

A curious agreement: religious education without cost for the public authorities in the first LDB

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Abstract

This article deals with religious education in public schools, trying to identify the position of political-ideological groups around this issue during the process of approval of the proposal for a Law of Directives and Bases for National Education (*Lei de Diretrizes e Bases da Educação Nacional – LDB*), which was promulgated on 20 December 1961. The analysis took as its source the *Diário do Congresso Nacional* (Annals of the National Congress) in the period between 1948 and 1962. It was observed that during the long course of the proposal inside the House of Representatives, various pressures left their marks on the LDB: on the one hand, the length of the constitutional regulation about religious education in public schools, so as to meet the interests of the Catholic Church, the single organization openly committed to its offer; on the other hand, a wide ranging, albeit unsystematic, alliance which, lacking the political strength to defend a lay project for public education, was limited to try and resist the surge of confessionalism. Eventually, none of the sides was able to implement their demands in full, so that the law promulgated and sanctioned resulted in a hybrid product, possibly as a consequence of agreements among the members of the Committee of Education and Culture of the House of Representatives, at least with respect to the issue of religious education in public schools.

Keywords

LDB – Brazilian education – Educational policy – Religious education – Laity.

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Um acordo insólito: ensino religioso sem ônus para os poderes públicos na primeira LDB

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Resumo

Este artigo aborda o ensino religioso nas escolas públicas, buscando identificar os posicionamentos de grupos político-ideológicos em torno da questão durante a tramitação do projeto da Lei de Diretrizes e Bases da Educação Nacional promulgada em 20 de dezembro de 1961. A análise tomou como fonte o Diário do Congresso Nacional no período entre 1948 e 1962. Constatou-se que, durante o longo período de tramitação do projeto na Câmara dos Deputados, diferentes pressões imprimiram suas marcas na LDB: de um lado, a extensão do dispositivo constitucional sobre o ensino religioso nas escolas públicas, a fim de atender aos interesses da Igreja Católica, a única organização manifestamente comprometida com sua oferta; de outro lado, uma aliança de amplo espectro, mas inorgânica, que, sem condições políticas de defender um projeto laico para a educação pública, limitou-se a resistir ao avanço do confessionalismo. Ao fim e ao cabo, nenhum dos dois lados foi capaz de fazer valer completamente suas demandas, de modo que a lei promulgada e sancionada resultou em um produto híbrido, em razão de possível acordo entre os membros da Comissão de Educação e Cultura da Câmara dos Deputados, pelo menos no que diz respeito à questão do ensino religioso nas escolas públicas.

Palavras-chave

LDB – Educação brasileira – Política educacional – Ensino religioso – Laicidade.

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The first Law of Directives and Bases for National Education (Law No 4024), promulgated on 20 December 1961, resulted from the most researched process among all those that acquired importance within the educational field in the country¹. Indeed, no other moment in our history placed education in so much evidence, putting in motion such diverse political forces and raising such intense debate, as the period between 1948 and 1961.

A far reaching political change marked the start of the 13 year period of the course of this project, resulting in the political rearrangement of the government of President Eurico Gaspar Dutra. With the continuity of the hegemonic position of the Social Democratic Party (PSD) led by the remaining members of the New State, the resultant of the force correlation was shifted to the right, since the Brazilian Labor Party (PTB) was replaced by the National Democratic Union (UDN) in the political coalition of parliamentary support to the government and ministerial composition. The end of the gestation period of the LDB was marked by the introduction of the parliamentary regime that curtailed the powers of President João Goulart, a political rearrangement that, once again, aimed at containing the PTB and its allies from the left.

The Catholic Church was in the political limelight, a position confirmed a posteriori by the *marches of the family with God, for liberty* immediately before and after the military coup of March/April 1964. It does not constitute an exaggeration, therefore, to say that the battles around the LDB were fought amidst the political-ideological process whose culmination was the State coup.

The religious dimension of the gestation process of the LDB has been punctuated by several authors², who pointed out the role of the Catholic Church in the legitimation of particular interests, not only of the Church itself, but of

1- See, for instance, Barros (1960), Buffa (1979), Fernandes (1966), Lima (1978), Montalvão (2011), Moreira (1960), Romanelli (1978), Saviani (2005 e 2007) and Villalobos (1969).

2- Particularly Barros (1960), Buffa (1979), Fernandes (1966), Lima (1978), Moreira (1960) and Villalobos (1969).

the whole private sector which still did not have enough strength to dispense with the legitimacy afforded by that institution. However, the studies examined failed to analyze an aspect: the inclusion within the project for the LDB during its course in the House of Representatives of a condition on the religious education given in public schools, stating that such teaching should be carried out *without cost for the public authorities*. It is somewhat perplexing that the victory of privatism, and particularly of its most important protagonist – the Catholic Church, the institution most closely interested in religious education in public schools –, should have accepted such restriction. After all, public subventions to private education were the keystone of the conflicts, at least during the last years of the course of the project.

It is precisely that stipulation that this article aims at understanding. For that, the course of the project for the LDB within the House of Representatives was analyzed, re-scrutinizing the Annals of the National Congress (DCN) in the light of the political climate and of the educational debates, in search of elements that could have escaped those who researched this theme before. In summary, we departed from known elements relative to the political context and concluded with a hypothesis about the inclusion in the draft for the law of the device on the restriction in the use of public funds in religious education in public schools.

The arduous course of the project for the LDB

Examining the discussions about religious education in public schools that took place during the 1946 Constitutional Assembly is outside the scope of this text. For those interested in this issue we suggest the work of Romualdo Portela de Oliveira (1990), which analyzes in detail the amendments proposed and the arguments offered by the various political-ideological fronts. We shall limit ourselves here to mentioning that communists such as

Luís Carlos Prestes, socialists such as Hermes Lima and liberals such as Aliomar Baleeiro, all presented amendments that intended to rescue the lay character of public education, or to limit religious teaching in public schools, so that it would be offered only outside normal class hours, taught only by people outside the teaching staff of schools, and without cost for public authorities. These amendments were all rejected, prevailing in the Constitution the text proposed by the Catholic Election League (LEC), which said that:

Religious education constitutes a discipline in the schedule of public schools, is optional to students, and shall be given according with the religious creed of the pupil, manifested by the pupil, if he or she is capable, or by the pupil's legal representative or responsible person. (BRASIL, 1946)

This article of the Constitution was the point of departure of the project for the *Law of Directives and Bases for National Education*.

The shift of the Dutra government towards the right end of the political spectrum in 1947 made it possible for members of UDN to take several ministries, including the Ministry for Education. In the same movement, communist members of Parliament had their mandates cancelled, and were outlawed, preventing them from taking in the gestation of the LDB the same leading role they played in the Constitutional Assembly, especially their alliance with the Liberals. It was within this context that the Bahia-born UDN member Clemente Mariani took over the Ministry for Education and called other liberals (including his fellow Bahian Anísio Teixeira) for the creation of what had been the most important project of this group since the 1932 Manifest: a *Law of Directives and Bases for National Education*.

The project for the LDB left the Ministry for Education in 1948 already with the overall shape suited to the main demands of the Catholic Church, at least in what concerned the religious education in public schools, as we shall see in

the next section. That, however, was not the case of some issues, such as the crucial topic of the status of private education establishments.

At this point, the Catholic Education Association of Rio de Janeiro (AEC) had already started negotiations to represent the interests of the Catholic Church and of the institutions of private education in the creation of the LDB. In 1948, before the project was divulged, but with its outlines already defined, the 3rd National Congress of Establishments of Private Education took place in São Paulo; in it the hegemonic position of the Catholics was assured. As private institutions, the Catholic schools certainly had interest in receiving the government subventions that the draft of project supposedly prohibited (or was not sufficiently generous with), although that was not their main motivation, as was the case of the non-confessional schools, which placed monetary targets above doctrine ones (LIMA, 1978). Since it was convenient for entrepreneurs of education to conceal their interests under the veil of abstract values, especially those defended by an institution endowed with the legitimacy of the Catholic Church, they accepted the leadership of AEC in the struggle against the alleged monopoly of education by the State. In reality, what this institution strove for with the argument of the *freedom of teaching* was

To guarantee favorable economic situations to private companies in education through the possibility of substantial subventions, without which they could not survive due to the increasing impoverishment of the middle class and to the emerging preference of the urban proletariat for technical education. (MOREIRA, 1960, p. 289)

When the Brazilian Association for Education (ABE) organized the 10th National Conference on Education in Rio de Janeiro in November 1950, having as its main theme the project for the LDB, the proponents of the freedom of teaching were already well-organized all

around the country. But, at that point, the liberal educators had other adversaries: the defenders of the centralism of the New State educational policy. It was in view of the latter's action in the House of Representatives, led by congressman Gustavo Capanema (PSD-MG), a former minister for education in the Vargas government, that the Liberals created an alternative draft of project for the LDB, which attempted to overcome the resistance from the centralizers. ABE's proposal was sent to the National Congress and attached for studies to the original project (CUNHA, 1981).

Differently from the situation in the 1930s, ABE was no longer a forum that gathered a significant fraction of Brazilian educators. The 10th Conference did not have a large attendance, and the conclusions from the event resulted from the reflections of just a few educators, among which the leaders of departments of the state school system. It was as if, in order to circumvent the resistances from Capanema and his followers in the National Congress, the managers of the state school system used ABE, an entity of the civil society, to influence the legislators.

This artifice continued to be employed during the second half of the 1950s, when the conflict became more intense, with attacks from the proponents of the *freedom of teaching* onto the education managers that defended the public school. It was the priest-congressman Fonseca e Silva (PSD-GO) who unleashed these attacks in 1956 in a discourse he gave in the House of Representatives. Anísio Teixeira, at the time director of the National Institute of Pedagogical Studies (INEP), was a main target of the priest's attacks, being accused by him of plotting against the moral and spiritual heritage of the Catholic Church in the field of education, and of joining a covert Communist campaign. The Bahian educator repelled the accusations arguing that

to be hostile to any religious creed would be for him a profoundly antidemocratic act, as would be, in the exercise of the public function, to try to discriminate for a particular religion. (VILLALOBOS, 1969, p. 72)

This attack against the greatest Brazilian educator produced several reactions, including that from ABE, which stated its position and worked as an institution for the reparation and support for other associates attacked, such as Fernando de Azevedo and Almeida Junior.

In the House of Representatives, after being criticized by congressmen remnant of the New State (with Gustavo Capanema as their leader) for its decentralizing bias, supposedly threatening to the national unity, the draft of the LDB was forgotten and went missing. In 1951 the House of Representatives decided for the recomposition of the draft, which happened only six years later. After that, its process was resumed and the AEC poised itself to defend the private interests. Following closely the discussions in the House of Representatives, the entity promptly supported the second amendment proposed by congressman Carlos Lacerda (UDN-GB) in 1959, which enforced the interests of privatism by demanding of the Public Authorities "every privilege and protection to the private initiative to the detriment of public school" (ROMANELLI, 1978, p. 175). Additionally, it proposed the mandatory presence of representatives from the education institutes inside the bodies of collective decision of the school systems. The amendment was celebrated by the entity, since the document itself was inspired by the conclusions of the Third Congress of Private Education Establishments (1948). Defending its interests, this group promoted an intense campaign in favor of the *freedom of teaching* against the supposed objective of the State of monopolizing education, despite what was established in Article 167 of the LDB draft, which said: "teaching in the various branches will be given by the public authorities and is open to private initiative". Nevertheless, this motto opened the path to the introduction of several arguments in favor of subventions to private schools, and for the minimization of the presence of the State in the educational

field, made explicit in the propositions presented during the process of the project.

The first collective reaction against the Lacerda amendment was voiced in the Educators Manifest written by Fernando de Azevedo and published for the first time in São Paulo on 1 July 1959. It said that “once again called upon”, the educators underwriting the 1932 manifest of the “pioneers of new education” were here defending the general principles of that document, still regarded as valid after a quarter of a century. The educators deemed the expansion of public education as a necessary condition for democracy, for the equality of opportunities, and for the economic development based on industrialization. The document was signed by pioneers such as Anísio Teixeira, Almeida Junior, Hermes Lima, Paschoal Lemme and Cecília Meireles. They were joined by progressive intellectuals such as Caio Prado Junior, Sérgio Buarque de Holanda, Florestan Fernandes, Antônio Cândido and Álvaro Vieira Pinto; by military officers such as Colonel Nelson Werneck Sodré, Marshall Mário Travassos, and Admiral Octacílio Cunha; young university teachers and researchers such as César Lattes, José Arthur Giannotti, Darcy Ribeiro, Fernando Henrique Cardoso, Maria Isaura Pereira de Queiroz, Celso Beisiegel and Douglas Monteiro; and artists such as Augusto Rodrigues.

To the underwriters of the manifest, the campaign against the public school was

practically a sweeping attack to extract more funds from the State, of which it demands, instead of increasing the means necessary for public education, to bleed them in order to feed with the devastation of the schools they maintain those of the private initiative. (MAIS, 1959, p. 10)

The document also warned against the nefarious effects of this campaign on the “battered financial resources of the country”³ (p. 15).

3- For an analysis of this document, going beyond the objectives of the present article, see Sanfelice (2007).

It is possible that this manifest may have initiated the Campaign in Defense of Public School, a large movement of mobilization, predominantly in the state of São Paulo, which had the open and strong support of the newspaper *O Estado de São Paulo*. It is worth remembering that Fernando de Azevedo, writer of that document, started his educational career as a writer in that daily paper.

And so the battle grew fierce between the defenders of public school and the proponents of the *freedom of teaching*, who always used the Catholic religion to justify their claims, even when the issue was not specifically the religious teaching within the curriculum of public schools.

Despite the impending polarization, a more detached look at the conflicts pertaining to this juncture allows us to distinguish a more complex picture of the situation. This is what Sérgio de Sousa Montalvão (2011) has shown when he underlines the points of contact between the substitute projects submitted by Carlos Lacerda, and the ideas of educators aligned with Anísio Teixeira, such as Almeida Junior. The congressman from Rio de Janeiro made a discourse showing the convergence between his own objectives and the renovation defended by the liberals, by condemning, alongside them, the centralism of the New State educational policy. And he went beyond that, by identifying the educational dualism with the Vargas dictatorship, which intended to divide Brazilians between manual workers and intellectual workers, between those with a technical inclination and those with a disposition towards culture. Thus, by criticizing the educational conception classified by him as aristocratic, oligarchic, reactionary and totalitarian of culture and school, the congressmen from Rio de Janeiro created a connection with liberals and even with political sectors more to the left.

Although Lacerda scrambled the terms of the debate (bureaucratic centralism = state monopoly), his opponents had difficulty in showing to the public at large, and even to

congressmen, the congruence between the emphasis on public school systems and the decentralization of school administration, as showed by Montalvão (2011). This difficulty was as big as that of distinguishing the defense of a lay attitude about educational policy from a supposed Communist (= atheist) tactic of fighting against the religion of the majority of the population.

In the same year in which Lacerda expressed in his 1959 substitute project the interests of the more conservative sectors of the Catholic Church and of the education businessmen, there began in Rome the Vatican Council II, bringing with it a strong renovation of Catholic thinking in Brazil. Part of the cleric and of lay intellectuals began to interpret the Gospel and even Pontifical documents in the light of social realities. Alceu Amoroso Lima, a devout proponent of the authoritarian educational project of the Vargas era, was the consummate exponent of this trend. In an article on the educational issue, he said that the role of the State should not be merely supplementary, according with the principles extracted from the original nature of things, as advocated by the defenders of private school; it should be an active role, according to this social reality (LIMA, 1959).

During 1960 and 1961, some sectors of Catholic Action started to defend the positions of the National Campaign in Defense of Public School. However, only after the LDB was promulgated and sanctioned testimonies such as this appeared:

To defend abstractly the rights of the family means, in fact, to favor the economically privileged families, that is to say, their ruin, because what is included in terms of their privileges ruins their human development. (Friar Thomas Cardonell apud SOUZA, 1962, p. 23)

Until then, the members of the Catholic Action, especially those from the Catholic University Youth (JUC), whence the leaders of UNE came from the mid-1961, defended

isolated positions favorable to public school. Even if ground work teams took on this position, the documents of the movement were unclear, bringing not more than slight criticism of the social selectivity of private schools, which was explained by the need to reconcile the practical and ideological requirements of the new commitment with the official guidance of the ecclesiastical hierarchy.

Three months after taking office as President of the Republic in September 1961, João Goulart sanctioned the LDB, with the terms of the political agreements supporting the new parliamentary regime preventing him from using his power of veto upon the laws promulgated by the Congress, at least to the extent originally intended by the political forces that gave support to his office.

Laiety despite the Constitution

The prescription in the 1946 Constitution with respect to the inclusion of a discipline of religious education within the timetables of public schools must have worked as an element to attenuate the conflict confessionality versus laity. Even with the strong involvement of the Catholic cleric in the defense of the *freedom of teaching*, the defense of laity in public schools remained relegated to a secondary position in the political debate. There were, however, a few manifestations in favor of a lay education, either in open or closed fashion, which we shall mention below.

The first statement came from the secondary and higher education teachers of São Paulo. In 1957 the Fourth Congress of Alumni of the Faculty of Philosophy, Sciences and Letters of the University of São Paulo took place, in which public subsidies to private schools and to religious teaching in official schools were rejected, and in which the educators that defended public teaching, particularly those who were being slandered, were given support. After ten opening considerations, the document concludes and proposes the thesis approved:

I – That the Fourth Congress of Alumni and the Directorship to be elected, in view of the considerations presented here, and faithful to the cultural and democratic traditions of the Faculty of Philosophy, Sciences and Letters of USP, manifest themselves as contrary to religious teaching in public schools;

II – That they manifest themselves against the subvention by the state of religious schools, except of those that actually dedicate themselves to the free education of poor students without any religious discrimination;

III – That the Fourth Congress of Alumni approve a letter of reparation in favor of the illustrious educators Fernando de Azevedo, A. Almeida Junior and Anísio Teixeira, who on the occasion of the I State Congress on Education were slandered by an ill-informed and sectarian segment of the press of Ribeirão Preto. (CONTRA, 1957, p. 24)

Anísio Teixeira also made statements on the laity of public education, but in a personal letter. Victim of the clerical-privatism campaign that labeled him as Marxist, atheist and defender of statism, he chose to keep a low profile and expound his positions in a letter addressed to the famous conservative Catholic journalist Gustavo Corção⁴. In this letter, the president of the National Institute of Pedagogical Studies (INEP) criticized broadly for articles published by the journalist in the *O Estado de São Paulo* newspaper in January and February 1958.

In an article entitled *The freedom of teaching*, Corção defended the thesis that the origin of the *follies* lay in the centralization of teaching, which he equated with statization. As a reaction, encouraged Catholics to fight against the monopoly of education by the State, and to reject insufficient compensations:

it may be that many Catholics were utterly satisfied with the bowl of lentils, the famous religious teaching at schools,

4- Within the context of the Council, Gustavo Corção was the right wing counterpoint to Alceu Amoroso Lima's shift to the left.

for which human dignity was traded. (CORÇÃO, 1958a, p. 88)

In another article, *Who's in charge of education?*, Published the following week, the journalist continued to criticize his comrades. He started by evoking Pope Pius XI encyclical *Divini illius Magistri*, which stated that family and the Church had primacy over the State in education. He asked himself why Brazilian Catholics failed to demand such direction in educational policy. All that occurred to him was the hypothesis that the Catholics may have been content with the compulsoriness of Latin in secondary schools, and of religious teaching in public schools. Or, rather, by political inexperience. He warned to the fact that this privilege could be removed, as Perón had done in Argentina. The Argentinian president started supporting religious teaching in official schools. "He protected it until he grew tired of it, and then he began to persecute it. History is monotonous" (CORÇÃO, 1958a, p. 4). In the third article of this series, *A personal injury*, published the week after, the journalist repudiated the curriculum compulsoriness of the Ministry for Education, which removed from parents and school principals the right to choose the education to be given to their children/pupils. His loathing of the pre-fixed curriculum was such that, according to Corção, even Latin should be optional, despite the fact that he regarded its study as essential to the intellectual and human formation of youngsters (CORÇÃO, 1958c). This position was resumed in the article *Still the freedom of teaching*, published it on 16 February 1958 in the same newspaper. His argument was refined with the following statement:

My ideal is not freedom pure and simple as an end. It is that of freedom of exercising the most legitimate authorities: those of the father, of the family, and of the school rectors. (CORÇÃO, 1958d, p. 54)

The publish should letter sent to the journalist, Anísio Teixeira commented generically

these texts and explained his ideas about religious education, highlighting the importance of an impartial public school to meet the needs of those who had and of those who did not have a religion. In defense of an impartial school, the Bahian educator argue that, just like Corção, he also defended the freedom of teaching, considering that private and public education should not be subjected to the State, but to society. He suggested that parents' councils were created to set guidelines to public schools, and he questioned the Catholic journalist in terms that deserve to be explored, such as those:

Would it not be possible to accept the idea of organized parents also setting guidelines to public education? This idea, which is even more wondrous than yours, has yet to find support from Catholics. Do Catholics doubt that they will be the majority in councils? Or is it, in fact, that they trust priests rather than parents? Will you actually defend the Church, as I defend the freedom of teaching or its transfer to a different master? Once parents have conquered the freedom of belief, would it not be logical for them to have freedom of choice? This freedom will only exist with an impartial school as far as religions are concerned. Such impartiality is not irreligion, but simply tolerance among religions. (TEIXEIRA, 1958)

Regrettably, there is no record of an answer from Gustavo Corção to Anísio Teixeira's letter.

Having remained silent for a long time, Freemasonry, an old defender of the laity of the State, returned to the battleground during the course of the project of the LDB. Indeed, this organization was decisive to the lay orientation of the state, particularly of public education in the nascent Republic. Fiercely opposed during the New State, Freemasonry was late in manifesting itself about political and educational issues, resuming such activities in the 1959, precisely

at the inflection point in the process of the parliamentary gestation of the law.

The first Masonic manifestation that we found was in an article signed by A. M. Grillo in the *Boletim do Grande Oriente do Brasil* (Bulletin of the Grand Orient in Brazil) in September 1959. The author present whole conception of bases and guidelines for national education, in which the irreplaceable role of the State in offering education was made explicit, without precluding private initiative which, on the opposite, should be stimulated. However, education at the primary, gymnasium, secondary, commercial and technical levels should be of exclusive responsibility of the State. In doctrinal terms, education should promote the understanding, tolerance and friendship among all nations and social and religious groups. Symptomatically, the draft for primary and secondary education curricula made no allowance for religious teaching. Instead, primary education would have classes in Moral and Civism; this secondary education curriculum included Philosophy.

Seven months later, in May 1960, when the project for the LDB had already been approved by the House of Representatives and was going through the Senate, the Central Power of the Grand Orient of Brazil published in its *Bulletin* the 14/60 memo, signed by Grand Master Ciro Werneck de Souza e Silva, and addressed "to all Freemasons, Lodges and Bodies of our obedience". The content of the memo was the moralization of politics, to which end it suggested various procedures, such as the adoption of a single ballot for all elective posts.

With respect to the subject of the present text, the memo by the Grand Master condemned the project for the LDB and presented elements hitherto unheard-of, particularly the defense of the laity of the State and of education, as we can see in the following excerpt:

For the re-establishment of the principles of the 1891 Constitution, on the complete

laity of teaching, on the secularization of cemeteries, on the uncompromising separation between Church and State, a principal which is also written into the current Brazilian Constitution, but which is being fire related and disrespected on a daily basis, either covertly or openly, by the cleric and by some politicians;
 For the inclusion of divorce legislation and of legal devices that protect the supremacy of civil marriage over religious marriage;
 On the need of a greater diffusion of education in all its levels as the single means of sustaining a democratic regime and the liberal conquests of our elders, sparing no efforts to guarantee the laity and cost free nature of primary, secondary and professional educations, which should be public and accessible to everyone. (CIRCULAR, 1960, p. 103)

Important issues for the Freemasons, such as the separation between Church and State, the secularization of cemeteries, the prevalence of civil over religious marriage, the possibility of divorce and the laity of public education were then divulged to all Freemasons with a defense of the State prevalence in education that found no parallel at the time.

The Alumni Association of the Faculty of Philosophy, Sciences and Letters of the University of São Paulo spoke again through a manifest published in the *O Estado de São Paulo* on 11 February 1960. It was prepared by a committee having Florestan Fernandes as its chairman, at the time a lecturer of the Chair of Sociology I of that faculty, whose Professor was Fernando de Azevedo. Rejecting vehemently the project approved by the House of Representatives, and trusting that the Senate could “remedy the afflictions brought about by the unfortunate orientation” followed so far, the manifest said that the text could not define, among other things, “the importance of public school as a factor in the laicization of teaching and in the formation of a scientific mentality.” After highlighting the points that expressed

more clearly the interests of the private schools, both religious and nonreligious, the manifest concluded that democracy itself was at stake.

Still in 1960, the First Spiritism Convention in Defense of Public School approved on July 16 a declaration entitled *Os espíritas e a escola pública* (Spiritists and the public school), which was published by INEP’s *Revista Brasileira de Estudos Pedagógicos* (Brazilian Journal of Pedagogical Studies). The first part of the document, entitled *general plan*, had six items which are listed below:

- I - Teaching free and without cost, and lay education for all population through public school maintained by the State, according to the educational policy and democratic philosophy of education instituted by the Federal Constitution;
- II - Freedom for the private initiative in the supplementary education, at all levels, as long as the democratic principles and lay character of public teaching are respected, indispensable for the formation of the nation upon humanist bases.
- III - Urgent exclusion of the optional religious teaching in public and private schools, for constituting a source of discrimination and injustice, jeopardizing the greater pedagogical objectives.
- IV - Moral formation of lay teaching as supplementary to the family through attic norms of a general order and of an elevated civic education with a view to a humanist formation.
- V - Teaching of religion as a philosophical subject in secondary and higher education without any sectarian or particular tendency.
- VI - Establishment of legal penalties for the practice of any form of discrimination in public or private schools, including those of originating from the civil situation of the parents. (OS ESPÍRITAS, 1960, p. 162-163)

It was undoubtedly a radical platform, combining the defense of lay education in public

and private schools. Item VI contains an important element for that time, which was to defense of penalties for the discrimination of students due to do civil situation of their parents, and it had a specific target: the Catholic schools that expelled students with separated parents.

At the doctrinal level, the document dealt with the multiplication of the centers for the dissemination of the Spiritist doctrine, as well as with the maintenance of the existing Spiritist schools and with the creation of others. At those schools, parents could protect the children

from the religious influences and coercion that pervade the majority of schools, and even the current public school, undermined by the legal exorcism of the optional religious teaching. (OS ESPÍRITAS, 1960, p. 163)

The Protestants, who had been active defenders of the laity during the elaboration of the 1934 and 1946 Constitutions, remained silent during the course of the LDB. Perhaps political realism explains this silence, since the Constitution determinant the offer of religious teaching in public schools.

All in all, the lay people arrived late and were ineffective – nothing that resembled the front that was created during the Constituent Assembly of 1933/34 happened here. Effective were the repression of Freemasonry conducted by the New State, the New State – Catholic Church Alliance of 1935/37, and the action of lay Catholic intellectuals, civil and military in the production of a new Catholic hegemony which showed its strength during the course of the LDB, up to and particularly in the following years, contributing decisively to the success of the civil-military coup of 1964.

Religious teaching in the LDB

The article on religious teaching in public schools within the draft for the LDB sent to the Congress by the Ministry for Education was based on article 168 of the Constitution, which

had one paragraph added to it. It determined that the registration of teachers of religious education would be done with the corresponding religious authority. This article was placed in the *General and Transitory Dispositions* of the draft of the LDB, a space of little symbolic value and of small visibility, but that offered as much legal efficacy as any other. This place was maintained throughout the course of the project, remaining in the law promulgated.

The intention by the Catholic Church of controlling the offer of this discipline met with the acceptance of the ABE which, in the draft for the LDB created on the occasion of the 10th National Conference on Education (1950), proposed the following:

Religious teaching will be offered in official establishments by people authorized by the authorized representatives of the corresponding religious confessions. (Article 7 of the Transitory Dispositions)

A single paragraph specified that those people could be teachers:

Public teachers can be nominated, provided they accept the post and that the nomination is approved by the Administration to which the teaching institution answers.⁵

It must be remarked that the text admitted implicitly the use of public resources for religious teaching, since their working hours of the public teachers were paid. ABE's proposal was sent to the House of Representatives, which appended it to the project in course⁶

On December 8, 1956 the Evangelic congressman Antunes de Oliveira (PTB-AM)⁷ presented a substitute to the Education and Culture Commission of the House extending the competence of the *religious authorities*. Apart

⁵ - *Diário do Congresso Nacional*, 12 February 1957, p. 20.

⁶ - *Diário do Congresso Nacional*, 12 May 1955, p. 2.334-2.336.

⁷ - Albérico Antunes de Oliveira was a Baptist pastor with links to educational activities, both as a teacher of the State School of Amazonas and as a manager of the National Campaign for Free Schools.

from the registration of teachers, they would also be responsible for creating the programs whose themes should be taught, without attacks to other creeds. An old evangelic concern can be felt here against the discrimination by the cleric and by the followers of the majority religion.

Despite aiming at the strengthening of the power of religious institutions, the exposition of motives by the Amazon congressman contained a paragraph that pointed to the effectively optional character of this discipline, since it offered non-confessional alternatives for the school and for the pupil:

It is licit for the establishments that prefer it, heard equally the pupils and those responsible for them, to opt for the impartial study of the history of religions and of notions of compared religion, particularly under the ethical aspect.⁸

This was a long reaching proposal for the time and it remains current, since it corresponds to the guidelines adopted by the curricula of public schools in European countries which, given the secularization of culture, offer their pupils an alternative to religious teaching, that is, the possibility of moving from proselytism, albeit concealed, towards the knowledge of the religious phenomenon in its multiple manifestations. It is also interesting to mention that a proposal of this sort had not been presented during the 1946 Constituent, when the discussion about this discipline was much wider and freer than during the course of the LDB.

Nevertheless, in the reconstitution of the draft of the LDB in 1957, the Report Subcommittee preferred to ignore both suggestions by Antunes de Oliveira. A new subcommittee, formed by congressmen Lauro Cruz (UDN-SP), Nestor Jost (PSD-RS) and Alfredo Palermo (PDC-SP) presented a substitute to the project of the LDB published in the DCN on 28 May 1958, including a paragraph on the article

about religious teaching establishing that classes of this discipline should not depend on the number of pupils⁹. This mechanism only acquires meaning in face of the fears for the inertial effects of decree 19941 of 30 April 1931, which fixed in 20 the minimum number of pupils to allow a class of religious teaching to be installed. The several later versions of the project oscillated between including and removing this paragraph, resulting in the final version approved by the House, which was maintained by the Senate.

There were, therefore, changes of opinion about the organization of educational systems and of the public subsidies to the private sector, but they happened at the margin of the main conflicts splintering the Congress. The substitute projects presented by congressman Carlos Lacerda brought turmoil to the course of the LDB, but not with respect to religious teaching in public schools, a theme, incidentally, that none of the projects even mentioned¹⁰. This is somewhat surprising, since his assessors were all well-known Catholics, such as the teacher Sandra Cavalcanti¹¹. Would such omission represent an invitation to political agreement?

We do not know if such intention existed, but by the end of that year an amendment as surprising as that omission itself was presented, forbidding the use of government financial resources in the religious teaching at public schools. It was an amendment presented by congressman Aurélio Vianna (PSB-AL)¹², who inserted a condition in the form of an included phrase in the introduction to the corresponding article – *without cost for the public authorities* –, which was approved

9- Lauro Cruz and Alfredo Palermo had well-known political and professional links with the Catholic Church.

10- The first substitute was presented by those congressmen on 29 November 1958, and the second on 15 January 1959.

11- A member of the Catholic Action, Sandra Cavalcanti was a teacher of the Institute of Education of the Federal District. When Lacerda presented his substitute projects, she was a member of the municipal legislative of the FD. In 1960 she was elected congresswoman for the recently created State of Guanabara, of which Lacerda was the first governor.

12- Aurélio Vianna da Cunha Lima started his political career in the Democratic Left, a party he directed in Alagoas. With the creation of the PSB in August 1947 he transferred himself to it, and was elected a state constituent congressman.

8- *Diário do Congresso Nacional*, 8 December 1956, p. 1.235-1.236.

by the Education and Culture Commission on 25th of November 1959¹³.

Thirteen congressmen were present at the meeting that approved this amendment: Coelho de Souza (PL-RS), President, Fernando Sant'Ana (PTB-BA), Paulo Freire (PSP-MG), Lauro Cruz (UDN-SP), Aderbal Jurema (PSD-PE), Derville Allegretti (PR-SP), Cardoso de Menezes (UDN-DF), Plínio Salgado (PRP-PR), Santiago Dantas (PTB-DF), Celso Brant (PR-MG), Dirceu Cardoso (PSD-ES), Aurélio Vianna (PSB-AL) and Lenoir Vargas (PSD-SC). Seven congressmen were absent: Tristão da Cunha (PR-MG), Antonio Dino (PSD-MA), Carlos Lacerda (UDN-DF), José Lopes (PTB-PE), José Silveira (PTB-PR), Manoel de Almeida (PSD-MG) and Yukishiguo Tamura (PSD-SP).

Despite being discussed at length at the National Constituent Assembly of 1946, with each and every attempt at restricting the use of the public education systems for the dissemination of religion being defeated, including the restrictions to the use of public financial resources, the House approved with no upheaval the limiting mechanism proposed by congressman Aurélio Vianna. The later versions of the project This amendment in the article on religious teaching, acquiring the following writing:

Article 97 - The religious teaching constitutes a discipline in the timetable of official schools, it is of optional enrolment, and will be taught *without cost For the Public Authorities*, according to the religious confession of the pupil, as manifested by him, if he is capable, or by his legal representative or responsible person.

Paragraph 1 - The creation of a class for religious teaching is independent of a minimal number of pupils.

Paragraph 2 - The registration of teachers for religious education will be done with the corresponding religious authority. (BRASIL, 1961, our emphasis)

13- The *Diário do Congresso Nacional* of 15 December 1959 transcribed the annals of the 18th ordinary meeting of the Education and Culture Commission of the House of Representatives conducted on 25 November 1959.

This wording remained in the version approved by the plenary of the House and was accepted by the Senate, remaining untouched in the text of the law promulgated by President João Goulart.

The final version of the article on religious teaching, approved without any apparent reaction, may have been the result of an agreement between the members of the Education and Culture Commission with the purpose of responding to the different ideological trends present. This possibility follows from the speeches made by four out of the 15 congressmen present to the 16th extraordinary meeting of the Commission. Let us examine the most suggestive passages.

Congressman San Tiago Dantas (PTB-MG) congratulated himself with his colleagues for their production of “a well-balanced draft, representing the average opinion of the country”, in which “not a single demagogical word infiltrated”. Aderbal Jurema (general reviewer of the project) highlighted the work of Carlos Lacerda, San Tiago Dantas, Aurélio Vianna and Lauro Cruz, the latter being the general secretary. He emphasized that the Commission owed much to its president, Coelho de Souza (PL-RS),

for the well-balanced and correct way in which he behaved in the direction of the work, and for the ability he demonstrated during the most acute phases, preventing the splitting of the commission in view of its sometimes deep internal divergences.

In the words of Coelho e Souza, the political and democratic dimension was emphasized:

We tried hard to produce a work that would please all, but we do not wish it to be accepted without restrictions by the technical people, bureaucrats, neither do we intend that sectarians do not find in it any fault. The great merit of the Commission in this work was, undoubtedly, the bringing together of various trends with which we

were faced. It's worth highlighting here the activity developed patriotically not only by the general reviewer congressman Aderbal Jurema, but also by congressman Aurélio Vianna, who presented within days Commission the conciliatory amendments that made it possible to conclude our work. The lesson gathered in the struggles we all faced makes it clear that loss of such responsibility can be perfectly created under democratic regimes.¹⁴

After having the draft of law approved by the Education and Culture Commission, the plenary manifested in different directions, but the restrictive inclusion by Aurélio Vianna remained. The Senate also approved it.

In summary, article 97 of the LDB was a product, at the time, of: (i) transcription of the constitutional device on religious teaching; (ii) expansion of the interests of the religious institutions, particularly of the Catholic Church, through the paragraph included by the project of 1948, dealing with the number of pupils in the classroom and with the registration of teachers, added by the House of Representatives; and (iii) limitation of these interests by the restrictive clause on the use of public resources for religious teachings in public schools, included in the proposal by a left-wing congressman, and accepted by the right wing.

In conclusion

For those who expected to find heated parliamentary conflicts around the issue of religious teaching in public schools during the course of the LDB, the exam of the bibliography and of the *Diário do Congresso Nacional* turned out to be a disappointment. During the 13 years of the course of this project of law, the disputes around other issues, mainly the centralization of education systems, the transfer of financial resources to the private sector, and the

composition of the education councils. Not even congressman Carlos Lacerda, author of two extremely privatist projects, put fire on this issue, since his drafts of law did not even mention religious teaching in public schools.

If the surprise before the absence of questions about religious teaching in parliamentary debates was not enough, another surprise came to reinforce it: this silent approval of the amendment forbidding the use of public resources in this discipline. Such restriction was included in one of the versions of the project of the LDB by a congressman from the Brazilian Socialist Party without any opposition or questioning. The hypothesis of a momentary lapse cannot be sustained, since this amendment, approved by the Education and Culture Commission of the House, and which left such restriction untouched, could not possibly have gone unnoticed through the two houses of the National Congress.

In other words, what the 1946 Constituent refused, the Congress accepted without any opposing manifestation a decade and a half later. How are we to understand this, if the Catholic Church had long closed the issue on this point, having fought for it in other occasions, coming out the winner in the Constituents of 1934, 1946 and later? Let us summarize it: after the military coup, the support offered by the cleric and by the Catholic crowds was repaid in several manners, amongst them the suppression through Act 5692/71 of the restrictive clause of Act 4024/61 on the use of public resources for religious teaching; and again, the suppression of the text of the second LDB of a similar restriction by Act 9475/97, approved in the regime of urgency on the eve of the visit by Pope John Paul II to Brazil.

It does not stand to reason, therefore, that the matter was treated as secondary or of no importance. What happened, as suggested by the speeches of congressmen during the last meeting of the Education and Culture Commission, was a political agreement among its members with the purpose of responding to different conflicting interests around such issues as: centralization

14- *Diário do Congresso Nacional*, 19 December. 1959, p. 9.769.

versus decentralization; public education versus private education; confessionalism versus laity.

The restrictive clause of article 97 would therefore compensate the support given to certain points of the platform for the *freedom of teaching* by a segment of the parliamentary left, represented in the Education and Culture Commission of the House by congressmen Aurélio Vianna and Santiago Dantas. For such hypothetical compromise, Carlos Lacerda's omission constituted a precondition of possibility and may even have been a calling. That is to say, faced with the priority of the mandatory presence of representatives of the private businesses in the decision bodies of education systems, and with the guarantee of government subsidies, among others, a concession was made with respect to the use of public resources for religious teaching.

If such agreement actually existed, perhaps it was not the only one among the contestants. Anísio Teixeira published an article four months after the promulgation of the law, in which, in the heat of the moment, he made an assessment of the final product. He said that the LDB recently promulgated by President João

Goulart was not the law that Brazil needed to face the challenges of changing; however, it would represent "half a victory, but still a victory" (TEIXEIRA, 1962). Even if the law did not stimulate the creation of a public education system fit to the circumstances of the country, which was on its way to become the great nation still wished for, it allowed the autonomy of the state education systems, paving the way to the educational development along the right path.

Is it possible that, for the privatists, represented particularly by the Catholic Church, the LDB also meant *half a victory, but still a victory*? Take into account the analyses conducted by Luiz Antônio Cunha (1991, 2007), the answer is negative: for the privatists, the LDB was a full victory. This result was the combined effect of the devices of the law and of the context in which it was implemented, since the political groups that gave support to its privatist version were the same that supported the military coup two years after its promulgation. Victorious, they came to occupy for two decades the posts of political and ideological direction in the educational field.

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Received 24.11.2011

Accepted 01.03.2012

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