

What teachers can (not) say? The Canadian experience and “*Escola sem Partido*”

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ABSTRACT

The paper discusses the policy debate prompted by *Escola sem Partido* in contrast with the scope of freedom of expression for public schoolteachers in Canada. The Canadian experience is drawn from legislation and landmark case law so as to provide a frame to reflect on the Brazilian debate. Our findings point to four dimensions of the issue in Canada: extended sites of control for teachers’ expression due to their professional identity; interdiction to engage in discriminatory or hate speech; value attached to cognitive dissonance as a pedagogical tool for addressing sensitive topics in class; and possibilities for engaging in political advocacy in the education field. The analysis concludes that the binomial of trust/responsibility guides the interpretation of teachers’ freedom of expression in Canada, in contrast with premises and practices of *Escola sem Partido*.

KEYWORDS

Escola sem Partido; freedom of expression; Canada; schoolteachers.

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O QUE OS PROFESSORES (NÃO) PODEM DIZER? A EXPERIÊNCIA CANADENSE E A “ESCOLA SEM PARTIDO”

RESUMO

Este artigo aborda o debate em torno do movimento Escola sem Partido em contraste com o escopo da liberdade de expressão dos professores de escolas públicas de educação básica no Canadá. A experiência canadense é analisada com base em legislação e decisões judiciais emblemáticas, contribuindo para estabelecer um marco de reflexão para o debate brasileiro. Os achados identificam quatro balizas adotadas naquele país: espaços ampliados de controle da expressão docente como consequência dessa identidade profissional; interdição de discursos discriminatórios ou de ódio pelos professores; valorização da dissonância cognitiva como ferramenta pedagógica para abordar temas sensíveis em sala de aula; e possibilidades de engajamento crítico no campo da política educacional. A análise conclui que o binômio confiança/responsabilidade norteia a interpretação da liberdade de expressão dos professores canadenses, em contraposição a premissas e práticas do Escola sem Partido.

PALAVRAS-CHAVE

Escola sem Partido; liberdade de expressão; Canadá; professores.

QUÉ (NO) PUEDEN DECIR LOS MAESTROS? LA EXPERIENCIA CANADIENSE Y LA “ESCOLA SEM PARTIDO”

RESUMEN

Este artículo aborda el debate sobre el movimiento *Escola sem Partido* en contraste con el alcance de la libertad de expresión de los maestros de escuelas públicas de educación básica en Canadá. La experiencia canadiense se analiza a partir de la legislación y de las decisiones judiciales emblemáticas, contribuyendo a establecer un marco de reflexión para el debate brasileño. Los hallazgos indican cuatro dimensiones del tema en aquel país: existencia de espacios ampliados de control de la expresión docente como consecuencia de la identidad profesional docente; interdicción de discursos discriminatorios o de odio por los maestros; valorización de la disonancia cognitiva como herramienta pedagógica para abordar temas sensibles en el aula; y posibilidades de críticas sobre la política educativa. El análisis concluye que el binomio confianza/responsabilidad orienta la interpretación de la libertad de expresión de los maestros canadienses, en contraposición a premisas y prácticas del movimiento *Escola sem Partido*.

PALABRAS CLAVE

Escola sem Partido; libertad de expresión; Canadá; maestros.

INTRODUCTION

This paper sheds light on the debate pushed by *Escola sem Partido* on teachers’ freedom of expression in Brazil, drawing from an analysis on the scope of freedom of expression for teachers in public schools in Canada. Given distinct historical, social and institutional contexts, rather than identifying lessons to be transferred from one country to another, the analysis aims at a comparative perspective that demonstrates how a decentralized and heterogeneous educational setting, embedded in a democratic and pluralistic society within a capitalist economy, such as Canada’s, defines and justifies parameters for teachers’ freedom of expression.

In doing so, it starts with a brief panorama of *Escola sem Partido*, followed by a discussion of social norms and Canadian legislation related to teachers’ freedom of expression, as well as a landmark case law emerging from the courts in that country. It concludes with a consideration of the contrasts found between the Canadian experience and the assumptions and practices of *Escola sem Partido* in Brazil.

ESCOLA SEM PARTIDO

Article 5 of the Brazilian Constitution ensures the free expression of thought, but forbids anonymity. It guarantees the inviolability of freedom of conscience and belief, ensuring the free exercise of religious cults, as well as the expression of intellectual, artistic, scientific, and communication activities, without censorship or independently of authorization. In the chapter dedicated to education — affirmed as a universal right and a duty of the State and the family, in collaboration with society — the Constitution includes freedom to learn, teach, research, and express thoughts, art, and knowledge. It also acknowledges the pluralism of ideas and of pedagogical concepts as one of the tenets in this area. The National Education Guidelines and Framework Law, for its part, adds respect for liberty and appreciation of tolerance to the list of guiding principles of teaching.

These broad ideas are at the heart of the contentious disputes stirred by *Escola sem Partido*, a movement which presents itself as an “informal, independent, non-profitable, non-ideological, non-partisan, and party-free association,” and claims to have drawn inspiration from a similar initiative in the United States (*Escola sem Partido*, 2017). The movement argues that many schools in Brazil, both public and private, have fallen prey to nefarious teacher indoctrination based on the pretext of transmitting a supposed critical view of reality to students. The main accusations pointed at teachers refer to alleged proselytism based on “leftist ideologies” targeted against concepts such as “the traditional family”, “the free market”, “Christian values”, and “the capitalist order”, as well as an undue appropriation of what would be parents’ rights to have children taught moral precepts that conform to their family’s convictions (*Escola sem Partido*, 2017).

Besides the reproduction of supportive articles and opinion pieces published in the press, the movement’s website portrays as evidence of the alleged problem of

indoctrination a collection of testimonials sent by parents and students; some videos and audios captured in classrooms; and prints of social media posts by teachers (*Escola sem Partido*, 2017). It also resorts to the results of a 2008 opinion poll carried out with 3,000 respondents, which was sponsored and published by the largest Brazilian weekly news magazine, *Veja*.

The poll was the central piece of a highly editorialized report on education, whose key point was to spotlight the “mediocre” quality of the Brazilian school system, despite an apparent generalized “blindness” to this situation. The main reasons for this quality lag, according to the report, were two-pronged. On the one hand, teachers’ poor pre-service education would lead to ignorance and adherence to left-leaning, archaic and oversimplified views on social phenomena. On the other hand, the category would largely embrace a misconception about the fundamental mission of schools: “forming citizens”, in the view of 78% of teacher respondents, rather than “teaching school subjects”, pointed out by only 8% of them (Weinberg and Pereira, 2008).

The movement’s logic of action adopts a mix of surveillance and intimidation tactics. It advocates that students and parents — under anonymity, if they so wish — widely denounce “indoctrination practices” experienced in schools, exposing the teacher-perpetrators publicly. It also showcases on its website a template of an extensive “extrajudicial notification” that parents are encouraged to send to those perpetrators (again, anonymously, if they prefer). The template contends that, since “freedom to teach does not equate to freedom of expression in the classroom,” any indoctrination practices shall not only be publicized but also taken to the courts, potentially subjecting the teacher who incurs on them to “criminal punishment for abuse of authority”, as well as to awarding compensation for “moral damages” to plaintiffs.

Another line of action adopted by *Escola sem Partido* is the advocacy for the inclusion of a placard in every single classroom of primary and secondary schools in the country with the following list of “teacher duties” (*Escola sem Partido*, 2017):

- Teachers will not take advantage of students’ captive audience to promote their own interests, opinions, conceptions, or ideological, religious, moral, political or party preferences.
- Teachers will not favor or disadvantage students due to political, ideological, moral or religious convictions — or for the lack of those.
- Teachers will not engage in partisan political propaganda in the classroom, nor will they encourage students to participate in public demonstrations, marches or protests.
- Teachers will present the main competing versions, theories, opinions and perspectives in a balanced way when dealing with political, socio-cultural or economic issues.
- Teachers will respect parents’ rights to have their children receive moral education in accordance with their own convictions.
- Teachers will not allow that the above-mentioned rights be violated by third parties in the classroom.

According to Brait (2016), the movement’s first official record is a website created in 2004 by a lawyer and State prosecutor who as of today acts as its vocal coordinator. It did not receive much visibility until a decade later. It was only in the institutional crisis of 2014 that *Escola sem Partido* proposals were amplified in social media and in demonstrations against the Workers’ Party administration (*Partido dos Trabalhadores*). Also around that time, the topic was taken up at Municipal, State and Federal legislatures, through bills introduced to inscribe the movement’s ideas into law. Some of these bills added to the more general proposals explicit bans on approaching sexual education and gender issues in schools.

While the proposals of *Escola sem Partido* have gained terrain in the policy arena, reactions to them have also increased. Teacher unions, secondary students’ groups and education activists see the movement as a gag attempt, which preaches censorship and, under a discourse of neutrality, promotes a conservative, anachronistic and authoritarian agenda. That agenda, the critics say, disregards the values of diversity and pluralism; diverts attention from the real education problems faced by the country; fosters intimidation of teachers and the judicialization of educational relations; undermines trust in schools; and promotes discrimination in the classroom (Ação Educativa, 2016).

The disputes over *Escola sem Partido* have also reached the courts. The first bill approved by the movement’s supporters, in the state of Alagoas, had its constitutionality challenged and was suspended by a monocratic injunction of the Federal Supreme Court in 2017. Other bills that followed had the same destiny. In these decisions, several clashes between *Escola sem Partido* and the Constitution, as well as international human rights treaties undersigned by Brazil, have been highlighted.

Nevertheless, the movement’s agenda remains strong in the political arena and the result of this dispute is still uncertain.

THE CANADIAN EXPERIENCE: LAW AND CASE LAW

The legal framework regarding teachers’ freedom of expression in Canada derives from the Canadian Charter of Rights and Freedoms, included in the 1982 Constitution Act. Section 2 of the Charter includes, among the fundamental freedoms ensured for everyone in Canadian society, freedom of thought, belief, opinion and expression. In fact, it is the latter that usually becomes the object of judicial action, and the Supreme Court of Canada has already asserted that the “freedom to hold beliefs is broader than the freedom to act on them”.

Section 15, which deals with equality rights, is also a common yardstick for case law related to teachers’ freedom of expression. It offers the basis of non-discrimination principles and equal protection and benefit of the law, in particular regarding race, national or ethnic origin, color, religion, gender, age or mental or physical disability.

Section 1 is another very relevant provision. It sets parameters for the systematic exegeses of the Charter, providing that the rights and freedoms it sets out are subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. As such, section 1,

known as the “reasonable limits clause”, sets the tone for the qualified, and not absolute guarantee of freedoms and rights in Canada in the balance of individual rights and collective needs.

Being a country of mixed legal tradition, combining the civil law system with the common law tradition and the doctrine of judicial precedent, Canada adopts systematic legal tests to guarantee a certain logical uniformity in judicial decisions. Cases involving freedom of expression issues usually employ two of these tests. The first verifies if the case in context indeed involves a violation of freedom of expression; the second assesses if the violation might be justifiable under the reasonable limits clause of section 1.

In addition to the Charter, the contours of teachers’ freedom of expression respond to principles and precepts derived from provincial legislation. With a highly decentralized educational system, basic education norms in Canada are essentially set out by its provinces, and complemented with bylaws enacted at district level. Each of the ten Canadian provinces has enacted statutes regulating education provision in their jurisdiction and five of them have specific regulations regarding the teaching profession.

Delaney (2007, p. 31-41) demonstrates that, despite great variations in length and degree of detail, these acts (known as education acts or school acts) show remarkable similarities across Canada. In relation to teachers and expectations placed, they are permeated by four distinct themes:

1. teaching of the prescribed curriculum;
2. accountability;
3. maintenance of order and discipline;
4. teacher professionalism.

The notion of professionalism, in particular, resonates with the issues addressed in this paper. Besides appearing in legislation, professionalism is reflected in codes of ethics established by teacher unions and in professional standards set by regulatory bodies, such as the Ontario College of Teachers and the British Columbia Teacher Regulation Branch. The notion seems to be closely associated not only to the possession of certain qualifications and expertise, but also to a normative discourse related to the upholding of an expected conduct that matches the responsibility attributed to the professional’s role and position in society. In the case of Canadian public school teachers, trust seems to be the pillar of this position, framing the way their professional identity is constructed.

In this respect, a key element in legislation and case law is the expectation that teachers function as role models for their students. As a consequence, there is increased public scrutiny on their behavior, reaching beyond the school setting and creating a higher standard for teachers as compared to other professionals and private citizens in respect to free speech. The result is an extended spatial and temporal dimension of control over teachers’ expression, going beyond school gates and hours — an extension that, in the digital age, reaches the realms of the Internet and social media (MacKay, Sutherland and Pochini, 2013; Mackenzie, 2016; Scarfo and Zuker, 2011).

In combination with the idea of role modeling, the notion that teachers are a medium for the transmission of a broader social message also shapes the role of Canadian teachers in a normative way. In this respect, teachers are seen as “cultural custodians” of ideals transmitted to the younger generations. As Pidcocke, Magsino and Manley-Casimir (1997, p. 205-208) argue, this perspective remains unproblematic if those ideals are shared among teachers, the school and the larger community. When these ideals diverge, however, a less rosy picture might emerge, leading to ostensive, externally imposed, or tacit, self-imposed interdictions on teachers’ speeches.

A clearly demarcated area for teachers’ expression refers to the core values and beliefs of Canadian society, embedded in or derived from the Charter. They are to be entrusted in and reproduced by the public education system, therefore by teachers as its main agents. Multiculturalism and diversity, as well as equality, non-discrimination, tolerance and, increasingly, accommodation of vulnerable groups seem to be particularly relevant in this respect.

The courts have generally decided that expressions directly contradicting these broad social values, in the form of hate or discriminatory speech, for instance, make up an interdicted area for Canadian schoolteachers. They may challenge the maintenance of a “positive school environment”, causing harm to students, and resulting in reputational damages and negative impacts on the integrity of the school system itself.

These two stakeholders — students and the education system — form part of the complex web of power relations under which freedom of expression must be understood in the educational context. Kindred (2009) points out that while freedom of expression is traditionally discussed as a protection of the individual from excesses of the state, in the educational context it concerns multiple actors, including parents, teachers, students, school boards, principals, professional bodies, and ministries of education. In this interplay of actors, Clarke (2013) identifies a basic “trilogy of interests”, comprised by parents, children themselves and the state, to which teachers might be added. Potential conflicts among these stakeholders tend to emerge when teachers address “sensitive” topics in the classroom — typically related to morality, religion, sexuality or politics.

Noticeably, this pool of stakeholders might not bear the same weight when deciding on children’s education. In fact, Canadian courts have recognized the paramount role of parents in the education and moral upbringing of children, in contrast to a delegated notion of school authority. Parental primacy in this respect is grounded on common law as well as Charter principles related to freedom of conscience and religion and liberty of the person. However, parental rights are not absolute. They rely on the presumption of the “best interests of the children”, an idea that carries its own definitional challenges.

Disputes around parents’ rights to receive formal advance notices to exempt children from the class when sensitive topics are addressed, for instance, illustrate some of these difficulties. There are provinces, such as Alberta, where this right is enshrined in legislation. However opting out provisions have been questioned in other provinces, as Ontario and Quebec, for not attending to the larger interests of children’s emotional security and feeling of belonging (Clarke, 2010).

Beyond tensions with parental views, the professional aspect of the teacher's role crosses another distinct set of normative expectations related to the position of teachers as job holders, employed by a school board, under a certain provincial governance structure. As such, teachers voicing criticism of official education policy and management, in their capacity of knowledgeable practitioners of the education field, might trigger conflicts over freedom of speech. Teachers' unions or associations play an important role in this respect. They can negotiate collective agreements that adopt language ensuring a certain level of individual professional autonomy and responsibility in planning and delivering instruction (Clarke and Trask, 2014). They may also actively pursue the protection and support of individual teachers' rights in administrative appeals and judicial litigation.

In the next section I present landmark case law related to teachers' freedom of expression, exploring how these broad normative ideas on the role of teachers, as well as the legal framework and the interplay among stakeholders reflect on the decisions Canadian courts have taken in concrete disputes over the issue.

THE CANADIAN EXPERIENCE IN PRACTICE: FOUR DIMENSIONS

The legal framework and its underlying normative discourse give the basis for Canadian courts, in federal and provincial jurisdictions, to advance in the definition of the scope of teachers' freedom of expression as they deal with concrete cases brought to their review. The jurisprudence points out to four specific dimensions established by the courts in that country.

The first dimension relates to the aforementioned extended sites of control that accompany teachers' professional identity. Two landmark cases from the 1980s confirmed that teachers' professional identities go beyond school hours and walls.

One of these cases involved an appeal brought forth by a teacher (Dian Cromer) against her union. Having made derogatory comments on a colleague during a parent-teacher meeting, Cromer received a disciplinary sanction from her association, based on the union's code of ethics. She argued, however, that she was speaking as a parent in the meeting and, as such, the disciplinary charge would constitute an infringement of her freedom of speech. The courts, nevertheless, maintained that teachers carry their professional identity with them, 24 hours a day, 7 days a week, and dismissed the appeal.

The other case involved a married couple working as schoolteachers (John and Ilze Shewan) who sued the district that employed both of them. Teachers at a small and conservative community, the couple suffered a disciplinary sanction from their employer for professional misconduct after having jointly published a topless picture of the wife in a men's magazine. In their claim the couple argued the issue related to their private lives, not to their professional activity. Even though the appeal lightened the initial penalty, it sustained that their conduct bore an adverse effect on the education system to which they, as teachers, owed a duty to act responsibly. In the ruling, the court even moved beyond this point, so as to affirm that their specific professional duty gives reason for expecting of teachers a higher

standard of behavior than that of most other citizens who do not have such public responsibilities to fulfill.

Discussing this case three decades later, Mackenzie (2016) wondered if Shewan would have the same result had it happened nowadays, considering the evolution of social norms on what is “inappropriate” behavior. Although the “what if” question cannot be answered categorically, she recalls that the courts did not focus on any alleged obscenity attached to the picture, but rather on the disruptive effects of its publication upon the educational system. If these effects were again experienced, the argument could likely be maintained.

The second dimension deriving from case law on teachers’ freedom of expression refers to interdicted themes and discourses that clash with fundamental values of the Canadian society.

The most famous case in this area was a criminal suit moved by the State against a social studies teacher (James Keegstra) who espoused anti-Semitic views in the classroom, including Holocaust denial. Keegstra was fired in 1983 and had his teaching license suspended in 1985, but the case was only decided upon in 1990. The trial confirmed the constitutionality of Canadian hate speech legislation and became a landmark in the country (Khan, 1997). Nevertheless, it is worth pointing out that Keegstra’s dismissal was based on failure to comply with the school board’s directives to follow the provincial curriculum and for his engagement on indoctrination, as he did not admit dissent from his spurious historical views.

Another relevant case, from the mid-1990s, was brought forth by a teacher (Malcom Ross) who was also charged for publicly promoting anti-Semitism, although not in the school environment, but rather through published books, articles and interviews. Pushed by a parent’s complaint, the district applied severe professional penalties against Ross, including a leave without pay, on the basis of discriminatory action against the Jewish population. The sanctions initially included moving Ross to a non-teaching position and immediately firing him if he published, wrote or sold anti-Semitic materials again. On his appeal to the courts, Ross argued the school district had curtailed his individual freedom of speech. The case found its way to the Supreme Court of Canada, which concluded that Ross’s conduct was indeed discriminatory and that, even if exercised out of his professional practice, it poisoned the school environment and prevented it from being the tolerant and impartial space of exchange of ideas that schools are supposed to be. Harm to students, even if inferred, was the Supreme Court’s main consideration to decide that the violation of the teacher’s freedom of speech by the school district, in this case, was justified.

Nonetheless, the court adopted the reasonable limits clause of the Canadian Charter of Rights and Freedoms to alter the penalty stipulated by the school district. It understood that firing Ross for anti-Semitic comments during his leave of absence or while in a non-teaching appointment would extrapolate the objective of the sanctions, which were justified on the basis of his position as a teacher, and as such, as “cultural custodian”, in charge of the transmission of values and messages of the Canadian society to the younger generations (Dickinson, 2005).

This emblematic decision generated a precedent that was later used in sanctions applied to teachers who engaged in other discriminatory discourses, such as racism and homophobia, even if out of the school setting (Clarke and MacDougall, 2004; Dickinson, 2003).

The third dimension emerging from judicial decisions on teachers' freedom of speech relates to the scope for dealing with sensitive and controversial topics in the classroom. Two cases decided in the early 2000s set important precedents for the understanding that basic education in Canada should not be understood as a mirror of parental values, but rather as a window to different worldviews that might allow for the development of critical thinking and the consolidation of a pluralistic and tolerant society.

In 2002, after a decade-long dispute, the case brought forth by the untenured teacher Richard Morin against the school district where he had worked finally came to an end. The district had penalized him after he launched a project with 9th graders on the diverse meanings of religion, which involved a documentary with critical views on Christian fundamentalism. The decision in favor of Morin even awarded him damages pay. Taken to an appealing court, the case involved an in-depth discussion on the meaning of academic freedom in basic education, as well as the connections between this concept and freedom of speech. Although not unanimous, the verdict affirmed the value of academic freedom as a tool to expose students to different points of view, framing teachers' free speech as not only their right, but also their students'. According to this perspective, academic freedom — a more restrictive concept relating to the degree of autonomy that a teacher might exercise within a determined curriculum — should be seen as a complement to freedom of speech: Together they would guarantee the exercise of teaching with autonomy, in a context of trust and responsibility (Clarke, 2013).

It should be mentioned that the reasonable limits clause was not invoked in this case (Waddington, 2011). The decision refuted the absolute power of principals over teachers' speeches, but there remains space for the enforcement of restrictions that are found to fall within reasonable limits. Though these limitations, to be valid, must be prescribed by law and pass the detailed criteria of the legal test that verifies its overall proportionality, reasonability and justifiability.

Another case from the same period involved a pre-school and grade 1 teacher, (James Chamberlain) who was prevented by the district from adopting picture books depicting same-sex parents as learning resources. The board alleged the materials would clash with the views espoused by the majority of the families in the district, which mostly came from traditional religious backgrounds. The case, which found its way to the Supreme Court of Canada, concluded that the board's decision was discriminatory of same-sex families and contrary to provincial legislation reflecting Charter values. In reality, the ruling underlined the importance of cognitive dissonance in education. Given that diversity is a fact in a pluralistic and democratic society, and different family norms and types exist, it argued that exposure to difference is necessary to teaching tolerance and respect from an early age. Mackay (2009) notes that this decision reinforced the view that schools should be free of discrimination, but took it to a higher level, by affirming the educational

value that comes with the teaching of tolerance, respect and accommodation of minority groups. In a sense, it challenged the primacy of parental views on the definition what would be the best interests of the children (Clarke, 2013).

The space given by the jurisprudence for dealing with sensitive or controversial issues, however, does not imply that Canadian teachers always feel empowered to do it. In fact, the “legal odysseys” in which teachers have embarked against their districts, even if they achieve favorable results, can take a heavy toll on individual teachers, involving high personal and financial costs (Waddington, 2011). Also, as Hoben (2015) discusses, contemporary school culture might contribute to a good deal of self-censorship as teachers try to play “safe” in their jobs and “learn what you cannot say”. Impassioned, critical speech, which brings to the forefront complex social problems with controversial origins and competing explanations for systemic failures in addressing them, such as racism and inequality, is not always rewarded by an environment primarily geared at efficiency, test results and the development of job-oriented skills.

The fourth dimension emerging from judicial decisions in Canada refers to the boundaries for teachers’ speeches as knowledgeable professionals on matters of education policy, as they voice criticism on political inclinations and managerial decisions that affect the education system. Teachers’ right to this kind of political expression in schools is one of the murky terrains where legal controversy has recently arisen in Canada, intertwining labor law with Charter values (Clarke and Trask, 2013). Four cases, all involving disputes between the union and the association that represents school districts in a particular province (British Columbia), signal that the yardstick for setting parameters in this area consists in preventing harm to students.

That was the rationale used to prevent political demonstrations on school days: They would disrupt education provision. It was also used to prevent teachers from wearing clothes and buttons with critical messages to the policy of large-scale standardized testing on the day students were supposed to take these tests. The claim was that this kind of protest could negatively affect students’ results.

On the other hand, teachers’ rights to post critical material about education policy on school bulletin boards, discuss the matter in parent-teacher meetings and send critical reports to parents regarding budget cuts and its consequences on education provision were upheld. The sole condition was that these messages should be balanced and non-partisan, focusing exclusively on the pros and cons of official education policy according to the teachers’ perspective.

None of the cases discussed in this section, however, reached a unanimous decision. In fact, the terrain of teachers’ freedom of expression in Canada, while reasonably demarcated so far, might still be disputed and modified by future decisions on specific cases.

FINAL CONSIDERATIONS

The underlying assumption for the scope of teachers’ freedom of expression in Canada is the high level of trust attached to teachers as professionals. This as-

sumption seems to show a stark contrast with the standpoint embraced by *Escola sem Partido*. The discourse and practices advocated by the movement transpire a generalized sense of distrust in educators, which extends to the broad education system itself, including textbooks and the education bureaucracy, and gets translated into practices of surveillance and intimidation.

This permanent sense of distrust has a potential negative effect on daily routines at school, since it fuels a hostile environment where teachers are intimidated and students are encouraged to embrace denunciation as the standard mode for conflict resolution. It also curtails engagement in productive dialogue — the very foundation of the whole educational endeavor — in the school community.

If, in a specific situation, parents or students think teachers err on the side of indoctrination, act in a biased way, present imbalanced views, and prevent dissent and debate, would anonymous denunciations and legal threats constitute the best course of action? Would those epitomize the most reasonable ways to promote teacher accountability? Would an open dialogue, involving the school administration and, if need be, the local educational authorities, not make up a preferable alternative? How does this confrontational perspective fit with the goal of integral development of the person, one of the tenets of the Brazilian Constitution in respect to the aims of education?

As the other side of the coin of the trust assumption, Canadian jurisprudence seems to place high-order expectations on teachers: Freedom corresponds to professional responsibility translated into the permanent duty of engaging in harmless speech. Harm, in this regard, is understood in a broad sense. It encompasses not only direct school disruption but also the notion of presumed damage, such as what can be caused by discriminatory speech affecting certain individuals or groups.

In any case, the evidence that confirms harm — be it actual or inferred — has to be backed up by strong arguments and substantiated by factual examples for such a crucial individual liberty such as freedom of expression to be circumscribed in the name of collective needs. General claims of leftist proselytism and indoctrination, based on anecdotal evidence, would hardly pass the evidence test in Canada, so as to justify the enactment of national legislation demarcating what teachers can (and cannot) say.

Another contrast between *Escola sem Partido* and the Canadian experience refers to the space given to addressing controversial or sensitive topics in schools. Canadian courts have valued cognitive dissonance as a pedagogical tool and high-lighted children as bearers of their own learning rights and subjects distinguishable from their parents. This points to certain prerogatives of autonomy and attributes high density to the teaching profession.

In addition, behind the veil of parental authority, *Escola sem Partido* cloaks an alarming anti-gender and homophobic view. It equates gender to biological sex; restricts identity to binary biological difference; and challenges the concept of gender itself as an analytical category or social construct. Rather than embracing the perspective of education as a window — or even as a mirror of parental values — the movement seems to fit within a metaphor of education as a wall, which would separate from the eyes of students all that their parents believe they are not

supposed to see and discuss. As such, it intends to have schools setting aside any “moral-related content” (meaning sexuality-related), which, in the movement’s view, should be stripped of the school curriculum altogether so as to be addressed only in an elective curricular component (*Escola sem Partido*, 2017). Without mentioning the harm this approach could cause to LGBT students themselves and to students raised by same-sex parents, could that perspective not endanger the crucial importance of sex education as a health-related subject for children and teenagers? Besides contradicting the broad notions of inclusiveness, tolerance and the accommodation of vulnerable minorities — pillars of contemporary democracies — the negative effects of such an approach could resonate in public health issues related to teenage pregnancy, the spread of sexually transmitted diseases, and youth mental health.

In a way, this viewpoint embodies an impoverished and technicist perspective on the role of educators. For *Escola sem Partido*, teachers’ role is to be restricted to the mere transfer of information, supposedly exempt of any political or moral biases. Teacher neutrality is the key term permeating this perspective.

The idea of neutrality is appealing. It has been ventilated in some of the Canadian case law discussed, as the courts stressed the need of schools remaining impartial spaces for the exchange of ideas, where teachers refrain from creating political battlegrounds and acknowledge the vulnerability of a younger captive audience. Neutrality is also heavily implied in the wording used by *Escola sem Partido* around the teacher duties proposed to be included in legislation and classroom posters.

As much as it seems reasonable to expect that teachers withhold from advancing partisan preferences, imposing political or religious beliefs, and favoring students on the basis of personal views — as the movement aspires —, some of the duties the movement proposes can be somewhat more difficult to go along with. For instance, how can the generic claim that teachers refrain from promoting their own opinions while teaching be assessed? Why should teachers not encourage students to participate in civic movements that include public demonstrations, when the promotion of citizenship is a goal of the education system? Who would decide what are the main competing versions, theories, opinions and perspectives that have to be addressed when political, sociocultural or economic issues are discussed in the classroom? And how would this be done in practice?

The defense of neutrality as a claim for balanced approaches in teaching might be welcomed as a theoretical defense of pluralism. Nevertheless, as argued in the injunction that suspended the first state law inspired by *Escola sem Partido*, absolute neutrality might be a utopia, at best (Brasil, 2017). As human beings, teachers are situated subjects, whose worldviews are inextricably influenced by their own positionality and background.

Acknowledging this fact, however, does not transform teachers into “class monarchs” (Hess, 2010), exempted from their responsibility as professionals employed in the peculiar context of schools. Rather, it affirms their duty to exert pedagogical discretion when dealing with complex topics, respecting curricular guidelines as well as academic standards and parameters established among disciplinary fields. In this sense, it is crucial that teachers give space for respectful dialogue, debate

and dissent in the classroom, abiding attentively to the principles embedded in the Brazilian Constitution, and attending diligently to the goal of preventing harm to students, as prescribed by the Canadian courts.

At worst, the discourse of neutrality might disguise a dogmatic view that places the label of indoctrination on everything that contradicts its own underlying rationale, in an attempt to suppress pluralism itself (Brasil, 2017). *Escola sem Partido* targets one side of the political spectrum — what it broadly identifies as “the left” — but it fails to acknowledge bias emerging from opposing ideologies and worldviews. In the movement’s discourse, indoctrination “from the right”, as its website puts it, would be a possibility with rare occurrence: The “systematic and organized” efforts of school indoctrination in Brazil, according to the movement, would constitute an exclusive practice of “the left” (Escola sem Partido, 2017). In fact, *Escola sem Partido* seems to fail in recognizing its own biases and ideologies, as it receives support from religious groups, conservative politicians, and avid advocates of the free market.

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