

OF RIGH TO EDUCATION AND OF ITS CIRCUMSTANCE: THOUGHTS ON EDUCATION IN DEMOCRACY AND ITS OBSTACLES

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ABSTRACT

The right to education is not only a constitutionally stipulated right and a positive fundamental right. It is also a natural right, arising from the nature of things (*natura rerum*) as well as from the vital need of person perfecting. However, unlike some rights conceived as mere prerogatives directly ascribed to beneficiaries with virtually no obstacles or refractions, the right to education, due to its nature, needs, in order to be effective, an enabling environment as well as mediators: not merely the educational means, such as family, media and school, but also people who desire to be active holders of this right. This article focuses on various aspects which contextualise this “circumstance”, as Ortega would say, of this singular right, which demands so much action, not only from the State and from the educational and cultural sectors, but also, and most importantly, from the citizens understood as subjects and not objects of education. It is intended, therefore, to think originally of the right to education and its protagonists, without complications, political prejudices or politically and educationally correct prejudgments. Additionally, the intention is to think about the difficulties still remaining even in democratic contexts.

KEYWORDS

Education; right to education; democracy

THE PROFESSOR AND THE POWER

Comparisons are highlighting. When acknowledging the vast and wise Eastern world one clearly perceive that the West is doing an educational hara-kiri, through heritage self-flagellation and teachers subjugation, victims of all kinds of moral harassment, of many assaults, even of a physical nature, and also through a socially suicidal disregard for society. We should think about until what extent many of the political and social problems aren't due, in certain cases, to bad students who have achieved -by vote or by inheritance- a place to which they could never have reached to only by their own merit. And this values inversion state does not favours students.

In an utopian world that we could imagine, the “emperor” would bow before the professor. The emperor would do so on behalf of society that holds to teacher so much. In Japan it would be halfway: teacher would be the only person not obliged to bow before the emperor¹. It may be a myth, but myths have meaning and strength.

Liberty can only be possible through education. Liberty is what distances us from nature. It is also what make us different from animals whose actions are purely based on

¹ Retrieved from <http://www.cpp.org.br/siscon/print.php?2012/10/15/no-jap-o-o-nico-profissional-que-n-o-se-curva-diante-do-professor-o-professor.phtml>

But the opinions are divided. See more information in <http://ramanavimana.blogspot.pt/2012/01/professores-japoneses-que-nao-se-curvam.html>. About education in Japan, see the interesting Nakagawa book (2008).

instinct. Education is the only means through which we can acquire instruments which allow us to surpass our “needs”, our “circumstances”. Whatever education may be, it is in a serious crisis. Some people consider themselves to be lords and masters of education, yet they end up demonstrating their inability to educate. They even end up creating obstacles to others to educate, as well as to people that want to be educated.

Educating should be a common and social task for every one of us. Not even a sole citizen (fragile as he/he may be) should resign to the power-duty of being educator. Each of us has a spark to be communicated. The majority of the problems of our civilisation stem from the dismissal of parents, relatives, neighbours, bystanders, in promptly correcting young anti-social offenders. Furthermore, there is a teaching deficit at home.

School alone can do very little. Schools are increasingly conditioned by norms and by directors who insist on the exclusivity of education without training. Furthermore, some students’ parents do not recognise neither the authority of the school, nor the more intervening or less negligent teachers.

Media is, in the essential, more anti-educational than educational. Being paid by advertisers, media cultivates the easy and the “popular”, that is, the most basic instincts: violence, blood, sex, scandal, gambling, impossible dreams, the gossip, and so on. It also conveys the depressing news about all that is going wrong in the world and burden us.

Unfortunately, a public media service, supported by a clear educational commitment is not usual: it is a piecemeal and in danger of extinction. In fact, there has been an increasing collapse of small producers and distributors in the fields of art, communication and cultural ideas. Indeed, there is a conviction that education and culture are not marketable. Even when cultural programs are attracting audiences, someone arrives to call them, dogmatically, “snobbish”. It would be wise at this regard to take into account the actual numbers concerning cultural economy. They are surprisingly high, at least for normal times. But it seems that it is a type of business whose investors will probably be others than those who will take profit from it. Education and related areas, such as forest culture, are intergenerational projects: they require policies of medium and long range. They need time to mature.

Therefore, there is an anti-cultural ideological prejudice. It is not merely economical driven. That is, the contemporary trend, already noticed by Oscar Wilde, to focus on the “price of everything, and on the value of nothing”. There is a lack of vision for future.

Power that fears its people does not intend to teach them. Power that loves people absolutely needs people to be lightened and made apt to recognize that power. There are powers that can only be sustained by ignorance. There are powers can only be legitimized by fostering people intelligence, information and citizenship.

It is astonishing that some types of power we could expect to have survived only through people enlightenment, has been frequently very careless as regards education. Is this position merely due to a lack of resources, or to the own distraction and optimism of those who think that they will be re-elected, with or without people illumination? Is this forgetting about what matters an effect of short-term electoral agenda, now characterizing democracies? But, even so, wouldn’t education end in votes? Or are there other reasons?

SOCIETY AND THE PLURAL AND PLURALIST SCHOOL

We never thought that without censorship, opinions could be so different, so diverse, and so imaginative. We were expecting plurality, but not such a colourful plurality. One of the reasons for having created such a narrower range does not reveal anything particularly encouraging: we believed that people would generally have more common sense, more good taste, more education and more instruction. Thus, the basic problem of multidimensional education becomes a priority for any democracy.

If we add to that the indignation, the frustration, and the lack of money as well as other misunderstandings can we (the power) have enough arguments to hesitate? It does not seem to be the best path. Even in crisis, we should seek to overcome the circumstances and think based on facts and rationally.

There is an excess of subjectivism and emotionalism inside the gunpowder barrel – the rising unemployment level within a context of Welfare State dismantlement. And besides all that, within a context of indignation against corruption, against the privileged, against the deception of many politicians. Without hope, the strongly radicalized and standardised discourse of destruction arises.

As always, the epistemological question goes hand in hand with the ethical one.

Today, European universities are not used to assume scientific positions that could be considered, in one way or another, as political. There is a *neither-nor-ism* as well as a supposed “white line” within the academic mainstream which stares doubtfully at those who affirm whatever maybe. It is true that seminal academics such as Barthes and Fiske have deconstructed this trend in academic life: not having commitments with nothing (Barthes, 1970), then, in fact, agreeing with everything...

We should be congratulated because in some universities (we noticed this, at least, in some English-speaking and Brazilian universities) we can be ourselves – without proselytism and without any favouritism towards students (even those hangers-on students) as well as towards other colleagues. There we have the freedom to say what we think, even considering sensitive questions such as economic systems ideologies and ethics. However, somewhere, a parliament member had suggested to forbidden professors of speaking about politics in schools. Will political science, political sociology and political philosophy courses also be prohibited? And halfway (or more) will also Law, Philosophy, Sociology courses and others alike be forbidden?

Indeed, a university where we can be what we are is a true *Uni-diversity*. And this is what any university must naturally be: more than anything else, a place meant to plural debates of ideas. Therefore, it would represent more than a contribution to overcome with the proverbial *trahison des clercs*, of which Julien Benda thoroughly referred to in 1927².

There are intellectuals who are not betrayed and that do not betray themselves. They are engaged, and that engagement is enriching, contrary to what might be thought. Naturally that there is no place for political rallies in class, but teacher is not an ideological

² With regard to intellectuals, today it is interesting to read the approaches from Fiske (1999) and Bauman (2010).

eunuch. He/she cannot teach people to think if he/she cannot teach what he/she thinks, therefore open him/herself to confrontation, dialectics, according to rules well-defined by academy. Novices are those so-called “teachers” that under the mask of political distance, end up speak, transmit and inoculate bulks of ideology by all the types of modes.

Truly speaking, much of that pseudo-neutrality students seem to be feeble minds or feeble politicians, helpless victims of that brainwashing teachers. A way to recognize students maturity and autonomy - and this is one of the great Enlightenment achievements, according to Kant (1988) - is to give them freedom of choice without obliging teachers respond to commonplaceness (and how much more could be said about how teachers time is confiscated in favour of bureaucracies which are more harmful then unproductive), preventing them from saying what they think. If each one says what he/she thinks, and if schools recruited following a plural principle, there would be no danger of brain intoxication. On the contrary, larger windows for spirit would be opened up.

There is another problem: there is a need to ensure pluralism when recruiting. To what extent autonomy, when taken to its extremes, can lead to reproduce the same ideas and the same ideologies? Or, in other words, can drive to the absence of autonomy itself...

The easy solution would be quotas... However, a University, a school, is not a parliament. The temptation would be ideological recruitments, political party-based, mirroring whether electoral results, or “market” demand. This is not at all simple... And many speculate without limits. Worse would be if they had the power to put nightmares into practice.

However, the problem of pluralism in the University is indeed a problem. I am not agreeing with an arithmetic pluralism. However, controls and norms are needed in order to avoid that a class or lecture be a chat room with friends, or, worse, a chat between fellow party members, between people belonging to same social class, club, ideology, religion or philosophical orientation...

OF THE OLD, THE NEW AND THE NEWEST SCHOOL

We need to work articulately in favour of people education: generally, civically, and legally... Even if there were no resistance and the thousands of pitfalls (which appear to be ever increasing), there would still be much to do... The main obstacles to a normal healthy community life (we do not even speak of a utopia) are greed, envy (Gillman, 1996) and vanity (Aires, 1752). Engendering monsters, they all veil the adequate rationing. It is true that politics should come first: *Politique d’abord!* But to prepare that, there must be a solid, clear and free Education. Of course, education precedes law - *Paideia telion ton nomon*.

“In olden times the school was laughing and frank” – said a proverbial poem that people knew by heart, even many years after leaving school (Antunes, 2015; Cunha, 2011). It was thus an integral part of general culture “that remains after we have forgotten too much”...

There has been a great deal of change ... In past education was a prison in many ways (of the more recent past, of course): an ideological sclerosis, a world in black and white, marked by deep authoritarianism, only attenuated because many teachers did not follow that principles. They were (we could say “by nature”) democrats, and did not identify themselves with the system. They were heroes.

This education, with all its inaccuracies, fulfilled (although full of blinkers and involving a restricted circle of people, obviously) some functions that the present day system cannot overpass: it was an authoritarian school, with some authority smokes (*fumus*) - and without authority, without student’s *docilitas*, there is no teaching. It was a school which initiated to memorisation. A school that provided some concrete and factual grounds to study, without which intelligence floats without direction. Being part of the state ideological apparatus, and in spite of the pauperism (which is also present in present day times) that type of school kept teachers, retained the prestige aura once glorified by Republics. With democracy, laxity invaded schools. These did not understood yet this laxity is an Achilles’ heel that can cost their own existence. School is still not dealing well with multiculturalism (it doesn’t know how to implement a balanced multiculturalism). School did not realized the need to adapt itself to elementary education needs: school ignores (however saying that lives with, or tolerates) what it couldn’t yet think, absorb or expel.

Furthermore, evidently, that from the moment when the first bunch of bad teachers was graduated and have started their damage, reproduction begin to happen in chain (Cunha, 2005). However, just as there are good students who save themselves in spite of bad teaching, there are also spontaneous generation teachers, that can be good teachers, although having had bad masters ... Fortunately, a sole good teacher is enough to save one student.

The newest school to be construct must value its teachers³. School must re-democratise itself at institutional level, however regaining, by democratic means, the authority as well as the pride for knowledge, through the means of a serious and elaborated debate – the effort that leads to prize, and the prize that drives to the effort (Calafate, 1999). Whole the art and science should teach us that discipline is not incompatible with freedom: they go hand in hand, like the physical tension of a string being tuned.

If school does not orient itself to achieve the goals we just described (objectives in progress, in continuously evolving), it will only serve the purpose of working out as a children and young people warehouse, like the Spanish well-adjusted expression says, working as *guardería*, that is as kindergarten and (also “crèche”). Even thought, without protecting them from various dangers and evils.

The Portuguese Philosophy movement (Calafate, 1999), at least as proposed by some of its followers, was oriented to fight against death penalty, against prison sentence and against academic exams. This trilogy seems to be increasingly prevailing nowadays. Obviously, *cum grano salis*, even in its radical provocation.

³ Amongst many, see Cunha (2011).

Many do not realize just how far each of these vindications would lead us. Because death penalty, imprisonment, and academic exams still remain. And how do they remain! Because it is a problem more deeply rooted in collective disaffection (Botelho, 1996).

Therefore, in spite the first of these punishments (or “penalties”) be unconstitutional, there is, for example, the death penalty when condemning people to jails where they will inevitably be infected with deadly diseases. There is also death penalty by state’s dismissal in providing medical care. Indeed, without this care, death will necessarily happen.

There is for sure some ambiguity as regards prisons, which are not only ineffective concerning the purposes they should normally pursue. In many cases they are also restricted to work out as inhospitable and unhealthy warehouse destined to people from whom mobility and normal social interaction (ex-communion, ex-communication) are withdrawn and to whom a hellish life or a place on the advanced crime course may be given, in counterpart⁴.

Finally, academic exams give to know a great ambiguity. Often, they do not serve the school in itself: they do not perform the function of accurately selecting the best ones, for example, by favouring erudition or technicality; or, conversely, every times there are carelessness situations which deceived those students who have in fact prepared themselves. This happens every time these are demagogically compared with all of the rest. And externally, in many cases, academic titles and the most classified graduation are not worthy, as society, being mainly nurtured by personal performances, does not pay due attention to those that made sacrifices to get their titles, even with highest honours. On the other hand, what is the difference between the so-called continuous or progressive evaluation which only martyrs students with more tests? Often this ongoing assessment arrests even more the freedom to learn, than the final exam understood as a “massacre of the less localized one”.

What purpose will this system serve? A system in which death comes disguised as prison, prison is always social death, and school is an enclosed antechamber for new prisons, namely for work, if not for punishing? They are all deaths and prisons of deeper anthropological and even metaphysical meaning.

The trilogy is increasingly updated.

It should not be assumed that exams are irrevocably necessary. They are not even useful. But to abolish them would require a great deal of change, within both heads and hearts. Unfortunately, plagiarisms proliferate around the world, as other devices intended to dribble evaluation.

It is also sure that extra-university evaluation, the so-called evaluation made “by society”, extremely cultivated by neoliberals, is not actually evaluation: much of the times, it is whether luck, or “nepotism” (that is, “effort”) undertaken by those with economic or political power. Therefore, society do not evaluates those who struggle, those who strive. People (that society) have already a distorted opinion inflamed by the own university they had frequented, by individual’s and parents’ names, social status, etc., as well as by whom patronizes them. In short, the *invisible hand* is anything but invisible or fair.

⁴ The criminal character of prison institutions is known. For a more comprehensive understanding, see Chiossone (1987). Which does not mean, obviously, that we are in a position to release dangerous criminals.

In this sense, a public school⁵ which assesses in a serious manner (letting the exams abolition for a more perfect society) and whose evaluation had to be taken into account by society, would be an element of positive pursuit for Equality. Before all, of equal opportunities. It would not be even necessary to go further.

EDUCATION, COMMUNICATION, LIBERTY AND SERVITUDE

In a sense, and to some extent, as Rousseau (2010, pp. 6-7) said, we need to force people to have instruments of freedom, just as children who are obliged to go to school.

In general, one learns to like it. Back to Rousseau, it is always sad to see how the vilest slaves laugh, mocking of the word “Freedom” (Rousseau, 2010, p. 12)⁶.

One of the first manifestations of that “obligatory Freedom” is therefore, and necessarily, education for human rights, for citizenship and constitutional education itself. These cannot be exercised only by jurists. They must be available to every citizen in its elementary version and at least in high school (if not from elementary school), and before that at homes, the foremost schools of all. In Brazil, a bill was presented stipulating the general study of the Constitution in schools, even elementary ones⁷.

It is not understandable why the Constitution, the law of laws, is not systematically and comprehensively taught in democracy, at least in high schools, when in dictatorship, the Constitution was studied (High schools used to have a course on “Nation Political and Administrative Organisation”). Was it merely a legitimising order of the New State (“Estado Novo”)? Or did it meant the existence of a citizenship residue, yet due to the inevitable Republican training teachers have received (at least the older ones), despite their authoritarian orientation? For many it worked like that: a language was taught to them in a manner that they could from then on even discuss what could seem unarguable. It also seems that topics as “marxism” in Eastern Europe before the “walls falls” and even the “direito corporativo”⁸ in Portugal were an excuse to, while in wise hands, to open up horizons far beyond what was intended with its establishment.

It would be however interesting to do a comparative analysis about the situation of this type of study in various countries. We believe that similar neglect would be found in several democracies.

Rousseau spoke about slaves... Slavery was always more or less shrouded in mystery and mystification⁹. It is difficult to say for sure where it begins and where it ends. Was Aristotle right: are there slaves by nature? (Aristóteles, 1987, p. 1254). Such a thesis, apart

⁵ Obviously without putting in cause the right to create and maintain private educational institutions once supervised by governments, and according to objective and clear criteria.

⁶ Translated from the French: “ (...) de vils esclaves sourient d’un air moqueur à ce mot de liberté”.

⁷ *Projeto de Lei nº6954*, from 2013.

⁸ We keep the original words in Portuguese as it would be difficult now to translate it by “Corporate law”, because this should echo more the medieval conception about the division of work, than the global corporation’s modern technocratic vision.

⁹ Cf. Cunha (2011, 2012).

from requiring some fine-tuning, has to be considered from various perspectives. There are those who are obliged, by duty and predisposition, to work, but not to serve, and those who live to work and to serve¹⁰. Or even to serve without working. Then there are a thousand and one other kinds of people who are lazy, idle, etc.. The problem of those who work and compulsively serve is that they are not in solidarity with the few who work and serve, but do not accept everything which is required from them.

And we still have Pythagoras' testimony:

Most men are slaves: some of glory, some of fortune. However, there is a small number that by ignoring everything else, have as their occupation only the study of nature; those who designate themselves as friends of knowledge (...), in other words philosophers (Pitágoras quoted in Vilhena, 1942).

Problematical... Wouldn't it be possible to escape from slavery, even not being a philosopher? This could be a normal ideal of life. And also of citizenship. The goal: to escape from slavery, from all slaveries. A way of life that is, to a point, solitary. On the other hand, it is solidary.

There is no true freedom when important opinion groups (and even people) do not find "airtime" on mainstream media. Who is not on TV does not exist, in a spectator society like ours. Politically and culturally, only those who are on television exist. We cannot have illusions. Or we can have them, but diversifying our media. Anyway, the question is broader. It ends with the discussion around the major social communication companies' ownership and manipulation.

In the meantime social networks and internet, in general, accomplish their promise of projection, but we believe that even if they can already evoke prominent political demonstrations, and form an opinion, they have not yet conquered the passive masses audience. Due to their interactive nature they do not have such an audience. Television prevails largely due to its narcotic effect.

Let us put together Sartori (1994, p.148) and Lembo (2006, p.33) opinions with that already evoked by Caggiano:

Sartori uses the term *homo videns* to characterise citizen living in the present scenario: in front of the television seat, absent, absorbing only images, images that media considers appropriate to feed him. Finally, each season brings its 'foolishness', as stated by Lembo when remembering the eternal presence in the social community of characters who, stripped of any feelings or respect for other inhabitants of planet earth, radiate the harmful effects of their actions, ignoring completely everything around them. Everyone should recognise their foolishness, warns Lembo. (Caggiano, 2011, p.6)

These are not good news, but we must face them objectively.

¹⁰ 'Voluntary servitude' is a different thing, as La Boétie (1997) explains.

Let's go backwards a little bit. In the old days, who wanted to speak and was heterodox used to create his/her own newspapers. To do that, he/she needed means. In many cases, it was possible to obtain individual wealth or collective solidarity (Black, n.d; Blais, 2007). The setbacks were frequent, but a voice bankruptcy was replaced by several new more or less confluent projects.

Today there is another problem: who reads the papers? Only a few. Everyone seems to be hypnotized by television, once called the "one-eyed monster." Perhaps the solution is to give a way to mass informatization, always a double-edged sword. If it requires enslaved workers of today be permanently available, an online world does not need news cooked by television, newspapers or radio newsrooms editions. That is why some approaches coming from the social communication consider that the future of this kind of media involves more "opinions" and not so much the transmission of information contents presented by reporters and correspondents as well as other various global news agencies.

It is not worth regretting not being able to enter into this present day social communication: it is a closed shop. A disgraced politician once confessed he had to start to say (or perhaps do) shocking things in order to get airtime.

How can one think that media will give a voice to those who are not in synchronization? Sometimes this happened in other times, thanks to the open mind of someone, but it now it seems to be increasingly rare. Today, blogs and other alike are created on the Internet, as *Ersatz* ... Even demonstrations are marked via mobile phones, and not for trivial reasons... For citizenship, however, not having access to television, is like not having access to clean water for living. Because there was already and anticipation of that, Portuguese Constitution of 1976 had formally legislated about the "airtime right" (Article 40), but in very cautious terms - as indeed it they must be, given the topic in question. However, could the ordinary law be even more generous and go further in opening the window for citizenship (or not), more faces and more voices, and for longer time? Worst are the cultural programmes, as the experts in the audience of political programmes will certainly say. But it is not only them. It is the voice of the autonomous creation and of citizenship. This is another question that needs time to mature without hastiness, but with the clear sense that our democracies fail due to their inability to give a voice to independent meaning producers.

On the other hand, a time may come in which the antenna must be more than the television or radio. However, it is expected that it will be not necessary to introduce it in the cyberspace once we desire it to be quite free and non-controlled.

Let us speak a little bit about legal education (Cunha, 2016, pp. 125-146). The legal and political lack of culture of many of our fellow citizens is striking and far beyond an average lawyer can imagine. May we enumerate some of them: popular trials, petitions for constitutional revisions, declarations of ostracism against politicians also using internet, incitements to shoot deputies when they come asking for votes, a thousand and one obtuse ideas, that with one stroke would violate dozens of laws, not to mention the Constitution and the great global constitutional principles (those that all Constitutions at our civilizational level must respect).

Even educated people perceive legal language as hermetic, boring and a waste of time, a mere smokescreen, etc.. It is understandable that, for those who are not jurists, legal texts may be used to fall asleep. The same would happen with those who are not philosophers, as some philosophers can make them doze off. Also for those who are not doctors, medical terms maybe incomprehensible. Besides, not being auto-mechanics one always consider what is said to us in garages as pure esotericism. Without disrespect by the professionals in cause, some even doubt if those complications advanced by the mechanics are in fact true and not charlatanism.

This lack of legal and political culture is very serious, especially in times of crisis, in which who will ultimately decide what is right or wrong, legal or illegal is unknown. It would be need to build bridges to intelligibility. Otherwise law loses legitimacy through discourse, something that nowadays cannot be wasted. Because there is a lack of legal education and rights for all (as should occur, even in defence of the own democracy), many did not see yet that Constitution is the cornerstone and the great divide: between democracy and dictatorship, between poverty and dignity, between legality and free will.

Education has just begun to be provided with curious alternatives. Most of the slogans for self-help and motivation in the media, from ads to social networks, are in favour of selfishness, even if they come wrapped in self-esteem and competitiveness, because there is a growing public dependent on this “literature”. It is not socially correct to say so, but it is a phenomenon needing study, insofar as it has consequences, which are, of course, political. Citizenship does not seem to concern most of the advices. Rather, it is more “take care of yourself”, “fight for it”, and so on. It is curious: for solitudes there are no solidarity prescriptions.

A deconstructive look will allow to see in this social movement (which it is) the insinuation of ‘save yourself if you can’ ideology, meaning individualism promotion. In general, the idea is that people need to get smart, not repeating their gestures of goodness (easily misunderstood as naivety or even stupidity) to others. Anyway, we should not regret having done things for others, before having done the enough ones.

This subtle form of education is not, as it might seem, oriented towards freedom, but rather towards dependence on the opium of self (possibly hetero-) help, instilling in people the virus of fierce individualism, as well as the loser complex. It keeps arguing that people who do not succeed in life are those who do not work or that do not have any intrinsic value (Aristóteles, 1987; Quintino, 2007). However, on the contrary, very few (and usually those with their cards marked) can succeed within the world of roulette and craziness... which would be just a normal background, natural and placid, all depending on the convincement, the visualisation, the auto-convincing as regards the samurai of triumph, the successful businessman, and other stereotypes with it is aimed at deceiving and making misled people to work until a precocity death and by exestuation.

DIALOGUES

There are principles that must be kept close to the soul, or perhaps they may already be part of the soul: one respects to the obligation we have to dialogue; and dialogue,

often seeming veiled, brings always new insights. Therefore, controversy is not totally lost, even with those whom we would have to try to fill many gaps with data and other interpretations. This happens not so much because of the effect that our words can have on the interlocutor, but due to the variety of surprise arguments, how many of them irrelevant, but which broaden the horizons, and, ultimately, give to understand Humanity. Or at least give some ways on that sense.

Aristotle, in the *Topics* of his *Organon*, postulates, and wisely, that there can be no discussion without departing from some consensual basis. He says also that there are already not admitted things in a discourse, such as questioning respect for Gods and for parents and denying that snow is white:

who proposes the question of knowing, for example, whether to or not praise the gods and to love parents, does not ask for more than a good correction, and who asks if snow is white or not, just has to open their eyes. Controversy should never create nor circle around issues whose demonstration is near, nor about issues whose demonstration is distant. In the first case, there is no difficulty, and in the second, the aporias are too large for a simple exercise of dispute. (Aristóteles, 1987, p.30)

We believe they are two paradigmatic examples. One envoys to evident data provided by individual senses. The other addresses moral values prevailing in a given society, without which society would certainly implode. They are, therefore, also evident from a social point of view.

But there is more: one needs to agree on facts, on procedures, etc.. Otherwise, all is a deaf dialogue. Sometimes (more frequently in multicultural societies, in which diverse canons only very residually remain, and basics things are lacking), in order to respond to someone else one would have to simultaneously provide them with an unpredictable set of information concerning history, law, politics, or even about the elementary rules for living in society, encompassing since logic to etiquette of good manners. So one cannot actually think that we are rightly speaking, or writing: anything one may say will certainly not achieve the desired effect. Even an effort to translate ourselves may have unforeseen consequences. And yet we must not remain silent, but rather try to make ourselves understood.

Worse, however, are those who do not want to understand. There are also those who, speaking and polemicizing, do not want to hear anything from others. All excuses are valid for them to expound their little theory, their vanity, their sectarianism, their anger, more or less polished by civility and good manners. What happens, though, is that the inflamed discourse of sectarian passion doesn't approaches anyone of the truth. It just keeps away the interlocutors who do not immediately share their experiences, and, afterwards, their judgments.

And amid the general clamour (communication by simply communicating - factual - increases exponentially) and the profound misunderstanding, illegibility, and lack of harmony, misunderstandings enhancers of disagreements, law cannot. And it must

be applied to everyone, whether they understand it or not. In this, the jurists have – by legitimising throughout discourse – to play the role of universal translators. It is a thankless job, something for what law schools usually only very remotely and laterally prepare them. But they can still prepare and have it prepared. Because not only that which is explicitly learned is what is actually learned.

How many very important matters are collected from the anecdote, from the aside, from the brief reflexion made on side-lines of these masters who were and truly are masters. How much is learned from arduous and apparently not immediately applicable labours. How much is learned from what is said and from what is left unsaid.

But the effort in order to have a possible clarity, a possible dialogue, for a possible understanding of in society is an everyday effort, and a labour of Sisyphus from which the jurist cannot resign.

Some great and bloody wars and controversies had only happened because some one know certain data, while other ignore it; because some hold certain devices or hermeneutic training, and other do not. And the more we ignore the wider world, the more one is convinced of being at easy in that world that, in spite of being very close, it taken as already known.

One of the major problems of the democratic dialogue is, apart from whether or not it is in good faith, this other one: the understanding or misunderstanding of what our interlocutor is saying. But it is considered snobbish to try to explain, even carefully, that something was not understood, either due to a lack of comprehension, or a lack of culture, etc.. In fact, it is rare that the ignorant - who usually doesn't have any guilty for being so – accepts the suspicion of being actually ignorant. But is it democratic and lawful to leave someone in his/her ignorance? Is not it a spiritual and mercy task to teach, by different means, those who are wrong?

To error is, moreover, the third work of mercy, after giving good advice and teaching ignorant (Debord, 1992; Debret, 1993; Portal Ecclesia, 2012). But isn't it a civic duty to correct them?

One do not find affirmative answers to this question on the list of solutions today considered politically correct. But either democracy face them with lucidity and prudence, or another regime will have no embarrassment in imposing its beliefs through its strong convictions, even being as more dogmatic and absurd as they could though to be. There was a time when powers were troubled by people clamours o...Nowadays, people is who are troubled by powers clamour.

We live in a spectacle society, where the State wishes to seduce its citizens (Debord, 1992) - when it is not complaining about them or about their imperfection¹¹. The powers do not mitigate their presence in people's lives (when they do not wish to embellish a certain discretion with prestige - which is be rare given the temptation to appear in media, something that owner cannot escape from), and bomb citizens with "facts" (and we know that political facts are largely created or invented). In face of staging and

¹¹ "(...) People has lost their trust on the government/ and only by redoubled efforts/ could they regain it. But wouldn't it be/ simpler for the own government/to dismiss its vassals/ and elect another ones? (Brecht, 1976, p. 82).

harassment, the temptation is to delete that meddlesome reality (and in extremis provider and maker of the bad news), by turning off the “antenna”: the radio, the computer, the television¹². For many it is a cultural cleanliness and a peace of mind “click”. That so, if news to which one is given right to access (or should it be a duty?), are everywhere ways of “shocking,” why are we every day at their mercy? Is there any sense or direction in powers to determine the fate of real people? Or are they all victims of the structure, of the system, as the old minister, Luc Ferry, seems to think¹³?

As it is not possible to build a global Ark of Noah (and remember how plutocratic the selection was for the film ‘2012’ (Emmerich, 2009), the attitude is frequently negative: deny this inconvenient reality that enters through the television. Or - even more frequent - passivity: let oneself fall asleep on the couch, lulled by the babysitting TV.

Yet there are certain people to whom it is good to listen to, when they speak, and even better, when they decide not to speak. There is a rhetoric of speech and rhetoric of silence (Fumaroli, 1994; Hall, 1959; Ryner, 1996).

Only those who have to keep quiet and ruminate (not as submission but as learning) deserve the gift of speech. Usually, who speak without thinking commits mistakes. It is necessary to think of everything that it said, but never tell everything that is thought.

To speak in the public sphere should involve a certain domain over the *decorum*, over the opportunity, even of a certain *Raison d’État*. Unfortunately, our democracy is, on the contrary, a demagogic logocracy. It is not, of course, censorship. But rather self-containment (or self-restraint). Not in favour of the conveniences, but in favour of the common good. This is another problem of higher and more basic education. It is true that powers speak a great deal today, with wide diffusion and steadfast. But only in a very indirect way one can say that their word educate.

SIGNS

We recall the characterology¹⁴. Often, seeing the faces of a few filling the screens, there are television spectators who parabolise “who sees faces does not see hearts?” And “does any dictator have a pretty face, or ‘good looking’”, by chance?

Can there be people be transfigured by evil? Their very bad taste, despite the huge amounts of money and power they sometimes have, tell us more. Many seem deeply unhappy. Except perhaps for brief moments when they are enjoying others’ downfalls? All these are merely “ordinary” impressions. We know very well there are no lombrosian “born criminals”. It is a dangerous discourse, because it can lead to a counter-attack from authoritarians and totalitarians, whether be ugly or beautiful.

¹² Derrida (1991) recalls the solution of purely and simply turning the television off, as proposed by the Pope John Paul II.

¹³ Ferry (2012, p.243) states: “Democracy promises our participation in the collective construction of a freer and more equal world; we have already lost almost all control over the development of the world” which is not a statement that makes us feel comfortable”. About the process concerning the way everything that is transformed be dominated by the system, in another context, see Lourenço (1967, p. 159).

¹⁴ And it would be useful to return to Bruyère. After all, did he not write that “Health and wealth, preventing people from the experience of evil, inspire their hardness for those who are in the same situation; thus, people already suffering their own misery are those who better show their compassion for the other’s misery” (1993, p.70)?

But this leads us to another serious problem: Is this *vox populi* so despicable, not because the weakness of its science, but due the calculation of political marketing reality, selecting more and more good-looking candidates? Even candidates without political experience. Is it in fact a matter of selling a commodity? This is the most important problem concerning citizenship and democracy in this context.

We should recall here Brother Benito Feijó who had also made reflexions about physiology, and compare it with the conclusions to which current political rhetoric arrives: movement is more studied than statics. The construction of the political actor does not suppose, however, to make an ontological distinction, and even less a deontological one between the real and its sensed imitation ... Everything passes to another level of the game that is, inventing the character and removing the subject (Camarosano, 2006; Dal Bosco, 2004; 2007; Figueiredo, 1999; Freitas, 2007).

Obviously, one should study rhetoric and political marketing in order to be able to deconstruct them as well.

The perception of many reals seems to be made from caricatures, on the basis of pronounced traits, or by commotion, or shock. Contrast plays at this respect an important role.

School should teach us to see in first place. Visual education in a broad sense. Before hypocrisy and other alike, we have to thank perfidious by their perfidy. This leverages the modest honourability of some to something nearby saintliness. We must thank disease by health appreciation, to total stupidity by a little moment of intelligence. Giovanni Papini, among many reasons to praise the foolish, highlighted the fact that they were the backdrop for those averagely endowed.

Since beginning, for example, the administrative improbity of some (as the law is made for the wicked and thinking of them, as traditionally assumed) has led to the legal response in justification of that probity¹⁵, as well as its respective doctrine (Camarosano, 2006; Dal Bosco, 2007; Figueiredo, 1999; Freitas, 2007). Corruption leads to anti-corruptive legislation, etc.. (Cunha, 2015). Recalling Tacitus: more laws, more signs of an anomic situation: *Corruptissima republic plurimae leges* (Tácio cit in Mosterín, 2008, n/p). Let us not forget that Aristotle already emphasized that law was made taking the bad people into account (the potential criminals, for sure).

HIERARCHIES AND DISCRIMINATIONS

Words may bother some people, but democracy does not survive without a demophilic elite (Araújo, 1995). Those who, in a democracy, claim against the elite are those who whether not understand the question, or are stuck in romantic, idealistic and literalist complexes about this regime that they would let to collapse, or are dissolvent

¹⁵ According to the terms of the Brazilian Federal Constitution, art. 37.º, XXII, § 4.º: "Acts of administrative improbity include the suspension of political rights, loss of public positions, the unavailability of goods and treasury repayment, following what is stipulated in the law, and without being excluded from the criminal charges penalties". It is harsh legislation. Retrieved from mbsp.mp.br/portal/page/portal/cao_cidadania/Improbidade_Administrativa/Doutrina_Improbidade/3-improbiteaus%C3%AAnciadepreju%C3%ADzo.htm.

anarchists, nostalgic about the old segregation models and privileges, or are even new candidates.

A democracy that does not work in order to select the best becomes dominated by mediocrity and demagoguery. Therefore, it stays strongly vulnerable. And in practice, democracies are really vulnerable. Therefore,

(...) democracy often works out much worse than it would be expected due to the easiness with which demagogues and populists win elections, especially among misinformed populations. Sometimes, politicians who make promises impossible to be fulfilled are more popular than those who present a more sober and realistic evaluation of those chances. Populism, *caudillismo* and demagoguery shake the overconfidence of naive citizens spreading the idea that politicians will solve people's problems. (Mosterín, 2008, pp. 53-54)

Too pessimistic, but unfortunately it does not fail to observe the dangers and the of *rotativismo* Achilles heels (regular rotation of leadership, generally between two main groups). According to the same author:

There should be no illusions about democratic politicians, who can be as corrupt and inept as dictators. In fact, politicians almost always end up letting voters down, who in the following elections appoint their opponents, just to be let down again by them. (Mosterín, 2008, p. 55)

The word "elite" has a negative connotation. And among us (but we are not alone), elite is very much confused with "oligarchy." And they are very different concepts and realities. We would even say antagonistic. Because only with the elite can the oligarchic vectors be avoided and battled against in democracy, as far as they can change democracy so much that end up metamorphosing it.

When we say that a democracy needs the elite, in the end, what does it imply? We are speaking about elites of service or virtue, imbued of competence and without fearing ideology. It is not obviously a monsters club, or of a melting pot of corrupt people, a band of incompetents, not even of a handful of wise or highly paid specialized technocrats, supposedly aseptic, however serving *status quo*. It is yet possible to reunite enduring elites, or what is left from them.

But in order to do that we need a programme, and especially we need that the enormous "ego" of each genius can be putted in parentheses. And the elite's first commitment is very simple: Honour, Respect, Defend, Comply with and Enforce the Constitution.

However we must admit that today there is not elite worth of this nomination in the sense of being a national body in great part of the countries. This happens even more when it is necessary that an elite recognizes itself as an elite and wants to work for the country. But there are still people who, united, could comprise an elite. And all true elite should know and remain sufficiently open to its renewal (a condition for maintaining this quality). Only this way an elite can avoid being transformed into an oligarchy, perhaps a false aristocratic oligarchy.

On the other hand, there are also great problems. One should not be afraid of words, even if they are unpleasant or shocking: poverty is a major obstacle to education. So, let us speak about the poor (Canotilho, 2010, p. 33).

Aristotle always provides us with cautionary topics regarding the aetiology (and some misconception) about one another (Aristóteles, 1960). But who are they, *hic et nunc*? Today, those who are truly poor are the salaried workers, in general: in fact, historically poor were those who needed to work for living, as opposed to the indigent, who was in the most desperate poverty. Today this vision must be rehabilitated, especially considering the strong employment precariousness. The employee is always in danger of falling into severe poverty, of becoming unemployed - particularly if fired. The barrier between poverty and penury is very tenuous.

But there is another step to be taken. Investigate objectively who are the poor. When that first step is taken, many of those who disregard the poor will understand that they are equally poor. This may be a *principium sapientiae* for them.

Then, one needs to see, and certainly also with the aid of a mirror, what is the estrangement, why estrangement and why segregation and avoidance caused by this class of people - because they are people, and not things or animals, as some seem to think.

Well, the poor are not made of a different mass, inferior nature, as often think those who are not, or believe themselves not to be ... In part in order to calm down their qualms and to pacify their conscience, if being socially outcast. In part to distance themselves, if they find themselves dangerously close to destitution or, at the least, near severe economic difficulties.

The poor are not ruder, more ignorant, less subtle, or even uglier, and thus naturally condemned to their condition. On the contrary, what makes them sometimes to be like that (but only sometimes) is their own conditions as poor, and naturally exploited. Nobody is born poor. We create the poor (to paraphrase Beauvoir). However, some of them raise themselves on the basis of their condition, and thus in spite of their circumstances, they become more polished, cultured, delicate and beautiful than those who swim in the seas of undeserved contentment.

In relation to the poor, will we have to do that which even the first navigators and explorers eventually did with the indigenous people they encountered, praising their authenticity and even their beauty?¹⁶ As Paul Lafargue reminds us, among many other references:

Speaking of the natives from the oceanic islands, Lord George Campbell writes: 'there are no people in the world who are so impressively marked since from the start. Their smooth skin with a slight bronze tint, their golden, wavy hair, their beautiful and joyful face, in a word, their whole person, formed a new and splendid specimen of 'homo type'; their physical appearance gave the impression of a race superior to ours. (Lafargue, 1880, n/p)

¹⁶ Above all, see the book called *Carta de Pero Vaz de Caminha*, about Brazil Discovery (Castro, 2015).

Thus, there always remains the suspicion that the observer, in these cases, looks down on the Other (as Bazin stated, in 1957), even if praising them. Perhaps, the first priority should be praising the common humanity, not just of the poor, an increasingly broad category, but of the destitute themselves, as well. Humanity that, especially in this last group has been so often ignored and concealed, apart from this same condition be already revealing injustice. Therefore, a praise of the common humanity, because even in provisory exaltation (here the legal storytelling would be a very appropriate path): it is necessary to admire before understanding, in order to learn without disdain.

In the current state of affairs, being rich could be a doubly excellent thing, as it allows the easy mobilisation of resources simply according to the will of who is there: they can be well used, and contribute to the Common Good and even to the society (Ackerman, 1993; Azevedo, 2000; Boudon, 1995; Craveiro da Silva, 1994; Cunha, 2003, 2010; Latour, 2003; Tale, 1995).

The great evil is to be rich and blind, deaf and dumb before social reality. In this case, wealth is certainly a poison to those who possesses it ... and the torment for searching more wealth will never be weakened... On the contrary, insatiability can be a dementia, a torture.

Social sensitivity or insensitivity, social solicitude or its opposite make all the difference in the social climate of a legal and political living experience. The Welfare State, even at its flowering peak, could never fulfilled all social needs. It requires solidary collaboration provided by great sponsors as well as small efforts and contributions.

Obviously, with the accelerated however non-progressive dismantlement of this type of State (Loureiro, 2010), the need for civil society to engage in solidarity increases, fulfil its duty, and assuming its social responsibility, "from those who can until those who need."

One of the characteristics of the civilization in which we live in is the importance given to prediction. It is not always well succeed, as observed in economic projections, however it is strongly cherished, not only by governments, which have all become in a way planners, but also by individuals, who are advised to predict, secure, plan.

Therefore, there are those who have had great plans for life from an early age. There is nothing more natural and more legitimate. For example: there are those who want to be this or that - who wants this position or that, and often only for vanity.

The way to get that, with what support and with which ideas, or based in which merits or demerits, have little importance for those obstinate people. Well, these are precisely those who, following the general utility point of view, should never reach their goals. For the Common Good. Because they are interested only in the ends and not in the means. Nevertheless means encompasses not only whole the beauty of the path, but also whole of the legitimacy of the own trajectory and perhaps of the arrival.

There are various kinds of ambition. Aristotle had already observed this in the "Nicomachean Ethics" (Aristóteles, 2009). A word for positive ambition is lacking. The same happens for negative ambition... Because we know, as Estagirita, that virtue is in the middle. The apathetic wanting anything, and that makes no efforts for absolutely nothing (is not even laziness, is a numbness, largely confused with resignation, brutalization,

etc.) is not the virtuous. Also the virtuous is not the nor ambitious upstart, the hustler, the pusher, etc. But the ambitious good how could it be called? More important than that - what virtues must that person have?

The fact is that good ambition must serve common good. We may call it, in general, Social Justice, too. Returning to Aristotle: was not by hazard that this author, after discussing whether a private life is better than a public life, or vice versa, was tempted to value the excellence that engagement in public life may represent. We believe that the deeper reason is the same when thinking of Justice Excellence virtue, comparing to others. That is, the others acting alone, can, at their best, effect only the person him/herself, or on a closed circle. Justice, meaning intervention in public affairs, is necessarily something with a social impact. So, the best is the political good as it can beneficiate if not all, at least, a majority of people.

In several countries, there is an increasingly prevailing social and cultural confusion and disorganization concerning the rise of the “nouveaux riches”: the craze of personal greatness, translated by the nobility craze. Additionally, the ostentation of true and false academic titles and distinctions alike ... It is not something that one can abolish by decree ... Ending up with doctors, the social climbers will immediately rediscover baronies or commendations...

However, this situation distils a more worrying interpretation. Titles are signs made for society. And the excess of these signs, many of them false or falsified, means that we are societies where the simple dignity of being a citizen is not taken seriously. More adjectives are needed in order to be considered. In addition to vanity, it is a worrying sign. For British people it is mythically enough to be a royal vassal. To us, the pride of being citizens of our Republics should suffice. But for many it is not enough.

A curiosity: as in the Byzantine Empire doctors were termed as counts and lawyers as doctors ... May all of us, jurists, or nearly all of us, say ‘we are counts’! However, it seems that a count is addressed as ... “Sir”!

Besides the inconvenience which may arise, for those who have a relatively stable (high or low) position in society, the eagerness and the confusion of manners and codes of whom who have a lot of money and does not recognises their meagre education, it should be important to think about the phenomenon. The “nouveaux riche” are, after all, a wheel of fortune by product which is typical in our societies. They are strongly based on economical capitals of course, but also, to some extent, a result of a positive aspect of our open societies: they are signs that upward social mobility is possible. Perhaps not always due to intellectual merit, or a hard work reward, but surely due to some noble motives.

Let us remember, then, that in a closed and stratified social society, with rigid castes, or shielded layers, “nouveaux-riches” do not exist. And this kind of society is much worse than puerile gaffes and naivety, at times coveted by ill-fated or even prized for their work and qualities.

Clearly, therefore, the solution is not to block social mobility. Let us think that the “nouveau riche” phenomenon will cease to exist if everyone is educationally prepared to possess and to not possess. If education is universal and promotes equality.

Fundamentally universal and egalitarian. Let us observe that there would not exist, for other reasons, this new strata if one can consolidate (and not to permanently spoil, like it was done with the goose lading golden eggs) an expanded, conscious middle class, with several grades between rich and indigents.

Unfortunately, there is a need to actually realize. As regards coexistence (and even tolerance) the situation is this: when the varnish falls off (and there are cracks everywhere: it is said that in some countries it seems to have already started with the expulsion of groups such as the gypsies, only to give just one example...) we are still in pre-history. It would be urgent to prepare people to accept differences starting with smarter television programs as well as in other means of communication. The goal would be the same: to appreciate them (the differences), insofar as they are part of the common heritage, of *humandiversity*, which is in fact much more important than biodiversity, the one that rightly wanted to be preserved.

To rhetorically proscribe racism, xenophobia, homophobia, etc.. is still a very small step. There are still unimaginable hatred against those who wear clothes of different colours or shapes. There is much more regarding those who dare to think otherwise, or worse, in relation to those who dare to act differently! In many aspects, we are still in a deep minority. And why not, in a situation like this, calling up the Constitutional Law, as a common social project, and in this case, as a great cohabitation pedagogy?

As we have seen, education is a vital necessity, and as such, it may even be considered a natural right. But that right comes up against a variety of stumbling blocks, in a society bounded by harsh realities and powers which are not legally legitimized.

BIBLIOGRAPHIC REFERENCES

- Ackerman, B. (1993). *La justicia social en el estado liberal*. Madrid: Centro de Estudios Constitucionales.
- Aires, M. (1752). *Reflexões sobre a vaidade dos homens, ou discursos morais sobre os efeitos da vaidade*. Lisboa: Oficina de Francisco Luís Ameno.
- Araújo, A. C. (1995). *O poder e as elites: a caminho de um elitismo democrático*. Tese de Mestrado. Lisboa: Universidade de Lisboa.
- Aristóteles. (1960). *Rhétorique*. Paris: Les Belles Lettres.
- Aristóteles. (1987). *Organon V*. Lisboa: Guimarães Editora.
- Aristóteles. (2009). *Ética a Nicómaco, IV*. Lisboa: Quetzal Editores.
- Azevedo, P. F. (2000). *Direito, justiça social e neoliberalismo*. São Paulo: Editora Revista dos Tribunais.
- Bachrach, P. (1969). *The theory of democratic elitism - A Critique*. Londres: University of London Press.
- Barthes, R. (1970). *Mitologias*. Lisboa: Edições 70.
- Bauman, Z. (2010). *Legisladores e intérpretes*. Rio de Janeiro: Zahar.
- Bazin, H. (1950). *A morte do cavaleiro*. Lisboa: Editores Associados.

- Beard, H., & Cerf, C. (1994). *Dicionário do politicamente correto*. Porto Alegre: L&PM.
- Benda, J. (1927). *La trahison des clercs*. Paris: Grasset.
- Black, V. (n.d.). *Introdução a "Do orador" e outros textos*. Porto: Rés.
- Blais, M.C. (2007). *La solidarité. histoire d'une idée*. Paris: Gallimard.
- Botelho, A. (1996). *Teoria do amor e da morte*. Lisboa: Fundação Lusíada.
- Boudon, R. (1995). *Le juste et le vrai*. Paris: Fayard.
- Brecht, B. (1976). *Poemas - A solução*. Lisboa: Editorial Presença.
- Bruce, A. (1993). *La justicia social en el estado liberal*. Madrid: Centro de Estudios Constitucionales.
- Caggiano, M. H. (2011). Democracia X constitucionalismo: um navio à deriva? *Cadernos de Pós-Graduação em Direito: Estudos e Documentos de Trabalho*, 1, 5-24. Retrieved from http://www.direito.usp.br/pos/arquivos/cadernos/caderno_1_2011.pdf
- Calafate, P. (1999). *História do pensamento filosófico Português*. Lisboa: Caminho.
- Cammarosano, M. (2006). *O princípio constitucional da moralidade e o exercício da função administrativa*. Belo Horizonte: Forum.
- Castro, S. (2015). *A carta de Pero Vaz de Caminha. O descobrimento do Brasil*. Porto Alegre: L&PM.
- Canotilho, J. J. G. (2010). O direito dos pobres no activismo judicial. In J. J. G. Canotilho; M. O. Correia & E. P. B. Correia (Eds.), *Direitos Fundamentais Sociais* (pp. 33-36). S.Paulo: Saraiva.
- Chiosso, T. (1987). La conducta de la autoridad como factor criminogeno. *Revista de la Facultad de Ciencias Jurídicas y Políticas*. Retrieved from http://www.ulpiano.org.ve/revistas/bases/artic/texto/RDUCV/67/rucv_1987_67_7-20.pdf
- Cunha, P. F. (2003). *O século de Antígona*. Coimbra: Almedina.
- Cunha, P. F. (2005a). *A escola a arder*. Lisboa: O Espírito das Leis.
- Cunha, P. F. (2005b). *Política mínima*. Coimbra: Almedina.
- Cunha, P. F. (2010). *Para uma ética republicana*. Lisboa: Coisas de Ler.
- Cunha, P. F. (2011a). Universidade: um manifesto pelo sonho. In J. & Lauand, *Filosofia e Educação. Universidade* (pp. 13-24). São Paulo: CEMOrOC/Factash.
- Cunha, P. F. (2011b). Esclavagem. In S. Tzitis; G. Bernard & D. Joliver (Eds.), *Dictionaire de la Police et de la Justice* (pp. 124-125). Paris: Dalloz.
- Cunha, P. F. (2012). O avesso dos direitos humanos. Para uma história pensada da escravatura. Curitiba: Juruá.
- Cunha, P. F. (2016). Para um guia metódico do estudante de Direito – Introdução ao espírito universitário dos juristas. *Notandum*, 40, 125-146. Retrieved from <http://hottopos.com/notand40/125-146PFC.pdf>
- Dal Bosco, M. G. (2007). *Discricionariedade em políticas públicas*. Curitiba: Juruá.
- Debord, G. (1992). *La société du spectacle*. Paris: Gallimard.

- Dal Bosco, M. G. (2004). *Responsabilidade do agente público por ato de improbidade*. Rio de Janeiro: Lumem Juris.
- Debret, R. (1993). *L'État séducteur*. Paris: Gallimard.
- Derrida, J. (1991). *L'autre cap suivi de la démocratie ajournée*. Paris: Minuit.
- Endress, J. (1989). *Geimeinwohl heute*. Innsbruck: Tyrolia.
- Ferry, L. (2012). *Aprender a viver. filosofia para os novos tempos*. Rio de Janeiro: Objetiva.
- Figueiredo, M. (1999). *O controle da moralidade na constituição*. São Paulo: Malheiros.
- Fiske, J. (1999). *Teoria da comunicação*. Porto: ASA.
- Freitas, J. (2007). *Discricionariedade administrativa e o direito fundamental à boa administração pública*. São Paulo: Malheiros.
- Fumaroli, M. (1994). *L'école du silence, le sentiment des images au xviiiè siècle*. Paris: Flammarion.
- Gillman, M. A. (1996). *Envy as a retarding force in science*. Avebury: Aldershot/Brookfield.
- Guitar Escudero, M. P. (2005). *Discurso parlamentario y lenguaje politicamente correcto*. Madrid: Congressos de los Diputados.
- Hall, E. (1959). *The silent language*. Nova Iorque: Doubleday.
- Kant, I. (1988). *Que és ilustración?* Madrid: Tecnos.
- Koslowski, P. (1999). *Das gemeinwohl zwischen universalismus und particularismus*. Stuttgart/Bad Cannstatt: Frommann-Holzboog.
- Lafargue, P. (1880). *Le droit à la paresse*. Retrieved from https://www.marxists.org/francais/lafargue/works/1880/00/lafargue_18800000.htm#3
- Latour, S. (2003). *A sociedade justa. Igualdade e diferença*. Porto: Porto Editora.
- La Boétie, E. d. (1997). *Discurso sobre a servidão voluntária*. Porto: Antígona.
- La Bruyère, J. (1993). *Les caractères de Théophraste traduits du grec avec les caractères ou les mœurs de ce siècle*. Paris: Belfrage International.
- Lembo, C. (2006). *Eles temem a liberdade*. Barueri: Cepes/Manole/Minha Editora.
- Loureiro, J. (2010). *Adeus ao Estado Social?* Coimbra: Wolters Kluwer/Coimbra Editora.
- Lourenço, E. (1967). *Heterodoxia II*. Coimbra: Coimbra Editora.
- Moreira, A. C. (1995). *O Poder e as elites: a caminho de um elitismo democrático*. Tese de Mestrado, Universidade de Lisboa, Lisboa, Portugal.
- Mosterín, J. (2008). *La cultura de la libertad*. Madrid: Espasa Calpe.
- Nakagawa, H. (2008). *Introdução à cultura japonesa. Ensaio de Antropologia recíproca*. São Paulo: Martins Fontes.

Quintino, C. A. (2007). O conceito de exclusão social numa abordagem liberal e estruturalista. *Anais do VI Simpósio Multicultural do UNIFAI* (pp. 203-223). São Paulo: IESP/UNIFAI.

Rousseau, J. J. (2010). *Du contract social*. Rosny: Bréal.

Ryner, A. (1996). *L'envers du théâtre. Dramaturgie du silence de l'âge classique à Maeterlinck*. Paris: Jose Corti.

Silva, L. C. (1994). *Marxismo, filosofia da libertação*. In L. C. da Silva, *Ensaio de Filosofia e Cultura* (pp. 365-378). Braga: Faculdade de Filosofia.

Sartori, G. (1994). *Comparative constitutional engineering*. New York: University Press.

Tale, C. (1995). *Lecciones de filosofia del derecho*. Córdoba: Alveroni.

Vilhena, V. (1942). *Pequeno manual de Filosofia*. Lisboa: Sá da Costa.

OTHER REFERENCES

Antunes, A. (n.d). *O Estudante Alsaciano*. Retrieved from <http://www.blocosonline.com.br/literatura/poesia/pi01/pi210548.htm>

Emmerich, R. (Realizador) (2009). *2012*. USA: Columbia Pictures [Filme]

BIOGRAPHICAL NOTE

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