonaro-paulo-freire-e-referencia-em-universidades-do-exterior/>> accessed 31 May 2019. In an interview, on April 29, 2019, Jair Bolsonaro mentions that the patron of Brazilian Education will change. The interview is available at <<https://www.metropoles.com/brasil/politica-br/de-atentado-a-churrasco-reporter-mirim-entrevista-bolsonaro-assista>> accessed 31 May 2019.

¹⁶ The following quotations were extracted from: Helena Borges and Júlia Amin, 'Entenda quem foi Paulo Freire e as críticas feitas a ele pelo governo Bolsonaro' *O Globo* (26 May 2019) <<https://oglobo.globo.com/sociedade/entenda-quem-foi-paulo-freire-as-criticas-feitas-ele-pelo-governo-bolsonaro-23604772>> accessed 31 May 2019.

¹⁷ The Free Trade Area of the Americas (FTAA).

¹⁸ FHC and Temer are Brazilian former presidents.

Indeed, the disqualification of Paulo Freire is not a pedagogical debate related to efficiency of his methods, but it is connected with the accusation of “left indoctrination” of students and with the ideals of neutrality of education. The speech of the deputy Eduardo Bolsonaro in one of the public hearings in the scope of the Commission to discuss the Bills against Indoctrination¹⁹ is illustrative. The speech was held in the City of Campinas, State of São Paulo, where the rapporteur of the Commission (deputy “Favinho”) was also presented. In his speech, Eduardo Bolsonaro criticizes how “indoctrination” happens in the classroom, showing examples of the content of literacy books that, according to him, reflect Paulo Freire’s ideas of application of the reality inside the classroom and affirming that only the left, that wants to destroy all the family paradigms, agrees with that. Before, in the same speech, he states: *“Education is not the role of the State. It is the role of the family to be complemented by the School. By school, we should understand the State”*.

The idea of expelling Freire’s philosophy from schools was formalized in Jair Bolsonaro’s government programme, during the presidential election campaign in 2018, together with the proposal of combating indoctrination²⁰.

It is important to remember that, during the military dictatorship in Brazil (that took place from 1964 to 1985), Freire was detained and exiled from the country. In the report of the military inquiry, Freire is accused of being a communist disguised as someone who teach reading and writing skills²¹.

In conclusion, those are concrete examples of what means indoctrination of students according to the defenders of the Bills on Neutral Education.

¹⁹ The speech was recorded by *TV Câmara* (official channel from the Chamber of Deputies). It is available at: <<https://www.youtube.com/watch?v=a7oOzAL8Vyc>> accessed 30 May 2019.

²⁰ Bolsonaro 2018 ‘O caminho da prosperidade: proposta de plano de governo’ Available at: <https://static.cdn.pleno.news/2018/08/Jair-Bolsonaro-proposta_PSC.pdf> accessed 30 May 2019. 46.

²¹ *In*: Helena Borges and Júlia Amin, ‘Entenda quem foi Paulo Freire e as críticas feitas a ele pelo governo Bolsonaro’ *O Globo* (26 May 2019) <<https://oglobo.globo.com/sociedade/entenda-quem-foi-paulo-freire-as-criticas-feitas-ele-pelo-governo-bolsonaro-23604772>> accessed 31 May 2019.

II. Presentation of the arguments

1. Arguments in favor of a neutral education

In order to analyse the arguments in favour of a neutral education we will present (i) the justifications for the proposals of Bills on Neutral Education²²; and (ii) the reasons of the opinion of the rapporteur of the Commission in favor of the approval of Bills against Indoctrination²³.

1.1. Justifications of Bills on Neutral Education

The arguments described in this Section are the ones presented by the authors of the Bills in the moment they were proposed.

The justification of the main bill establishing the programme “School without Political Party” (Bill n° no. 867/2015) asserts that it is a “notorious fact” that teachers and authors of textbooks are using their classes and their textbooks to obtain the accession of students to certain political and ideological currents; and to make them adopt standards of judgment and moral conduct - especially sexual morality – that are incompatible with those taught to them by their parents or guardians. For this reason, it would be necessary to adopt measures to prevent (i) the practice of ideological and political indoctrination in schools and (ii) the usurpation of the right of parents to have their children receiving the moral education that is in accordance with their own convictions.

In sum, the unlawfulness of these practices derives from the violation of the following freedoms of students and their parents or guardians: (i) freedom to learn

²² We will take as base Bill no. 867/2015. When relevant, we will add the justification for the main new provisions of bills presented in 2019, which, together with Bills against Indoctrination, integrate the set of Bills on Neutral Education.

²³ As explained in Chapter 1, among Bills against Indoctrination, the rapporteur only excluded from his approval Bill n° 7.181/2014.

(article 206 of the Federal Constitution), which includes the right of the student to not have his knowledge about the reality manipulated, for political and ideological purposes, by the teachers; and (ii) freedom of conscience (article 5, VI of the Federal Constitution), which guarantees the student the right of not being indoctrinated by the teacher. Both freedoms are violated if teachers can take advantage of the mandatory presence of students to promote in the classroom their own political, ideological and moral conceptions.

On the other hand, it is argued that freedom to teach (article 206, item II of the Federal Constitution) is not the same of freedom of expression. In this sense, it is stated that there is no freedom of expression in the strict exercise of the teaching activity, otherwise the freedom of conscience and belief of students would be violated.

In addition, political and ideological indoctrination in the classroom violates (i) the political freedom of the student; (ii) the right of not being exploited; and (iii) the right of being respected by the teachers. It also creates favorable conditions for the political and ideological bullying of students, as the indoctrination stigmatizes specific political and ideological perspectives. In this sense, indoctrination creates a sectarian environment.

Furthermore, political and ideological indoctrination in schools violates the democratic regime, to the extent that it instrumentalizes the public education system with the aim of unbalancing the political game in favor of certain competitors.

On the other hand, as institutions from the Public Administration, public schools are subject to the constitutional principle of impersonality. In this sense, the use of the state machine (that includes the system of education) for the dissemination of political or ideological conceptions of their agents is incompatible with the principle of political and ideological neutrality of the State, with the republican principle, with the principle of isonomy (equality of all before the law) and with the principle of political pluralism and pluralism of ideas. All of them are explicit or implicitly provided in the Federal Constitution. On this topic, the justification of Bill no. 246/2019 makes also reference to a rule of Brazilian Administrative Law that prohibits the public servant “to

*promote a manifestation of appreciation or non-appreciation inside a government department*²⁴.

Regarding moral education, article 12 of the American Convention on Human Rights (ratified by Brazil) provides that it is up to parents to decide what their children should learn in matters of moral. In this regards, neither the government, nor the school, nor teachers have the right to use the classroom to deal with moral contents that have not been previously approved by students' parents. In addition, a State that defines itself as secular must be neutral in relation to all religions and cannot use the teaching system to promote a certain moral, since moral is, in principle, inseparable of religion. Also, the State cannot use the teaching system to promote values that are hostile to the morality of any religion. In this regards, allowing that the government or its agents use the teaching system to promote a particular morality is to give them the right to indirectly violate and destroy the religious belief of students, which offends articles 5, VI, and 19, I, of the Federal Constitution.

In addition, Bills on Neutral Education are also related with the preparation of the student for the exercise of citizenship, having in view that the right of being informed about their own rights is a matter of strict citizenship and the bill intends to inform students about the right they have of not being indoctrinated by their teachers.

Further, it is highlighted that these bills do not affect the specificities of confessional and private institutions whose teaching practices are oriented by moral values, principles and conceptions, in which case it is only required the awareness and expressed consent by parents or guardians of students.

Regarding the disposition provided in Bill 246/2019 about the right of students and their parents of recording classes, its fundament derives from (i) article 206, VII of the Federal Constitution (“guarantee of quality standard”), which necessarily implies for parents the right to know and evaluate the quality of services provided by schools; and (ii) article 53, sole paragraph, of the Child and Adolescent Statute, which

²⁴ Article 117, V, of the Federal Act n° 8.112/1991.

recognizes parents' right to be aware of the pedagogical process experienced by their children.

Finally, regarding the prohibition of students unions to promote political-partisan activity, Bill 246/2019 justifies this provision as aiming to prevent the risk of instrumentalization of these entities by political parties. According to them, the explicitation of the prohibition would be a mere complementation of another disposition that guarantees the right of students to organize themselves “*as autonomous entities representing the interests of secondary students for educational, cultural, civic-sports and social purposes*”²⁵ (not political purposes). Further, having in view that students unions also develop their activities in school, the prohibition also meets the constitutional principle of impersonality.

1.2. Rapporteur of the Commission: approval of Bills against Indoctrination

In his opinion²⁶, the rapporteur explains that education is a public service, even when authorized to be held by a private school, and, for this reason, the right to teach is not only a right but also a duty. In this sense, the relationship teaching-learning is based on a right-duty of the teacher to teach and on a right of the student to learn. The conclusion is that the academic freedom of the teacher is not unlimited otherwise it would violate the right to learn of the student.

The rapporteur understands that, in the performance of their duties as teachers, freedom of expression as a right does not apply. Teachers are entitled with academic freedom or freedom of teaching, which is not the same of freedom of expression. Academic freedom must have logical correlation with the content to be taught, which is fixed by governmental norms, plans and curriculum guidelines.

In this regard, the rights of free manifestation of thought and free expression of intellectual, artistic, scientific, and communications activities,

²⁵ Article 1 of the Federal Act no. 7.398/1985.

²⁶ Deputy Flavinho, ‘Parecer ao Projeto de Lei No. 7.180, de 2014 (e apensados)’ (*Camara.leg.br*, 2019) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BF A02CAEB8665.proposicoesWebExterno2?codteor=1657686&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019.

independently of censorship or license (article 5 of Brazilian Constitution, where fundamental rights are provided for) do not mean that there is no limit to teaching activity.

Based on that, the rapporteur individually analyses and explains each duty of the teacher that is provided in Bill no. 867/2015.

1.2.1. Duties of the Teacher

The analysis and explanation by the rapporteur of the “six duties of the teacher” to be written in a poster and affixed in the classrooms are developed in the following way:

A) First duty of the Teacher: *“The teacher will not take advantage of the mandatory audience of students with the aim of coopting them for any political, ideological or partisan trend”.*

As an employee of the State (and, in the case of private schools, an authorized person to act on behalf of the State), teachers should be restricted to the function that were designated to them and keep the free expression of their personal interests to contexts outside school. The same should be done with their political-partisan and/or religious preferences, observing the constitutional principle of secularism of the State. Teachers should not take advantage of classes and of the mandatory presence of students to promote their own personal, religious or political-partisan preferences. Religious teaching at school, on the other hand, is not prevented, due to their constitutional provision and the fact that the enrolment is optional.

B) Second duty of the Teacher: *“The teacher will neither favor nor harm students due to their political, ideological, moral or religious convictions”.*

Teachers should not take advantage of their academic right to harm, or favor, a student based on principles that are not exclusively academic. In this way, teachers cannot punish a student who disagrees with their political-partisan and/or religious ideas.

C) Third duty of the Teacher: *“The teacher will neither make political-partisan propaganda at classroom nor urge students to take part in demonstrations, marches and public manifestations”.*

Schools must not be converted into political stage and militant teachers or those who are associated to a political party do not have the right of using a place that is intended to teaching and learning to promote their preferences. This would be a “terrific deviation of function”.

Today, there are teachers that try to “smuggle” their political and ideological inclinations into the classroom. They do not consider their students as subjects, but instead as objects and “mass of maneuver”.

D) Fourth duty of the Teacher: *“When dealing with political, sociocultural and economic issues, teachers should present to students, in a fair way – what means to say, with the same depth and seriousness -, the main versions, theories, opinions and oppositional perspectives related to them”.*

Partisan propaganda should not be confused with the simple announcement of political and ideological ideas. The teacher is allowed to do the latter, but not the former.

When dealing with political themes, teachers should be guided by the constitutional democratic principle of “pluralism of ideas”, making available for students the knowledge of the main academic theories regarding a specific topic. They are allowed to argue in favor or against a specific theory, but, before that, they should present, in a fair and serious way, alternative conceptions. In any case, they should not present in a unilateral, partial or tendentious way any political theme.

While the freedom of teaching allows teachers to express their own academic point of view, the freedom of learning of the student requires the exposition of the main alternative theories that also have academic recognition.

In this point, some difficulties are analyzed by the opinion of the rapporteur:

- a. Is it possible for teachers to act with ideological neutrality or impartiality when dealing with political or religious themes?

Total impartiality or absolute neutrality is impossible, but it is possible to act with the maximum of neutrality in many contexts. In the most controversial contexts, where impartiality is really difficult, it is expected, at least, that teachers provide students with a plural perspective.

What is expected from teachers is that the main (not all) theories that have academic and scientific recognition about a topic be exposed, to the extent possible, to students, and that the most important theoretical line, including the antagonistic ones, are exposed in a fair way for the benefit of the student.

The central point of the project is to prevent teachers of using the time of the class to make partisan or religious propaganda. It is not necessary total ideological neutrality in order to reasonably refrain from inducing students in partisan issues. This is far from the case when teachers make apologies as if they were in their political party's syndicate instead of teaching the content for which they are paid for and which parents believe their children are being taught. In this case, teachers are providing a monocular worldview, putting their own view as the best, manipulating students and disrespecting their critical sense.

- b. Would this undermine the critical reasoning of teachers and students?

Regarding the concern about undermining the critical reasoning of teachers and students, the opinion states that Bills against Indoctrination do not intend to extinguish critical reasoning. Actually, the unilateral partisan propaganda, inside the school, is what constitutes the main threat to the development of the critical skill of the student. Schools are the place for the construction of the knowledge and citizenship. Hence, it should be a place for the democratic experience of the respect to differences.

Only a non-partisan approach can provide enough exemption for the exercise of a fair and serious criticism.

When dialoguing about political issues, teacher has the responsibility of creating a respectful and safe environment, with broad space for oppositional lines of thinking, strengthening, in this way, the democratic dialogue and, therefore, the critical reasoning of students.

While the opinion agrees that, in theory, maybe it is possible that, by defending a specific partisan opinion during the class, the teacher is manifesting critical sense, it affirms that this is not the same of supporting students to develop their own critical sense. In general, the defense of partisan opinions aims to convince the other to repeat the same discourse, without critical inquiry, mechanically. The core of the issue is to respect the student, by considering him as a subject and not as an object. For this reason, ideological or partisan propaganda should never be made at schools.

c. Are students so susceptible of being influenced?

Regarding the argument that students are not so “moldable”, so susceptible of being influenced, the opinion agrees that students are surrounded by many other influences, besides the one from the teacher in the classroom, and that education is a process that does not happen only at school. But, regardless this, it stills prohibited to take advantage of the mandatory presence of the students in classroom to promote their religious and/or political-partisan preferences.

This is because, it should not be denied the significant impact that schools have in the cultural formation of children and teenagers and that the teaching activity should be guided by professional ethic, academic responsibility, intellectual honesty, tolerance and respect for the debate of multiple ideas.

E) Fifth duty of the Teacher: *“Teacher should respect the right of the parents that their children receive the moral education that it is aligned with their own convictions”.*

Freedom of teaching is also qualified by article 12, IV of the American Convention on Human Rights. Regarding this provision, the opinion asserts that parents have the right that their children “receive” the moral and religious education that is in accord with their own convictions.

It is affirmed that the Convention does not prohibit that teachers give classes about religious issues that are different from the conception of the parents of the students. It is not about putting the professor in constant surveillance and fear of not affronting moral convictions of parents. Rather, it means that parents have the right that their children be “educated” in accordance with their religious convictions. In this regards, teachers in public schools should refrain from attempting to “educate” students on topics related to religious and moral education. As a public servant, teachers do not have the function of educating students in moral and religious issues. They can – and, sometimes, they must – teach classes about religious phenomenon, under various theoretical perspectives, but they should refrain from catechism, of any kind, or hostility to any religion or moral system, in respect of the secularism principle, especially when it is not the space reserved for the religious facultative classes.

In this regards, it is evidently possible – and even desired – that a student from the public school system be educated, in religious and moral issues, according to the criteria of their parents, even when they are exposed to classes about religious diversity. A Christian student can receive classes about Islam, and vice versa, without violating parents’ rights, if the taught content of the class is really academic, and not confessional. Also, an atheist teacher can deal with the religious phenomenon without depriving parents from their rights on this topic if they comply with the principle of intellectual honesty and multiple and respectful approach. The same happens with a theist teacher.

Schools are neither a strategic place for political-partisan emancipation of children and teenagers nor should aim to finish with religions, which see the world as a

result of divine creation. An opposite understanding would create a conflict with the principle of secularism of the state, that prohibits not only subsidize any religion, but also create obstacles to its operation, as provided by article 19, I of the Federal Constitution.

In this sense, the opinion explains that what is being investigated by the bills has nothing to do with religious teaching, but, for those who insist in this statement, the rapporteur affirms that Brazil has not adopted the French model of secularism, that repels any kind of religious manifestation in public spaces, but the North-American one. He adds that Brazil was not constituted as an atheist state that repels any kind of religiosity. In Brazilian context, the notion of religiosity is deeply impregnated in the constitutional order, such as the invocation of God's name in the preamble of the Constitution, the protection of freedom of conscience and belief, the protection of places of worship and their liturgies, the guarantee of religious assistance in civilian and military entities of collective hospitalization, the guarantee that no one will be deprived of rights by reason of religious belief, and the very provision of article 210, paragraph 1, that states that religious teaching, which enrolment is optional, shall constitute discipline of regular school hours of public elementary schools.

In this regards, the rapporteur affirms that providing a serious and fair treatment to the religious phenomenon and respecting its diversity and complexity is a manner of respecting parents' right. The same treatment should be provided to issues of sexual moral. In this sense, a public employee (the teacher) should not meddle in the sexual development of students, having in view that sexual ethics often is intimately connected with the religious style of life. Schools should not anticipate what parents have chosen to approach in other moment. Also because schools need to adopt a standard treatment, as it is not possible to personalize or customize it for each concrete case of each student. Only parents can do it.

F) Sixth duty of the Teacher: *“Teacher will not permit that the rights guaranteed by the previous items be violated by act of third parties, inside classroom”.*

Teachers, as the authority inside the classroom, cannot allow that others do what even they are not allowed to.

After analyzing these “Six Duties of the Teacher”, and regarding what is conventionally called “School Without Political Party”, the opinion clarified that schools are not necessarily “without political party”, but necessarily non-partisan. These are different things. Actually, while political parties should always fight for a school of quality and, as a consequence, they are included among the actors that make feasible education, schools should not be the stage of partisan, precisely due to the exempt character with which the educational space should be treated.

Having said that, the opinion of the rapporteur starts to analyze what he considers a specific kind of indoctrination, named “ideology of gender”.

1.2.2. “Ideology of Gender”

The rapporteur makes reference to what he considers one of the worst facets in which indoctrination can be materialized that is the so-called “ideology of gender”, which, according to him, “some people” intend to implement at schools.

This “ideology” is described by the rapporteur in the following way: it is about an extremely controversial conception, defended by a minority of intellectuals and political activists, such as Simone de Beauvoir, Michael Foucault, Judith Butler e Shulamith Firestone, according to which “gender” is a social construction and, as such, dynamic and susceptible of changing, not a biological imposition. To those who defend this “ideology”, the word “gender” is not synonymous anymore of “sex”, as it is considered in the conventional perspective; instead it refers to a social role that can be constructed – and deconstructed – according to the will of the individual.

According to “gender ideologues” – as the report pejoratively refers to whom defends the studies of gender identity – nobody is born man or woman, but becomes them; and it is possible that someone from the male sex, as biological heritage, adopt the feminine gender, while subjective and social construction; and vice versa.

Through this distinction - highly questionable in scientific and philosophical terms according to the opinion -, ones attempt to impose to children and

teenagers a sexual education that aims to deconstruct the heteronormativity and the concept of traditional family in favor of pluralism and gender diversity.

In this scope, the opinion supports the view that there is not any “civilization precedent” (“precedente civilizatório”) in the human history that demonstrates that a sexually plural society is indeed sustainable in a long term. In this sense, it is a merely “theoretical” conception, thought “from outside” as an ideal to be imposed in the society, without unquestionable empirical precedents. What is known by concrete experience is that a heteronormative culture was indispensable to the perpetuation of human species and development of Western Civilization. Regardless of how advanced the legislation of some countries is in terms of “ideology of gender”, there is not sufficient basis for sublimate the millennial experience of the West in favor of these meager “contemporary social experiments” whose results are still questionable.

The truth, according to the rapporteur, is that the overwhelming majority of intellectuals and “common individuals” believe that “man” and “woman” are not, in any way, liquid concepts. Instead, these genders are in full consonance with their respective biological “sexes”. In other words, “male” and “female” - biological categories – correspond to “man” and “woman” – categories of gender. Nonetheless, it is recognized that this subject is very complex and involves deep reflection in various areas, such as theology, science of religion, history, sociology, philosophy, anthropology, psychology, moral, law, biology and genetics. As it is not a pacific issue, the rapporteur concludes that it should not be object of legislation²⁷.

He continues by saying that this conclusion should not been seen as a kind of “dictatorship from the majority” or a violation of the rights of minority. In contrast, he asserts, it is a prudent attitude. Minority do not have the right to impose to the majority, by means of law, its predilections or worldviews, especially when these abstractions have

²⁷ In this part and in the following parts of the opinion in which the rapporteur says that gender should not “enjoy legal status” or “be included in Brazilian legal system”, it seems (although it is not clear in the opinion) that the rapporteur is making reference to the rejection of Bills in favor of Free School when they mention the term “gender identity” (see Chapter 1). As explained in Chapter 1, Bills in favor of Free School were presented before 2019 in opposition to Bills against Indoctrination and all of them, together, were object of the opinion of the rapporteur. In the conclusion of the opinion, the rapporteur rejected Bills in favor of Free School and approved Bills against Indoctrination.

a great revolutionary potential of deconstructing the current order, without prudent analysis of future consequences.

In addition, “Ideology” of gender is an essentially political issue. It comes from a cultural revolution that is based, among other things, on philosophical deconstructivism and moral relativism, conceptions that are extremely debated and criticized in the academic field. It is not superior to any other alternative philosophical strand. So, it should not enjoy legal status.

It is also added that “ideologues” of the “ideology of gender” transformed the noble cause of combat of discrimination against women into combat of discrimination of gender, pretending that both had the same object: the struggle for women’s dignity. But, the focus on gender instead of on women is counterproductive, because it allows moving the attention from “women” to “women and men”, and, finally, back to “men”. Also, the new vocabulary of gender is being used in some organizations to deny that there are women’s specific disadvantages and, as a consequence, the necessity of specific measures that could solve these disadvantages. The report quoted Baden and Goetz in support of this idea and, also, Judith Butler, when affirming that the very subject “woman” cannot be understood anymore in stable or permanent terms.

The opinion continues by saying that it is imperative to recognize that militant “Ideologues” argue that in a world of genuine equality, according to their conception, everybody should be educated as bisexuals and that masculinity and femininity would not be natural anymore. The Canadian feminist Shulamith Firestone is quoted to suggest the view that a “feminist socialism” aims to attack and destroy the family - responsible for producing the “psychology of power” - in order to make possible to reach sexual freedom, allowing that all women and children are able to use their sexuality as they wish.

In this context, the rapporteur asserts that schools are not a strategic space to impose “idealized projects of social engineering”. It is not a responsible attitude to impose any change to society before peering exhaustively their possible consequences. Nothing should be included in Brazilian legal system that has the potential of putting at

risk Brazilian's republican institutions, mainly the family, having in view that Brazilian Federal Constitution considers the family as the “basis of the society”, and, as such, the beneficiary of “special protection by the State”, according to article 226 of the Republican Constitution.

In this regards, the ideological-political implementation of these idealized plans or worldview that intend hegemonically impose itself when, indeed, are nothing more than one abstract conception, among many, should be inhibited.

For all these reasons, the opinion of the rapporteur of the Commission issued on May 8, 2018 and complemented on October 30, 2018, and November 28, 2018, concludes for the approval of Bills against Indoctrination, except for Bill n° 7.181/2014, and for the rejection of Bills in favor of Free School.

2. Arguments against a neutral education and in favor of a democratic education

The arguments presented in this section are based on (i) the dissenting opinions presented by some political parties in opposition to the opinion of the rapporteur of the Commission, mainly the one presented by the political party “PSOL” on November, 28, 2018²⁸; (ii) the provisional decisions (protective measure or “medida cautelar”) that suspended the effects of state and municipal laws against indoctrination until the final judgment by the plenary of the Supreme Court; and (iii) the justifications of Bills on Democratic Education. Where there is no specific reference, the arguments are from the dissenting opinion of PSOL, which also includes opinions presented during the public hearings of the Commission throughout 2017 and 2018.

²⁸ Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei n° 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. The other dissenting opinions were presented by “PT” (the Labour Party); “PODE” and “PC do B”.

2.1. The argument of Neutrality

2.1.1. About the neutrality of the State

Bills on Neutral Education are grounded in a crucial mistake: the principle of neutrality of the State. Indeed, the State and the Federal Constitution are secular, but they are not ideologically neutral. The outlines of this ideology are provided by the fundamental goals of the Federative Republic of Brazil, described in article 3 of the Federal Constitution.

In this sense, instead of “neutral”, the State must be committed with a political-constitutional project of (i) construction of a free, just and solidary society, (ii) eradication of poverty and marginalization, (iii) reduction of inequalities, and (iv) combat of all forms of discrimination.

2.1.2. About political and ideological neutrality as an educational principle

First of all, neutrality causes serious damages to students’ development, as explains Luís Felipe Miguel, professor of Political Science of the University of Brasilia:

“The slogan of ‘neutral’ education hides the understanding that the school needs to be neutralized, so that the authority that parents exercise over their children can be absolute. The **scarecrow of students’ indoctrination by ‘leftist’ teachers**, a pretext for the criminalization of critical thinking in the classroom, serves to thwart the pedagogical goal of producing citizens capable of independent reflection, respectful of differences, accustomed to the debate and to the dissension, conscious of their individual and collective role in the reproduction and **transformation of the social world**. Instead, we return to the **outdated understanding of an education limited to the transmission of factual ‘contents’**, of which the teacher is a mere repeater and the student, passive receptacle.”²⁹ (Bolded emphasis added).

Professor Salomão Ximenes, during one of the public hearings held by the Commission, asserted that, according to article 13.2 of the Additional Protocol to the

²⁹ Luís Miguel *In*: Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei nº 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 42. (free translation)

American Convention on Human Rights (“**Protocol of San Salvador**”), Brazil is committed with plurality and not with neutrality, which are different concepts³⁰.

The Minister of the Supreme Court, Luís Roberto Barroso explains that the idea of political and ideological neutrality is antagonistic to that of (i) protection of pluralism of ideas and pedagogical conceptions; and (ii) promotion of tolerance (article 3, items III and IV of LDB, respectively). This is because the imposition of neutrality – if it were truly possible - would prevent the affirmation of different ideas and political or ideological conceptions about a single phenomenon in the classroom, and also because it would imply non-tolerance with different worldviews, ideologies and political perspectives³¹. In the same sense, he quotes the Ministry of Education:

“The Ministry of Education understands that, in defining neutrality as an educational principle, the mentioned Bill contradicts the constitutional principle of pluralism of ideas and pedagogical conceptions, since such plurality is achieved only through the recognition of diversity of thought, of different knowledges and practices.

The curtailment of the teaching exercise, therefore, violates Brazilian Constitution by restricting the role of the teacher, establishing the censorship of certain contents and didactic materials besides prohibiting the free debate in the school environment. In the same way, this pedagogical curtailment prevents the compliance with the constitutional principle that ensures students the freedom to learn in an inclusive educational system”³².

It is noted that even the conception that has inspired the idea of neutrality in education departs from political and ideological preferences. In Brazilian scenario, the “demonization of politics” is an inheritance of authoritarianism:

“It does not exist school without ideology. It would be very nice that the teacher did not impose only one ideology and always opened the way to the debate. But it is a fanciful belief, [...] that the school forms the head of the people, and that these young people would leave schools as union leaders. (...) **Every opinion is political, including the School without Political Party. (...) The demonization of politics is the worst inheritance of the military dictatorship, that besides killing human beings, has still provoked in**

³⁰ Salomão Ximenes *In*: Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 14.

³¹ STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 12. The protective measure was granted in order to suspend the effects of the State Act no. 7.800/2016 from the Brazilian federal state of Alagoas.

³² STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 12. (free translation)

education a damage that will continue for a few more decades³³. (Bolded emphasis added).

Minister Barroso affirms that the intention of imposing the teacher a supposedly neutral presentation of the most diverse points of view - ideological, political, philosophical - is inconsistent from the academic point of view and clearly violator of the freedom to teach. In this topic, he quotes Robert Post, who explains that the *raison d'être* of academic freedom is precisely to protect academic conviction from political control. Academic freedom forces teachers to use academic and non-political criteria to guide their activity³⁴.

The Minister points out, also, that the very conception of neutrality is highly questionable from the point of view of the behavior theory:

“No human being and, therefore, no teacher is a "blank sheet." Each teacher is product of their life experiences, of the people with whom they interacted, of the ideas with which he had contact. As a result, some teachers have more affinities with certain moral, philosophical, historical and economic issues; while others identify themselves with different theories. **If we are all - to a large extent, as recognized by psychology - a product of our personal experiences, who can proclaim its worldview as totally neutral?**³⁵ (Bolded emphasis added).

On the other hand, teachers' permanent concern about the political repercussions of their speech and about the need to present opposing views would lead them to stop addressing relevant issues, to avoid certain questions and controversies, which, in turn, would suppress the debate and discourage students from addressing such issues, harming the freedom of learning and the development of the critical thinking³⁶.

For all these reasons, the neutrality provided by bills on Neutral Education collides frontally with the pluralism of ideas, with the right to education aimed to the full formation as a human being, to the preparation for the exercise of citizenship and to the promotion of tolerance.

³³ Leandro Karnal. *In: STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 21-22. (free translation)*

³⁴ STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 23.

³⁵ STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 21. (free translation)

³⁶ STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 23-24.

2.2. About the roles of State and family in Education

During the public hearing held by the Commission, professor Salomão Ximenes explained that the Federal Constitution makes a distinction between “education” and “teaching”³⁷. In sum, article 205 of the Federal Constitution refers to “education”, in a broad sense, providing that education is duty of the State, family and society. These duties are complementary, what means to say that there is no subordination among these three spheres of the social life: family (in its different configurations) is important, as important are the community and the society, and, finally, the state. On the other hand, article 206 refers to “teaching”, providing about the duty of the State regarding the formal education, the one that happens in formal institutions.

In this sense, “education”, in a broad sense, is the one that starts right after birth with the process of socialization in the family and in the community; and “teaching” is the republican duty of the State, that should promote the guarantee of human rights, ideological pluralism and the fundamental objectives of the Republic. This distinction is important because: *“What is recognized as parents’ rights (including by entities that are authorized to interpret international treaties) have to do with the respect to the space of familiar education. In other words: State cannot interfere in the education that is placed within the family sphere”*³⁸.

State regulates school education, but cannot regulate the education that happens in the family sphere, cannot say about how parents should raise their children. This is why article 206 of the Federal Constitution foresees principles that should guide

³⁷ Salomão Ximenes In: Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei nº 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 8-9.

³⁸ Salomão Ximenes In: Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei nº 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 8. (free translation).

the teaching, and not education³⁹. Communities and families have freedom in the offer of informal education and the Parliament cannot legislate about it. This is the idea.

Bills on Neutral Education, nonetheless, confuse the concepts of “education” and “teaching”.

2.3. About the right of parents to have their children receiving the moral and religious education that is in accordance with their own beliefs

Article 12.4 of the American Convention on Human Rights (“**Pact of San Jose**”) - which constitutes the main argument of the defenders of Bills on Neutral Education on this topic - should not be read in isolation. Rather, it should be combined with article 13.2 and article 13.4 of Protocol of San Salvador, both ratified by Brazil.

According to professor Salomão Ximenes, countries that ratify Protocol of San Salvador undertake complementary obligations related to education as right not only of freedom of families, but also as right and social duty of the State⁴⁰. This is because article 13.4 of the Protocol of San Salvador recognizes the right of parents to choose the type of education that should be provided to their children (as provided for by article 12.4 of Pact of San Jose), however it also recognizes that education has a “public sense”, outlined by the principles of article 13.2 of the same protocol and by the domestic legislation of each State Party, which, in the case of Brazil, are the principles provided in article 205 of the Federal Constitution (full development of the person, preparation for the exercise of citizenship and work).⁴¹

Minister Barroso also interprets that the Protocol of San Salvador, when recognizes the right of parents to choose the type of education that should be provided to

³⁹ Also LDB refers to “teaching” in the formal sense that is the one provided by the State, except for the two first introductory articles that refers to education in a broad sense.

⁴⁰ Salomão Ximenes *In*: Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 13.

⁴¹ Salomão Ximenes *In*: Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 14-15.

their children, conditions this right to an education “*which is in accordance with the other principles provided in the Protocol*”. So, this education should be apt for the full development of the human personality, for the participation in a democratic society and for the promotion of ideological pluralism and fundamental freedoms⁴² (article 13.2 of the Protocol of San Salvador).

In the same sense, the Technical Note of the Federal Public Ministry states that article 12.4 of the Pact of San Jose cannot overlap neither the principles of a democratic and pluralist education provided in article 13.2 of the Protocol of San Salvador nor article 13.4 of the same protocol, that provides that the right of parents to choose the kind of education to be given to their children is limited by article 13.2. In this sense, it is necessary to proceed with a practical adequacy among Brazilian Federal Constitution, Pact of San Jose and Protocol of San Salvador⁴³.

2.4. About the prohibition of the transmission of contents or the performance of activities in conflict with religious or moral convictions of parents or guardians

Despite the systematic interpretation presented in item 2.3, defenders of Bills on Neutral Education insist in considering, in isolation, the provision foreseen in article 12.4 of Pact of San Jose. In this way, they interpret this disposition as the right to a religious and moral education (education in a broad sense, including the one provided by the State) in accordance with their own convictions. The consequence is the provision of Bills on Neutral Education on the prohibition of the transmission of contents in schools that are in conflict with parents’ religious or moral convictions.

Luís Felipe Miguel, professor of Political Science of the University of Brasilia, explains how this interpretation would be against to the autonomy of students:

“Receiving an education that allows students to understand the world in a critical and questioning way, expanding the capacity to make their own choices, is a condition for an autonomous life. Contrary to the idea that

⁴² STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 20.

⁴³ In: Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei nº 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 15.

inherited 'values' from the family should remain free from any contamination, it is important that students have contact with a multiplicity of worldviews, even to be able to produce a critical scrutiny on the beliefs they have received - an indispensable condition for the exercise of autonomy. (...)”⁴⁴.

Minister Barroso also affirms that, in all cases, parents cannot intend to limit the information universe of their children or impose to school that it does not convey any content with which they do not agree. This type of measure means to prevent the access of young people to the whole domains of life, in clear violation of pluralism and their right to learn: “*Education is, precisely, the accumulation and processing of information, knowledge and ideas that come from different points of view, experienced at the home, in contact with friends, with occasional religious groups, with social movements, and also at school*”⁴⁵.

Professor Fernando de Araujo Penna, in his manifestation during the public hearings, highlighted the practical impossibility of that interpretation. He explains, in conformity with what has already been explained above (item 2.2), that who is responsible for offering such education according to the family values is the own family, not public schools. He asserts that it is not feasible to expect that public schools could provide education according to all possible moral and religious conceptions, considering that families are plural⁴⁶. In addition, the professor asserted that religious education can be approached by two aspects: the first one relates to religion itself as a private belief, a private matter in which the school should not interfere (this is the scope of application of the Pact of San Jose): nobody can be obliged to believe or not believe in any belief. On the other hand, religion can also be approached as cultural manifestation in the public space. Here, **no student, regardless of his/her belief, can deny to dialogue with other cultures**. If teachers could not contradict any of the beliefs of all families present in the

⁴⁴ Luís Miguel In: Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei nº 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 41-42. (free translation).

⁴⁵ STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 20.

⁴⁶ Fernando Penna. In: Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei nº 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 16.

classroom, represented by their children, their work, for more this reason, would be infeasible⁴⁷.

About the alleged right of not approaching issues that conflict with values and opinions of families, Denise Carreira, PhD in Education and Adjunct Coordinator of the NGO Educational Action, also explains that the defenders of Bills on Neutral Education understand that public schools should be understood as an extension of the family, and also that family is only the one constituted by the marriage between a man and a woman, disregarding and delegitimizing the diverse familiar arrangements that exist in Brazil⁴⁸.

Regarding the possibility of conflict with the moral conviction of the parents, Daniel Cara, General Coordinator of the National Campaign for the Right to Education, in sum, argued that respecting families means respecting those families that have a distinct composition from the nuclear one, established as standard by our society⁴⁹.

Romi Benke, General-Secretary of the National Council of Christian Churches of Brazil - CONIC, also pointed out that the emphasis on the centrality and control of the teaching of moral values by the family causes concern, considering that the highest rates of violence against children, adolescents and women occur at home⁵⁰. He presented data released by Dial 100 in 2015, which registered, in the 3 first months of that year, 4.800 cases of sexual violence against children and adolescents, most of which had occurred in the familiar environment. In this sense, he concludes: “(...) *we have in*

⁴⁷ Fernando Penna. In: Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 16-17.

⁴⁸ Denise Carreira. In: Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 17-18.

⁴⁹ Daniel Cara. In: Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 17.

⁵⁰ Romi Benke. In: Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 20.

*our country a strong patriarchal culture that legitimates not only domestic violence, but also racial, sexist and class violence, what shows that the **familiar institution needs to be problematized, never idealized***⁵¹.

For all these reasons, PSOL, in its dissenting opinion, rejects the provision of the Substitutive of the rapporteur that intends to include, among the principles that guide the teaching, “*the respect to the convictions of the student, their parents and guardians, giving precedence to the values from the family order over school education in the aspects relating to moral, sexual and religious education*”. PSOL concludes that the recognition of the right of parents is circumscribed to the family education space. In addition, formal teaching is the duty of the state and should be aimed to revert the alarming statistics of violence in the country, resulting from a strong patriarchal culture that legitimates domestic, racial, sexist and class violence. Besides that, the disposition would not be feasible in practice, if we assume as family not only the format considered traditional by the defenders of Bills on Neutral Education, but also the different and diverse familiar arrangements existing in Brazil, with diverse and particular moral and religious perceptions⁵².

2.5. About “Ideology of Gender” and the prohibition of applying “gender ideology”, the term “gender” or “sexual orientation” in schools

Related to the previous topic on conflicts with moral convictions of parents, it is the prohibition of discussing gender and sexuality at schools.

Firstly, it should be clarified that the expression “ideology of gender” does not exist in the academia and should not be used in any legislation, as it is highly pejorative. It has been used only by those who are opposed to the approach of gender in education as if it were a sexual “indoctrination” that would transform boy into girl and

⁵¹ Romi Benke. In: Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei nº 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 20. (free translation).

⁵² Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei nº 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 20-21.

girl into boy, which is a great distortion. The expression “ideology of gender”, hence, is a discursive and linguistic strategy aimed to cause social panic and, in this way, obtain support against the inclusion of gender and diversity in the school⁵³.

Daniel Cara, General Coordinator of the National Campaign for the Right to Education, during the public hearings, posed the following question: “*Is debating the situation of gender, in the classroom, - that, in many times, falls within the scope of assertion of the freedom of some students - proselytism?*”. He asserted: discussing the fact that homosexual is a citizen full of rights is not making proselytism about homosexuality or bisexuality. There are extremely legitimate families composed of two men with a child⁵⁴.

About the taboo of talking about gender and sexuality and the backdrop of this debate, Well Castilhos, journalist/professor, expert in Gender, Sexuality and Human Rights (IMS/UERJ), member of the Latin American Center on Sexuality and Human Rights (CLAM/UERJ), clarifies:

“The discomfort is due to the fact that the concept of gender brought the possibility of thinking about the relations between male and female/between woman and man outside the religious framework, outside an order considered as ‘natural’. According to this rigid order, it is ‘natural’ that the man command, that he is in the control for having a more aggressive and violent ‘nature’. In turn, it is “natural” for woman to be more submissive, who, necessarily, must marry and have children. So, the concept of gender arose to question this paradigm, and the asymmetries and inequalities arising from this logic. To speak about ‘gender equality’ is to recognize a plurality of conceptions of man and woman, besides the one traditionally considered as ‘natural’. It is to recognize that individual experiences and relationships are socially constructed, and that **inequalities cannot be built from differences**. Differences exist and must be recognized, what cannot be done is to construct social inequalities from them, that is, put the woman in the society in a position inferior to the man because she is biologically different from him, or exclude homosexuals from some rights because they are different from heterosexual people. Talking about ‘gender equality’ bothers people who advocate keeping

⁵³ Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei n° 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 37.

⁵⁴ Daniel Cara. In: Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei n° 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 17.

women in a place of subalternity. This is the backdrop”⁵⁵. (Bolded emphasis added).

As stated before, Minister Barroso granted two protective measures, on 16 June 2017⁵⁶ and on 24 August 2018⁵⁷, to suspend the effects of municipal laws that prohibit the adoption of teaching policy that tends to apply “gender ideology”, the term “gender”, “sexual orientation” or “sexuality”. In his decisions, after explaining the content of an emancipatory education (item 2.6.1), he, in short, affirmed that:

- 1) Diversity of gender identities and sexual orientation is a fact of life, presented in the society that students integrate and with which they will have to deal. Transsexuality and homosexuality will not cease to exist due to its denial.
- 2) Preventing schools from approaching gender and sexual orientation only imposes the ignorance about a fundamental dimension of human experience and contributes (i) to the disinformation of children and young people on such subjects; and (ii) for the **perpetuation of stigmas and the suffering that results from that**.
- 3) Groups which do not fall within the traditional and culturally built borders of gender identity or sexual orientation constitute marginalized and stigmatized minorities in society. Education is the main instrument for overcoming incomprehension, prejudice and intolerance that accompany such groups throughout their lives.
- 4) Brazil leads the world ranking of violence against transgender, whose average life expectancy, in the country, is around 30 years, against the almost 75 years of life of the average Brazilian.
- 5) Transsexuals have difficulty to stay in school, to get a job, and even to obtain medical care in public hospitals.
- 6) It is not unusual acts of discrimination and violence aimed at homosexuals.

⁵⁵ ‘Post | Jornal Daki - A Notícia Que Te Interessa.’ (*jornaldaki*, 2019) <<https://www.jornaldaki.com.br/single-post/2015/07/09/Ideologia-de-g%C3%AAnero-%C3%A9-um-termo-equivocado-Entrevistamos-Well-Castilhos>> accessed 13 July 2019. (free translation)

⁵⁶ STF, ADPF 461/PR, Rel. Min. Roberto Barroso, decision issued on June 16, 2017.

⁵⁷ STF, ADPF n° 465/TO, Rel. Min. Roberto Barroso, decision issued on August 24, 2018.

- 7) The relations of affection between people of the same sex are surrounded by prejudice and marked by stigma. So much so that homoafetive unions obtained legal treatment equivalent to that of stable union (“união estável”), by this Supreme Federal Court, only in the year of 2011, and it was necessary that the National Council of Justice issued a resolution prohibiting the refusal to celebrate civil marriage between persons of the same sex, to ensure that this right was effectively guaranteed.
- 8) Prevent the use of the terms “gender” and “sexual orientation” in school means provide **invisibility on such issues**.
- 9) **Education is a means to overcome the violence and social exclusion** that these groups are target, **transform the social comprehension and promote the respect to difference**.
- 10) Prohibit the issue of being dealt with in the field of education means to use the state apparatus to prevent the overcome of social exclusion and, therefore, to **perpetuate the discrimination**.
- 11) Students are beings in formation, who naturally experience their own sexuality, who develop their gender identities, their sexual orientation, which may or may not correspond to the naturalized cultural standard.
- 12) Educating young people about gender and sexual orientation can be essential for their self-understanding, to ensure their own freedom, their autonomy, as well as to protect them against discrimination and threats of a sexual nature. In this regards, it is in accordance with article 227 of the Federal Constitution that settles the principle of the integral protection of the child, adolescents and young people in order to guarantee their adequate development.
- 13) Dealing with such themes does not imply trying to influence students, practicing indoctrination on the subject or introduce sexual practices. It means helping them to understand sexuality and protect them from discrimination and violence.
- 14) Depriving an individual of living his or her gender identity or to establish affective and sexual relationships according to their desire

would mean deprive them of a fundamental dimension of their existence; it would mean denying him/her an essential sense of autonomy, denying equal respect and consideration on the basis of an unjustified criterion, violating the principles of equality and human dignity.

In his decisions, the Minister also highlighted that the school - next to the family – is identified by researchers as one of the main places of discrimination and stigmatization of transsexual and homosexual children and young people⁵⁸. It is at school that eventually some young people are identified, for the first time, as “effeminate or masculinized”, where the naturalized cultural standard is identified as the “normal” behavior, where their divergent conduct is labeled as “abnormal” behavior and **where stigma is naturalized**. In that sense, the Minister states: *“the mere silence of the school in this matter, the non-identification of the prejudice, the omission in combating the ridicule of the identities of gender and sexual orientation, or in teaching the respect for diversity, is replicator of discrimination and contributes to the consolidation of violence against homo and trans children”*⁵⁹.

For all these reasons, the Minister concluded that the prohibition of gender-based and sexual orientation education in Brazilian schools imposes to students the ignorance about a fundamental dimension of human experience and prevent education from playing its **crucial role of cultural transformation**, promotion of equality and full protection guaranteed by the Constitution to children and young people.

About the **necessity of cultural transformation in this field**, Antonio Luiz Martins Dos Reis, pedagogue and post-doctoral in Education, in one of the public hearings, reinforced the idea that we need to discuss specific themes because **we do have problems**:

⁵⁸ He mentioned the studies of Perseu Abramo Foundation, that showed that, when questioned in what situation they suffered homophobic discrimination for the first time, a large proportion of trans, gay and lesbian people indicated school as the place where this occurred for the first time and the colleagues of school as one of the main perpetrators of such acts.

⁵⁹ STF, ADPF 461/PR, Rel. Min. Roberto Barroso, decision issued on June 16, 2017. 15.

“Here it is a survey from MEC (the Ministry of Education). It was made with scientific rigor, with 18 thousand students, parents, professors and employees. In our country, women are still discriminated (...). In relation to minority issues, LGBT community is discriminated. (...) In relation to socioeconomic issues, people are discriminated. Black People are discriminated. In sum, we have a problem that needs to be addressed.

Here we have a data of the map of violence in the country. It was done in 2013 and published now, which shows that **4.762 women were killed, that 60% of the victims were black and that 27% of the murders occurred at home**. Don't we have to discuss gender at schools? We do have to discuss equality of rights between men and women (...).

Regarding the data related to the “rape culture”, in 2003, 47 thousand of cases of rape were reported in Brazil. In 2014, the country had one case of rape in each 11 minutes. **70% of the victims are children and teenagers** and 15% of the rapes involve two or more aggressors. **It is estimated that only 30% to 35% of the cases are registered**. 90% of women are afraid of being victim of sexual aggression. **These are data from IPEA** (The Institute for Applied Economic Research) – I am not inventing them, **they are not the result of an ideology**. We have to discuss this problem and the locus for discussion is the classroom. The equality between men and women needs to be discussed.

(...)

Regarding LGBT community, where are the big problems? **73% of our community are verbally assaulted inside the school**, suffer bullying; 36% suffer physical violence and 60% feel insecure at school, in the last year, for being LGBT”⁶⁰. (Bolded emphasis added).

Regarding the importance of teaching these themes at school, a news report showed that a 12-year-old student, after attending a lecture on sexual violence in school in Tocantins and talking with professionals, realized that she had been sexually assaulted by her stepfather at home several times. Before that, the girl had not been able to fully understand and express the very serious violence she had suffered⁶¹. As said before, sexual abuse against children and adolescents within their own families is not an isolated situation: IPEA (the “Institute for Applied Economic Research”) survey found that 24.1 per cent of children’s sex offenders are their own parents or stepfathers⁶².

For all these reasons, schools are spaces for teaching and debate on gender and sexuality. It is not about removing from families the right to educate children according to their values, but to ensure that schools fulfill their role of contributing to the

⁶⁰ Antonio dos Reis. In: Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei nº 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 18-20. (free translation).

⁶¹ ‘Menina Relata Estupro Após Palestra Sobre Violência Sexual E Padrasto É Preso’ (G1, 2019) <<https://g1.globo.com/to/tocantins/noticia/menina-relata-estupro-apos-palestra-sobre-violencia-sexual-e-padrasto-e-presos.ghtml>> accessed 13 July 2019.

⁶² ‘70% das Vítimas São Crianças e Adolescentes: Oito Dados sobre Estupro no Brasil’ (BBC News Brasil, 2019) <<http://www.bbc.com/portuguese/brasil-36401054>> accessed 13 July 2019.

full development of all students and combating all forms of oppression, violence and discrimination⁶³.

2.6. In defence of a Democratic Education

Such antagonistic positions are always productive in terms of emphasizing and bringing to the public debate the essentials of each worldview. In this regards, Bills on Neutral Education provoked a counter-reaction, pushing oppositional political parties to bring to the debate their understanding about education and democracy, which, at the end, justify their rejection to the proposal of Bills on Neutral Education.

It is this worldview - that grounds Bills on Democratic Education – which we will pass to show herein.

2.6.1. Constitutional and International background: an emancipatory education⁶⁴:

*“The excess of protection does not emancipate, the excess of protection infantilizes.”*⁶⁵

According to Minister Barroso, the Federal Constitution of 1988 guarantees an “emancipatory education” that prepares the person to the most diverse spheres of life, **as a human being, as a citizen, as a professional**. This is what can be inferred from the focus of education on promoting the *full development of the person*, his/her *preparation for citizenship*, the qualification for work as well as the *humanistic development of the country* (articles 205 and 214)⁶⁶.

These constitutional provisions are also aligned with international norms ratified by Brazil: article 13, paragraph 1, of the International Covenant on Economic,

⁶³ Glauber Braga and others, ‘Voto em Separado ao Projeto de Lei nº 7.180, de 2014’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codeor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 41.

⁶⁴ This section is based on the decisions of Minister Barroso in ADPF 461/PR, ADI-MC 5.537/AL and ADPF 465/TO. It is important to say that Minister Barroso has not supported the specific provisions of Bills on Democratic Education, but he has expressly be in favor of an emancipatory education, which is, in our understanding, connected with the ideas that support Bills on Democratic Education, as we will see.

⁶⁵ STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 24.

⁶⁶ STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 17.

Social and Cultural Rights and article 13 of Protocol of San Salvador, which recognize that education must aim to the full development of human personality, to the enablement to life in society and to tolerance and, therefore, to strengthen ideological pluralism and fundamental freedoms⁶⁷.

In this context, schools are an essential dimension for the formation of any person. The locus par excellence in which it is built his/her vision of world. **It is in school that one can learn that all human beings are worthy of equal respect and consideration.** “It is, therefore, *an essential environment for the promotion of cultural transformation, for the construction of a society open to difference, for the promotion of equality.*”⁶⁸ (Bolded emphasis added)

With such purposes, the Federal Constitution defines the guidelines that must be observed by the teaching to fulfill the aims of education, among them: (i) freedom to learn and teaching; and (ii) pluralism of ideas and pedagogical conceptions (CF / 88, art. 206, II and III).

Regarding the freedom to teach, Minister Barroso, also full professor of Constitutional Law at the University of the State of Rio de Janeiro – UERJ, is assertive:

“Freedom to teach is an essential mechanism to provoke the student and stimulate him/her to produce his/her own points of views. Only who has freedom can teach freedom. Only who can also have a critical thought can provoke critical thinking. **In order for education to be an instrument of emancipation,** it is necessary to expand the informational and cultural universe of the student, and not to reduce it, by suppressing political or philosophical contents, under the pretext of being the student a “vulnerable” being. *The excess of protection does not emancipate, the excess of protection infantilizes.*”⁶⁹ (Bolded emphasis added).

Regarding the relationship between pluralism of ideas and the full development of students, the Minister concludes:

“There is an evident cause and effect relationship between the exposure of students to the most varied content and the aptitude of education to promote

⁶⁷ STF, ADPF 461/PR, Rel. Min. Roberto Barroso, decision issued on June 16, 2017. 8.

⁶⁸ STF, ADPF n° 465/TO, Rel. Min. Roberto Barroso, decision issued on August 24, 2018. 10. (free translation)

⁶⁹ STF, ADI n° 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 24. (free translation)

their full development. **The greater the contact of the student with different worldviews, broader tends to be the universe of ideas from which he/she can develop a critical view, and more comfortable tends to be the transit in environments different from yours.** It is for this reason that ideological pluralism and the promotion of the values of freedom are ensured in the Constitution and in all international norms mentioned before.⁷⁰ (Bolded emphasis added).

2.6.2. Justifications of Bills on Democratic Education⁷¹

Bills on Democratic Education are a clear opposition, in the field of Education, to authoritarian ideas that derive from Bills on Neutral Education. In sum, the justification of Bill no. 1189/2019 asserts that: at a time when the far-right wing government foments war against ghosts such as “cultural Marxism” and “gender ideology”; at a time when forms of being and love are progressively proscribed and criminalized; it is necessary to amplify the voice that emanates from the constitutional text and to fight in defense of democracy and education for citizenship, in order that an authoritarian regime does never happen again⁷².

In this context, Bills on Democratic Education are based on the following values: (i) freedom of expression and thought in the field of education; (ii) pluralism of ideas; (iii) debate without censorship; (iv) respectful listening of the opinion of the other; (v) respect for and celebration of diversity as a democratic value and (vi) the pedagogical autonomy of schools, which should form critical and informed citizens, capable of thinking for themselves and conceiving their own opinions and worldviews.

Based on these values, democratic education is aimed to (i) combat discrimination, prejudice and hate speech within the framework of education, ensuring respect for the differences that enrich all as society and (ii) prevent all forms of violence, bullying and school harassment.

⁷⁰ STF, ADPF 461/PR, Rel. Min. Roberto Barroso, decision issued on June 16, 2017. 8-9. (free translation)

⁷¹ This Section is based on the justifications of Bills no. 6.005/2016, 10.997/2018, 502/2019, 1189/2019 and 375/2019. The arguments described in this Section are the ones presented by the authors of these Bills in the moment they were proposed.

⁷² Bill no. 1189/2019 (Chamber of Deputies). 7.

The intention of Bills on Democratic Education is to guarantee rights to teachers, students and their legal responsible, parental or not, with a view of democratizing education and promoting freedom and unrestricted respect for human rights.

The close relationship between school and democracy is presented in the justification of Bill no. 6.005/2016, proposed by the former deputy Jean Wyllys, who also emphasizes the necessity of democratizing education in the Brazilian context in order to overcome the traces of authoritarianism that persist in Brazilian society:

“We consider that a society begins to be democratic when it educates for the democracy from the initial to the post-graduate level. There is no other way of producing this long-term and large-scale change that our country needs, after the totalitarian tragedies of the twentieth century. An authoritarian school produces a society with serious problems of authoritarianism. A school without pluralism and democratic debate produces a society with serious problems in listening to and respecting the opinion of others and to exercise democracy as a political practice and as a way of life. (...) A school without secularity and freedom of belief and non-belief produces a society with serious problems of religious intolerance, fanaticism and fundamentalism. A school that allows - or, even worse, reproduces and teaches as value - prejudice and discrimination produces a society with high rates of ignorance, incomprehension, exclusion, segregation, discrimination and violence. A school where racism, machismo, xenophobia, prejudice against LGBT people and other hate speeches are tolerated or encouraged produces a society that tends not to combat these evils.”⁷³

According to this view, the proposals of Bills on Neutral Education produce an immature and unprepared society to put into practice an authentically democratic political system.

Finally, Bills on Democratic Education emphasize that education should be inspired by the ideals of human solidarity, as provided by article 2 of LDB and that citizens should be aware that plurality and diversity make the society stronger⁷⁴.

2.6.3. How should be a school for a democratic society?

The following excerpts describe the features that schools should present to prepare future citizens to participate in democratic life:

⁷³ Bill no. 6.005/2016 (Chamber of Deputies). 7. (free translation)

⁷⁴ Bill no. 502/2019 (Chamber of Deputies). 6.

“A school for democracy is a school where people are taught to learn by themselves, to investigate, to read critically, to do research using scientific method, to interpret and question different theories and conceptions; where information and knowledge are put at the disposal of students without any kind of censorship; where the debate is not insubordination, but critical sense; where the formation of one's own opinion does not come from the acceptance and introjection of the discourse of the authority or of someone that dominates in the social environment of students, but from a way in which different opinions are heard, debated, discussed, analyzed and criticized.

At the same time, a school for a democratic society should **combat prejudices, false certainties that produce hatred, stigma, segregation, exclusion and violence** - understanding in this sense that hate speech is not opinion, that discrimination and oppression are not forms of exercise of freedom, that **violence is not acceptable and that difference is not a problem**. **This school should problematize the prejudices that exist outside and inside it in order to be deconstructed**; so that **respect for the other and the celebration of difference and diversity replace fear and rejection against those who are different from us or the idealized vision we have about ourselves**.

A school for democracy is a school with many political parties, with many ideas, with much debate, with much critical analysis of the world. A school for democracy is a school without hate, without authoritarianism and without discrimination. A school for democracy is a school that is secular and respectful of all beliefs and of their absence. A school for democracy is a school that practices democracy in its daily life.”⁷⁵ (Bolded emphasis added).

Bills on Democratic Education also highlight that children and youth should be protected against one-dimensional worldview, because plurality of ideas and opinions is an essential presumed of the democratic environment and, also, because democratic societies are inseparable from diversity and from freedom of thought. If there is a place where the exposure to different and new ideas can occur in a safe and healthy environment, this place is school⁷⁶. In this purpose, dialogue and freedom are fundamental:

“**The constant dialogue between different worldviews, especially with those with whom we disagree, is what makes us grow, either because we change our own way of seeing the world, either by simply expanding it or even by finding more reasons to confirm it**. Dialogue and freedom are fundamental elements of democratic order and essential for its progress.”⁷⁷

⁷⁵ Bill no. 6.005/2016 (Chamber of Deputies). 8-9. (free translation)

⁷⁶ Bill no. 10.997/2018 (Chamber of Deputies). 3.

⁷⁷ Bill no. 10.997/2018 (Chamber of Deputies). 3. (free translation)

2.6.4. What, then, would be the solution for the legitimate problem of ideological harassment in the classroom?

All that have been said about democratic education is not intended to say, obviously, that, in the name of freedom to teach, any and all conduct of the teacher is allowed in the classroom, including the behavior that suppresses the manifestation of divergent views by students.

In this point, an important differentiation is made between academic freedom and freedom of expression⁷⁸:

“Academic freedom is intended to protect scientific progress by protecting the freedom of research, publishing and spreading content inside and outside the classroom. It is also guaranteed in order to allow the teacher confronting students with different conceptions, provoking debate, developing their critical judgment. It is related to the teacher's expertise, although it is not restricted to it, because the boundaries of each discipline are themselves quite indefinite. It is aimed to ensure a comprehensive education.

Freedom of expression, in turn, has to do with the preservation of existential values, to the free movement of ideas and to the adequate working of the democratic process. It is not related to technical expertise, it has no commitment to academic standards, but with the status of citizen and with the right to participate in the public debate. In public space, we are all equal. In the classroom, teachers work in the formation of people and evaluate students.”⁷⁹

So, academic freedom and freedom of expression are distinct rights, with distinct purposes and not necessarily subject to the same limits⁸⁰. Having said that, Minister Barroso explains that there is no doubt that freedom to teach is subjected to the achievement of the purposes for which it was established. In this regards, each field of knowledge has its limits and its particularities and teachers must be prepared to (i) observe the minimum standards of its discipline, (ii) preserve pluralism when relevant, (iii) not impose their worldview; and (iv) work with the questions and divergences from students.

⁷⁸ It should be remembered that in the justification of Bill no. 867/2015 and in the grounds of the opinion of the rapporteur that voted for its approval, it is asserted that “*there is no freedom of expression in the strict exercise of teaching activity*”.

⁷⁹ STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 25-26. (free translation)

⁸⁰ STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 26.

In this sense, instead of using repression and punishment of teachers, the observance of minimum professional standards is a matter of clearly defining them to each discipline and elaborating public policies to qualify teachers⁸¹.

About the necessity of definition of these standards with clarity, the Minister asserts, regarding the rule under examination in the state level (but which to a considerable extent repeats the content of Bills on Neutral Education), that the rule is clearly inadequate for achieving the supposed purpose to which is aimed: the promotion of education without "indoctrination" of any kind. The reason is its vagueness and generality that can attend the opposite purpose: **ideological imposition and the persecution of whom diverge from it**⁸²:

“What is *indoctrination*? What constitutes the *imposition* of an opinion? What is the conduct that characterizes religious or philosophical *propaganda*? What is the behavior that configures *incitement* to participation in demonstrations? What are the ethical criteria applicable to each discipline, what are the minimum contents of each discipline, and in which circumstances the teacher will have overcome them? (...) The level of generality with which the many prohibitions provided for in Law 7,800 / 2016 have been formulated creates a risk of *selective and partial application of the rules (“chilling effect”), through which it will be possible to attribute all types of infractions to teachers who do not share the dominant view* in a given school or who are less sympathetic to the management of school.(...)”⁸³ (Bolded emphasis added).

The pursuit of a solid formation for teachers is also defended by PSOL in its dissenting opinion for solving the problem of ideological harassment, together with the implementation of the constitutional principle of democratic management: “*The correct path is the search for a solid formation of our teachers, so that they can participate in an increasingly critical and active form in this process, and also the incentive to the*

⁸¹ STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 26.

⁸² STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 27. Based on that, the Minister concludes that the rule violates the constitutional principle of proportionality (article 5, LIV and article 1), in the line adequacy, due to the fact that it is not an instrument capable of obtaining the aim which it claims to pursue.

⁸³ STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 26-27. (free translation)

participation of the community itself in the school, in accordance with the constitutional principle of democratic management”⁸⁴.

In the case of a polemic theme with which parents disagree, under the approach of the democratic management, they should be attracted to the debate and participation, which is consensually important to school. It is precisely this that LDB provides regarding democratic management of public teaching (article 13, VI and 14). Intimidating or previously censuring teachers only boosts intolerance in the face of opposing opinions, which should be most avoided in times of polarization⁸⁵.

As defended by Daniel Cara, General Coordinator of the National Campaign for the Right to Education, in one of the public hearings of the Commission: if the teacher, for example, presented a subject in the classroom which is considered as violating parents’ moral, it would be much more productive and effective in pedagogical terms if debates on possible excesses of teachers or parents of students were treated within the school with the mediation of teachers, always addressing the pedagogical issue as the central issue⁸⁶. This would comply with the precepts of democracy and democratic management within the school, provided in LDB and article 206 of the Federal Constitution. According to Daniel Cara, they present the democratic management as an uncontroversial choice⁸⁷.

Finally, some last clarifications about this perspective on democratic education: it is agreed that the teacher should not make political-partisan propaganda in

⁸⁴ Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 36- 37. (free translation)

⁸⁵ Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 29.

⁸⁶ Daniel Cara. *In*: Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 30-31.

⁸⁷ Daniel Cara. *In*: Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 30.

the classroom, but this does not mean that it is not appropriate to discuss contemporary political issues in the classroom. On the contrary, the teacher (i) should not prevent himself from discussing the themes pertinent to the interpretation of the reality in which students are inserted and (ii) do should encourage his students to manifest themselves in all democratic ways in public space⁸⁸. According to the Professor Fernando Penna, the “*participation in democratic demonstrations is a sign that the student feels capable of **changing the world in which he/she is inserted** - an essential capacity in his/her preparation for the exercise of an active citizenship*”⁸⁹ (Bolded emphasis added).

For all these reasons, a democratic education is positioned in opposition to the authoritarian traces of a neutral education. In sum, schools should educate so as to awaken students to political engagement, without any type of imposition of ideas neither by teachers nor by authorities nor by families. Opinions should be subject to dialogue not censorship.

⁸⁸ Fernando Penna *In*: Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 31-32.

⁸⁹ Fernando Penna *In*: Glauber Braga and others, ‘*Voto em Separado ao Projeto de Lei nº 7.180, de 2014*’ (2018) <https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019. 32.

III. Analysis of the arguments

“We must take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented” (Elie Wiesel)⁹⁰.

Under critical approaches, it is emphasized that personal experiences and backgrounds inevitable influence one’s perspectives⁹¹. This understanding is in contrast with the liberal idea that arguments and theories can speak for themselves independent of the positionality of the speaker⁹².

In line with the critical pedagogy of Paulo Freire’s tradition, I agree that our perspectives are framed also by the social structures to which we are conditioned, rather than only by abstract arguments. Actually, arguments can speak for themselves in a neutral environment, but social science is not applied in a neutral environment and academia is not (and should not be) a hermetic sphere, divorced from this reality. As asserted by Paulo Freire, the so-called “scientific neutrality” does not exist⁹³ and the more we get to know the sociohistorical reality of the theme object of our analysis, the more impossible is to remain neutral⁹⁴. In the same sense, Cockburn states that science was never value-free⁹⁵. Being conscious about the reality in which the object of our analysis is inserted means not only be aware of the goals implicit in the theme, but, mainly, in my opinion, assume responsibility for the consequences of these goals in the actual world.

⁹⁰ Speech held when awarded the Nobel Peace Prize in December 1986.

⁹¹ Christian Stokke and Lena Lybæk, 'Combining Intercultural Dialogue and Critical Multiculturalism' (2016) 18 Ethnicities. 82.

⁹² Christian Stokke and Lena Lybæk, 'Combining Intercultural Dialogue and Critical Multiculturalism' (2016) 18 Ethnicities. 82.

⁹³ Paulo Freire, *The Politics Of Education: Culture, Power, And Liberation*. (Greenwood Publishing Group 1985) 112.

⁹⁴ Paulo Freire, *The Politics Of Education: Culture, Power, And Liberation*. (Greenwood Publishing Group 1985) 113.

⁹⁵ Cynthia Cockburn, 'Gender Relations as Causal in Militarization and War' (2010) 12 International Feminist Journal of Politics. 141.

Having said that, I do have a position in favor of a democratic education and I cannot deny that this position is influenced by my personal experience as a woman raised in a highly patriarchal society, characterized by huge diversity, deep inequalities and an unstable democracy, as many other societies in the world⁹⁶. Indeed, patriarchy, social inequality, political instability and the management of diversity characterize most of the countries in the world, being consolidated democracies, social equality, non-patriarchy and non-diverse societies the exception. Anyway, what I want to highlight here is that I am not neutral. Indeed, if backgrounds matters and everybody comes from a background, what can be done is to make it explicit. Of course, this statement does not allow me to *a priori* despise any argument, because, if I am unable to establish a fair dialogue with whom I disagree, I will defeat my own purpose, putting my own position in “checkmate”.

In this regards, strictly based on the arguments of both positions, I do need to recognize that a neutral and a democratic education are both democratic positions that do intend to improve the educational system toward the consolidation of a democratic society. For this reason, I will prefer not to call the second position as “democratic education”, inducing that neutral education is not democratic. I will prefer the term used by the Minister Barroso: an “emancipatory education”.

Hence, if both positions have a central converging aim (democracy), the dialogue will start to be constructed from the communalities between neutral and emancipatory education. This helps to see that our disagreements indeed exist but they might be smaller than we thought before. On the other hand, delimitating the object of our disagreement is also a prior step to analyze them.

1. Pluralism: convergence between a neutral and an emancipatory education

I believe that the main point that both views convergence is the indispensability of preserving pluralism for the construction of a democratic society. From the side of a neutral education, the main concern is to protect the student from a

⁹⁶ Actually, the differences are more about the dimensions of the problems, than about the existence of the problems themselves (although diversity is not a problem, but it can make things more complex).

“**monocular worldview**” (expressed when the rapporteur explains the fourth duty of the teacher, which I consider is one of the pillars of this theory). On the other hand, from the side of an emancipatory education, the preoccupation with pluralism and diversity is highlighted throughout the whole explanation, including when it is explained that children and youth should be protected against “**one-dimensional worldview**” in a school in a democratic society (item 2.6.3, Chapter 2).

In this regards, both positions agree that students should – and must - be exposed to different views for their development as human beings and also for the development of their critical reasoning.

2. Pluralism in the field of religious and moral conceptions

In the field of religious and moral conceptions, a neutral education defends that parents should decide what their children should learn, although this does not prevent schools from teaching the religious phenomenon or religious diversity, which still being open to pluralism. What is prevented is the “education” (the catechism, the confessional content) of religious and moral conceptions.

An emancipatory education agrees, to a great extent, with this concept. In Chapter 2 (item 2.4), professor Fernando de Araujo Penna states that religion itself, as a private belief, is “*a private matter in which the school should not interfere (this is the scope of application of the Pact of San Jose)*”, but, as cultural manifestation in the public space, “*no student, regardless of his/her belief, can deny to dialogue with other cultures*”. Here, there is no controversy between a neutral and an emancipatory education.

It should be highlighted that, in practice, there is no controversy, in Brazil, about the teaching of religion in its confessional aspect by public schools (the religious

teaching in Brazil is private⁹⁷) and about the teaching of religious diversity. This is why the opinion of the rapporteur states that “*what is being investigated by the bills has nothing to do with religious teaching*” (see item 1.2.1, letter “E”, Chapter 2). So, what is being investigated by bills on neutral education?

2.1. Delimitating the divergence: Gender Studies

In Brazilian context, the polemic related to religious and moral conceptions in public schools derives from the teaching about gender. The argument is that Brazilian secular State – that consensually does not teach religious confessional content in public schools – would be violating moral conceptions and religious beliefs when teaching gender.

This concern is clearly stated in the Substitutive of the rapporteur, when it provides that education will not develop teaching policies, nor will adopt school curriculum, compulsory disciplines, nor even in a complementary or optional way, that tend to apply gender ideology, the term “gender” or “sexual orientation” (see item 2.1, Chapter 1). In the same way, although with a different wording, the new Bill n° 246/2019, proposed by School without Political Party in 2019, foresees that “*The Public Power will neither interfere in the process of sexual maturation of students nor allow any form of dogmatism or proselytism in the approach to gender issues*” (see item 2.1.3, Chapter 1). This position comes from the connection that a neutral education makes between religion and sexual moral (“*a public employee (the teacher) should not meddle in the sexual development of students, having in view that sexual ethics often is intimately connected with the religious style of life*”⁹⁸) and from the interpretation of article 12(4) of Pact of San José.

Under an emancipatory education’s perspective, the State, on one hand, cannot interfere in the education that is placed within the family sphere, but, on the other,

⁹⁷ According to article 210, paragraph 1 of the Federal Constitution, the teaching of religion is optional. In practice, it does not happen in public schools.

⁹⁸ See item 1.2.1, Chapter 2.

schools are not prohibited of transmitting contents or performing activities in conflict with religious or moral convictions of parents, due to a systematic interpretation of Brazilian Federal Constitution, Pact of San José and Protocol of San Salvador (items 2.2, 2.3 and 2.4 of Chapter 2). Besides that, an emancipatory education argues very strong arguments (in my view) about the relevance of teaching gender identity at schools and the complete inadequacy of its general prohibition by law (item 2.5 of Chapter 2), which was even recognized as unconstitutional by the protective measures granted by Minister Barroso, in the Supreme Court.

3. Analysis of the teaching of Gender in Schools

In my opinion, the arguments presented by an emancipatory education in Chapter 2 are more than enough to overcome a general prohibition by law about the teaching of gender in schools. Indeed, a general prohibition would be very anachronistic and disconnected from the students' reality. Actually, school is a healthy, responsible and safe environment to discuss new things, that, inevitable, students will hear about outside the school. Also, as a matter of principle, no word that will become party of the vocabulary of students should be prohibited or forbidden in advance in schools. Silence and secrets only increase curiosity and they are tools of repression, not emancipation. As pointed out by professor João Carlos Almeida in the public hearings: "*The school is a time for socialization that prepares for the life in society; therefore, it should stimulate values and experiences that favor respect, dialogue, integration and integrity*"⁹⁹. The prohibition of a word and a subject is not to promote dialogue, which is asserted as a value also for a neutral education. In this regards, based on the reasons exposed in item

⁹⁹ João Carlos Almeida. In: Glauber Braga and others, 'Voto Em Separado Ao Projeto De Lei Nº 7.180, De 2014' (2018)
<https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BF A02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014>
accessed 13 July 2019. 26.

2.5, Chapter 2, the provisions of Bills on Neutral Education about gender should be rejected.

In this point, we should remember that, in manifest contradiction with his own reasons, the rapporteur defended the inclusion of the prohibition of gender in the law, but, then (probably in response to the provisions of Bills on Democratic Education), he said that gender is not a pacific issue, and, for this reason, it should not be object of legislation (see p. 16, Chapter 2). With this strategy, the rapporteur reserved himself the right of not facing the most difficult issues about how gender should be developed at schools and to what extent it should be seen as a matter of private morality against which students and parents can individually oppose to or disagree with, although they cannot prevent the school from teaching.

Although the opinion of the rapporteur does not face these issues, we understand that they would also be connected with the analysis of the wording proposed for the second and fifth duty of the teacher (item 2.1, Chapter 1). Based on these duties, would it be possible to argue a moral exception to the teaching of gender? Are gender identity and sexual orientation considered moral issues against which students can disagree with, for example, in the answer of an exam? Can parents choose that their children will not attend these classes because the issue of gender conflicts with their moral or religious convictions?

In analyzing these issues, first of all, I think it is important to demystify certain subjects that surround the teaching of gender to better understand the content, the aim and the reason why gender is taught in schools to, then, understand, in practice, what these parents or children would be opposing on the grounds of moral or religious conceptions. Then, we will analyze if they do have such right.

a) The myth about the social constructivist view of gender

By the description of the rapporteur (item 1.2.2 of Chapter 2), social constructivism really seems a mess, as gender would be constructed and deconstructed any time according to the will of the individual. But, what is to say that “boy wears blue and girl wears pink”, if not social constructivism of gender? Is it so far from our reality?

Indeed, in Brazil, the conservative group that criticizes (to say the minimum) the view that gender identities do not exist as a given fact derived from sex differences, but, rather, it comes into place through social interaction, is the same that supported the declaration of the Minister for “Woman, Family and Human Rights”, Damares Alves, described in Chapter 1, item 3.1, according to which boys should wear blue and girls pink, which, in my point of view, is nothing more than the traditional social construction of femininity and masculinity.

Actually, if conservatives do believe that gender, as synonymous of “sex”, is a biological imposition, why would they be concerned about the color that boys and girls should wear? In order to be consistent, they should agree that femininity and masculinity, as something “natural”, would prevail anyway, regardless of any color of clothes. **Ideologies can change ideas but do not change the nature.** Actually, their concern with these “colors” (that, indeed, are only symbols of the roles attributed to men and women in society) derives from the fact that, if those identities were not forged since the childhood, in school and in “the traditional family”, they will not exist anymore in society.

In this regards, social constructivism of gender identities does not seem so controversial and diabolic. Rather, it is a very old practice that became controversial only when it began to challenge the traditional roles of men and women in society.

b) What is the reason for talking about gender in society?

In short, the reason is that the naturalized traditional roles do not keep men and women in equal levels in society.

Indeed, the concept of gender brought the possibility of challenging the oppositional and defined positions of men and women in society, as if they were something natural, stable and pre-given. The importance of this is due to the fact that, in Brazil, as in any patriarchal society, masculine is valorized over the feminine. In this sense, a discourse that magnifies the distance between femininity and masculinity (as the one that says that boys wear blue while girls wear pink) has the direct effect of enhancing men’s authority and women’s subordination.

So, it is not about transforming boys into girls and girls into boys, but it is about recognizing that their biological differences, that indeed exist, does not justify the huge distance that was **socially constructed** throughout centuries between men and women in society. It is also about recognizing that any essentialist view of this distance as deriving from “natural” differences would stabilize this hierarchical structure, perpetuating women’s subordination, as if it were unchangeable.

c) If it is about diminishing the distance between men and women in society, what is the reason for the argument about homosexuality?

Teaching gender does not push anyone to be gay. This is a great distortion produced – in my opinion – by the difficulty of thinking outside from the logic of domination. From this logic, the claim of “not being discriminated” is read as: they want that I be equal to them and they want my children be like them (as if you need to be homosexual to understand and respect their perspective). Under this logic, both ways of being cannot live together in peace because one would inevitable dominate the other.

Having said that, what gender studies indeed say is that: there are multiple kinds of masculinities and femininities, besides the one hegemonic-culturally imposed. This is why professor Well Castilhos said that: *“To speak about ‘gender equality’ is to recognize a plurality of conceptions of man and woman, besides the one traditionally considered as ‘natural’”* (item 2.5, Chapter 2).

In this context, when gender studies recognize that “inequalities cannot be built from differences”, as a matter of coherence, it also recognizes that homosexuals cannot be excluded from some rights because they are different from heterosexual people. This is why, also in Chapter 2, item 2.5, Daniel Cara asserts that discussing the fact that homosexual is a citizen full of rights is not making proselytism about homosexuality or bisexuality.

Indeed, who does not stand with oppression, does not stand with oppression at all. Who does not stand with the suffering caused from discrimination, does not stand with any kind of discrimination. Who wants to be free, wants that everybody be free. **Who teaches respect, teaches that everybody should be respected.** In this view,

as a matter of coherence and principles – intimately related with respect to diversity and with non-discrimination – gender recognizes that the combat of oppression, violence and discrimination against women cannot be combined with the legitimization of any other form of oppression, violence and discrimination, including to LGBTs. In my view, the teaching of gender is more about non-discrimination and broad-respect than any other thing.

In this topic, it is worthy to remember the episode of the skirts of Pedro II (item 3.1 of Chapter 1), in which the school was formally accused of stimulating boys to use skirts and stimulating students to be homosexual, what was argued as evidence of the promotion of “ideology of gender” in the school. “Formally accused” means: object of investigation by the Prosecutor’s Office.

Talking about this accusation in one interview, the rector of Pedro II School stated:

“(…). This is absurd, because I would never write a text telling anyone to wear this or that. It’s not my profile. And it would be very vulgar, vile, despicable, I dedicate myself to say that boys will now wear skirt. Even because **sexuality it is not in the clothes**. Sexuality does not dwell there. **What I meant was: ‘Pedro II School respects you. Do not commit suicide, do not kill yourself, do not be unhappy at least here. We will not solve your existential crisis, we will not. But we will not contribute to increase it, we will not eliminate you, we will not segregate you, we will not mistreat you just because you have a sexual option, a sexual orientation different from the so-called majority’.**”¹⁰⁰

This statement is very symbolic of the spirit of an emancipatory education and I think that the values of this school are well reflected in the conduct of the students that organized a “saiato” in support of their friend. Boys and girls wore skirts, regardless of their sexual orientation, in solidarity to their friend. This is an attitude expected by a school that promotes an emancipatory education and, maybe, it counted on the decision, two years later, of excluding the distinction between male and female uniforms. Sincerely, I do not see any perversion here. I only can see two attitudes full of respect and solidarity for diversity, both from the part of the school and from the part of the students.

¹⁰⁰ Marília Márcia Cunha da Silva, ‘Entre Dom Pedro, partidos e saias: acompanhando a controvérsia entre o Colégio Pedro II e o Escola sem Partido’ (41° ANPOCS Annual Conference. GT 24 – Pluralismo, Identidade e controvérsias sociopolíticas, Caxambu, October 2017) 16. (free translation)

The message that I can read here is: we [school] are more concerned about how you feel than about what you wear. This is also expected from an emancipatory education.

On the other hand, I can also understand that some parents felt strange boys being allowed to wear skirts, but this does not justify, in my view, the disproportional reaction. As said by the rector in the same interview: this had more repercussion than any educational work that he had implemented in school¹⁰¹. This sounds to me an inversion of values and priorities. The feeling of strangeness is respectful as we are all, in a great extent, the result of our culture, history and experiences of life, but, from this, prosecuting the school for being pushing boys to be homosexual is not fair. I would remember to these parents that, in a very recent past, the same “social norms” that today prevent boys to use skirts, prevented girls and women to wear trousers. Indeed, the first time that I saw my grandmother using trousers was months after the death of my grandfather, because, in her view, it would be disrespectful to him if she wore trousers.

In this context, although I understand that culture forms our worldview and it cannot be despised, I also see how social norms change throughout time and that no culture is static. My point here is that trying to criminalize the new, only because it is strange in others’ worldview, is trying to prevent culture and social norms from evolving. Criminalize the new is unfair with the society and with those that thinks ahead.

Also, it is important to highlight that it was only from the colonization that trousers and skirts were culturally imposed to men and women, respectively. And also that in Scotland men use kilts. These examples will not convince parents of Pedro II, as they will easily reply: “I am not native and I am not Scottish”. It is true, but it is important to demonstrate the relativism of the social norm that prohibits boys and men from using skirts, showing that, rather than “natural”, it is merely cultural.

Actually, the non-use of skirts for boys is only one more social construction that, in Brazilian case, was not even spontaneously born inside our own society. Anyway, it deserves to be respected for those who still believing on it, but not

¹⁰¹ Marília Márcia Cunha da Silva, ‘Entre Dom Pedro, partidos e saias: acompanhando a controvérsia entre o Colégio Pedro II e o Escola sem Partido’ (41° ANPOCS Annual Conference. GT 24 – Pluralismo, Identidade e controvérsias sociopolíticas, Caxambu, October 2017) 16.

forbidden or criminalized for those that do not believe on it anymore. Society does not need only one standard. Society is plural in the individualities that compose it and differences can live harmonically in peace, without one dominating the other.

Finally, I would like that society could see more love and respect and less crime and pervasion in this episode. More openness and less prohibition. This is why I would like more emancipatory and less allegedly “neutral” education (mainstream is not neutral).

d) Is gender against family?

No. Actually, people that do not fit in the traditional family respect so much the “family” institution that they also want to be recognized as family. One episode of this struggle in Brazil was the recognition of the civil marriage of people from the same sex by the Supreme Court in 2011. And this is not only a matter of recognition of civil rights - what is indeed important. It is also a matter of recognizing that there is not only one standard of love and that all forms of love are legitimate because there is no plausible reason for differentiation.

So, “ideologues of gender” do not want to attack family, they only want a more inclusive “family”, in which they can also be recognized as one. Indeed, in terms of “attack”, the violence (even physical) comes from the defenders of a “traditional family” against “ideologues of gender”, not the opposite.

Some more rational arguments could be developed here regarding “family”, the “republic” and the “Western Civilization” (and here I am making reference to some arguments raised by the rapporteur in item 1.2.2 of Chapter 2), but, to be brief, let’s think about the so many kinds of non-traditional families, including the uniparental one (non-traditional family here means the one that is not composed by the marriage of man and woman). Are they something less than the traditional one? Do they not deserve to be protected by the republic? Why? How would somebody explain the point of view of a neutral education for a child that was not born in a “traditional family”? Is it “civilized” to stigmatize this child or force he or she to hide “private secrets” in order to deserve “social respect” in the “Western Civilization”?

One perspective is exclusive and the other inclusive. We shall always keep our commitment with the inclusive one, because we should refuse to stigmatize anyone, especially children who may have being born and raised in so many different kinds of non-traditional families, as an anomaly.

The rule should be: every social norm that is imposed by the society needs to be questioned from the perspective of whom is not included on it. And we should ask ourselves: how should they feel? Does the reason that justifies this social norm justify also the suffering of those who are excluded from the standard? And more: Does accepting the difference change who we are as individual? I am pretty sure that our individuality is preserved regardless of accepting the individuality of whomever. That is why I think we should always try hard to preserve an inclusive and not exclusive perspective.

e) Why is it important to talk about gender in schools?

First, schools are not immune to the hierarchical structure of gender. As a central institution in society, it implicitly (and sometimes explicitly) reproduces this hierarchy, perpetuating the social norms that frame a patriarchal society.

Actually, family and schools are the first stage in which these social norms are applied and taught. Together with the family, it is at schools that students learn the social expectations that will drive them throughout their whole life. This is what means to say that gender identities, masculinity and femininity, derives from social construction and do not exist prior social interaction, but rather are outlined by them. And this is why Minister Barroso highlighted in his decision (Chapter 2, item 2.5) that school - next to the family – is identified by researchers as the place where transsexual and homosexual children and young people suffer homophobic discrimination for the first time (being the colleagues of school one of the main perpetrators of such acts), concluding that it is at school where the naturalized cultural standard is identified as the “normal” behavior, where their divergent conduct is labeled as “abnormal” behavior and where stigma is naturalized.

In this sense, the debate about gender in school is not a deviation of what means to be boy and girl, but **a critical thinking of the stereotypes that are ascribed to boys and girls** and with which they will have to comply during their lives if they want to be considered “normal”.

School, by perpetuating a “normal” standard, has the consequence of pointing some boys and girls with the cruel stigma of being themselves a deviation, while the debate about gender, by itself promoting the deviation of this standard, has the **inclusive approach of considering all girls and boys as equally “normal” in their different ways of being**, because there are indeed different ways of being besides the one dictated by the mainstream. These differences already appear in the period of school and it is at schools that students need to learn to respect them.

It should be noted that homosexuality has always existed. The difference is that, in the past, it was crime and, today, crime, in Brazil (but not only)¹⁰², is to be homophobic. The problem is that stereotypes, as a reflection of deep-rooted preconceptions in a society, tend to last in the mindset of the society even when legal norms are reformed with the aim of overcoming a specific discrimination, such as it is the case of the crimes of racism and homophobia in Brazil. In this sense, there are stereotypes that still implicit in social practices despite the fact that it is not expressly accepted anymore by the society or it is even expressly rejected, such as when it is criminalized.

Schools committed with social transformation should address these social changes. And here it is another important difference between a neutral and an emancipatory education: while a neutral education defends that the omission by the school in this matter would mean neutrality, an emancipatory education recognizes that, in a patriarchal society such as the Brazilian one, silence means reinforce prejudices and stereotypes and this is why gender should be taught at schools: because this reality must be changed, as changed must be any kind of discrimination. This is why Minister Barroso

¹⁰² A survey made by the International Lesbian, Gay, Bisexual, Transgender and Intersex Association – ILGA (Report of State-Sponsored Homophobia 2017) shows that 43 countries - 23% of UN members - already have laws against hate crimes motivated by the sexual orientation of the victim. Available at: 'STF Aprova a Criminalização da Homofobia' (*BBC News Brasil*, 2019) <<https://www.bbc.com/portuguese/brasil-47206924>> accessed 13 July 2019.

stated that: “*the mere silence of the school in this matter, the non-identification of the prejudice, the omission in combating the ridicule of the identities of gender and sexual orientation, or in teaching the respect for diversity, is replicator of discrimination and contributes to the consolidation of violence against homo and trans children*” (Chapter 2, item 2.5).

Specifically in the Brazilian scenario, it is worthy to remember that one of the fundamental goals of the Federative Republic of Brazil, described in article 3, item IV of the Federal Constitution is to “*promote the well-being of all, without prejudice as to origin, race, sex, color, age and any other forms of discrimination*”. So, the alleged “neutrality” here, by perpetuating the *status quo* of discrimination (and, in this point, I believe that the data showed in Chapter 2 is enough to characterize the situation of discrimination in Brazilian society), does not comply with the constitutional mandate, which, in Brazil, is indeed a legal norm, as it will be demonstrated in letter “g”, below.

For all these reasons, it is important to emphasize: **not talking about gender is not neutral. It is taking a position, it is replicating, uncritically, the traditional standard and, behind this, the traditional structure of power (patriarchal society) that put this standard into place.** The teaching of gender comes to change this situation in schools, in compliance with its role of cultural transformation.

f) **What is the aim of teaching gender?**

As the content of the classes can vary and we do not want to open the discussion about a curriculum of gender, we will highlight the aim of these classes. If, in practice, a specific curriculum or a specific class is not appropriate or proportional to achieve this aim, it should be reviewed on the ground that it is not adequate for its ends but not on the grounds that the teaching of gender is inadequate.

Indeed, the primordial aim of gender classes is to avoid that students replicate social norms that frame a patriarchal society. It is about a democratic remaking of gender practices, concerned about undoing hierarchical gender relations. Based on this, among other issues, gender studies at school promote a debate of the role of man and women in society and make boys and girls aware of the diversity of masculinities and

femininities that exist in the world, as aware they should be about any other kind of diversity. In this scope, Connell points out that the plurality of gender patterns prefigures the creativity of a democratic social order, stating the following:

For men, the democratic remaking of gender practices requires persistent engagement with women, not the separatism-for-men which is strong in current masculinity politics. The ‘gender-relevant’ programmes now attempted in schools, which do not necessarily segregate boys and girls but attempt to identify gender issues and make them the subject of conscious debate, are important examples. Educational and social action must be inclusive in another sense too, responding to the differing cultural meanings of gender and the different socioeconomic circumstances in which students live. A programme apt for suburban middle-class students may be very inappropriate for ethnically diverse inner-city children in poverty, or rural children living in villages¹⁰³.

To make shorter this explanation, I would like to highlight the content of some posters written by students that, in my point of view, are very representatives of the meaning of an emancipatory education and the teaching of gender. Sometimes, the results reflected in the action of students say more than a hundred words. In this sense, as a result of an event in Pedro II School that debated democracy and the “culture of rape”, among other issues, students wrote some posters, the majority of them with generic criticisms to the society and to what students understood as machismo and homophobia. I will highlight three: “*Do not teach the woman to repress herself, teach the man to respect her*” ; “*My body my rules*”; and the last that, personally, I consider a main distinction of perspective that an emancipatory education envisages and that I think it passes unnoticed by a neutral education: “*It's not hate, it's lack of love*”.

Having said all that, can parents or students oppose to the teaching of gender based on moral and/religious grounds? I will argue that they cannot.

g) Why do I understand parents or students cannot individually oppose to the teaching of gender based on moral and/or religious grounds?

In sum: discrimination based on gender (against women and LGBT) still exists in Brazil, despite the fact that it is not accepted anymore by law. This is the same

¹⁰³ R. W Connell, *Masculinities, the Reduction of Violence and the Pursuit of Peace*. 40.

with racism. Would someone be able to argue a moral exception to not attend a class about racism? I don't think so. For the same reason, they cannot oppose to gender class. And the fact that we do have problems (which means that prejudices do exist against gender) make more necessary the obligatory attendance to such classes, **otherwise, I would be agreeing that prejudice could be now a respectful moral conception.**

As I said before, the teaching of gender is intrinsically connected with the concept of respect to diversity and non-discrimination. If nobody can argue as a right to be racist, homophobic and sexist or to discriminate poor people, any religious believer or the member of any other social vulnerable group, parents do not have the right of taking out their children from the classroom because they disagree with these concepts and, if the student, during the class, manifest himself/herself in a different way, it is a duty of the teacher, as agent of the state, to demonstrate that woman, homosexual, black, poor, the believer of any religion or the member of any other social vulnerable group is entitled to the same respect that anyone else. In this case, as an agent of the State, the teacher is not “indoctrinating”, but they are complying with the aims of the republic and with the fundamental rights described in the Federal Constitution that are indeed legal norm, as the Supreme Court made unquestionable this month (**June/2019**).

Actually, Brazilian Supreme Court decided that the concept of racism should be applied to discrimination against LGBTs¹⁰⁴, in order to give effect to and comply with a direct constitutional mandate that reprimand all forms of prejudices. The importance of this is because racism is crime in Brazil and, after this judgment, homophobia is also crime. The Supreme Court not only reaffirmed that the Federal Constitution is indeed legal norm, but said, by 8 votes to 3, that, as a constitutional court, it has the duty of suppressing the omission of the Legislative in complying with this legal norm. So, from now on, the conduct of discrimination against LGBT is punished by the Act of Racism. The decision was based on a previous judgment of the Court that, in 2003, considered anti-Semitism also a kind of racism.

¹⁰⁴ STF, ADO 26/DF, Rel. Min. Celso de Mello, decision issued on June 13, 2019.

According to Minister Celso Mello: “[T]he notion of racism as an instrument of inferiorization and subjugation of certain people by a hegemonic group prevailed”¹⁰⁵. Minister Cármen Lúcia stated that a “social disease” of intolerance to gender patterns and sexual orientation contaminates the coexistence, pointing out that the identity of a person should not be used as a "pretext for unequal rights". The following excerpt should be highlighted for having direct connection with what is being discussed herein:

"The matter reflected in this case is made up of suffering and pains for not being able to live or at least having to live the life with a permanent confrontation of unacceptability and intolerance and acts of indignity and of permanent indignation, for not adopting a model that someone or a group claimed to deserve respect and be the right, as if the human being had form".

Human beings have no form is the best synthesis for this debate, which is also intrinsically related with democracy. This is because all the politics of a country is a reflection of the social norms that constitute the society. Any political institution is composed by human beings and their political choices are determinate by the social norms they interiorize. In this regards, a discourse that only accept the traditional conception of man and women in society is nearer to authoritarianism than a discourse about gender, which has a more democratic perspective.

The decision of Brazilian Supreme Court reinforces the understanding that **discrimination cannot be argued as moral exception**. There is a right answer and the right answer is: without prejudice due to the origin, race, sex, color, age, and any other forms of discrimination. But, of course, the defense of this point of view demands coherence and consistency. The State cannot discriminate, for example, a religious group and use this argument only against them. This is why the summary of the judgment (the whole judgment is not available yet, as it was concluded in June 13, 2019) provides the following regarding freedom of religious:

¹⁰⁵ The vote is not available yet, because the judgment was concluded on June 13, 2019, but this excerpt as well as the excerpts of the other ministers during the judgment highlighted below were extracted from: 'STF Aprova A Criminalização Da Homofobia' (*BBC News Brasil*, 2019) <<https://www.bbc.com/portuguese/brasil-47206924>> accessed 13 July 2019.

“The penal repression of homotransphobia does not attain or restrict or limit the exercise of religious freedom, regardless of the confessional denomination, whose faithful and ministers (priests, pastors, rabbis, mullahs or Muslim clerics and leaders or celebrants of the Afro-Brazilian religions, among others) are guaranteed the right to preach and freely spread by word, image or otherwise, their thinking and to express their convictions according to what is contained in their books and sacred codes, as well as to teach according to their doctrinal and/or theological orientation, being able to seek and acquire proselytes and practice the acts of worship and their liturgy, **regardless of the space, public or private space, of their individual or collective action, provided that such manifestations do not configure discourse of hatred, thus understood those exteriorizations that incite discrimination, hostility or violence against people on the grounds of their sexual orientation or gender identity**”¹⁰⁶.

From this excerpt, it is possible to conclude that broad freedom is guaranteed in terms of freedom of religion in Brazil. The limit is: “exteriorizations that incite discrimination, hostility or violence”.

Having said that, what should be done in the concrete case, in which parents argue religious belief against the principles of gender-based teaching? For example: if, after reading one of the posters in Pedro II schools that says “*Do not teach the woman to repress herself, teach the man to respect her*” or “*my body my rules*”, parents argue that, according to their religion, their daughter should be “demure” and that this kind of public education is hurting their religious conceptions, could they ask the school for her daughter not attending these classes? My answer to this request would be no, because it is the role of the school to expose the student to different worldviews and amplify their informational universe. In this case, the girl will learn at home that she should be demure and at school she will learn that she is not obliged to be demure to deserve respect. But she will also learn that she is free to make her choices and nobody is entitled to judge her choice, because to be demure is not a crime and she is not discriminating anyone that is different from her if she choose to be demure. Of course, she cannot answer in an exam or write in an essay that a woman gave reasons or deserved to be raped because she was not behaving in a demure way or because she was using a very small skirt (because it is a discriminatory approach that justifies violence against women), but she can behave in a demure way and cover her body if she wants. This is diversity and this, in my perspective, is to live in peace with differences.

¹⁰⁶ STF, ADO 26/DF, Rel. Min. Celso de Mello, decision issued on June 13, 2019. (free translation)

I hope having convinced that the scope of teaching gender is not telling anybody to be anything. However, if parents are concerned that, without repression, their son or daughter will become homosexual, this is not a reasonable justification for denying to the student the information that homosexuals have rights recognized by law, including civil marriage, and that crime is homophobia, not homosexuality.

And how an emancipatory education would deal with hate speech? As stated in item 2.6.3 of Chapter 2: hate speech is not an opinion, discrimination and oppression are not forms of exercise of freedom, violence is not acceptable and difference is not a problem. So, teachers should not accept any kind of hate speech as an opinion of the student based on political, ideological, moral and/or religious convictions. This is not “indoctrination”, this is to recognize that discrimination and non-respect by diversity is a wrong answer in the classroom. Of course, the aim here is not to criminalize anything, but to teach, as the teacher (and the school, because there are issues that the teacher cannot solve alone inside the classroom) would do with any other subject. There is not neutrality here. There is a manifest political choice against all forms of discrimination.

For all these reasons, in my opinion, gender is not a matter of private morality or religion belief against which students and parents can individually oppose to or disagree with. Also, it is important to highlight that we need to ensure that schools fulfill their roles of cultural transformation, deconstruction of stigma, promotion of equality and full protection of children and young people, including those that can become the potential victims of students that refused to attend these classes. If students or parents could voluntarily oppose to the teaching of these issues, the demanded cultural transformation would be undermined.

4. Deconstructing stigmas, stereotypes and prejudices (in general, not only about gender). The transformative role of education.

The summary of the judgment of the Supreme Court referred above explains racism in its social dimension on the following terms:

“The concept of **racism**, understood **in its social dimension**, is projected beyond strictly biological or phenotypic aspects, **as it results, as a manifestation of power, from a historical and cultural construction**

motivated by the objective of justifying inequality and destined to ideological control, political domination, social subjugation and the denial of the otherness, of dignity and of the humanity of those who, **because** they are part of a vulnerable group (LGBTI +) and **do not belong to the social sphere that holds a position of hegemony in a given social structure**, are considered strangers and different, degraded to the marginal condition of the legal system, **exposed, as a result of odious inferiorization and perverse stigmatization, to an unjust and harmful situation of exclusion** from the general system of protection of the Law”¹⁰⁷.

As recognized by the Supreme Court, racism in its social dimension has historical-cultural roots and is part of the legitimizing discourse of a power structure destined to political domination and social subjugation. In a recent past, this discourse, in my country, legitimized genocide of indigenous people and slavery of afro-descendent. This discourse also institutionalized huge social inequality and a very strong patriarchy. And this was not a particularity of Brazil, considering, as explained by Cynthia Cockburn, that in different periods of history, in different places of the world, a “civilized society” was established by structuring power in three main dimensions: class, race-ethnicity and gender¹⁰⁸. Also according to her, this structure was based on a discourse that constituted a self in relation to an inferiorized “Other”, as a justification for violence, oppression and exploitation¹⁰⁹. Indeed, dividing people and pointing the “Other” as inferior is a very old well-known strategy.

The problem is that, today, although the denial of dignity and humanity is not expressly accepted anymore by law, the same inferiorized and stigmatized groups continue to be the target of prejudice, discrimination, violence and social-inequality. Somehow, the discourse persists in the mindset of society (otherwise we would not have the problems described in Chapter 2), and, with this mindset, no dialogue, no social project and no public police promote a deep social transformation.

In this context, Brazilian Supreme Court criminalized the conception of inferiorization and subjugation of a certain group by another, but, despite the huge importance of this decision – and, indeed, it is very important in the moment we live in

¹⁰⁷ STF, ADO 26/DF, Rel. Min. Celso de Mello, decision issued on June 13, 2019. (free translation)

¹⁰⁸ Cynthia Cockburn, ‘Gender Relations as Causal in Militarization and War’ (2010) 12 International Feminist Journal of Politics. 151.

¹⁰⁹ Cynthia Cockburn, ‘Gender Relations as Causal in Militarization and War’ (2010) 12 International Feminist Journal of Politics. 151-2.

Brazil – we all know that is not by criminalizing conducts that we promote cultural transformation. The widespread discourse of inferiorization has historical-cultural roots so we do need cultural transformation. **It is here that the importance of an emancipatory education arises.**

Schools need to be committed with deconstructing stereotypes, stigmas and prejudices. This role is considered as a main concern for an emancipatory education, when it says that: “*a school for a democratic society should **combat prejudices, false certainties that produce hatred, stigma, segregation, exclusion and violence (...). This school should problematize the prejudices that exist outside and inside it in order to be deconstructed (...)**” (Chapter 2, item 2.6.3).*

In this regards, from an emancipatory education’s perspective, the point is not so much about teaching how to deal with diversity in peace. It is more about deconstructing the false certainties (stereotypes, stigmas and prejudices) that impede us, as human beings, to deal with diversity in peace. World is full of diversity and this is not a threat. **Stereotypes, stigmatization and prejudices are, indeed, a threat to live in peace, preventing the social transformation of a situation of inequality.**

Actually, any fault from a member of a stigmatized group (which is also a fact of life because no human being is perfect, regardless of race, religion, gender, class or geography) reminds the other group of the stereotype, preventing people from working together and transforming the reality. **Keeping segregated from each other, social transformation does not happen**, and when projects with this aim happen, they do not efficiently work (at least not in its full potential, with deepest impacts), and the group responsible for disseminating this discourse maintains the *status quo* and the structure of power in which they are hegemonic. **This is why we should always question ourselves about normalized discourses that divide us as human being: does this difference justify that division?**

For example, a discourse that increases the distance between people but continues being uncritically replicated in a structural manner (even in the developed world) is that “poor people are lazy”, which implicitly means that poverty is deserved.

Laziness, here, is artificial, not because there is no poor people lazy, but because there is also rich people lazy. Actually, poverty has multiple causes, but the false discourse of laziness, at the same time that justifies huge social inequalities, hides social privileges and protects the maintenance of an unequal structure, preventing social transformation.

Actually, **discourses that create divisions and separate people tend to be artificial constructions that hides relations of power.** This is what an emancipatory education calls by “*false certainties that produce hatred, stigma, segregation, exclusion and violence*” and this is why an emancipatory education says that “*inequalities cannot be built from differences*”. Differences are a fact of life, but the discourse of inequalities that are constructed from these differences, in general, says, implicitly, that one group is superior and the other inferior, what is not true.

In this sense, we can understand that (i) an emancipatory education, (ii) Cockburn and (iii) the Supreme Court are talking about the same thing when they say, respectively: “*false certainties that produce hatred, stigma, segregation, exclusion and violence*”, “*discourse that constituted a self in relation to an inferiorized ‘Other’*”, and “*racism in the social dimension*”. These are the things that an emancipatory education is concerned to deconstruct in society.

The recognition of the role of deconstructing prejudices, stereotypes and stigmas by schools is also linked with what Cockburn says about the outbreak of violence be only the tip of the iceberg¹¹⁰. Indeed, building peace means constructing a fair society in terms of race-ethnicity, social class and gender, and deconstructing discourses that segregate and inferiorize the “Other”.

Under a “neutral education”, these discourses are not critically assessed and they tend to be uncritically naturalized and internalized by students, who do not even realize that they are learning false stereotypes and false certainties that will prevent them from interact comfortable with different groups and promoting social changes. They

¹¹⁰ Cynthia Cockburn, 'Gender Relations as Causal in Militarization and War' (2010) 12 International Feminist Journal of Politics.147.

internalize that inequalities are automatically built from differences, and, in this way, they divide themselves automatically.

In this regards, an emancipatory education critically assesses these prejudices and stereotypes, questioning the artificial constructions that, at the end, has the impact of dividing and segregating, while hiding interests that prevent social transformation. In the expression of the Supreme Court, an emancipatory education recognizes the existence of racism in its social dimension and the transformative role of education to deconstruct it.

Actually, there is no freedom (freedom of consciousness) when human beings are mentally imprisoned by prejudices, stereotypes and deep-rooted preconceptions that they uncritically replicate. All members of the society, regardless of being from the targeted group by the stereotype or from the one protected by its construction (the same person can be the target of one stereotype and from the group protected by other stereotype) lose freedom and suffer from this, though in a different way. This is why an emancipatory education is intrinsically connected with the development of the human being: **freedom is a necessity of the human being**. Any kind of oppression or repression is a deviation of this freedom.

5. The values of an emancipatory education in practice: UERJ

In the example presented herein, I intend to demonstrate how some concepts expressed in the previous item worked when students were exposed to diversity in the academic environment and also to an artificial discourse that intended to divide them, between quota and non-quota, with the potential of segregating students from quotas. My intention is to highlight (i) the fact that students did not divided and segregated themselves, not creating inequalities from differences; and (ii) the capacity of comfortably interacting with different racial and social groups in a public university.

They recognize that the resistance against an artificial discourse of segregation is also an act of freedom for both sides: quota and non-quota.

The example is from the faculty of law of the University of the State of Rio de Janeiro (hereinafter, “**UERJ**”) where affirmative policies were implemented in 2002. The programme of affirmative action (the “quota system”) establishes a system of quotas in the public exam for the admission in the university, applying social and racial origin’s criteria (among other specific cases). Although this is a very controversial programme around the world, my scope here is not to analyze the “quota system” itself, but the behavior of the students in an environment full of diversity.

I will begin presenting this issue by the content of an open letter wrote by representatives of the students (the academic center) to Minister Luis Fux from the Supreme Court (also a former student and professor of the faculty, as Minister Barroso) in the scope of a judgment that analyzed the constitutionality of racial and social quotas in another university, the University of Brasília¹¹¹. This judgment occurred in 2012 in the Supreme Court, 10 years after the establishment of the quotas system in UERJ. Some excerpts of the open letter were read by Minister Fux during his vote in the judgment¹¹². We highlight the following paragraph:

“The growth of racial hatred, in turn, which many have claimed to be inevitable in a system where there would be ethnic distinction for entry into higher education, is not at all noticeable in our academic environment. On the contrary, we note that the diversity that we live in our university environment and that reflects, in fact, Brazil, allows an enrichment of our academic and personal formation that, to date, has no equivalent in institutions that do not adopt the system”.¹¹³

This letter (see more details in Annex 3) affirms the values relating to diversity that an emancipatory education defends, verified in 10 years of experience of social and racial quotas in UERJ. Besides this letter, Minister Fux made other reference to UERJ in this same judgment, regarding the movement created by students in 2005, as an answer to an episode in which, during a sporting competition among faculties of Law

¹¹¹ STF, ADPF 186/PR, Rel. Min. Ricardo Lewandowski, decision issued on April 26, 2012.

¹¹² The letter is dated on 25 April 2012. Other excerpts of the letter are in Annex 3.

¹¹³ “O Congo Da Uerj”, A Carta Lida Por Luiz Fux - GGN' (GGN, 2019)

<<https://jornalggm.com.br/cultura/costumes/clone-de-o-congo-da-uerj-a-carta-lida-por-luiz-fux/>> accessed 13 July 2019. (free translation).

(“jogos jurídicos”, that means “legal games”), students from a traditional private faculty of Law called students from UERJ of “Congo”, during a game, while imitating monkeys¹¹⁴, in a clear racist act against students from quotas.

In response, UERJ’s students, as a group and not as a division between quota and non-quota, replied: “A UERJ é o Congo” (UERJ is Congo). Until today, more than 10 years later, this is how students from UERJ (all of them, regardless of quotas, color of skin or social class) present themselves in the “jogos jurídicos”. “*UERJ é o Congo*” is the slogan written in their sports clothes and it is what is sung in the lyrics of their songs. About the history of “UERJ é o Congo”, students wrote that all law students from UERJ united and reversed the meaning of the song, which turned to be a cry of love, **freedom** and exaltation¹¹⁵, affirming that UERJ has as its greatest heritage to be the Republic of Congo¹¹⁶. This is not about the reversal of stigma by a discriminated group, rather it is about the union of all students (regardless of any artificial division) against a social problem: racism and discrimination.

The representativeness of the movement was remembered by Minister Luis Fux during the judgment of the Supreme Court in 2012: “(...) *UERJ, in the “jogos jurídicos”, is called “the Congo”; it is Congo, because Congo wins everything (...) in this case prevails pride instead of fear (...)*”¹¹⁷. This statement is more about an emotional memory, but it is not difficult to image the feeling of students that, despite all difficulties, saw that “UERJ é o Congo” have reached the Supreme Court. They felt they could change the discriminatory and racist world where they live.

My intention here is not to idealize anything, because reality still very difficult. The problem is structural and the struggle to overcome racism is long and

¹¹⁴ ‘A UERJ E O CONGO – Porta De Cadeia’ (*Porta de Cadeia*, 2019)
<<https://portadecadeia.com/2018/05/01/a-uerj-e-o-congo/>> accessed 13 July 2019.

¹¹⁵ ‘A UERJ E O CONGO – Porta De Cadeia’ (*Porta de Cadeia*, 2019)
<<https://portadecadeia.com/2018/05/01/a-uerj-e-o-congo/>> accessed 13 July 2019.

¹¹⁶ ‘A UERJ E O CONGO – Porta De Cadeia’ (*Porta de Cadeia*, 2019)
<<https://portadecadeia.com/2018/05/01/a-uerj-e-o-congo/>> accessed 13 July 2019.

¹¹⁷ STF, ADPF 186/PR, Rel. Min. Ricardo Lewandowski, decision issued on April 26, 2012. 100. Available at:
<<http://redir.stf.jus.br/estfvisualizadorpub/jsp/consultarprocessoeletronico/ConsultarProcessoEletronico.jsf?seqobjetoincidente=2691269>> accessed 13 July 2019.

complex¹¹⁸. But, in the middle of this “social disease”, I can say that there is no racial hatred in UERJ. I can say that UERJ’s students comfortably transit and interact with different social and racial groups. Until today, some politicians insist that racial quotas increase hatred, but students do not let this speech about hate penetrate: they do not divide and do not segregate themselves. More than the management of diversity, students embrace diversity. This example also reminds me of what Ted Cante said about moving “beyond our personal identity”¹¹⁹. When all students affirm being Congo, they are moving beyond their individual identity, but not in the direction of the mainstream, but in the direction of the historical-culturally discriminated identity, which they do not recognize as inferior. This makes a difference in the struggle against discrimination.

6. Political-partisan propaganda, students unions and demonstrations

Regarding the accusation of political indoctrination of students, I understand, from the ideas exposed in Chapter 2, that, under both perspectives (neutral and emancipatory education), teachers should not prevent themselves from discussing the themes pertinent to the interpretation of reality (political, sociocultural and economic issues) in which students are inserted, although they should do this under a non-partisan approach.

According to a neutral education, partisan propaganda should not be confused with the simple announcement of political and ideological ideas. The teacher is allowed to do the latter, but not the former. I understand that an emancipatory education defends the same concept, as stated in item 2.6.4, Chapter 2: “*it is agreed that the teacher should not make political-partisan propaganda in the classroom, but this does not mean that it is not appropriate to discuss contemporary political issues in the classroom*”.

¹¹⁸ 'Racismo Nos Jogos Jurídicos: Até Quando?' (*Geledés*, 2019) <<https://www.geledes.org.br/racismo-nos-jogos-juridicos-ate-quando/>> accessed 13 July 2019.

¹¹⁹ Marco Antonsich, 'Interculturalism Versus Multiculturalism – The Cante-Modood Debate' (2015) 16 *Ethnicities*.

The disagreements between both perspectives appear when a neutral education defends the prohibition of students unions to promote political-partisan activity (Bill 246/2019) and that teachers should not urge students to take part in demonstrations, marches and public manifestations (“third duty of the teacher”).

Under an emancipatory education, teachers do should encourage (not urge) students to manifest themselves in all democratic ways in public space, including the participation in democratic demonstrations, because, for an emancipatory education, it is essential that the student feels capable of changing the world in which he/she is inserted. As highlighted by an emancipatory education (see item 2.6.4 of Chapter 2), schools should educate so as to awaken students to political engagement. This does not mean “urge students to do something”, because, by an emancipatory education perspective, the awakening of students to political engagement should be done without any type of imposition of ideas neither by teachers nor by authorities nor by families (see item 2.6.4 of Chapter 2).

On the other hand, the awakening of students to political engagement – central to the building of a democratic society – is undermined when a neutral education defends the prohibition of students unions to promote political-partisan activities, under the justification that this prohibition aims to prevent the risk of instrumentalization of these entities by political parties. Here, I remember the words of Minister Barroso: “*The excess of protection does not emancipate, the excess of protection infantilizes.*”¹²⁰

Also, there is an important difference that should be made in this case: one thing is preventing schools and teachers from making political-partisan propaganda (which is not controversial) and other thing – that should not be put together – is the free association of students in political-partisan activities.

I confess that here is my strongest exercise of seeing Bills on a Neutral Education as a democratic option for education. In democracy, students indeed can organize themselves to develop political-partisan activities at schools, at the university, at

¹²⁰ STF, ADI n° 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017. 24.

home or anywhere. It derives from their right of free association (article 5, item XVII of the Federal Constitution).

It is scaring that defenders of a neutral education justify this prohibition by saying that they are “merely” making explicit the complementation of a disposition that guarantees the right of students to organize themselves “*as autonomous entities representing the interests of secondary students for educational, cultural, civic-sports and social purposes*” but not political purposes. Actually, they use the literal interpretation of a law enacted in **1985**, in the same year that the military dictatorship formally ended in Brazil (read: in the very beginning of the re-democratization process) to justify this prohibition. Under a historical interpretation, it is clear that this provision, at the time, was an advance, a progress, because, under a dictatorship, no form of association was allowed, even “cultural, civic-sports and for social purposes”. Actually, schools and university are the first place to be the target of censorship under authoritarian regimes. But, as we know, re-democratization is a long process, and right after its beginning, it was not possible to provide explicitly that students could organize themselves as autonomous entities for political purposes.

Also, it should be noted that the main event of the re-democratization process was the promulgation of the Federal Constitution in **1988**. In this sense, all laws enacted prior to 1988 need to be interpreted in accordance with the principles of the current democratic Federal Constitution in order to be considered in full force and effect (what means to say that they need to pass through a “constitutional filter”).

So, I have no doubt that, based on the right of free association provided in article 5, item XVII of the Federal Constitution, the mentioned provision, that literally shows highly authoritarian inclinations, includes political purposes. The “perversion” and “immorality” here, in my point of view, is the argument used by the defenders of Bills on Neutral Education that they are “merely” making explicit the complementation of a provision manifestly derived from an authoritarian regime.

They also use the argument that, having in view that students unions also develop their activities in school, the prohibition would also meet the constitutional

principle of impersonality. What they are saying is that students at schools should also be impersonal, they cannot defend their political ideas at schools, or their political party, they cannot manifest the candidate they want to vote in the next election, they cannot make campaign of their candidate at school.

Of course, inside the classroom, during the classes, it is not appropriate, but what is the sin if students, without disturbing the discipline of the school, organize themselves to manifest their support for a specific political party? Although I agree that students should not convert schools into political-partisan stage, I cannot agree that they are forbidden of manifesting themselves in this regards and freely associating with this purpose.

In any case, the regular operation of the school and the right of other students who do not want to participate or who have another political-partisan choice should always be preserved, but a general prohibition by law is repression. In my opinion, schools should not be a hermetic and artificial environment and students do not need to pretend be impartial or neutral at school.

If I admit the authoritarian character of part of Bills on Neutral Education, is it possible to read the rest as a democratic proposal? Sincerely, I do not believe that a theory can be partly authoritarian and partly democratic. An authoritarian inclination contaminates the whole, because, indeed, it reflects the worldview behind the entire proposal. Being democratic is also a matter of principles and it demands consistency.

7. Education as a political act: there is no neutrality.

According to a neutral education, the principle of “pluralism of ideas” should prevail when dealing with political themes. The disagreement starts when a neutral education links pluralism with neutrality and impartiality, saying that teachers should make available for students the knowledge of the main academic theories, acting

with the maximum of neutrality. In support of this view, a neutral education asserts that public schools, as part of the Public Administration, are subject to the constitutional principle of impersonality and that the use of the state machine for the dissemination of political or ideological conceptions is incompatible with the principle of political and ideological neutrality of the State, with the republican principle, with the principle of isonomy (equality of all before the law) and with the principle of political pluralism and pluralism of ideas.

Firstly, we make reference to item 2.6.4 of Chapter 2 that explains how an emancipatory education deals with the problem of ideological harassment in the classroom. Nobody seriously defends that teachers can manipulate students by denying information and not presenting them the main academic theories about a subject. The problem is that, in the most controversial topics (the ones that gave rise to Bills on Neutral Education), “main academic theories” are not “neutral” concepts. For example, under a neutral education, gender identity should not be considered a “main academic theory” subject to pluralism, but a moral-religious conception¹²¹. Because of that, general statements that seem in a first glance obvious and neutral, but, at the end, hide highly controversial assumptions (such as the fourth duty of the teacher) should be avoided. The simplification of complex situations in apparently inoffensive words (such as boys wear blue and girls wear pink) is a very well-known strategy of populism.

Regarding the argued principle of impersonality, the correct meaning of this principle is that a public servant should not benefit someone motivated by personal reasons. As a public servant, I cannot treat someone different because he or she is my friend. This has nothing to do with the treatment of political or ideological conceptions with impartiality by the state or its agents. Political-ideological choices can be done, as far as they are motivated by public reasons. In the case of teachers, they can give more importance to one theory than to other motivated by academic reasons. The principle of impersonality here is completely inadequate.

¹²¹ As an example of the lack of neutrality, the rapporteur himself, who supports the view of gender as a moral-religious conception when he votes for the prohibition of its teaching in schools; refers to gender as an “ideological-political implementation” when he rejects the provisions of Bills on Democratic Education about gender (see item 1.2.2 of Chapter 2).

In addition, as affirmed in item 2.1.1 of chapter 2, the state is not ideologically neutral (nor its agents or institutions). In Brazil, the Constitution provides the fundamental goals that the Federative Republic of Brazil should pursue. Indeed, state's agents should not pretend their acts are not directed toward one direction. An emancipatory education expressly says that schools have transformative roles. This is, expressly, not to be neutral. If this role of transformation is moved toward the goals that the Federative Republic of Brazil should pursue, namely (i) construction of a free, just and solidary society, (ii) national development; (iii) eradication of poverty and reduction of social and regional inequalities, and (iv) combat of all forms of discrimination, there is no violation to the republican principle. This is why the Supreme Court decided that homophobia is crime despite the inertia of the Parliament: because they have the constitutional mandate of combat all forms of discrimination. There is no neutrality here.

The problem of a discourse that defends neutrality derives from the fact that the *status quo* is not neutral. Political, cultural, social and economic choices are hidden under a neutral discourse. As highlighted by Minister Marco Aurelio, in the case of the mentioned judgment by the Supreme Court, “*The numbers (of cases of violence against LGBTs) are ignored by the public power because legislators cling to conservative standards and, when they do not legislate, they make a political choice*”¹²². Even an omission is a political choice.

In my opinion, neutral education, by defending neutrality and impartiality, is trying, in practice, to prevent progressive theories to gain space. By doing so, they are defending the maintenance of the *status quo*, which is not neutral and is also grounded in an ideology. However, with this strategy, they prevent the establishment of a fair dialogue and an open debate in society.

In this regards, I see the present debate about neutral and emancipatory education as a discussion between conservatives, that want the maintenance of the *status quo*, and progressives, that want transformation. In this context, when conservatives defend the application of the principle of isonomy, they foresee it in its formal aspect:

¹²² ‘STF Aprova A Criminalização Da Homofobia’ (*BBC News Brasil*, 2019) <<https://www.bbc.com/portuguese/brasil-47206924>> accessed 13 July 2019.

equality of all before the law, disregarding the reality that some groups are more marginalized than others in society. In an unequal society, dealing with equality is more complex than a neutral education suggests. Indeed, the principle of material equality, classically, means to treat equally the equals and unequally the unequal to the extent of their inequality. Neutrality and impartiality hide the reality of inequality, which an emancipatory education is concerned to overcome.

Here, Paulo Freire's words about the political character of education, which can never be neutral, are pertinent: "*education is a political act, whether at the university, high school, primary school, or adult literacy classroom*"¹²³. And he continues: "***There are no neutral educators. What we educators need to know is the type of political philosophy we subscribe to and for whose interests we work***"¹²⁴.

Paulo Freire also explains that, ingenuously or astutely, separating education from politics is not only artificial but dangerous and we cannot think of education independent from the power that constitutes it, divorced from the concrete world where it is forged. Education is molded by society to conform with the values that sustain it. More than that, a society that structures education to benefit those in power invariably has within it the fundamental elements for its self-preservation and these forces would not allow education to work against them¹²⁵.

In my opinion, the implicit goal of a neutral education is self-preservation, acting as a reactionary force against movements of transformation of Brazilian society that intend to integrate historically and culturally marginalized groups. These movements of transformation are the actual "object of investigation" of Bills on Neutral Education.

The problem is that, instead of being molded to convey the values that represent the whole society, education is molded to convey mainly the values of the elite in power. This is what was denounced by the school of samba "Estação Primeira de

¹²³ Paulo Freire, *The Politics of Education: Culture, Power, And Liberation*. (Greenwood Publishing Group 1985). 188.

¹²⁴ Paulo Freire, *The Politics of Education: Culture, Power, And Liberation*. (Greenwood Publishing Group 1985). 180.

¹²⁵ Paulo Freire, *The Politics of Education: Culture, Power, And Liberation*. (Greenwood Publishing Group 1985). 170.

Mangueira” in the Carnival this year. The Carnival presented by Mangueira was precisely inspired as an answer to the movement “School without Political Party” and Bills on Neutral Education. This very traditional community in Rio (that, coincidence or not, lives in front of UERJ) proposed an alternative narrative for the official History of Brazil that is written in the history books and taught in the schools: a very elitist version that shows our social advances as the result of concessions from whom is “above” and not as the result of the struggle of people. This is indoctrination. Historically, Carnival is resistance.

Eliane Brum, making reference to the first one hundred days of Bolsonaro’s government, said that it was Carnival that most challenged the authoritarian exercise of power through its joy, satire, laughter and the bodies in the streets.¹²⁶ Paulo Freire also asserts that the more people who have been forbidden to be who they are mobilize within their culture “*the more they unite, grow, and dream (dreaming is also a part of culture), and the more they fantasize (fantasy is a part of culture involved with the act of knowing). Fantasy actually anticipates the knowledge of tomorrow*”¹²⁷.

This means that we should pay more attention to the culture that comes from the ground if we want to truly identify the **values of the society**, because discourses can be manipulated in schools but it is more difficult to be manipulated in the daily cultural manifestations that spontaneously come from the ground. The values of the society that education should be concerned to convey can be identified in the fantasy expressed in this cultural manifestations.

But the tensions here (well represented by the parliamentary debate in Brazil between a neutral and an emancipatory education) is inevitable: education is, in practice, used as a vehicle to convey the constitutive myths of the dominant class and we are asking that this same education deconstructs the myths that inferiorize the marginalized groups to integrate them into the mainstream, which, in turn, incorporates the myths that constitute one class as dominant. Probably we are talking here about the

¹²⁶ Eliane Brum, 'Coluna | Cem Dias Sob O Domínio Dos Perversos' (*EL PAÍS*, 2019) <https://brasil.elpais.com/brasil/2019/04/10/opinion/1554907780_837463.html> accessed 14 July 2019.

¹²⁷ Paulo Freire, *The Politics of Education: Culture, Power, And Liberation*. (Greenwood Publishing Group 1985). 192.

same myths: the ones that outline the mainstream are the same that, *a contrario sensu*, marginalize the outsiders.

In this scenario, is it too naive to believe that the dominant class can be convinced by arguments such as respect for diversity, non-discrimination and the suffering of human beings excluded from the standard? Probably, but the idea is not necessarily convincing exactly the dominant class or, specifically, the elite that is in power. Actually, the more society (read: people that are also from the mainstream but not necessarily in power) realize that what they perceive as neutral, natural and the only way possible are myths originally constructed to define and sustain a group in power; the less people will support these myths as unchangeable standards. At this point, people will accept more easily differences, or, at least, they will need to accept that they made a choice, which is already an advance, because opinions can change over time.

When we demystify the perception that standards or deep-rooted preconceptions are the only way possible in the social order, agreeing that what neutral education identifies as “nature” is only one “opinion” that originally (here I refer to the historical-cultural roots of stereotypes, prejudices and stigmas) was constructed to sustain inequalities and power, we can start to establish a **fair debate** and an **open dialogue**.

Lastly, I would like to point out that this debate represents the Brazilian experience of a broader issue related with the integration of marginalized groups into the mainstream society, a challenge that is faced by many societies nowadays.

Conclusion

For all that has been said, how should education deal with stereotypes, prejudices and stigmas?

In my opinion, education should, first, demystify the perception that some social standards are the only way possible in the social order, by asking: “Does it has to be in this way?”, “Why not accepting the difference”? Schools have the duty of showing that some naturalized standards that automatically divide human beings are social constructions that do not derive from the nature.

More than that, schools should critically assess stereotypes, prejudices and stigmas as deep-rooted preconceptions that were originally constructed to sustain a structure of power in society, which implied the hierarchization of human beings, dividing them into classes, race-ethnicities and gender and denying dignity and humanity to those who were inferiorized in this hierarchy, the “Other”.

Education, in this context, should have a strong commitment in showing that the denial of dignity and humanity of the “other” is not acceptable anymore by society and, here, I do not ground this statement in any specificity of Brazilian legal framework but on the acknowledgment that human rights are shared universal values that were themselves the result of an intercultural dialogue¹²⁸. Actually, the recognition that all human beings are full of dignity is not compatible with any discourse that inferiorizes the “Other”. Inferiorization, instead, is a denial of humanity and dignity. In this regards, schools worldwide should combat prejudices, stigmas and stereotypes that inferiorize people (“racism in the social dimension”), even when a significant party of the society affirms as its own values the myths that were originally spread to sustain a structure of power. In the extreme, we will have to accept that a society can claim as its values to be

¹²⁸ Christian Stokke and Lena Lybæk, 'Combining Intercultural Dialogue And Critical Multiculturalism' (2016) 18 Ethnicities. 83.

exclusionary, but the inferiorization of the other cannot be argued as a value anymore. The recognition of human rights as shared universal values imposes limits.

In this context, the debate presented in this work is illustrative of the dynamics and oppositional forces presented in the process of integration of historically and culturally marginalized groups into the mainstream society. The integration of these groups passes inevitably through education, as education is the vehicle that conveys not only the values that sustain the society but, also, the “myths” that sustain the structure of power presented in this society, which have originally been responsible for the inferiorization of the marginalized group. In this sense, education is never neutral. Education is a political act toward domination or toward liberation.

Having said that, my final analysis of the debate between Bills on Neutral Education and Bills on Democratic Education is that the former is a conservative reaction against the latter with the aim of maintaining an exclusionary *status quo* against the integration of marginalized groups. Here, it is important to highlight that, as the process of marginalization was instrumentalized also through education, it is inevitable that education plays a reverse role in the process of integration of these groups.

In this regards, I make reference to the examples provided in item 3 of Chapter 1 to illustrate what is being said. In the first example, the members of the board of Pedro II School (not an individual teacher) assessed the claim of a transgender student regarding the prohibition of skirts for boys. In my opinion, the school did itself what it teaches daily to their students: the school tried to understand life, not as a repetition of behaviors, but critically thinking: “Why not”, “Does it have to be in this way?” The school made an effort to re-create its own rules to change a situation that caused suffering without reasonable reasons. This is one action in the process of integration of a marginalized group (represented by the transgender student).

In the second example, the action of integration is verified by the fruits of the work of Paulo Freire. Indeed, children of illiterate people are now thinking critically and challenging the given social order in Brazil. This is a threat for the dominant class that wants the maintenance of an unequal *status quo*. Indeed, Paulo Freire predicted that

those in power would not allow education to work against them (item 7, Chapter 3). This is well represented by the several bills in the Parliament and in the municipal and state level asking for a neutral education, in a manifest attempt of self-preservation. The argument raised to prevent the integration of the marginalized classes is that Paulo Freire's ideas are subversive, because he is based in an ideology: communism. As if the social inequality in Brazil was not the product of an ideology. Actually, historically, what could be thought as "social democracy" in Europe is tendentiously and *prima-facie* argued as "communism" in Brazil.

But, wouldn't be better if we accept the "order" that the rapporteur alludes (item 1.2.2 of Chapter 2) instead of the disorder? The process of transformation of the basis of any society is not straightforward and I believe Brazil is in "entropy"¹²⁹: is the disorder that causes the change of physical state. In this point, we need to resist the false, simplistic and populist argument according to which is the process of transformation the responsible for the problems that Brazil faces. Actually, anyone who looks at Brazilian social-historical reality (and how things are structured worldwide) will understand that the "disorder" is not due to the commitment of the Supreme Court and Bills on Democratic Education in respecting the different ways of being.

I believe that, as a society, we are progressively realizing that, as a matter of priority, we need to respect and integrate the diversity that is constitutive of our country, in order to overcome a historical-social reality in which a huge party of the population was dehumanized. Above all, we want **freedom** and we will dare to construct it in a brotherhood with those who were deprived from it, not only because we would dehumanize ourselves if we agree to deny humanity to them, but also because they are party of whom we are in terms of nation. **It is all about integrating a country.**

Based on that, Bills on Neutral Education should be rejected, as rejected should be any argument based on the neutrality. Neutrality is only one more myth. Everybody has a choice about which values embrace, but we need to be aware of the

¹²⁹ The comparison was made by my dear friend Mariana. Entropy finds its roots in the Greek "entropia", which means "a turning toward" or "transformation". Thanks Mariana and Eloise for the reflections about our society and for the friendship.

implicit goals behind these choices in the real world, especially if our values converge in reaffirming a structure of power.

In this context, an emancipatory education is an important tool in the process of integration of inferiorized and marginalized groups, critically assessing prejudices, stereotypes and stigmas in the society. The aim is to build a common history in which **all groups are represented without hierarchization. Humankind is composed by human beings, not by inferior and superior people, and this is a shared universal value.**

In this way, a set of naturalized discourses needs to be scrutinized, as defended by an emancipatory education, and this scrutiny should take into consideration cultural manifestations that come from the ground.

If we truly embrace democratic values, we should support theories where the goals defended also by the culture from the ground are implicit, because they also represent the values of society. It is always important to remember that education (in all levels, including in the academia) is molded by society to conform the values that sustain it. In this regards, the democratic principle imposes that, on one hand, theories should not be so complex that is not available for the debate of the whole society; and, on the other hand, our theories should not reflect the values of only an elitist part of the society. In both cases, if this happens, we will have forgotten that we are in service of the whole society and that it is not the society that is in service of our abstract arguments. We are here to listening society and debate solutions for social problems. **In this debate, there is no neutrality. As Paulo Freire would say, any act in the academia is also a political act per nature and we should know for whose interests we work.**

Bibliography

Antonsich M, 'Interculturalism Versus Multiculturalism – The Cantle-Modood Debate' (2015) 16 Ethnicities

Bolsonaro 2018 'O caminho da prosperidade: proposta de plano de governo'

Braga G and others, 'Voto Em Separado Ao Projeto De Lei Nº 7.180, De 2014' (2018)
<https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1696293&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019

Cockburn C, 'Gender Relations As Causal In Militarization And War' (2010) 12 International Feminist Journal of Politics

Connell R, *Masculinities, The Reduction Of Violence And The Pursuit Of Peace*

Flavinho D, 'Parecer Ao Projeto De Lei No. 7.180, De 2014 (E Apensados)' (*Camara.leg.br*, 2019)

<https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=29B257476EE3F3C38E7BFA02CAEB8665.proposicoesWebExterno2?codteor=1657686&filename=Tramitacao-PL+7180/2014> accessed 13 July 2019

Freire P, *The Politics Of Education: Culture, Power, And Liberation*. (Greenwood Publishing Group 1985)

Marília Márcia Cunha da Silva, 'Entre Dom Pedro, partidos e saias: acompanhando a controvérsia entre o Colégio Pedro II e o Escola sem Partido' (41º ANPOCS Annual Conference. GT 24 – Pluralismo, Identidade e controvérsias sociopolíticas, Caxambu, October 2017)

Stokke CL Lybæk, 'Combining Intercultural Dialogue And Critical Multiculturalism' (2016) 18 Ethnicities

Bills from the Brazilian Chamber of Deputies:

Bill no. 7180/2014;

Bill no. 7181/2014;

Bill no. 867/2015;

Bill no. 1859/2015;

Bill no. 6005/2016;

Bill no. 5487/2016;

Bill no. 8933/2017;

Bill no. 9957/2018;

Bill no. 10997/2018;
Bill no. 10577/2018;
Bill no. 10659/2018;
Bill no. 1189/2019;
Bill no. 502/2019;
Bill no. 246/2019;
Bill no. 258/2019; and
Bill no. 375/2019.

Decisions from the Brazilian Supreme Court:

STF, ADPF 186/PR, Rel. Min. Ricardo Lewandowski, decision issued on April 26, 2012;
STF ADPF 461/PR, Rel. Min. Roberto Barroso, decision issued on June 16, 2017;
STF, ADI nº 5537/AL, Rel. Min. Roberto Barroso, decision issued on March 21, 2017;
STF, ADPF nº 465/TO, Rel. Min. Roberto Barroso, decision issued on August 24, 2018; and
STF, ADO 26/DF, Rel. Min. Celso de Mello, decision issued on June 13, 2019.

Websites:

"'O Congo Da Uerj", A Carta Lida Por Luiz Fux - GGN' (*GGN*, 2019)
<<https://jornalggm.com.br/cultura/costumes/clone-de-o-congo-da-uerj-a-carta-lida-por-luiz-fux/>>
accessed 13 July 2019

'70% Das Vítimas São Crianças E Adolescentes: Oito Dados Sobre Estupro No Brasil' (*BBC News Brasil*, 2019) <<http://www.bbc.com/portuguese/brasil-36401054>> accessed 13 July 2019

'A UERJ E O CONGO – Porta De Cadeia' (*Porta de Cadeia*, 2019)
<<https://portadecadeia.com/2018/05/01/a-uerj-e-o-congo/>> accessed 13 July 2019

Brum E, 'Coluna | Cem Dias Sob O Domínio Dos Perversos' (*EL PAÍS*, 2019)
<https://brasil.elpais.com/brasil/2019/04/10/opinion/1554907780_837463.html> accessed 14 July 2019

'Menina Relata Estupro Após Palestra Sobre Violência Sexual E Padrasto É Preso' (*GI*, 2019)
<<https://g1.globo.com/to/tocantins/noticia/menina-relata-estupro-apos-palestra-sobre-violencia-sexual-e-padrasto-e-presos.ghtml>> accessed 13 July 2019

'Post | Jornal Daki - A Notícia Que Te Interessa.' (*jornaldaki*, 2019)

<<https://www.jornaldaki.com.br/single-post/2015/07/09/Ideologia-de-g%C3%AAnero-%C3%A9-um-termo-equivocado-Entrevistamos-Well-Castilhos>> accessed 13 July 2019

'Racismo Nos Jogos Jurídicos: Até Quando?' (*Geledés*, 2019)

<<https://www.geledes.org.br/racismo-nos-jogos-juridicos-ate-quando/>> accessed 13 July 2019

'STF Aprova A Criminalização Da Homofobia' (*BBC News Brasil*, 2019)

<<https://www.bbc.com/portuguese/brasil-47206924>> accessed 13 July 2019

'Movimento Escola sem Partido' <<https://www.programaescolasempartido.org/movimento>> accessed 31 May 2009.

'Meninos do colégio Pedro II vão à escola de saia em apoio a colega transexual' *O Globo* (Rio de Janeiro, 10 September 2014) <<https://oglobo.globo.com/sociedade/educacao/meninos-do-colegio-pedro-ii-vaio-escola-de-saia-em-apoio-colega-transexual-13893794>> accessed 31 May 2019.

'Menino veste azul e menina veste rosa' *Folha de São Paulo* (São Paulo, 3 January 2019).

<<https://www1.folha.uol.com.br/poder/2019/01/menino-veste-azul-e-menina-veste-rosa-diz-damaraes.shtml>> accessed 31 May 2019.

Pedro Araújo, 'Você não gosta de mim, mas Harvard gosta: alvo de Bolsonaro, Paulo Freire é referência em universidades do exterior' *PE notícias* (2 May, 2019)

<<http://penoticias.com.br/blog/index.php/2019/05/02/voce-nao-gosta-de-mim-mas-harvard-gosta-alvo-de-bolsonaro-paulo-freire-e-referencia-em-universidades-do-exterior/>> accessed 31 May 2019.

Helena Borges and Júlia Amin, 'Entenda quem foi Paulo Freire e as críticas feitas a ele pelo governo Bolsonaro' *O Globo* (26 May 2019) <<https://oglobo.globo.com/sociedade/entenda-quem-foi-paulo-freire-as-criticas-feitas-ele-pelo-governo-bolsonaro-23604772>> accessed 31 May 2019.

Helena Borges and Júlia Amin, 'Entenda quem foi Paulo Freire e as críticas feitas a ele pelo governo Bolsonaro' *O Globo* (26 May 2019) <<https://oglobo.globo.com/sociedade/entenda-quem-foi-paulo-freire-as-criticas-feitas-ele-pelo-governo-bolsonaro-23604772>> accessed 31 May 2019.

TV Câmara (official channel from the Chamber of Deputies). It is available at:

<<https://www.youtube.com/watch?v=a7oOzAL8Vyc>> accessed 30 May 2019.

ANNEX 1

Complementary provisions of Bills on Neutral Education and Bills on Democratic Education

This Annex provides the description of complementary provisions of bills described in item 2 of Chapter 1.

1. Bills on Neutral Education

According to Bill n° 867/2015, national education should also be guided by the following principles: (i) freedom to learn, with specific projection, in the field of education, of the freedom of conscience; (ii) freedom of belief; (iii) recognition of the vulnerability of the student as the weaker part of the learning relationship, (iv) education and information of the students regarding the rights included in their freedom of conscience and belief (article 2)¹³⁰. It is also asserted, in the justification of the Bill n° 867/2015, that “there is no freedom of expression in the strict exercise of teaching activity”.

In article 3 of the Bill n° 867/2015, it is also foreseen that confessional and private schools should obtain the prior approval of parents or guardians, in the moment of enrollment, for the transmission of contents related to moral, religious or ideological principles, values and conceptions (paragraph 1); and, for this purpose, schools should provide parents with information material that makes possible the knowledge of the subjects taught and the approaches adopted (paragraph 2).

In addition, it is provided that the content of the bill will be applied, to the extent possible, (i) to textbooks and supplementary educational materials; (ii) to the assessments for admission to higher education; (iii) to the entrance examinations for the teaching career; and (iv) to institutions of higher education, respecting the provisions of

¹³⁰ Although this provision is not expressly replicated in the Substitutive, these principles guided the rapporteur in the approval of the Bills against Indoctrination, as it can be verified by the analysis of his arguments in Chapter 2.

art. 207 of the Federal Constitution¹³¹ (article 8 of Bill n° 867/2015). This provision encompasses the object of bill n° 5487/2016¹³².

Other differences between Bill n° 867/2015 and the new Bill n° 246/2019 are:

- (vi) Expansion the scope of the law: in addition to the scope provided by article 8 of Bill n° 867/2015, art. 9 of the Bill n° 246/2019 foresees that the content of the bill will be applied, to the extent possible, also to (i) educational policies and plans; (ii) curricular contents; and (iii) school pedagogical projects.
- (vii) Act of administrative improbity: the noncompliance with the affixation of posters configures an act of administrative impropriety that violates the principles of public administration.

Regarding the new wording that Bill n° 246/2019 gave for provisions that were either excluded or complemented with the wording of other bills by the rapporteur in the Substitutive, this was also the case of the following dispositions:

- (viii) Prior authorization in the case of confessional schools: Bill n° 246/2019 provides a new wording (keeping its essence) for the paragraphs of article 3 of the Bill n° 867/2015 (excluded by the rapporteur in the Substitutive) and there is no reference to the precedence to the values from the family order over school education in the aspects relating to moral, sexual and religious education (provision that was originally proposed by the bill n° 7.180/14 and included in the Substitutive by the rapporteur, in his opinion, when article 3 of the Bill n° 867/2015 was excluded).

¹³¹ “**Article 207.** The universities shall have didactic, scientific, administrative, financial and property management autonomy and shall comply with the principle of non- dissociation of teaching, research and extension. **Paragraph 1.** The universities are permitted to hire foreign professors, technicians and scientists as provided by law. **Paragraph 2.** The provisions of this article apply to scientific and technological re- search institutions”.

¹³² Bills n° 9.957/2018, 10.577/2018 e 10.659/2018 were not mentioned, because it was considered that, in essence, they reflect the main proposals already exposed and nothing new needs to be added.

- (ix) Communication channel to receive complaints that should be sent to the public prosecutor's office: the disposition which foresees the establishment of a communication channel to receive complaints related to non-compliance with the Law and the obligation to send them to the public prosecutor's office responsible for defending the interests of children and adolescents was provided in the Bill n° 867/2015 and excluded by the Substitutive of the rapporteur. Bill n° 246/2019 repeated this disposition without providing the competent organ as before.

Regarding bill n° 258/2019, it substantially does not bring anything new. In sum, it (i) repeats the main proposals of Bill n° 246/2019; (ii) insists on the inclusion of the provisions that (ii.a) values from the family order has precedence over school education in the aspects relating to moral, sexual and religious education and that (ii.b) education will not develop teaching policies, nor will adopt school curriculum, compulsory disciplines, nor even in a complementary or optional way, that tend to apply gender ideology, the term 'gender' or 'sexual orientation; and (iii) restricts the scope of the requirement of prior authorization to confessional schools to the case of basic education.

2. Bills on Democratic Education

Bill no. 6.005/16 also provides that teachers, students and legal responsible for the children, parental or not, will be informed about the principle of freedom and autonomy in the exercise of the teaching activity (article 4). It is also guaranteed, in the public entrance examinations for the teaching career in public schools, the right to the open debate, without censorship or discrimination, of any subjects (article 6).

It is provided that the content of this bill will be applied, to the extent possible, (i) to textbooks and supplementary educational materials of public and private schools; (ii) to the assessments for admission to higher education; (iii) to the entrance and progress examinations for the teaching career; and (iv) to institutions of higher education, respecting the provisions of art. 207 of the Federal Constitution.

The second bill (Bill n° 10.997/2018) foresees, in addition to the guarantee of free manifestation of thought and opinions to teachers, students and other education professionals (article 2), the institution of the National Policy on Freedom to Learn and Teach, providing for the promotion of a regular campaign by the Ministry of Education that divulges and explains the relevance of the constitutional guarantee provided in item II of article 206 of the Federal Constitution (“freedom to learn, teach, research and express thought, art and knowledge”) and of the principles provided in items II, III, IV and XII of article 3 of LDB (“II – freedom of learn, teach, research and disseminate culture, thought, art and knowledge; III – pluralism of ideas and pedagogical conceptions; IV – respect to freedom and appreciation to tolerance; and XII – consideration with ethnic-racial diversity”) (article 3).

It also provides that the programme of combat of Bullying will integrate the National Policy on Freedom to Learn and Teach (article 4) and that it is forbidden in the school environment: (i) curtailing opinions through violence and threats; (ii) actions or manifestations that constitute the practice of crimes defined by law, such as slander, defamation and insult, or infractions; and (iii) any pressure or coercion that violates the constitutional principles and rules governing national education, in particular as regards freedom of learn, teach, research and disseminate thought, art and knowledge.

Concerning the provision of article 6 of Bill no. 6.005/16 that guarantees the right to open debate in the public entrance examinations for the teaching career in public schools, without censorship or discrimination, of any subjects, Bill n° 502/2019 adds the qualification: provided they are based on some scientific expression accepted by a significant number of professionals in that area of knowledge.

Regarding the fourth bill (Bill n° 1189/2019), the following principles are also foreseen: (i) equality of conditions for access and permanence in educational institutions; (ii) eradication of illiteracy; (iii) freedom to learn, teach, research and disseminate culture, thought, art and knowledge, being forbidden any form of censorship; (iv) freedom of conscience and belief; (v) pluralism of ideas and pedagogical conceptions; (vi) promotion of social and environmental sustainability; (vii) free public education in official establishments; (viii) appreciation of education professionals; (ix) political pluralism; (x) free manifestation of thought; (xi) guarantee of minimum standard

of quality of education; and (xi) appreciation of out of school and extracurricular experience (article 1).

According to this bill, the transfer or sharing of the management of public elementary school units for the Armed Forces, Federal Police, Civil Police, Military Police, Military Fire Brigade and Municipal Guards is forbidden (article 2).

It is also forbidden the imposition of aesthetic standards as a requirement for student access in public and private educational institutions, respecting the provided for in item IV of article 3 of the Federal Constitution (“to promote the well-being of all, without prejudice as to origin, race, sex, colour, age and any other forms of discrimination”) (article 3).

Furthermore, public and private educational institutions should affix a poster with the full content of the bill in visible places (article 5).

Finally, it is provided that the content of the bill will be applied, to the extent possible, (i) to educational policies and plans; (ii) to school pedagogical projects; (iii) to curricular contents; (iv) to textbooks and supplementary educational materials; (v) to the assessments for admission to higher education; (vi) to the entrance examinations (including academic titles) for the teaching career; and (vii) to institutions of higher education, respecting the provisions of art. 207 of the Federal Constitution (article 6).

ANNEX 2

Legal Framework

This Annex provides the provisions mentioned during the debate.

1. International Covenant on Economic, Social and Cultural Rights

Article 13: 1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. American Convention on Human Rights ("Pact of San Jose, Costa Rica")

Article 12. Freedom of Conscience and Religion: (...) **4.** Parents or guardians, as the case may be, have the right to provide for the religious and moral education of their children or wards that is in accord with their own convictions.

3. Additional Protocol to the American Convention on Human Rights ("Protocol of San Salvador")

Article 13. Right to Education. (...) **2.** The States Parties to this Protocol agree that education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace. They further agree that education ought to enable everyone to participate effectively in a democratic and pluralistic society and achieve a decent existence and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace. (...) **4.** In conformity with the domestic legislation of the States Parties, parents should have the right to select the type of education to be given to their children, provided that it conforms to the principles set forth above.

4. Brazilian Federal Constitution

Article 3. The fundamental objectives of the Federative Republic of Brazil are:

I – to build a free, just and solidary society; **II** – to guarantee national development; **III** – to eradicate poverty and substandard living conditions and to reduce social and regional inequalities; **IV** – to promote the well-being of all, without prejudice as to origin, race, sex, colour, age and any other forms of discrimination.

Article 5. All persons are equal before the law, without any distinction whatsoever, Brazilians and foreigners residing in the country being ensured of inviolability of the right to life, to liberty, to equality, to security and to property, on the following terms: (...) **VI** – freedom of conscience and of belief is inviolable, the free exercise of religious cults being ensured and, under the terms of the law, the protection of places of worship and their rites being guaranteed; (...) **XVII** – freedom of association for lawful purposes is fully guaranteed, any paramilitary association being forbidden; (...) **XLI** – the law shall punish any discrimination which may attempt against fundamental rights and liberties; **XLII** – the practice of racism is a non-bailable crime, with no limitation, subject to the penalty of confinement, under the terms of the law; (...).

Article 19. The Union, the states, the Federal District and the municipalities are forbidden to: **I** – establish religious sects or churches, subsidize them, hinder their activities, or maintain relationships of dependence or alliance with them or their representatives, without prejudice to collaboration in the public interest in the manner set forth by law; (...).

Article 205. Education, which is the right of all and duty of the State and of the family, shall be promoted and fostered with the cooperation of society, with a view to the full development of the person, his preparation for the exercise of citizenship and his qualification for work.

Article 206. Teaching shall be provided on the basis of the following principles: **I** – equal conditions of access and permanence in school; **II** – freedom to learn, teach, research and express thought, art and knowledge; **III** – pluralism of pedagogic ideas and conceptions and coexistence of public and private teaching institutions; **IV** – free public education in official schools; **V** – appreciation of the value of school education professionals, guaranteeing, in accordance with the law, career schemes for public school teachers, with admittance exclusively by means of public entrance examinations consisting of tests and presentation of academic and professional credentials; **VI** – democratic administration of public education, in the manner prescribed by law; **VII** – guarantee of standards of quality; **VIII** – a nationwide professional minimum salary for public school teachers, under the terms of a federal law. **Sole paragraph.** The law shall provide for the classes of workers to be considered basic education professionals, as well as for the deadline for the preparation or adaptation of their career schemes, within the sphere of the Federal Government, the states, the Federal District, and the municipalities.

Article 214. The law shall establish a ten-year national education plan, with a view to organizing the national education system with the cooperation of states and municipalities, as well as to defining implementation directives, objectives, targets, and strategies so as to ensure maintenance and development of teaching, at its various levels, grades, and modalities, by means of integrated federal, state, and municipal government actions leading to: **I** – eradication of illiteracy; **II** – universalization of school assistance; **III** – improvement of the quality of education; **IV** – professional training; **V** – humanistic, scientific and technological advancement of the country; **VI** – stipulation of an amount of public funds to be invested in education as a proportion of the gross domestic product.

Article 226: The family, which is the foundation of society, shall enjoy special protection from the State.

Article 227: It is the duty of the family, the society and the State to ensure children, adolescents and young people, with absolute priority, the right to life, health, nourishment, education, leisure, professional training, culture, dignity, respect, freedom and family and community life, as well as to guard them from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.

5. LDB - Federal Act on Guidelines and Bases of National Education (Federal Act n° 9.394/96)

Article 2. 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.

Article 3. Teaching will be taught on the basis of the following principles: **I** - equality of conditions for access and permanence in the school; **II** – freedom of learn, teach, research and disseminate culture, thought, art and knowledge; **III** – pluralism of ideas and pedagogical conceptions; **IV** – respect to freedom and appreciation to tolerance; **V** - coexistence of public and private educational institutions; **VI** - free public education in official establishments; **VII** - appreciation of the school education professional; **VIII** - democratic management of public education, according to this Law and the legislation of educational systems; **IX** - guarantee of standard of quality; **X** - appreciation of out of school experience; **XI** – linking between school education, work and social practices; **XII** – consideration with ethnic-racial diversity; and **XIII** – guarantee of the right to education and to learning throughout life.

Article 13: Teachers will be responsible for (...): **VI** - collaborate with activities of articulation of the school with families and the community.

Article 14: The education systems will define the norms of democratic management of public teaching in basic education, according to their peculiarities and in accordance with the following principles: **I** - participation of education professionals in the elaboration of the school's pedagogical project; **II** - participation of school and local communities in school boards or equivalents.

ANNEX 3

Open letter from the academic center of students of the Faculty of Law of UERJ

“We, students of the University of the State of Rio de Janeiro, express our feelings, at this decisive moment in the history of the struggle against social and racial inequalities in our country. As students of a public institution that has been adopting the reservation system of vacancies in its entrance exam for ten years, to be completed this year in 2012, **we can say that, fortunately, we study in a more democratic, less unequal and, mainly, more Brazilian environment.**

(...)

Since the entry of these students ten years ago, we observed a complete change in the environment of our academic formation, the consequences of which were only beneficial.

(...)

The growth of racial hatred, in turn, which many have claimed to be inevitable in a system where there would be ethnic distinction for entry into higher education, is not at all noticeable in our academic environment. On the contrary, we note that the diversity that we live in our university environment and that reflects, in fact, Brazil, allows an enrichment of our academic and personal formation that, to date, has no equivalent in institutions that do not adopt the system.

(...)

It should also be noted that the distinction of students for admission to higher education provided not only diversity for the Academy, but also stimulated the debate on the existence of racism in our society and the search for instruments and policies to combat it, as a mechanism for its development.

(...)

However, the success of quotas in UERJ reveals the importance and, even more, the need for its adoption in other public institutions of higher education in the country, since it will drive, in the near future, the **reduction of social and racial inequalities of our country**, with the completion of our professional positions by citizens of all origins. (...).”¹³³

¹³³ Available at: <https://jornalggn.com.br/cultura/costumes/clone-de-o-congo-da-uerj-a-carta-lida-por-luiz-fux/>

2019

In favor of an emancipatory education. There is no neutrality

Fadda Hartt Pereira, Fernanda

<https://doi.org/20.500.11825/1089>

Downloaded from Open Knowledge Repository, Global Campus' institutional repository