

RELIGIOUS EDUCATION IN THE LAWS OF GUIDELINES AND BASES OF NATIONAL EDUCATION AND THE CLASHES BETWEEN RELIGIOUS AND SECULAR IN BRAZIL

O ENSINO RELIGIOSO NAS LEIS DE DIRETRIZES E BASES DA EDUCAÇÃO NACIONAL E OS EMBATES ENTRE RELIGIOSOS E LAICOS NO BRASIL

EDUCACIÓN RELIGIOSA EN LAS LEYES DE DIRECTRICES Y BASES DE LA EDUCACIÓN NACIONAL Y LOS ENFRENTAMIENTOS ENTRE RELIGIOSOS Y SECULARES EN BRASIL

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ABSTRACT: Taking as object the religious education in public schools, this article seeks to make notes on the laws of guidelines and bases of national education, from Law no. 4024 to Law no. 9394, respectively of 1961 and 1996, taking into account that the last was amended in 1997 by Law no. 9475, as well as the clashes between religious and secular people that made up the scenario of drafting these laws. It is observed that the changes in religious education operated in accordance with the laws, but also in the forms of application of discipline in public schools, reflect the changes in catholic theology and thought during the twentieth century, since the Catholic Church was the great force behind the support of this discipline. It is observed that religious education in public schools results from an eagerness to legislate on matters of faith, of intimate forum, which results in external pressure to the school environment that tends to compromise the true purposes of school education: to guarantee individuals access to knowledge elaborated in a democratic environment and committed to respect for differences and freedoms of choice.

KEYWORDS: Religious education. Brazilian education. Law of guidelines and bases of national education.

RESUMO: Tomando como objeto o ensino religioso nas escolas públicas, o artigo busca fazer apontamentos nas leis de diretrizes e bases da educação nacional, desde a Lei nº 4024 até Lei nº 9394, respectivamente de 1961 e 1996, levando em consideração que a última foi alterada em 1997 pela Lei nº 9475, bem como os embates entre religiosos e laicos que compuseram o cenário de elaboração destas leis. Constata-se que as mudanças no ensino religioso operadas nos termos das leis, mas também nas formas de aplicação da disciplina nas escolas públicas, refletem as mudanças operadas na teologia e no pensamento católico no decorrer do século XX, uma vez que a Igreja Católica foi a grande força de sustentação dessa disciplina. Constata-se que o ensino religioso nas escolas públicas resulta de uma ânsia de legislar sobre matérias

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de fé, de foro íntimo, que resulta em pressão externa ao ambiente escolar que tende a comprometer os verdadeiros fins da educação escolar: garantir aos indivíduos acesso ao saber elaborado num ambiente democrático e comprometido com o respeito às diferenças e às liberdades de escolha.

PALAVRAS-CHAVE: *Ensino religioso. Educação brasileira. Lei de diretrizes e bases da educação nacional.*

RESUMEN: *Tomando como objeto la educación religiosa en las escuelas públicas, el artículo busca tomar notas en las leyes de las directrices y bases de la educación nacional, desde la Ley No 4024 hasta la Ley No 9394, respectivamente de 1961 y 1996, teniendo en cuenta que la última fue enmendada en 1997 por la Ley No 9475, así como los enfrentamientos entre religiosos y laicos que conforman el escenario de la redacción de estas leyes. Se observa que los cambios en la educación religiosa operados de acuerdo con las leyes, pero también en las formas de aplicación de la disciplina en las escuelas públicas, reflejan los cambios en la teología católica y el pensamiento durante el siglo XX, desde la Iglesia Católica fue la gran fuerza de apoyo de esta disciplina. Se observa que la educación religiosa en las escuelas públicas es el resultado del afán por legislar sobre cuestiones de fe, de foro íntimo, lo que se traduce en una presión externa al entorno escolar que tiende a comprometer los verdaderos fines de la educación escolar: garantizar a las personas acceso a los conocimientos elaborados en un entorno democrático y comprometidos con el respeto de las diferencias y libertades de elección.*

PALABRAS CLAVE: *Educación religiosa. Educación brasileña. Ley de directrices y bases de la educación nacional.*

Background: from the union of Church and State to the clashes of the early thirties of the twentieth century

In addressing religious education in Brazilian public schools, the article focuses on the transformations that took place at the legal level, as well as the political and ideological clashes between religious and secular people around this theme. The time frame is marked by the contexts of drafting of the laws of guidelines and bases of education in Brazil, namely: laws 4024/61 and 9495/96, and the amendment to article 33 of the latter made by Law 9475/97. However, a brief retrospective showing the level of hegemonization of the Catholic religion in Brazilian education should contribute to the historical location of our object.

The regime of union between the State and the Catholic Church persisted in Brazil from the beginning of Portuguese colonization until the Proclamation of the Republic in 1889, passing through the monarchical period inaugurated with Independence of Brazil in 1822. In this period, tensions between the Brazilian episcopate and civil power peaked in the 1870s with

the arrests of two Catholic bishops who refused to submit to the laws of the Empire that went against Rome's guidelines.

In these almost four centuries, religion is present

[...] from the first letter schools to the higher ones, religion was present in the school through catechesis and Sacred History as a result of the union between Church and State (DERISSO, 2006, p. 20).³

After the Proclamation of the Republic, the 1891 Constitution establishes the separation of Church and State by removing from the Catholic Church its prerogatives in education, in the control of cemeteries, birth and marriage records and by cutting off sources of funding from public funds.

At the educational level, in the first decades of the nascent republic, there are several attempts to organize school education, with emphasis on educational reforms that take place in the context of some of the main states of the federation. However, in general, slowly and facing adversities.

After the 1930 Revolution, school education will be demanded by new economic needs based on the demands of urban and industrial society. The publication of the Manifesto of Education Pioneers in 1932 is emblematic of this period, on the one hand because it explains the intentions of the renovators - pioneers of the educational reforms promoted in the states - towards the new constitution in the process of being elaborated, and on the other because it marks a moment acute conflict between Catholics and Liberals (secular people).

In addition to the ideological influence of the Catholic Church that guided Brazilian education, it is important to consider that it was also marked by extreme elitization, since the illiteracy rate among people over the age of fifteen was close to sixty-five percent and access to levels after primary education, of four years duration, took place through a “fine comb” that favored the more wealthy classes.

The intentions of the “pioneers” were to overcome the fragile inequalities in access and to create a national education system.

The basic propositions of the New School Pioneers Manifesto were: mandatory and gratuitous schooling, which implied the State's responsibility for implementing an education system; articulation of teaching with the needs of the new reality created by industrial society; single school for all and without distinction of sex; and secularity. These propositions reflected the

³ [...] desde as escolas de primeiras letras até as de grau mais elevado, a religião estava presente na escola por meio da catequese e da História Sagrada como uma decorrência do regime de união entre Igreja e Estado (DERISSO, 2006, p. 20).

existence of two components that, according to education historian Jorge Nagle, animated educators at that time, namely: “enthusiasm for education” and “pedagogical optimism” (DERISSO, 2006, p. 42).⁴

The clash with Catholics occurs due to the centrality in school education that the pioneers attribute to the State. However, the component that matters most for the discussion in this article is the clash over the issue of secularism and more particularly of religious education in public schools. Regarding this issue, the position of the Pioneer Manifesto is as follows:

Secularism, which places the school environment above religious beliefs and disputes, oblivious to all sectarian dogmatism, subtracts the student, respecting the integrity of the personality in formation, from the disturbing pressure of the school when used as a tool for the propaganda of sects and doctrines (AZEVEDO, 1960, p. 155).⁵

Based on the historical understanding of the clashes between secular and Catholics, the next topic analyzes the laws of guidelines and bases of national education in Brazil with regard to the discipline Religious Education in public schools, articulating them to their respective historical contexts.

The elaboration of Law no. 4,024 / 61 and the treatment given to Religious Education

The main debate in the years preceding the establishment of the first Law of Guidelines and Bases of National Education, in 1961, revolved around two groups, the defenders of the public school, called liberals by Cury (1986), and the group of those who opposed the role of the State in education, made up mainly of Catholics, but also of school owners⁶.

Cunha and Góes (1991) place the 1960s as years of economic, social and political crisis. This context leads educators to “stick their heads out of the classroom to look and study the world” (CUNHA; GOÉS, 1991, p. 11) and is characterized by discussions about the Law

⁴ As proposições básicas do Manifesto dos Pioneiros da Escola Nova eram: obrigatoriedade e gratuidade do ensino, o que implicava na responsabilidade do Estado pela implantação de um sistema de ensino; articulação do ensino com as necessidades da nova realidade criada pela sociedade industrial; escola única para todos e sem distinção de sexo; e laicidade. Estas proposições refletiam a existência de dois componentes que, segundo o historiador da educação Jorge Nagle, animavam os educadores naquele momento, a saber: o “entusiasmo pela educação” e o “otimismo pedagógico” (DERISSO, 2006, p. 42).

⁵ A laicidade, que coloca o ambiente escolar acima de crenças e disputas religiosas, alheio a todo o dogmatismo sectário, subtrai o educando, respeitando-lhe a integridade da personalidade em formação, à pressão perturbadora da escola quando utilizada como instrumento de propaganda de seitas e doutrinas (AZEVEDO, 1960, p. 155).

⁶ Catholics, in this period, do not directly advocate privatization, if they do, they do not do so with the aim of commercializing education, but for their own convenience, in function of an ideological/religious objective. Its alliance with pro-commercialization privatists can be said to be only tactical.

Guidelines and Bases of National Education, both in the National Congress and in the educational field, with repercussions in the press of the time.

In addition to the demonstrations by students and workers through UNE (National Unions of Students) and the unions, the issue appeared in major newspapers such as *O Estado de São Paulo*, but it was registered mainly in the pages of three periodicals: *Revista Brasileira de Estudos Pedagógicos* and *Revista Anhembi*, defending the public school; and *Vozes de Petrópolis* magazine, of Catholic orientation, defending the prerogatives of private schools (DERISSO, 2006, p. 48).⁷

In that context, Catholics maintained that parents should have “freedom of choice” in the manner in which their children should be educated, and that the state should provide with financial resources the studies of those who choose non-state schools, such as Catholic confessional schools, that made up the majority of these. Such a claim clashed with the model of republican school supported by the signatories of the “1932 New Education Manifesto” and the 1959 “Once more summoned” manifesto⁸.

The Catholic demand for state subsidies for confessional schools was supported by the Code of Canon Law of 1917 and the Encyclical Letter *Divini Illius Magistri* of Pope Pius XI, published on December 31, 1929, whereby the pontiff stated that for education competes on the one hand with the family and civil society, institutions presented as natural, and on the other hand the Church, conceived as supernatural. This document conceives the right and duty of the Church to educate the faithful, condemns, among other things, socialism and coeducation, and calls on parents to ensure the education of their children, opting for an education based on Catholic principles, as learned from following passage:

[...] the school called neutral or secular, from which religion is excluded, is contrary to the fundamental principles of education. Besides, such a school is practically impossible, because in fact it becomes irreligious. It is not needed to repeat here how much about this matter Our Predecessors said, namely Pius IX and Leo XIII, in whose time the secularism in public schools began to dominate. We renew and confirm your statements, (...) and together with the prescriptions of the Sacred Canons by which **young Catholics are prohibited from attending non-Catholic, neutral or mixed schools**, that is to say, those which are open regardless to Catholics and non-Catholics, without distinction,

⁷ Além das manifestações de estudantes e operários através da UNE e dos sindicatos, a questão aparecia nos jornais de grande circulação como *O Estado de São Paulo*, mas ficou registrado, sobretudo, nas páginas de três periódicos: a *Revista Brasileira de Estudos Pedagógicos* e *Revista Anhembi*, defendendo a escola pública; e a revista *Vozes de Petrópolis*, de orientação católica, defendendo as prerrogativas das escolas particulares (DERISSO, 2006, p. 48).

⁸ In January 1959, in the face of the clashes in the drafting of the Law on Guidelines and Bases for National Education, the “Educators Manifesto: Once Again Summoned” was published, also prepared by Fernando de Azevedo, but which was signed by more than 200 educators. Text that again carries the reflections about the gratuity, mandatory and secularity of teaching.

and such frequency can only be tolerated in certain circumstances of place and time, and under special precautions of which the Ordinary is a judge (PIO XI, 1929, our highlights)⁹.

According to Saviani (2006), the drafting of law no. 4024/61 occurred as a requirement of the Federal Constitution of 1946, which granted the Union the responsibility to set national education guidelines. The approval process for the draft Law Guidelines and Bases of National Education is marked by discussions and resistance, and comes to approval with major changes compared to the original project.

[...] the phase of arriving at the final version corresponded to the moment when the discussion of educational issues went beyond its specific scope to excite public opinion in general. The “ideological parties” come on the scene, as has already been said. The church mobilizes all its staff to defend a particular position that consulted with privatist interests. The press is mobilized, with some bodies in favor of the private school and others in favor of the public school (SAVIANI, 2006, p. 42).¹⁰

In order to have an approximate dimension of the polarization to which Saviani refers, it should be noted that from the delivery of the bill by the Minister of Education Clemente Mariani to President Dutra - then forwarded to the National Congress - in October 1948, until the approval of the Law No. 4024/61, Law of Guidelines of National Education (LDB), thirteen years of intense and fierce debates passes, marked by moments in which reason was easily replaced by passion driven by the will to win the opponent at any cost. In these moments, intentions and positions not explained in the documents were attributed to the interlocutors, as can be seen from the fragment below the document entitled “Memorial do Bispos”, addressed to the President of the Republic in 1957:

The idea that all education must emanate from the State is not new, but it is certainly alien to Brazilian tradition and the same Constitution of the country. In Plato's "Republic", in Campanella's "Civitas Solis", in Bacon's "New Atlantis", it is not difficult to discover more or less defined antecedents, even if born from fantasy ramblings, for the principle that is intended impose

⁹ [...] a escola chamada neutra ou laica, donde é excluída a religião, é contrária aos princípios fundamentais da educação. De resto uma tal escola é praticamente impossível, porque de fato torna-se irreligiosa. Não ocorre repetir aqui quanto acerca deste assunto disseram os Nossos Predecessores, nomeadamente Pio IX e Leão XIII, em cujos tempos começou particularmente a dominar o laicismo na escola pública. Nós renovamos e confirmamos as suas declarações, (...) e juntamente as prescrições dos Sagrados Cânones pelas quais **é proibida aos jovens católicos a frequência de escolas acatólicas, neutras ou mistas**, isto é, daquelas que são abertas indiferentemente para católicos e não católicos, sem distinção, e só pode tolerar-se tal frequência unicamente em determinadas circunstâncias de lugar e de tempo, e sob especiais cautelas de que é juiz o Ordinário. (PIO XI, 1929, grifos nosso).

¹⁰ [...] a fase de chegada à versão final correspondeu ao momento em que a discussão das questões educacionais extravasou do seu âmbito específico para empolgar a opinião pública em geral. Entram em cena, como já se disse, os “partidos ideológicos”. A igreja mobiliza todos os seus quadros na defesa de determinada posição que consultava os interesses privatistas. A imprensa mobiliza-se, posicionando-se alguns órgãos a favor da escola privada e outros a favor da escola pública (SAVIANI, 2006, p. 42).

on our country. Tragic, however, is that, outside the philosophers' utopian conceptions, the idea, whose realization is pursued among us, with such pertinacity, is, today, already one of the postulates of militant socialism and, in terms of execution, necessary preparation for gradual implantation of this. [...] ¹¹

It is not difficult to apprehend the sophist character of the speech in the document - sophist in the pejorative sense, eager to win the discussion regardless of the form: the idea has existed for two and a half thousand years, driven by fantasy stimulation, but insofar as it is appropriated by the socialists it becomes their mark, so that all those who supported it will also be socialists. As Professor Anísio Teixeira:

This is what Professor Anísio Teixeira openly preaches among us, with the quality and responsibility of director of the National Institute for Pedagogical Studies (INEP) and secretary-general of the National Campaign for the Improvement of Higher Education Personnel (CAPES). **Although it is inculcated not to advocate "the monopoly of education by the State"** (Education is not a privilege, Rio de Janeiro, 1957, p. 114), - which is not surprising, **because socialism, in its predominant currents, is not statist** - professor Anísio Teixeira expects from the public or ordinary school, which he so fervently advocates, the same pre-revolutionary results, predicted, with anxious expectation, by socialist doctrine (SCHERER, 1958, p. 362-364, our highlights). ¹²

In other words, Professor Anísio Teixeira states in an article of great repercussion in the educational environment that he does not advocate the monopoly of education by the State, and even though, on several occasions, he has stated that he is not a communist, opponents of the public-school attribute to him opposite positions declared, that are not his positions. And so, in the same way, they deal with the bill supported by Minister Clemente Mariani, whose name also never appeared among the defenders of socialism.

¹¹ A idéia de que todo o ensino deve emanar do Estado não é nova, mas é certamente alheia à tradição brasileira e à mesma Constituição do País.

Na "República" de Platão, na "Civitas Solis" de Campanella, na "Nova Atlantis" de Bacon, não é difícil descobrirem-se antecedentes, mais ou menos definidos, ainda que nascidos de divagações de fantasia, para o princípio que se pretende impor ao nosso país. Trágico, porém, é que, fora das concepções utópicas dos filósofos, a idéia, cuja realização se persegue, entre nós, com tal pertinácia, é, já hoje, um dos postulados do socialismo militante e, em termos de execução, preparação necessária à gradativa implantação deste. [...]

¹² Tal é o que prega abertamente entre nós o professor Anísio Teixeira, com a qualidade e responsabilidade de diretor do Instituto Nacional de Estudos Pedagógicos (INEP) e de secretário-geral da Campanha Nacional de Aperfeiçoamento do Pessoal de Nível Superior (CAPES).

Ainda que inculque não advogar "o monopólio da educação pelo Estado" (Educação não é privilégio, Rio de Janeiro, 1957, p. 114), - o que não admira, **porque o socialismo, em suas correntes predominantes não é estatista** - o professor Anísio Teixeira espera da escola pública ou comum, que tão ardentemente preconiza, os mesmos resultados pré-revolucionários, previstos, com ansiosa expectativa, pela doutrina socialista (SCHERER, 1958, p. 362-364, grifos nossos).

In this scenario of little rationality and a lot of emotion, in which business interests are based on the ideological arguments of Catholics, Law no. 4024/61 establishes on religious education:

Art. 97. Religious education is a discipline in the schedules of official schools, is optional, and will be given without charge to public authorities, in accordance with the religious confession of the student, expressed by him, if he is able, or by his legal or responsible representative.

§ 1 Class formation for religious education does not depend on a minimum number of students.

§ 2 The registration of religious education teachers will be carried out before the respective religious authority (BRASIL, 1961).¹³

That is, for this particular discipline, the teacher would be released from responding to the legal criteria for belonging to the official teaching profession, simply indicating the religious authority. And the discipline, even if optional, occupies space during normal hours, leaving idle and certainly visible children who are excused from attending it.

However, the victories of the business sector and the Church went much further, because in the name of the so-called “freedom of teaching”, the Law opened a gap for public funds to be allocated to private schools:

Article 3 - The right to education is ensured:

I - for the obligation of the public power and for the freedom of the private initiative to provide education at all levels, in accordance with the law in force;
II- by the obligation of the State to provide indispensable resources for the family and, in the absence of it, the other members of society to release themselves from the burden of education, when the insufficiency of means is proven, so that equal opportunities are ensured for all.¹⁴

The interpretation of the Law that makes it possible to grant subsidies to private institutions would then be the combination of freedom of education (for example, the right of a family without resources to claim Catholic education for their children) and the State's obligation to provide the resources. But obviously the issue does not tend to be legally placed

¹³ Art. 97. O ensino religioso constitui disciplina dos horários das escolas oficiais, é de matrícula facultativa, e será ministrado sem ônus para os poderes públicos, de acordo com a confissão religiosa do aluno, manifestada por ele, se for capaz, ou pelo seu representante legal ou responsável.

§ 1º A formação de classe para o ensino religioso independe de número mínimo de alunos.

§ 2º O registro dos professores de ensino religioso será realizado perante a autoridade religiosa respectiva (BRASIL, 1961).

¹⁴ Artigo 3º - O direito à educação é assegurado:

I - pela obrigação do poder público e pela liberdade da iniciativa particular de ministrarem o ensino em todos os graus, na forma da lei em vigor;

II- pela obrigação do Estado de fornecer recursos indispensáveis para que a família e, na falta desta, os demais membros da sociedade se desobriguem dos encargos da educação, quando provada a insuficiência de meios, de modo que sejam asseguradas iguais oportunidades a todos.

on an individual level, but the Catholic Church and the big businessmen managed to make use of this gap in a way that favored them, through teaching grants. Thus, the Church is doubly attended to in its claims: the public school is obliged to provide religious education and the State is to subsidize confessional schools.

The first LDB was created before the 1964 military coup, after which educational legislation takes on more technical characteristics and is more explicitly linked to the interests of capital. Law No. 5692 of 1971 proceeds to a reform of education through which the first degree extends over eight years and the secondary degree, which lasts three years, gains technical education. However, two years before 5692/71, Decree-Law no. 869, of 12 September, 1969 includes "Moral and Civic Education as a mandatory subject, in schools of all grades and modalities, of the education systems in the country". In article 2 of this law it can be read that

Moral and Civic Education, based on national traditions, aims to: the defense of the democratic principle, through the preservation of the religious spirit, the dignity of the human person and the love of freedom with responsibility, under the inspiration of God; (BRASIL, 1969, emphasis added).¹⁵

After which the Federal Council of Education, through Opinion no. 94/ 71, clarifies what is the moral foundation objectified by the discipline:

[...] if the roots of Moral and Religion are so intertwined, within the human soul, how to proceed with a radical dissociation between the two? It appears here [...] that the religious foundation that, according to what appears from Decree-Law no. 869/69, must be underlying the Moral to be taught in Moral and Civic Education, will be taken from the so-called Natural Religion (BRASIL, 1971).¹⁶

This same opinion, according to Derisso (2006, p. 50), justifies the mention of God in the preamble to the Constitution and Religious Education in public schools, on the grounds that it is an expression of respect for the religious conviction of the great majority of the Brazilian people, without this being a privilege because the constitution guarantees religious freedom in the country. However, even guaranteeing freedom of conscience, of adopting religion or

¹⁵ A Educação Moral e Cívica, apoiando-se nas tradições nacionais, tem como finalidade: a defesa do princípio democrático, através da preservação do **espírito religioso**, da dignidade da pessoa humana e do amor à liberdade com responsabilidade, **sob a inspiração de Deus**; (BRASIL, 1969, grifos nossos).

¹⁶ [...] se as raízes da Moral e da Religião de tal forma se entrelaçam, dentro da alma humana, como proceder-se a uma dissociação radical entre as duas?

Surge aqui [...] a decorrência de que o fundamento religioso que, segundo o que se depreende do Decreto-Lei nº. 869/69, deve estar subjacente à Moral a ser ensinada na Educação Moral e Cívica, será tomada da chamada Religião Natural (BRASIL, 1971).

philosophy, the simple mention of God means, in the understanding of the authors of this article, assign to the so-called “religions of God” a symbolic privilege not attributed to other beliefs or worldviews.

Law no. 9394/96 and the conflicts that led to Law no. 9475/97

With the promulgation of the 1988 Constitution, the process of discussing a new law on education guidelines begins in Congress, which like in the process that culminated in Law 4024/61, was concomitant with the process of discussion in the sectors organized by society, particularly those directly linked to the educational field: In the union and intellectual sphere, particularly those linked to public education, the discussion focused with greater priority on the State's responsibilities towards education, aiming at establishing the allocation of resources and establishing goals in order to achieve the universalization of basic education and to democratize (understood as expansion) access to higher education; in the scope of private schools the pressure was going, as in 1961, to demand greater access to public resources; already in the context of confessional schools, in addition to the issue of access to public resources, the issue of religious education came up and implied a change in the focus of teaching objects and in accountability of the State for the costs that hitherto rested on the “religious authorities”.

The Law established with respect to the discipline in question, at the time of its enactment in 1996:

Art. 33. Religious education, with optional enrollment, constitutes the discipline of the normal hours of public elementary schools, being offered, without charge to the public coffers, according to the preferences expressed by the students or by their guardians, in character:

I - confessional, according to the religious option of the student or guardian, taught by teachers or religious advisors prepared and accredited by the respective churches or religious entities; or

II - interfaith, resulting from an agreement between the various religious entities, which will be responsible for the elaboration of the respective program (BRASIL, 1996).¹⁷

It is noticed that the article does not present any innovation regarding the role of the education systems and the State that continue to give time and space for the implementation of

¹⁷ Art. 33. O ensino religioso, de matrícula facultativa, constitui disciplina dos horários normais das escolas públicas de ensino fundamental, sendo oferecido, sem ônus para os cofres públicos, de acordo com as preferências manifestadas pelos alunos ou por seus responsáveis, em caráter:

I – confessional, de acordo com a opção religiosa do aluno ou do responsável, ministrado por professores ou orientadores religiosos preparados e credenciados pelas respectivas igrejas ou entidades religiosas; ou

II – interconfessional, resultante de acordo entre as diversas entidades religiosas, que se responsabilizarão pela elaboração do respectivo programa (BRASIL, 1996).

the discipline, except for item II that starts to foresee the possibility of articulation between religious confessions to establish and carry out a teaching called “interfaith”, a possibility that would have been unimaginable for the Catholic Church before its reorientation in and after the Second Vatican Council (1962-1965), at which time an inflection of this institution occurs that could be defined as greater openness to the world and adaptation to the transformations of the so-called modernity, whose manifestations had been severely criticized by Rome, as we can learn from two emblematic documents: Pope Pius IX's Encyclical *Quanta Cura*, and Pope Pius X Encyclical *Pascendi Dominici Gregis*, respectively from 1864 and 1907.

It is important to remember that until the Second Vatican Council the official position of the Catholic Church established the prohibition “for young Catholics to attend non-Catholic, neutral or mixed schools, that is, those that are open regardless to Catholics and non-Catholics” (PIO XI, 1929) and consistent with such a position, Brazilian Catholics advocated that the State subsidize Catholic students through scholarships so that they could attend Catholic schools.

After the Council, the Church's position changed radically about the role of the state in education and about cultural plurality in modern society:

[...] the Church praises those authorities and civil societies that, taking into account the pluralism of modern society and taking into account just religious freedom, help families so that the education of their children can be given in all schools according to moral principles and religious from the same families (PAULO VI, 1965, p. 7).¹⁸

In relation to the costs of the discipline, the same formulation contained in the LDB of 1961 remains in 1996, that is, the costs could not burden public coffers. Perhaps this formulation was responsible for the dissatisfaction of the religious “lobby” that constitutes the process of elaborating the LDB, and which, by the way, remained organized after the promulgation of Law 9495/96.

This wording did not please several religious authorities, especially Catholic ones, whose initial objective was to pressure the presidency of the Republic to use its right of veto. The Executive then assumed the commitment to change art. 33 through a bill, resulting in Law No. 9,475 / 97 (CURY, 2004, p. 185).¹⁹

¹⁸ [...] a Igreja louva aquelas autoridades e sociedades civis que, tendo em conta o pluralismo da sociedade moderna e atendendo à justa liberdade religiosa, ajudam as famílias para que a educação dos filhos possa ser dada em todas as escolas segundo os princípios morais e religiosos das mesmas famílias (PAULO VI, 1965, p. 7).

¹⁹ Essa redação não agradou várias autoridades religiosas, em especial as católicas, cujo objetivo inicial era pressionar a presidência da República a fazer uso do seu direito de veto. O próprio Executivo assumiu, então, o compromisso de alterar o art. 33 mediante projeto de lei, daí resultando a lei nº 9.475/97 (CURY, 2004, p. 185).

Among the religious organizations that made up the lobby, stand out the National Confederation of Bishops of Brazil (CNBB), the National Council of Christian Churches (CONIC), the Catholic Education Association (AEC), the Association of Religious Education Teachers of the Federal District (ASPER), the Permanent National Forum on Religious Education (FONAPER) and the State Religious Education Coordination. And the pressure was felt, so that

The ink of President Fernando Henrique Cardoso's signature on the document in which he promulgated the second LDB had not even dried, in December 1996, he himself manifested his intention to promote the change of article 33, which dealt with Religious Education in public schools. The president referred directly to the end of the ban on the use of public resources for this discipline. The appeal was effective, as the MEC project joined two others, from helpful deputies interested in offering service to promoters of Pope John Paul II's second visit to Brazil. A substitute project was elaborated by deputy Padre Roque, who, passing through an emergency regime, was approved by a leadership vote (CUNHA, 2009, p. 411).²⁰

This substitute became, once approved, Law 9745/97 that changes Article 33 to:

Art. 33. Religious education, with optional enrollment, is an integral part of the basic education of the citizen and constitutes discipline in the normal hours of public elementary schools, ensuring respect for the religious cultural diversity of Brazil, and any forms of proselytism are prohibited.

§ 1 The education systems will regulate the procedures for the definition of the contents of religious education and establish the rules for the qualification and admission of teachers.

§ 2º The education systems will hear civil entities, constituted by the different religious denominations, for the definition of the contents of the religious education (BRASIL, 1997).²¹

The first fact to be highlighted is that the prohibition that the costs of discipline burden the public coffers disappears. This fact alone symbolizes an important victory for the religious “lobby”. But another fact as important as the first is that, at the same time that the Law

²⁰ Nem mesmo tinha secado a tinta da assinatura do Presidente Fernando Henrique Cardoso no documento em que promulgou a segunda LDB, em dezembro de 1996, ele próprio manifestou a intenção de promover a mudança do artigo 33, que tratava do Ensino Religioso nas escolas públicas. O presidente se referiu, diretamente, ao fim da proibição de uso de recursos públicos para essa disciplina. O apelo foi eficaz, pois o projeto do MEC se somou a dois outros, de prestativos deputados interessados em oferecer serviço aos promotores da segunda visita do papa João Paulo II ao Brasil. Um projeto substitutivo foi elaborado pelo deputado Padre Roque, que, tramitando em regime de urgência, foi aprovado por voto de lideranças. (CUNHA, 2009, p. 411)

²¹ Art. 33. O ensino religioso, de matrícula facultativa, é parte integrante da formação básica do cidadão e constitui disciplina dos horários normais das escolas públicas de ensino fundamental, assegurado o respeito à diversidade cultural religiosa do Brasil, vedadas quaisquer formas de proselitismo.

§ 1º Os sistemas de ensino regulamentarão os procedimentos para a definição dos conteúdos do ensino religioso e estabelecerão as normas para a habilitação e admissão dos professores.

§ 2º Os sistemas de ensino ouvirão entidade civil, constituída pelas diferentes denominações religiosas, para a definição dos conteúdos do ensino religioso (BRASIL, 1997).

establishes religious education as an optional subject, it defines it as an “integral part of basic education”, thus ending a contradiction whose ambiguity defenders of the mandatory frequency will often try to take advantage, without success.

Regarding the definition according to which religious education would be part of basic education, Cunha (2009, p. 411) says that this is an assumption that the education of students would be “insufficient or defective”, if, by option of the family or impossibility of access, these same students did not attend the discipline or receive the corresponding instruction at some point in their lives.

As for its confessional character, it seems to be compromised by the veto to proselytism, but even so this format was maintained in some educational systems, such as the State of Rio de Janeiro, which held a contest for Religious Education teachers in two phases: in the first the State selects those who have passed general education knowledge; in the second, the accredited religious authorities, respecting pre-established quotas, choose among those approved those who will compose the body of teachers of each religion.²²

However, in the state of São Paulo, the orientation was to accept the terms of Law 9475/97 and the Opinion of the Federal Council of Education:

Until that moment, the Federal Education Council had issued two opinions on religious education. The first, no. 05/97, indicates that it is the competence of the school to define the time and space of the discipline and of the Churches, individually or associated, the registration of teachers, to attend the enrolled - this opinion was prior to the substitutive no 9475/97, therefore still in the light of Article 33 of Law no. 9394/96 -; the second, the number 97/99, says that the setting of “contents and qualifications and admission of teachers are in charge of the different teaching systems” [...] (DERISSO, 2012, p. 196).²³

In this sense, non-confessional religious teaching is implemented in this state and implemented by the Education Secretariat after a Public Hearing, taught by teachers linked to this teaching network, preferably with a background in History. The preparation of support

²² A Lei nº 3459 de 14 de setembro de 2000 dispôs sobre o ensino religioso confessional nas escolas da rede pública de ensino do Estado do Rio de Janeiro, estabelecendo, em conflito com a Lei 9475/97, que os professores da disciplina deveriam ter registro no MEC e pertencessem preferencialmente aos quadros do Magistério Público Estadual, porém, a palavra final na escolha destes caberia às autoridades religiosas competentes, que poderiam destituí-los em caso de declínio de fé. Estabelece também que o conteúdo da disciplina seria atribuição das autoridades religiosas. O edital do concurso para professores, publicado em 16 de outubro de 2003, previa a contratação de 500 professores, sendo 342 católicos, 132 evangélicos e 26 de outros credos. Esta composição reflete um estudo estatístico realizado pela Comissão de Planejamento do Ensino Religioso Confessional.

²³ Até aquele momento o Conselho Federal de Educação havia emitido dois pareceres sobre o ensino religioso. No primeiro, de nº. 05/97, indica que é da competência da escola definir o horário e o espaço da disciplina e das Igrejas, individualmente ou associadas, o cadastramento dos professores, para atender os matriculados – esse parecer foi anterior ao substitutivo nº 9475/97, portanto ainda à luz do Artigo 33 da Lei nº. 9394/96 –; no segundo, o de nº 97/99, diz que a fixação de “conteúdos e habilitações e admissão de professores ficam a cargo dos diferentes sistemas de ensino” [...] (DERISSO, 2012, p. 196).

materials went through two moments, in 2001 the Secretariat of Education edited a booklet to support teachers with Christian ecumenical guidance, along the lines of the “Curriculum Parameters for Religious Education” produced by the Permanent National Forum for Religious Education (FONAPER), an articulation of religious education teachers who played an important role in the lobbying activity in the approval of Law 9475/97; months later the same government agency started publishing five sequential notebooks with the same destination as the first, but with a multicultural orientation.

It is clear, therefore, that the terms of the law did not prevent the discipline from being taught in different educational systems in the country in different ways, meeting the pressure from political and religious groups. And with the tender of public funds.

Final Considerations

Despite the historical evidence that the clashes between religious and secular people were quite fierce at the ideological level, other issues permeated the politics and history of Brazilian school education during the 20th century. The modernizing project affirmed by the revolutionaries of 1930 was not rejected by Catholics in the 1934 Constituent, nor was the policy of industrial expansion questioned in the process of elaborating the LDB 1961.

The provisional government of Getúlio Vargas (1930/34) and the Estado Novo (1937/45) made concessions to religion, more particularly to the Catholic Church, in order to expand their respective political bases of support; In 1961, the ideological clashes in the elaboration of the LDB were temporarily in the context of the Cold War, but despite the accusations of Catholic conservatives, the opposing camp by these nominees of communists does not advance beyond the limits of representative democracy, certainly with more social sensitivity and willingness to correct some of the great distortions in order to salute a social debt that came from the colonial period. But without, however, standing in opposition to that of capitalism.

It can be said that the course of capitalist development in Brazil has never been in question in the clashes between Catholics and secular people, as well as from the point of view of State representatives, conservatism for the permanence of the link with the Catholic Church coexists alongside the desire for modernization of Brazilian society and the country's industrialization.

Religious Education in public schools takes on a strong symbolic character in the history of 20th century Brazilian school education for the Catholic Church. Discipline, along with some

other formal concessions (prohibition of divorce, criminalization of suicide, the mention of God in the preamble to the Constitution, among others) constitutes the trade chips of the State towards the Church, in order to maintain the social coercion.

The debate on the character of this discipline is updated with the position of the Supreme Court in 2017 in order to resume its confessional character, in flagrant contradiction with the veto to proselytism present in Law No. 9475/97. However, with regard to the role historically played by Brazilian legislators on this issue, it is worth pointing out the existence of a permanent resistance to separate issues of faith, which should be situated on the level of the intimate forum, the issue of citizenship and democracy.

From the point of view of the authors of this article, the issue does not end with the application of the discipline, its teaching objects or the burden on public coffers, but with the definition of the ends of education, particularly the needs and potential of schooling. That is, in order to strictly guarantee the fulfillment of its function of guaranteeing individuals, especially younger generations, access to socially produced and historically accumulated knowledge, schools should not restrict or impose teaching objects in order to satisfy group of pressure, whether economic, political or religious. On the contrary, it should select and organize teaching objects with the help of educators within schools and education systems, in a democratic environment, independent of the predominant religious preferences, and only take this fact into account when the purpose is to promote the respect and coexistence.

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