

## **Integration, Human Rights and Education**

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Building democracy in Brazil may be more complex than realize their protagonists, since it is not a specifically legal or social issue, but the sum of convergent and divergent range's relationships that shape the public policy of the country. One of the possible parallels to be drawn in the quest for understanding the organization of societies is the situation of the teacher / student relationship in schools. The more dictatorial is this relationship more distant the Republic is to achieve national and international democratic ideals. Latent situation is the one related to the mechanisms of popular participation in decision-making on public policy, they are not only rare and confusing, but also uncommitted to the strengthening of democratic consciousness, exercise to be instigated both student and population. Special importance in this scenario is the teacher / student relationship in Law school, since it prepares the protagonists of essential positions for building democratically the country. The concentration of the power of the teacher much equates to the concentration of power by and among States; these powers need to be relativized to achieve the democratic balance that sought through the Principle of Human Dignity. So, the main objective is to discuss the relationship between the relativization of the concept of sovereignty so that the legal system of the State is able to receive advances from international law, with the relativization of the total power of the teacher in the classroom to define content, form and treatment to students with a view to identifying a more or less mature democratic society according to the degree of submission of the student or citizen. In all, democracy presupposes the fundamental rights, however if there is a teacher / student relationship that repeats dictatorial society, there may be the construction of a society that does not realize the right's denial generated by the repetition of the relationship of domination, which goes against the proposal of an ideal society. Bring to Law schools the certainty that there is a right – written or not - regulating this relationship, and that people want to respect that right, is the way to investigate the consequences of this in the legal world and society.

### **1. Teacher-student relationship: Autonomy to democracy**

In this article, it will not be possible to cover all arrays of matters regarding the proposed discussion over the relationship between the relativized concept of sovereignty and the relativized teacher's total authority in the formation of future jurists as key-people in the construction of a democratic society. Our aim is only to start the problematization of the matter.

Our standpoint is that in order to understand the organization of societies one similar situation that is worth being studied is the teacher-student relationship whose work hypothesis stands on the affirmation that the more authoritative this relationship is, the farther the Republic will be from reaching the democratic national and international ideals.

Although Enguita (1989), starts from a marxist analysis to relate the relationships of work and school, which means that the dialectic used as a standpoint for the methodological analysis is essentially the social class conflict – a point that is not for discuss in this article - when discussing aspects such as order, authority and submission in schools signalize the reproduction of an authoritarian society:

One of the most important characteristic that schools have in common is the obsession for maintaining the order. All we need is recollect our own experience as a student or teacher, or visit a classroom to evoke or notice a set of individual and collective orders to not make noise, not speak, to pay attention, not move around the classroom. (...) The problem with order when it is not freely wished or consented is that it immediately becomes a matter of authority and submission. (free translation) (ENGUIA, 1989 pg.163-4)<sup>1</sup>

The author also states that this authority present in schools is endorsed by the society. Bourdie (1992) supports Enguita (1989) stating that where it was possible to see equality of opportunities and justice now one can see the reproduction and legitimization of social inequality since education does not possess neither a transforming nor a democratizing role in our society, thus making school one of the main institutions to reproduce the authoritarian system.

School is the space where, mostly, we mention the relationship between teachers and students. According to Brazilian academics (MIZUKAMI, 1986; SAVIANI, 1984; BORDENAVE, 1984; LIBÂNEO, 1982), there are different approaches in the teaching-learning process and when taking into consideration the authors' peculiarities and

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<sup>1</sup> Original text: “Uma das características importantes, se não a mais, que as escolas tem em comum é a obsessão pela manutenção da ordem. Basta recordarmos nossa própria experiência como aluno ou professor, ou visitar uma sala de aula, para evocar ou presenciar um rosário de ordens individuais e coletivas para não fazer ruído, não falar, prestar atenção, não movimentar-se de um lugar para outro. (...) O problema da ordem, quando não é livremente desejada ou consentida, converte-se de imediato no problema da autoridade e da submissão a mesma.”

inherent emphasis, we may say that there are five main approaches. Traditional, behaviorist, problematizing, cognitive and liberating.

To each of those approaches we can link specific comprehensions of teacher-student relationship which involve understanding of school teaching-learning processes consequently.

The traditional approach, also known as conservative or transmission approach, stands for a school environment with rigid disciplinary norms and it acknowledges student as someone who assimilates content transmitted by the teachers who are, authoritarians withholding encyclopedic knowledge. Freire (1973) nominates this approach "bank education", referring it to the financial system since information - disguised as knowledge - is deposited on students as money is deposited in the bank.

Then there is the behaviorist approach whose focus is the efficiency and effectiveness of the teaching system based upon prerogatives of operationalization to be executed through planning. This approach is directly related to the use of technological apparatus or brochures, reinforcing the viewpoint that a good student answers school stimuli in an efficient and satisfying manner. In this perspective the teacher is the school activity planner who leads students to their best performance.

The problematizing or humanist approach is focused on the propagation of democratic school proposing a pedagogical project that may offer conditions for the autonomy development of students who possess a more active role, differently from the other approaches. The teacher becomes the facilitator of the teaching-learning process by selecting content based on the students' interest with a "non-directive" perspective and ensuring that assessment will also take into consideration affective issues.

Differently from the last approach, which is focused on learning, the cognitive approach prioritizes psychological functions of intelligence in an attempt to establish a challenging environment where students learn by themselves. The teacher then has a secondary role setting reciprocity and cooperation conditions assigning the student the main role, although the teacher is together with the students during the teaching-learning process. In a simple manner, we can state that in the problematizing approach the emphasis lies on the "learning to learn" concept while in the cognitive approach it lies on the "learning to think" concept.

Finally, there is the liberating or sociocultural approach. Other than the previous approaches, this approach characterizes the school as not only a place that provides teachers and students with conditions to perform their roles, but as a place whose the

health ambient is respected as well as its organization and its relation with external community. More than just bringing individual and specific aspects, the student carries within himself a social, cultural and political background, as well as teachers do. In this perspective both students and teachers are subjects of knowledge. The school is not only inside the society, but it is the society and it should be problematized and discussed from its organizational aspects to specific knowledge issues.

In the perspective of traditional and behaviorist approaches the school environment described by Enguita (1989) and Bourdie (1992) is perpetuated with a significant approval of school professionals. The presence and enactment of authoritarianism, the distance between teacher and students are part of the traditional approach's essence, as well as reinforcement of positive behaviors and rejection of undesired behaviors are part of the behaviorist approach which contributes to the perpetuation of a school practice that rewards what is convenient and punishes what is not wished even if such convenience is at the service of a non-democratic society.

One can notice that whether it is an imposed or reinforced discipline, two foucaultian requisites for a good taming are gathered. The hierarchical observation and normalizing judgement (FOUCAULT, 1977).

The hierarchical observation, differently from the sociocultural approach's concept of schools being a healthy ambiance as a space of democratic legitimization and for more than the acknowledgement of an actor chain whose decisions are hierarchical, it regard to the control of the environment is engraved. Every space, is aimed not only the classroom but the lunch room and the bathroom. A control architecture is valued.

Similarly, the school building was to be a mechanism for training (...) Train vigorous bodies, the imperative of health; obtain competent officers, the imperative of qualification; create obedient soldiers, the imperative of politics; prevent debauchery and homosexuality, the imperative of morality. A fourfold reason for establishing sealed compartments between individuals, but also apertures for continuous surveillance. The very building of the École was to be an apparatus for observation (...) (FOUCAULT, 1977: 172).

Add the normalizing judgement to this. The word 'normalizing' can make us remember to the science tale of the five apes. It is told that five apes were put inside a cage and in the center there was a ladder with bananas on the top. Every time one of the apes climbed the ladder to reach the bananas, a hose with cold water was splashed on the apes that were on the ground. After a while, when an ape intended to climb the

ladder, the other apes beat it up until no ape dared to climb the ladder despite the temptation of having bananas on the top. One of the apes from the original group was replaced by a new member and the first thing it did was to try climbing the ladder. Unsuccessfully since the other apes soon caught it. The same happened until the new member, after getting beat up, did not try to climb it anymore. After some time, all apes were replaced by other apes then forming a completely new group of apes different from the original, but the apes still assaulted those that tried to climb the ladder yet none had never experienced the cold water. If we were part of Master Esopo's world and we could ask the apes of this new group the reason why they beat up the apes that tried to climb the ladder, the answer would certainly be "I don't know, but things were always like this around here".

In the tale, even though the so called "normal" behavior was to try to get fed by eating the bananas that were close to the caged apes, a new or another norm was physically established. Not to try to get food that was at reach inside the cage. We can state that the normalizing judgement is the cold water hose, i.e. the index, the reinforcement that a certain behavior is not welcome even if the sanction is not applied directly in the author of the action, but in a group that could subdue such author.

The traditional and behaviorist approaches do not reckon the school's context although it is there. The cold water hose can be understood as pressure from an authoritarian society under ideological apparatus, such as schools - represented as the group of the first apes - acting under the individuals of the society - represented as the group of new apes that had never experienced the cold water splash - seeking a "normal" behavior that is perpetuated in a manner that the initial normalizing judgement - the cold water hose - does not even need to exist due to a pinned normalizing judgement - the beat-up of those apes that dared to climb the ladder.

At the heart of all disciplinary systems functions a small penal mechanism. It enjoys a kind of judicial privilege with its own laws, its specific offences, its particular forms of judgement. The disciplines established an 'infra-penalty'; they partitioned an area that the laws had left empty; they defined and repressed a mass of behaviour that the relative indifference of the great systems of punishment had allowed to escape (FOUCAULT, 1977: 177-8).

Closer to the behaviorist than the traditional approach when it comes to normalizing judgement, we also refer to gratification sanction. The teacher should avoid punishments making rewards more often (Foucault, 1977), but it can be in fact

understood as a watched punishment since the teacher rewards the student that has the desired behavior, giving the message that any behavior other than that type is unwelcome, thus punishable. Grades certainly compose this duo and characterizes the heart of the "school justice".

From the problematizing approach this environment that reproduces an anti-democratic society encounters some hurdles in its being. We are not stating that the other approaches have the scepter to modify the school space by themselves, far from that, specially if we understand school as an ideological device according to Althusser (1970). However, we cannot deny some type of disturbance is caused by a more horizontal teaching-learning characteristic.

Once the student becomes the protagonist of his teaching-learning process, he is not only the focus of the hierarchical observation and the normalizing judgement for he starts to make decisions. In the problematizing approach there is an embryo empowerment of this subject in his formation process for even in the role of facilitator, the teacher is still a filter since he selects content based on students' interests.

Acknowledging it is just an empowerment embryo is very important so we do not create the illusion of being an active part of a democratic environment. Castel (2005), when discussing the concept of protection in the Welfare State perspective, motivates us to think about the security frustration as the produce of the economy of protection itself in two main perspectives. The fact that the protection programs will never be completely fulfilled and the issue that contemporaneity has been providing conditions so the persons never feel safe.

For us, now, only the first perspective is interesting. Knowing that the protection programs will never be completely fulfilled leaves the person in an intermediary state of action. If on the one hand there is frustration for the incompleteness of the programs, on the other hand when identifying that a certain success can be achieved, one may insist in the positive perspective of the action. Once the reasons for the programs are not fully effective are clear - which means that it is not only a matter of structural or planning problem, but also a matter of social, cultural, historical and economical context - the manner that incompleteness is handled is no longer simply hope and settles its base in a critical State discussion.

The hopeful people are fuel for the distortion of Welfare State since the slowly progress of the protection process makes those people ever satisfied with the outcomes, minimizing incompleteness to mere management incompetence. There are not, or

perhaps there are few, social offsets against this scenario. The same happens to the student that believes having reached the highest level of empowerment. Any given space is enough to settle and to be satisfied due to the false sensation that one is an active part of a democratic system, but in an actual empowerment perspective, every space should be occupied by the student as well.

It is necessary to consider as well the issue of student participation in the school's decision making in a general sense. It is not about just considering the institutional mechanisms of participation (student association, student assembly, etc), but mainly the controversial discussion regarding the relevance and the measurement of such participation. As of relevance or legitimacy of participation, it may not appear to have any question, in a perspective of democratic education, once that to prevail the necessary subject condition of the student in the end-tasks, it must correspond to a student decision power in the general function of an educational institution.(free translation) (PARO, 2011 pg. 199).<sup>2</sup>

Perhaps we can state that in the cognitive approach the highest level of this empowerment is reached at an individualized level since there is a special attention to a person's full development, yet the most important factor for exercise of democracy is still missing, something that is only conquered through a sociocultural approach. A person's autonomous action before a social organization.

According to Piaget (1996), "autonomy is the submission of a person to a discipline that the person himself chooses and the constitution that he elaborates with his personality" (free translation) (Piaget, 1996: 201)<sup>3</sup>. The autonomous being is governed by himself. This sovereignty, according to Piaget, must be connected to intellectual evolution, to *episteme* (actual philosophical knowledge) and disconnected to *doxa* (opinion), what he calls moral autonomy.

Standing from the statement that an adult is not only the result of his adult decisions, but of the entire path taken since childhood, to obtain autonomy it is

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<sup>2</sup> Original text: É preciso considerar também a questão da participação discente nas tomadas de decisão da escola de um modo geral. E aqui não se trata de considerar apenas os mecanismos institucionais de participação (grêmio estudantil, assembleia de estudantes etc.), mas principalmente a controversa discussão a respeito do sentido e da medida dessa participação. Quanto ao sentido ou à legitimidade da participação, parece não haver dúvida, de uma perspectiva de educação democrática, de que, à necessária condição de sujeito do educando prevalecente nas atividades-fim, deve corresponder um poder de decisão discente no funcionamento geral da instituição educativa.

<sup>3</sup> Original text: (...) autonomia é a submissão do indivíduo a uma disciplina que ele próprio escolhe e a constituição da qual ele elabora com sua personalidade.

necessary that a person goes through other two phases. Anomy and heteronomy (Piaget, 1998).

Anomy is the current situation in children of until one year and a half of age whose egocentrism does not allow them to identify what is right and wrong becoming incapable of following norms, outlining their behavior based on the affection developed by those who are responsible for them.

Heteronomy is reckoned by the moment in which there is acknowledgement of the norms by the person which are initially imposed by older people and that establish a relation of unilateral respect based upon affection and/or fear. In this unilateralism the rules are fulfilled not because they are understood, but because they are essentially rules. Moving out of heteronomy to autonomy hinges specially on an environment that allows persons to free themselves, i.e. they are no longer receivers and become agents.

Thus, autonomy that is focused exclusively on an individualized development can be named anything but autonomy, for it is committed to *doxa* and not *episteme*. It will not be possible either to use that autonomy to endorse a democratic society.

In this first item of the article we tried to very briefly establish two contexts that interfere in the teacher-student relation. The school as the reproducer of an authoritarian system with somewhat strong shackles depending on the teaching-learning approach to what it is tied and the development of individual's autonomy without which there is no democratic society.

Even though the focus had been the development of the student, it is a fact that a teacher who is autonomous and seeks a liberating practice suffers with the imposition of school disciplinary system in two dimensions. The first, being the target of the system and secondly, noticing limitations in his teaching work in the contribution to the student's autonomy development. However, this teacher seeks break-up of paradigms and understands that his practice is extended to beyond classroom. Differently from the traditional approach teacher, the focus of our study, who perpetuates students' limiting practices and consequently contributes to the lateness of a democratic society for he annihilates the possibility to develop autonomous persons.

## **2. A special case - the Law Student and the relation between the relativization of teacher's power and the concept of sovereignty**



Even if the autonomous person breaks or challenges the school structures of authoritarianism and domination perpetuated not only by the school, but specially by its relation with teachers that have a traditional approach, this person needs to be certain about what democracy beyond educational context is.

According to Bobbio (2007), democracy is characterized by the firm constitution of a set of fundamental rules that establish who is authorized to take decisions with which procedure. Independently of the type of democracy the essence of a democratic regime is based on equal participation of every citizen exercising his power. The idea of isonomy that prevails in such concept dates from the Greek pre-Homeric period of Solon, creator of Ecclesia (people's assembly) (Assis, *et al* 2010).

The isonomy that we refer to has an Aristotelian bias (Aristotle, 2014). To unequally treat those who are unequal in the way of their inequalities, it is like saying that in a democracy there will be attempt of compensations so that everyone has the same standpoint for decision making. What is this exercise if not the practice of autonomy?

From the second half of the 20th century on, specially in the Magna Letters of signing countries of Universal Declaration of Human Rights, the word 'democracy' start to figure as a necessary adjective for the conduction of the Rule of Law's state ship (Walzer, 1993) as well the governance arrangements it bestows. In Brazil, the Rule of Law commences through the Federal Constitution of 1988. We can say we are a young country that little by little tends to leave the state of heteronomy to reach autonomy.

If autonomy for the democracy depends on an ambiance that is prepared for that, many are the legal mechanisms stated in the Magna Letter to achieve this goal. But more than having them in the Letter, it is necessary to know them as well as getting to adequately transit through them aiming at the construction of a political dialogue that not only guarantees participation but also questions the legitimacy and the reach of these mechanisms.

In Brazil, we have a representative democracy conjugated to mechanisms of public participation (art. 14, CF/88). The direct representation, occurs by secret and obliged vote for the Executive Power when city Mayors, Governors and the President are elected; it also like this for the Legislative Power when electing city Deputies, state Congressmen, federal Congressmen and Senators (two distinctive houses, but complementary in the federal matter).

With regard to city, state and country chiefs the taken decisions have an administrative characteristic with governing public policies, which means they are fragile and may not endure depending on the political party to be elected in the following elections. On the other hand, regarding the legislators, there is effectiveness of the State's public policies which means that they endure independently of the governing political party. In both cases, more than thinking political parties or understanding that the democratic participation sums up to the moment of voting, it is important to be aware of the path of those who were elected. Only by doing so it is possible to trace the axiological lines of each representative (Reale, 2002).

The mechanisms of public participation in the decision making of public policies, yet predicted, are rare, confusing and uncommitted to the strengthening of democratic consciousness for times, exercise to be instilled in both students and population. We have three public participation instruments. Plebiscite, referendum and popular initiative (art. 14, CF/88).

Plebiscite is a previous consultation to the population on a determined issue of popular interest that can be about matter of great constitutional, legislative or administrative relevance having conditions to be approved or not normative acts.

The referendum, on the other hand, is a consultation to confirm or reject a determined law, project of law or constitutional amendment, i.e. if in the plebiscite there is consultation to create or not the juridical instrument, in the referendum the consultation is to determine whether it will remain in the juridical order or not.

The popular initiative is the exercise of power emanated directly from the people, popular sovereignty. In a manner that a group of citizens can elaborate the project of law so that it is appreciated by the Legislative Power.

Note that the plebiscite and the referendum are direct participations but submitted to a control, to an authoritarianism, since the demand does not originate directly from the social body. At first sight, in a comprehension with restricted empowerment and autonomy, one could think they are very effective, democratic and popular instrument, but with a more careful appreciation, it is possible to notice the limitation of the people's power to either approve or disapprove the determined issue. The popular initiative requires a higher involvement and engagement by part of the population, but it does not mean full exercise of the people's power since it must pass by the inquiry of the Legislative Power that, depending on their interests (convergence of axiological rules) may or may not give a say to the population.

Lately, Brazil has been through a very clear process of this supposed popular participation. In 2014, the Education National Plan (Law 13.005/2014) whose project of law was realized by public conferences with representatives from all the country of the most diverse social class. By the time it arrived at the Legislative Power, the law had profound changes which means that the group's hard work seeking and guaranteeing a laic, public and quality education was disregarded. In the case of the city of Campinas, located in the state of São Paulo, which houses more than one million habitants, after the conferences that were made to limit wide participation, the document was sent to the City Secretary of Education that alongside the Mayor, forwarding it to the Chamber of Deputies a distorted proposal from that made by parents, students, teachers, educators and citizens of the city.

In this scenario we are interested in a special type of student. The students of Law Schools. Undergraduate course of Law prepares the protagonists of essential positions for construction of democracy in the country, the relation between this student with the concept of democracy, legislation, public participation, among others is more intimate than in any other area since whereas the juridical and social scientist should have intimacy with the constitutional principles, with the Human Rights and Juridical Order.

However, the same way Law school and its students have the protagonist role in the construction of a democratic society, they are also the reproducers of an authoritarian, vigilante and punishing society.

The school context of Brazilian law schools reproduce the hierarchical observation and normalizing judgement.

With regard to hierarchical observation, having in mind the Law school science's traditionalist character, specially the fact that Kelsen (2002) is the most present theoretician in the juridical discussions, it is a type of institution where the teacher withholds teaching authority, but for many times he also carries the authority of juridical title such as attorney, judge, prosecutor. Not that these authorities when invested, automatically become excuses of authoritarian actions, but by uniting them with a teacher in congruence with a traditional teaching-learning approach they give the work of vigilance a higher grade.

Adding the vigilance grade does not happen only to titles, but also to institutional organizations. If the school already has a rigid organization, the teaching of rigidness of the Brazilian Judiciary Power itself is added to the school what stands out

to processual disciplines and internships. In the processual disciplines the person is fit in the judicial process' rules of conduction - deadlines and forms - for many times the gained case is due to neglection of processual conditions without even reaching to the cause of it. In the internship subjects, rules for daily living are a great part of the course. Not only how to address to determined people like judges, but also the right timing to do so, since although they are public actors they are not considered to be in the same level as the public in general.

In the case of normalizing judgement we can identify a movement for the students' attire. In Brazil, the Law course program takes an average of five years. In case we visit a Law school we can easily identify three categories of students through their clothes. The freshman students generally wear casuals, the intermediaries who wear more formal clothes but they do not choose to wear full suits and smart suits for girls that are the dress code for senior years. The dress code winds up as ritual of transition from student to jurist that makes the person be more welcome in the places where he starts to be in (courthouse, offices, clients) and then he can annul some personality traces that would be visible through the chosen attire.

In case one of the students does not accept the dress code whether it is for rebellion or critical consciousness given his or her autonomous character, this student will suffer a normalizing judgement for he will not be accepted in the spaces where he can exercise his function. The same happens to seniors who do not want to subject to the exam to become a licensed attorney. They not only cannot perform as attorneys, but also their professional value is less than that of a senior year in college who have a temporary license to perform certain juridical activities without supervision, which a graduate without the exam license cannot, under any circumstances.

The gratifying sanction is also very present in Law courses, the student's grade makes the student stand out from the others, he becomes then a hallmark of desirable behavior and then the student not only has to keep the grades high but also get the best internship offers, and receives the attorney license in the first attempt of the exam. This entire path, without questioning the assessment methods and the legitimacy of the same, considering that the encyclopedic domain of content characterizes a good student.

It is from this perspective that we take the hypothesis that when a dictatorial teacher-student relationship is repeated in the society can contribute to the construction of a society that barely realizes the negation of human rights generated by the repetition of the domination relation, which disrupts the image of a democratic society's proposal.

The teacher-student relationship, specially that referring to Law courses, must be regulated by Human Rights with attention to the relativization of the professor's total power that defines content, form and addressing for as we noticed it is possible to identify more or less democratic maturity from the society according to the extent of student's or citizen's submission once it is directly related to the absence of autonomy, it is suffocated, among other things, by an authoritarian school system.

Thus, the advancement of the debate about human rights can be liberating for the society from the standpoint of teacher-student relationship for it may outline the social relationships in which the students who are generated from this new perspective of living human relationships will participate with foundations on the protection of rights, but not only in the manner that they are interpreted internally in the State, that can benefit privileged classes, but in the way the norms are applied through international tribunal decisions.

Indeed, making the State respect the norms of human rights the way they are interpreted by international tribunal (CARVALHO RAMOS, 2009) represents a revision of sovereignty for the citizens of this State can emancipate and empower themselves, just as well as making human rights reach the internal scenario of the classroom can represent the extension of students' rights and the creation of a fundamental teaching that the teacher can build together with the student, certain that the student will have the understanding that he is a subject with rights and can, in society, seek effectiveness of them even before the most powerful of the sovereigns. It is a practical teaching with significant consequences for all in the society.

The likelihood the State define the meaning of every rule of human rights suffered a great impact with the deepening of relations among the States and bigger interdependence among countries which was a clear reflection of the appearance or increase of a phenomenon called globalization with consequences to the relations between persons and States. Something similar happens in the age of access to information with regard to the performance of the teacher inside the classroom. The student is then trained to inquire and live the advancements of human rights protection in all its paths, which cannot represent exclusively a promise.

According to Stiglitz (2003), globalization has been transforming international juridical relations. Activities that once were confined in the border national internal space now have international consequences of scale and impact that are still unknown. However, despite scathing opinions, favorable or not, about globalization, it still has

varied meanings (STIGLITZ, 2007). Transporting the idea to the classroom, we can think that a phenomenon similar to that of the globalization happens. Students communicate, know what happens to the classroom beside them and in the classroom in other countries which allow them to try to equalize all of them.

Furthermore, the students will face a globalized market that demands a globalizing experience, therefore what happens in any country reflects in every classroom, demanding extended adaptations of rights.

One cannot deny that the advancement of media increased at the end of the Cold War and propelled by international cooperation in many areas such as business, security, human rights, health, agriculture, environmental protection and fight against crimes is an interesting promise for the future, building new current needs in the classroom.

These different elements of globalization challenge the separation of what is internal and what is international, what is inside and what is outside the classroom. In this scenario the human rights withhold a central role in both State issue, for it interferes in the state public policies and the teacher-student relationship for it demands the teacher positions himself in the same level of the student for both are more than co-actors of the teaching-learning process, they are subjects with rights.

Some issues are historical, political and functionally adequate to international ruling in which the need for international norms is rarely questioned, v.g. today, one can hardly contest the necessity of a practice of an international agreement on issues like international aviation, telecommunication or posting services. And so is the same for human rights.

For other activities, then, the value of national sovereignty and total teachers' autonomy - in a *doxa* and not *episteme* perspective - were the historical rule. Among them two stood out as the last bastions of national sovereignty - both connected to the deciding power of a State. 1 - who your nationals<sup>4</sup> are and 2 - foreigners that can have access to your territory. Two activities related to teachers' total power in the classroom. 1- define the manner to present content and 2 - organize discipline in the classroom.

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<sup>4</sup> About the concession of nationality, there have been international attempts in treaties that seek impeding the appearance of stateless persons. That is what can be inferred from the reading of art. 20 of the American Convention of Human Rights (CADH) that guarantees everyone nationality of at least the country whose territory the person was born.

All these modalities commonly cited submitted to sovereign decisions of the State or the teacher should not have interference under punishment of sovereignty violation or taint of the teacher's autonomy (*doxa*) in the classroom. However, in case sovereignty and autonomy (*episteme*) meant not to receive any external interference whatsoever, this would certainly represent that a State would never be subject to international norms or that inside a classroom there would be a new own right independent of the society's norms.

However, indeed, this does not happen. Connecting to an international norm is a sovereign exercise and displaying respect for the norms and human rights inside the classroom is a form of teaching by the example.

International or classroom interference were not suddenly built. There was not an immediate passage from a world of literal state sovereignty exclusive for an international control. This happened gradually, which can also be noted in the classroom that still maintains blocks of resistance.

Globalization propelled the forces that are responsible for this transformation. Some of them are generic phenomena that has been influencing globalization in general, whereas others are specific, connected to the application of human rights.

The practices of States vary considerably, but the rule is that a typical State tends to respect norms of international right that it is linked to.

Likewise, the States have different rules for the loss of nationality. A State may remove the nationality of a person due to defects in the process of naturalization, revoking of naturalization due to voluntary abandon of nationality (expatriation), bad conduct by a person, lack of loyalty, due to other undesired qualities (denationalization), according to Rubenstein and Adler (2000).

The combination of rules for nationality acquisition and rules of its loss does not mean that each person has exactly only one nationality. Some may have more than one (for instance, people with double citizenship) and others do not possess any like the case of stateless persons or *heimatlos*. In addition, the application of the rules demands, in many instances, the clarification of juridical affairs of difficult solutions (WEIS, 1979). Complications may occur when States dissolve, merge or conquer their independence. For all these reasons it is not possible to identify a general rule about nationality concession.

What might be avoided, however, for full development of human rights is the persistence of this uncertainty. In the national context, it would suggest if the decision

of the State could remove the person's nationality or permit someone to have no nationality. It can also suggest when a person tries to bring the spouse, children or other members of the family of citizens designed by the country itself, subjecting them to a decision of ingress that stays in the State sovereignty 's sphere.

Thus, when the art. 15, n° 1 of UDHR, v.g. states that "Everyone has the right to a nationality", there is alteration of the concept of full sovereignty that is then exercised inside the limits of human rights<sup>5</sup> as well as there is alteration of meaning given to the teacher's autonomy when students demand an active participation in the classes that no longer should be exclusively expository. Therefore, today nationality is seen as a right inherent to every human being as well as the students' right of participation in the classroom is fundamental for the study development and also for the student's development as autonomous citizens (*episteme*).

An example that today it would be impossible. Indeed, in 1812, Marshall, then the President of the Supreme Court, declared that the jurisdiction over one's territory is the right every independent nation. He continued saying that it is part of the nation's sovereignty (TUSHNET, 1997:45). It is imperative to remember that the Supreme Court, in 1889, proclaimed their fundamental decision about the law of the exclusion of Chinese in the case *Chae Chan Ping versus the United States of America* (CHIN et al, 2001: 25) . Today this is unthinkable due to the norms of human rights that would impede an internal Supreme Court to decide and if this happened, there would be an international conviction. It is undoubtful that sovereignty was changed as did the autonomy of the teacher in the classroom from *doxa* to *episteme* since he is aware of the process for constructing the student's autonomy and he understands that the flexibility of his (fake) power is the student's empowerment, consequently a citizen's and continuously the society's as a whole.

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<sup>5</sup> Consultive Opinion n° 4, from January, 19 of 1984, that says in 32 (original text): "La nacionalidad, conforme se acepta mayoritariamente, debe ser considerada como un estado natural del ser humano. Tal estado es no sólo el fundamento mismo de su capacidad política sino también de parte de su capacidad civil. De allí que, no obstante que tradicionalmente se ha aceptado que la determinación y regulación de la nacionalidad son competencia de cada Estado, la evolución cumplida en esta materia nos demuestra que el derecho internacional impone ciertos límites a la discrecionalidad de los Estados y que, en su estado actual, en la reglamentación de la nacionalidad no sólo concurren competencias de los Estados sino también las exigencias de la protección integral de los derechos humanos".



In anyway, this viewpoint has been reaffirmed and expanded frequently and in many areas. In the last years, there has been a calling for the legal international embarrassments that submit the relative rules to exclusion and expulsion of immigrants even the traditionally sovereign powers (HANSON *et al.*, 2001: 49).

In this context, allowing human rights outline the teacher-student relationship may serve as empowerment of it with clear positive consequences for the society that is achieved by relativizing concepts to all equalization of juridic orders.

### **3. Final considerations**

The advancement of international rights, propelled by the deepening of international relations supported by the technological advance, incentivizes the profound dialogue between internal decisions and the international directive. There are more themes that involve the joint action of many States which leads to internalization of right that, in summary, stands for the transfer of themes that were once restricted to the internal order to international right.

An identical situation happens to the teacher-student relationship that stops being protected by the veil of the classroom of a rigid and authoritarian institution acknowledging being inserted in a world of human rights and with competitive scenarios before a group of students that are each time more aware of their rights and in the hope to fulfill the promises of advancements in equality, dignity and tolerance.

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