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RESEARCH ARTICLE

POLITICAL REFRACTION, PUBLIC POLICIES AND EDUCATIONAL LEGISLATION IN BRAZIL: THE BEGINNING OF A LONG DISCUSSION

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ABSTRACT

The present work consists of an essay with the objective of discussing the possible applications of the concept of Political Refraction (SANTOS, 2012) to the analysis of Legislation and Educational Policy. To this end, we seek to apply this concept to the analysis of the foundations of the Brazilian legal system (taken in its mediation with Politics) with regard to Educational Legislation. Thus, we tried to develop an essay in which the two pillars of the Brazilian Educational Legislation were examined: the Federal Constitution of 1988 and the Law of Guidelines and Bases of National Education in view of the (diffuse) notion of Democratic Management present in this sector of the legal system. national. At the end of this essay we are able to unravel some of the multiple interfaces between Politics and Education regarding this crucial aspect of Educational Management (of schools and education systems) in Brazil.

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INTRODUCTION

Relations between Politics and Legislation, as well as between the State, Legislation and Politics, cannot in any way be regarded as harmonic, and without any doubt it is impossible to observe direct correspondences between these three basic entities of the phenomena of contemporary societies. When we talk about complex and highly diverse societies like Brazilian society this becomes even more marked and present. In a previous work, it was proposed to apply a notion coined by analogy with the physical phenomenon of refraction (SANTOS, 2012). Light shifting from one medium to another alters its speed and direction due to the change in its propagation speed. In this respect, it should be pointed out that it is not possible to think of total refraction, and this is for one simple reason: the total refraction of a light beam concerns a property other than the propagation of light, namely the reflective property. Thus, a phenomenon of total refraction is actually a phenomenon of reflection, which also exists and can be used as an analogy, but which concerns another nature of occurrence, different from the one we will deal with in this article. Taking into account the central analogy that is the subject of this essay, namely refraction. Thus, we understand that a political action, as well as its materialization in the scope of public policies, suffers to some degree or some modification when they go from documentary proposals to concrete implementation (SANTOS, 2011).

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This analogy aims to typify the deviations that occurred between the legal proposals and the actions developed under the Policy, with special interest for the Educational Policy. The concept of political refraction is not new, however. Other authors such as Antonio Segrillo (2005) have used it before but what we intend to do is an application of such a concept to different dimensions of the Policy, as well as we are concerned with an expansion of its scope in order to facilitate the understanding of phenomena. broad and wide-ranging links to legal-political mediation between state and society. In advance it is possible to think of two degrees of political refraction: partial political refraction (when an equal deviation occurs in some of the premises of the legal-political document that supports the proposed action) and total political refraction (when deviations occur in almost all the listed elements). the letter of the legal-political documents in which the proposed action is present). It is also worth pointing out that among the ways of capturing political refraction, one has special validity: the reading of legal documents (collated with content analysis and rhetorical analysis) compared with concrete observations of the contexts in which such documents regulate the legal-political mediation of its contents. Based on this guideline, I have tried to list the examples and discuss them in relation to the concept of Political Refraction, as presented in the following perspective. In order to explore the fertility and relevance of this concept, we will seek throughout this essay to apply it within the scope of two phenomena: a) Bureaucracy within the State; b) The monolithic interpretation of the notion of Democratic Management.

Such phenomena are taken in cases where there would be total or partial political refraction of their constituent matter. At the end of the essay, an indicator is proposed that can help to delimit the amount of political refraction present in each legal-political matter.

State bureaucracy and political refraction implicated in administrative rationality: Political refraction, when expressed in its total political refraction form a reality in which bureaucracy, conceived as a mediated and mediating alternative to the tyrannical and oppressive power of the “Hobbesian State”, becomes in some cases its opposite: an instrument coercion and degradation of civil rights, an instrument which is used arbitrarily against those who should be protected against the misconduct resulting from the concentration of (absolute) power that comes from the holders of command functions within the State. This factor is due to the constitutive matter of the core of the bureaucracy (at least when this term refers to the Weberian theory) consists in the materialization (embedded in the materiality of the documents) of the rationality applied to the political administration, concerning the decisive determinations that took place within the domes. command of public organizations. Such a rational matrix of bureaucracy is closely related to the patterns of rationality development (as well as the cultural appreciation of such rationality) of the state in question, as well as to the cultural appreciation of rationality, imbricated in its cultural matrix, especially within groups. dominant politicians at the State Policy level.

When it comes to countries like Brazil, where technical and scientific knowledge does not find valuing resonance in the valuing standards of national culture (especially in terms of knowledge regarding politics and sociology), it is possible to situate the development of organizational rationality. / instrumental in a path of dissonance regarding the practical logic of state rationality, evoked by patrimonialism and traditionalism inherent in many of its institutions (SANTOS, 2005). Thus, the development of state bureaucracy in Brazil often follows a different path from the development of the rationalities pointed out by Habermas, as the logic of state institutionalization often serves different political interests from those involved in the process of becoming more efficient at the technical level. (and therefore more connected with the practical logic imbued with communicational or even instrumental rationality).

Thus, taking into account the factors exposed and in view of the fact that the patterns of rationality directly influence the final form expressed in the materiality of the bureaucracy, the political refraction is permeated by conceptual aporias and paralogisms, since its intellectual matrix / conceptual is also stripped of an ordering at the level of internal logical coherence. Due to this, there is in the scope of the transition between the document formulation plan and its practical implementation a second order political refraction, which conditions circular referrals of people, resources and processes, as well as distorts the temporality regarding the expected procedures in relation to transfers-exchanges between state and civil society. A good example of this process is in article no. 1238 of the Civil Code, which provides for the procedures for requiring adverse possession, based on the Constitutional premise that guarantees all Brazilian economic activity and housing. The difficulties of processing and the long term for such a right to be requested

(several years) ends up making the provision of this right of the citizen unfeasible in practice, such is the temporal distortion operated within the bureaucracy. This implies the fact that in most cases the right to be exercised and demanded by those who would be the object of this constitutional provision that motivates public policy linked to the precept of Article 5 of the Magna Carta that provides for the right to housing, Despite the beautiful and precise wording of the F / 88 and Article 1238 of the Civil Code, they still remain excluded from the materialization of this fundamental guarantee when it passes into the concrete dimension. Another example, concerning the State sector concerning Education, concerns the premise that every element present in the school space is responsible for the administration of schools (CERVI, 2005). In this sense, there is a partial political refraction because when the educational legislation describes the mechanisms (participation in School Councils, Class Councils, PPP Elaboration Committees) but do not define the periodicity of such events nor in what proportion the participation of each One of the actors present in the school may occur, which makes such participation unfeasible for two reasons: a) Many of the actors (especially the parents of students) are not necessarily aware of this possibility of acting (since there is no regulation regarding the advertising of such processes) ; b) without establishing the dynamics of the formation of such deliberative instances, there may be (as indeed are) cases in which participation is merely the formal presence of a few representatives who would not collaborate effectively in the decision-making processes in which they are urged. the participation. Such political refraction reflects centralizing and authoritarian characteristics of the Brazilian State, which for long periods of time lived with low political participation of the population in decision-making processes (SANTOS, 2010). Regarding the relationship between political refraction and state bureaucracy in Brazil, it is clear that in many cases the political constraints distort the legal structure and its practical implementation to the point of making the documentary procedures that would be evidence of rationality. become vehicles of ineffectiveness of procedures and deviations from the norm provided by law (MARTINS, 2005). This is one of the exemplary cases that illustrate the existence of a phenomenon of political refraction in the juridical-political context. We will later discuss the political refraction as perceived in relation to the monolithic interpretation of the notion of Democratic Management of Education.

The political refraction of the notion of Democratic Management applied to Education: conditions of a monolithic view: The Brazilian Constitution of 1988 (CF / 1988) and the current Law of Guidelines and Bases of National Education (LDB) bring in its core a concept that guides (or at least is registered such intention) the political relations between State and Society, as well as to bring to participation organized sectors of Civil Society, once excluded from political decisions concerning the various sectors of the State (CURY, 2000, SANTOS, 2011). This is the concept of Democratic Management, which concerns a type of government regulation in the field of Brazilian education and which concerns the necessary participation of all sectors involved in democratic management, which is even defined as the principle of national education. However, there is a specific type of political refraction that can be perceived through the observation of some processes of structuring of such relationships, which present a certain monolithic perspective of construction of these relations instead of

contemplating the dynamic, living and dialectical character of these relations. something that claims to be democratic. Regarding the dialectical character of the notion of Democratic Management, as presented in CF / 1988 and LDB, this concerns a perspective in which since the promulgation of CF / 1988, a process of democratization (implicated in management) refers to the democratization of the content of educational management in the most diverse areas (from the possibility of belonging of the most different subjects and social groups to the structures of decision-making bodies) as well as the democratization of form (embodied in the possibility of the existence of representative organs in all structures and systems of national education). Despite this process, it should be said that the perspective that should be dialectical regarding the relation between content and form ends up being monolithic. The monolithic character of democratic management occurs as representative democracy is incorporated as a reference and as a parameter of this concept in the univocal form of councils as a decision-making body parallel to the power of the political entities involved in management (such as directors and secretaries of education).). In this sense, it is correct to say that instead of having a dialectical relationship between the process of political participation of civil society in these bodies and the necessary democratization of decision-making bodies, the existing forces in the field of Brazilian educational policy still promote a partial political refraction, insofar as the form of the boards is preserved, but their content is not always so, and there is room in many cases for manipulation, either by lack of disclosure or by subverting the board structure to manipulate the results of their assemblies (SANTOS, 2011).

In addition to the impacts of refraction on the way councils are managed, it is important to highlight how much political refraction is also implicated in the model of democracy. Just as the idea of democracy in Brazilian politics at a broader level conditions the existence of collegiate instances of the three powers, the influence of the structure of this field of political forces (in the Bourdieunian sense of the term) conditions the existence of related collegiate structures in the world. which refers to the organization of civil society (in its mediation with the State) and, therefore, given such partial political refraction end up bringing to its core common political vices to the decision-makers already mentioned and previously present in national politics, as patrimonialism and traditionalism.

Final Considerations: In this brief essay two manifestations of political refraction within the scope of Educational Policy were discussed. A more exhaustive exegesis of the Constitution, combined with an equally intensive and interpreted reading of the LDB and other national educational policy plans and programs, would surely bring more elements for further occurrences to be detected and discussed, but this work was concerned with marking exemplary two elements of considerable controversy regarding Educational Policy. Assuming that every theoretical model can (and should) undergoes changes in order to better comprehend reality, as postulated by Gaston Bachelard (2004). Such changes occur from the successive confrontations between the empirical instance and the ideal / symbolic instance, and it is through such confrontation that the double fertilization of knowledge occurs (CARDOSO, 1988). Based on these assumptions, we understand that the concept of political refraction that has a generic and polymorphic character in this paper may be modified to extend its precision and scope to more particular

cases than possible (BOURDIEU, 2000) when they involve the Educational Policy. and Politics in the broad sense. In order to make such changes, I propose some auxiliary methodological procedures (some were used experimentally for the composition of this essay). Let's go to them:

- Analyze legal documents and texts concerning educational policy programs, actions and plans. On the one hand, regarding the documentary corpus to be analyzed, it is necessary to combine two techniques: 1) content analysis (with a view to raising the most common arguments and delineating the rhetorical field of the document); 2) Rhetorical analysis, with a view to examining the composition of the arguments, as well as the persuasive strategies (relative to political propositions) implicated in the aforementioned documentary corpus.
- To compare the scope of documents analyzed with data regarding the moment of implementation of the actions, plans and political programs present in those documents. In order to collect such data, it is necessary to use different techniques for recording political actions, such as: ethnographic observations, interviews, questionnaires and reading of journals related to the theme. This comparison aims to verify the differences between the legal text and the records regarding the moment in which the proposals of such text become concrete, registering then if there was political refraction, as well as the concrete form that it would take place.

In addition to the contributions brought by the application of this concept to the understanding of Educational Policy, it should be noted that it needs adjustments and modifications. In order to improve this construct, then, it would be appropriate to define political refractive indices, based (for example) on the number of elements provided for by law and which are affected by political refraction. In this sense, one of the elements that would compose such an index would be, without a doubt, what alludes to the amount of persuasive arguments used, combined these arguments with their strength in the conditioning of the political fields. Still on the concept of political refraction, it is necessary to indicate that it is from the mapping of the conditions of the political field in each case of refraction that it is possible to infer from what social and political conditions regarding the circulation of power. and the establishment of social norms, such phenomena of political refraction occur in their respective degrees. It is hoped that this work has brought subsidies so that, from these introductory notes, it is possible to develop analyzes that take into account new and unsuspected influencing factors of educational policy in Brazil.

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