

THE DUTY OF THE FEDERAL CONSTITUTION IN APPROACHING GENDER EQUALITY AND SEXUALITY AT SCHOOL *THE DUTY OF THE FEDERAL CONSTITUTION IN THE APPROACH OF EQUALITY OF GENETICITY AND SEXUALITY IN SCHOOL*

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*Valdenir Costa dos Santos***SUMMARY**

The conception of the framework on gender, sexuality and sexual education in schools has been emphasizing for many years, with importance, beyond the family space, that nowadays this theme has acquired more strength. This study aimed to analyze in the literature the legal frameworks on addressing gender and sexuality at school as a way of legitimizing the fight against discrimination and the security of freedom. The methodology used to prepare this research is characterized in terms of purposes, as descriptive, in terms of the means used for analysis, it made use of bibliographical research, being constructed according to already published materials, such as books by authors such as Louro (2004), Oliveira (2003), websites with legislation focused on Gender Equality such as the Special Secretariat for Policies for Women and periodical articles that were found in the Scielo and Google Scholar databases within the context of the relationship between gender and sexuality at school. From carrying out this research, it can be seen that there are several legal frameworks such as the Federal Constitution of 1988, Law of Guidelines and Bases of National Education (1996), National Curricular Parameters (1997), among others, which present themselves as legitimate that address gender equality. Furthermore, there are judgments that ensure the ideology of gender and sexuality at school, such as the one carried out by the Attorney General of the Republic Rodrigo Janot in 2017, which

challenged law 1,516/15 of the municipality of Novo Gama-GO, which censored "the dissemination of material according to gender ideology in municipal schools of Novo Gama" and the Superior Federal Court that carried out the Claim of Non-compliance with Fundamental Precepts (ADPF) 467, which dealt with the legislation of Ipatinga (MG) that excluded from the municipal education policy any declaration of sexual orientation and gender diversity. **Key words:** Gender Diversity. Sexual Education in Schools. Legal Frameworks. Equality.

ABSTRACT

The conception of the framework on gender, sexuality and sexual education in schools has been emphasized with importance for many years, beyond the family space, that today this theme has acquired more strength. This study aimed to analyze in the literature the legal frameworks on the approach to gender and sexuality in school to legitimize the fight against discrimination and the security of freedom. The methodology used for the elaboration of this research is characterized as descriptive, as descriptive, as to the means used for analysis, made use of bibliographic research, being built on the basis of materials already published, such as books by authors such as Louro (2004), Oliveira (2003), sites with legislation focused on Gender Equality as special secretariat of policies for women and articles of journals that were in the databases Scielo and Google Academic within the context of the relationship of gender and sexuality in

¹santosnesantos@hotmail.com

school. From the accomplishment of this research, there are several legal frameworks such as the Federal Constitution of 1988, the Law of Guidelines and Bases of National Education (1996), National Curricular Parameters (1997), among others, which present themselves as legitimate ones that address gender equality. In addition, there are judges that ensure the ideology of gender and sexuality in school, such as that carried out by the Attorney General of the Republic Rodrigo Janot in 2017 who challenged law 1.516/15 of

the municipality of Novo Gama- GO, which censored "the dissemination of material based on gender ideology in the municipal schools of Novo Gama " and the Federal Superior Court that carried out the Pre-compliance Of Fundamental Precept (ADPF) 467, which dealt with the Ipatinga Legislation (MG) that excluded from the municipal education policy all declaration stoworse to sexual orientation and gender diversity.

Keywords: Gender Diversity. Sex Education in Schools. Nice Marks. Equality.

1. INTRODUCTION

The continuous mobilization of various social sectors in favor of realizing the originality of their distinctions has recognized an increasingly intense understanding of the strategic attribution of education for plurality. It is perceived as an important motivator to ensure inclusion, enabling equality of moments and confronting discrimination, prejudice and various types of violence related to authoritarianism, especially sexuality and gender situations.

In a different way to authoritarianism, the 1988 Federal Constitution and decisions of the Federal Superior Court aim to recognize social diversity. The Federal Supreme Court, through the Allegation of Non-compliance with Fundamental Precept 461, Direct Action of Unconstitutionality No. 4,277/DF and Special Appeal 477,554, considered plurality and proceeded to subscribe to tolerance, at least in the legal sphere (TOLENTINO, 2018). Gender, gender ideology and related emphases have prompted a number of different initiatives to include the subject in schools, under the belief that they are threats to traditional moral values and the Brazilian family.

Thus, the problem question of the study arises: How important is the 1988 Federal Constitution on public policies to promote non-discrimination and equality in schools?

The need for gender equality not only requires the creation of assertive policies, but also broad and continuous educational work, whether this education is in formal or informal areas. Due to these and other factors, Brazil has been discussing teacher and student training for some years, presenting new pedagogical and curricular subjects that

involve these inquiries and operate as agents in combating gender inequalities and discrimination (BARREIRO; MARTINS, 2016).

In this way, the choice for the theme occurs due to current assumptions regarding the discussion on gender issues, the so-called “gender ideology”, which is a questionable subject, which reflects on society in general, especially in education with the difficulty whether or not to prevent reflections on sexuality, diversity and gender in schools.

The school, especially the classroom, is a particular place to foster a culture of recognition of the plurality of behaviors and identities relating to diversity. Therefore, there is a need to debate school education from a critical and intrinsic conception, questioning the relationships between oppressive social hierarchies, powers, and methods of exclusion, which curricular perceptions and school routines intend to maintain (SILVA, 2001).

This study's general objective was to analyze in the literature the legal frameworks on addressing gender and sexuality at school as a way of legitimizing the fight against discrimination and the security of freedom. And as specific objectives: identify the definitions and characteristics of prejudice and intolerance at school; contextualize Public Education Policies from the Gender Conception and present some judgments on the approach to gender and sexual education in schools.

The methodology used to prepare this research is characterized in terms of purposes, as descriptive, in terms of the means used for analysis, it made use of bibliographical research, being constructed according to already published materials, such as books by authors such as Louro (2004), Oliveira (2003), websites with legislation focused on Gender Equality such as the Special Secretariat for Policies for Women and periodical articles that were found in the Scielo and Google Scholar databases within the context of the relationship between gender and sexuality at school.

2 THEORETICAL FRAMEWORK

2.1 DEFINITIONS AND CHARACTERISTICS OF PREJUDICE AND INTOLERANCE CAN RETURN TO THE SCHOOL ENVIRONMENT

According to Herzog (2019), this issue clearly shows itself in the prejudice that appears in the most varied social groups, offering legitimacy to intolerance which, in other words, is gaining more and more space in modernity. From this conception, it is important to state that these two figures about prejudice and intolerance establish a relationship of familiarity without wanting to say so, they create a link of cause and effect.

Prejudice is characterized by several factors such as: emotional, cultural and personal factors that exist in the development of human beings. Following this sense, conceiving the absence of solidarity between people as responsible for this state of things also does not provide an argument to address this issue. Another look at the subject is necessary, one that can stigmatize, moralize or be of a pedagogical nature, but that can open thoughts towards another way of supporting humanity (REINO, 2011).

Regarding the analysis of psychoanalysis, with regard to the figure of violence against others not belonging to its conceptual framework, it is recommended to determine its presence in psychoanalytic analysis, with the purpose of articulating metapsychological concepts and, within the scope of the clinic as well, as if the entire psychoanalytic conceptual plot was a line that hid the thought that violence is something intrinsic to the human condition. In this way, the definitions of prejudice develop as ideas about it find their structure (MBEMBE, 2014).

For Oliva (2016), prejudice leads to the formation of a personality willing to act with discrimination, where it is directly related to cultural customs and the prejudiced attitude has no or little connection with the object of nature targeted by persecution. In this way, intolerance is found within a set of beliefs and values that are not followed. For this, it is essential to establish assistance in the individual's evolution.

It is important to emphasize that human beings prone to some type of prejudice do not only have that specific aversion, whatever it may be, they will always have stereotypical ideas linked to other definitions, where they can combine them with that particular internal refusal. This also occurs at an individual level, as intolerance is built by

conflicts manifested during the socialization stage, in a way that have psychodynamic and social roots in their formation (LIMA, 2019).

It is important to point out that, when this prejudice and intolerance arrive in the school environment, challenges arise for the pedagogical and teaching staff. Thus, realizing that, when facing this issue, educators are faced with an immense challenge, resulting from the need to seek intervention. It is important that acceptance and respect for differences are worked on in pedagogical actions. This intervention must start from Early Childhood Education (DCNEI 2010).

To this end, since they place the child at the center of learning, they tend to achieve excellent results, in addition to making references to the need to guarantee the truth about their appreciation, respect and interaction with cultural stories. However, the fight against prejudice and racism must stop, as discrimination escapes respect for culture and social life, it is necessary to look at races with different eyes, learn that discrimination harms individuals whether white or black, creating inequality (BRAZIL, 2010).

For Gomes (2010), intolerance must be discussed, it is a matter of principle to fight for equity, value differences, working against any form of prejudice, choosing dialogue and providing opportunities for speech and relationships between people. It is essential to identify racism and combat this prejudice in a forceful way with practices that value what is different, presenting equality and equity in practice.

This position that people form contributes to the development of prejudice, called negative judgment. It is necessary at school or in another environment to work against this evil, as it is maintained despite the facts contradicting it, as it is not supported by concrete experience. Prejudice, in whatever direction, is a negative predisposition against someone or a group of people who are different from each other. It is easier to see racism and prejudice in others than to see it within each other (CAVALLEIRO, 2018).

Therefore, if racism and prejudice carry a negative definition, this can be perceived as differentiating, separating, in different situations that do not enrich, making people's coexistence unfeasible. Indifference, non-recognition of inequality and naturalized prejudiced attitudes are behaviors that do not contribute to transformation or change not occurring. It is perceived in these situations present in society

Brazilian society in the daily lives of individuals, which promotes relationships of intolerance in work, social interactions, in the family environment, at school and in the community (BRANDÃO, 2006).

2.2 PUBLIC EDUCATION POLICIES

According to Sousa (2014), in the last three decades new laws and guidelines have been approved that constitute the theme of gender and education. Therefore, the relevance of this investigative field is highlighted, with the aim of contributing to the knowledge of the ways in which the debates surrounding inequalities between women and men have been, the contribution of government interventions in the construction of a new, more just and egalitarian society.

Public Policy is defined as a set of consolidated acts that are related by a common objective of undertaking, or even continuing, a government project for Brazil. It has a multidisciplinary composition, as it requires the presence of other areas such as: sociology, political science, anthropology and economics, which requires any theory of public policy to explain the interrelationships between State, politics, economy and society (MELLO, 2014).

It is necessary to carry out good planning on the causes that society needs to organize the political system, outlined by the legal system. Thus, the institutional structure of the political-administrative system is based on the political process, which is continually conflicting in nature, regarding the imposition of objectives, as well as conflicts must occur for the elaboration of public policies, that is, technical problems and content that will be discussed during meetings (POLITY, 2000).

According to Bucci (2002), public policy as a set of actions or norms of government initiatives, aiming to realize rights, functions as a mechanism that must seek to realize rights, reducing social inequalities. For this reason, when they enter education, they create practices and measures, guaranteeing access to education for all citizens, helping to build egalitarian relationships for individuals.

Public policies define the main educational policies in Brazil, whether related to gender and citizenship. Faced with this reality, these policies seek objectives that seek to achieve meanings in social practice. Public Policy also involves a process of evolution, which includes not only the decision of a law or project, but also the subsequent interventions of implementation, assistance and evaluation (BRAZIL, 2009).

For Teixeira (2009), public policies contribute to the construction of humanity, when talking about the fight for citizenship and equal rights for people. An example of success were the struggles carried out by women for the right to education, voting, economic independence, equal pay and access to valued professions and positions. They demanded their sexual and reproductive rights, a path to sharing domestic work, among others. However, through movements and their struggles, they sought to overcome social and political inequalities produced from differences in sex, class, race and color.

Thus, with this history of women's struggles, the gender perspective meets changes in education, where educational research is gaining ground. It is important to emphasize that at the same time that political documents are created with demands to end discrimination against women, they create difficulties by promoting denials regarding the expansion of rights and the reduction of roles to be carried out in the public and social sphere (SOUSA, 2014).

In article 205, education is “the rights of all and the duty of the State and the family, to be promoted and encouraged with the help of society, aiming at the full evolution of the person, their path to the exercise of citizenship”. Understanding the gender equality debate makes it possible to understand that equal rights must affirm the differences between the sexes, but not make these differences a reason or a way to continue with inequalities (BRASIL, 2001).

Public gender policies in education have been causing many discussions in society, particularly regarding the study of gender in schools. Therefore, many criticisms focus on meaningless arguments, delegitimizing a serious theoretical-practical movement that seeks to discuss the main problems that affect a large part of society: women, men, black people, indigenous people, people with disabilities, among others. Therefore, questioning gender means working with transversality and understanding that these factors may be related, generating the accumulation of prejudices and discrimination, factors that we seek to combat with education (FERRAZ, 2019).

The Federal Constitution (1988), the Law of Guidelines and Bases of National Education (1996) and the National Education Plan (2001) in the way in which gender issues are presented in these documents, present three different peculiarities. One relates to the language used; the second addresses the issue of rights, where gender

is implicated, the latter demonstrates specific ambivalence, which arises distinctly on some issues.

Art. 1 Education encompasses the formative processes that develop in family life, in human coexistence, at work, in teaching and research institutions, in social movements and civil society organizations and in cultural manifestations.

§ 1 This Law regulates school education, which is developed, predominantly, through teaching, in its own institutions.

§ 2 School education must be linked to the world of work and social practice (BRASIL, 1996).

With regard to the National Curricular Parameters - PCNs (1997), in order to achieve their purposes, they ensure and organize the subjects to be addressed, thematic skin Sexual Orientation, in the following sets: Gender Relations, Matrix of Sexuality and Prevention of Sexually Transmitted Diseases /AIDS (BRASIL, 1997).

The Brazilian Inclusion Law – LBI (2015) in its Article 1 determines and enables, in a state of equality, the activities of essential rights and freedoms by individuals with disabilities, aiming at citizenship and social inclusion. It is based on the Convention on the Rights of Persons with Disabilities and its Optional Protocol, recognized by the National Congress by Legislative Decree no. 186, of July 9, 2008, according to the method established in § 3 of art. 5th of the Brazilian Federal Constitution, as of August 31, 2008, and resolved by Decree no. 6,949, of August 25, 2009.

The Common National Curricular Base - BNCC (2017), in its 3rd edition, has legal provisions that determine it: the Federal Constitution of 1988, in its article 205, states that 'education, the right of all and the duty of the State and the family, will be enabled and encouraged with the contribution of society, aiming at the broad evolution of the individual, his qualification for the exercise of citizenship and his ability to work (BRASIL, 1988).

Regardless of the form of action regarding the Brazilian educational system, when it is Having introduced the topic of Public Policies, there is at this point what is called decision-making heterolinkage of conduct duties. Furthermore, there is a duty of mandatory conduct by a constitutional mandate, several public policies were approved to popularize access to and maintenance of education, whatever the level, as guaranteeing education for citizens is also an obligation of public policies (BRASIL, 2008).

2.3 LEGAL FRAMEWORKS ON APPROACHING GENDER

According to Machado (2018), developing the concept of gender means moving away from explanations of conceptualized inequalities regarding physical and biological differences, making clear their social, historical and political character. And when the content is gender and sexuality, the production of moral panic is well defined, especially in Brazil, which is dependent on Taboos, prejudices, and extensive interference from religion, that is, if I understand it in churches, and in all sectors, education, economy and State.

It is understood that in Brazilian society there is a strong concern about the “destruction” of the family when discussing gender, sexuality and diversity. In this way, the so-called “sexual inversion” established a multiple threat, to the traditional division, biological reproduction of power between men and women in society and in the family, however, to the maintenance of values and morality responsible for an entire order and vision of the world (MISKOLCI, 2007).

School can be a relevant space for information and action on issues of gender and sexuality, as, for a long time, this has continued to be a subject that runs through educational spaces as a moral problem, always with the thought, this is not about here (SILVA, 2018).

In 2014, the National Education Plan (PNE) was sanctioned, Law No. 13,005, of June 25, 2014, effective for ten years. The plan indicates: “Construction of an innovative ethics in order to effectively introduce historically excluded groups, which are among them: black people, quilombolas, people with disabilities, indigenous peoples, field workers, women, lesbians, gays, bisexuals, transvestites and transsexuals (LGBT)” (BRASIL, 2011, p. 56).

Stating as a starting point for interventions in the educational sphere that addressed themes surrounding sexuality and gender from 2006 to 2015, the Program to Combat Violence and Discrimination against GLTB (Gays, Lesbians, Transgenders and Bisexuals) and to Promote Citizenship of Homosexuals “Brazil without Homophobia” is seen as an important fundamental program for expanding and strengthening the exercise of citizenship in Brazilian society (BRASIL, 2004).

2.3.1 Sexuality at School as a Way to Legitimate the Fight against Discrimination

To reflect on sexuality at school, it is important to reflect on its function, which comes first to socialize historical, socially and culturally constructed knowledge. This involves the responsibility for training citizens, enabling access conditions that give them the right, as people, to assume their own stories, establishing possibilities for change at school (CAMPOS, 2019). School education is seen as a prominent space, but in isolation it will not have the power to solve so many related and social difficulties. Education, both family and school, can help, as no one has recipes or educational formulas that can solve efficiently and last in the fight against the problems caused by prejudice in society, educational and pedagogical strategies are needed to combat them (MUNANGA, 2005).

Themes surrounding sexualities, homosexualities, bisexualities and other gender expressions are not new issues in the school space, in the global context. In society, only from the second half of the 1980s onwards, these began to be discussed more openly, within the various social spaces. Thus, when themes related to sexuality appeared in the curriculum, they were subject to the areas of Science or, therefore, to Moral and Civic Education, which was a discipline established by Decree-Law 869, of September 12, 1969, which came into force in 1969. to 1986 (LOURO, 2004).

It is noticeable that the theme of gender and sexuality must be present in teacher training to develop in basic education, with the educator having the opportunity to reflect on their beliefs, their values, their speeches, their ideologies, their position towards cultural diversity, gender and sexual. The school has a fundamental role in this training, being able to contribute to a less homophobic, misogynist and sexist society, in favor of respect and recognition of diversity (CRUZ, 2014, p. 30).

Sexuality is considered as a study inherent to the learning processes and formed by a set of school activities, proposed by the teacher, to achieve a certain objective. The school, when approaching work with Sexual Orientation as one of its functions, can include it in its educational project so that discrimination does not occur. This highlights a clear definition of the foundations, which should guide the work on Sexual Orientation and its clear explanation to the entire school community related to the students' educational process (TRAVERSINI; COSTA, 2006).

Sexuality, as understood by Foucault (1990), historicizes how, in the last three centuries, there has been abundant concern and dissemination around sex. So, what

What matters is that sex emerges as a secret and a problem to be contained. The issues of how to express them are disciplined and restrained. It is chosen where and when, in what situations and who could reflect on sex, the school becomes one of the institutions free to talk about the subject, to control bodies (MOURA, 2010).

It is important to discover and invent techniques and languages capable of overcoming the limits of discrimination; a subject needs to be seen as part of the construction of human thought. The school is a fundamental environment in the educational processes on this subject, formulating intervention strategies together with the family/school that help to clarify the subject (MARTINEZ, 2010).

2.4 JUDGMENTS ON APPROACHING GENDER IDEOLOGY

Constitutional Law in its scope brings constitutional solutions that would initially serve to fulfill the right to sexual and gender diversity, one of which is the Writ of Injunction provided for in art. 5, inc. LXXI of the Federal Constitution of 1988. In Article 5, everyone is equal before the law, without distinction of any kind, ensuring Brazilians and foreigners residing in the country the inviolability of the right to equality, life, freedom, security and property, as follows (ANGUER, 2012).

When discussing the right to sexual and gender diversity, it fits well with the right to citizenship since it is the maximum emphasis of the right, as it exists for citizens. These characteristics, in any case, are civil rights, political rights and social rights, as well as the protection of sexual and gender diversity, as a circumstance of life in society that needs to be protected in freedom, dignity and justice, in order to promote self-determination of individuals (OLIVEIRA, 2003).

Constitutional support allows us to embrace sexual and gender diversity as a fundamental right, existing in the strict list of non-discrimination based on sex. Given this evolution, it is essential to update the concept of sex, demystifying the linking of sex to the genital organ, so that all and all that fall within the sexual and gender distinction are guaranteed with rights and duties by the state apparatus through a Statute of Sexual and Gender Diversity, based on the CF of 1988 (BRASIL, 2009).

In this way, it is appropriate to seek to guarantee the right to sexual and gender diversity through a Right Action for Unconstitutionality by Omission. However, this requires impetus from the

Attorney General of the Republic, for example, since the concept of challenge in the aforementioned appeal, according to art. 103, § 2º of CF/88, omissive behavior on the part of the Public Authorities. The Magna Carta of 1988 received the principle of equal rights, presaging equality of aptitude, an equality of virtual possibilities, that is, all citizens have the right to similar treatment by law, in compliance with the criteria of the legal system (MORAES , 2006).

Therefore, the taboo to be broken regarding sexual diversity are old concepts, which recognized homosexuals, people of the same biological sex, conditioning the genital organ as a requirement for classification. Gender identity is linked to the historical-social analyzes of the human being, which results in the recognition of being masculine or feminine, thus differing sexual vocation, which is linked to sexual desire in the most varied ways, resulting in sexual identity, that is, gender forms the subject, and sexual identity the way sexuality is understood (DIAS, 2011).

In 2017, the action of the Attorney General of the Republic - PGR carried out by the Attorney General of the Republic Rodrigo Janot, challenged law 1.516/15 of the municipality of Novo Gama - GO, which censored "the dissemination of material according to gender ideology in municipal schools de Novo Gama" and other orders on the subject. According to the PGR, by determining the prohibition of the use of teaching material with reference to sexual diversity, the specific municipal law entered the context of the Union's responsibility (MPF JUSBRASIL, 2020).

According to attorney Rodrigo Janot, the rule goes against the fundamental principles of the Constitution and violates the Union's private attribution of prescribing national education standards, such as the right to democracy, plural education, gender equality, and secularism of the State. (MPF JUSBRASIL, 2020).

On May 20, 2020, the Federal Supreme Court unanimously decided the Allegation of Noncompliance with Fundamental Precept (ADPF) 467, which dealt with the Legislation of Ipatinga (MG) that eliminated from the municipal education policy any declaration to sexual orientation and gender diversity (CNTE, 2020).

You Municipalities do not have legislative powers to issue standards that refer to curricula, teaching methodologies, programmatic contents, or the way in which teaching activities are carried out. The possible need to supplement federal legislation, with a view to regulating local interests (art. 30, I and II, CF), would never justify issuing a ban on pedagogical content, which does not correspond to the guidelines set out in the Law of Guidelines and Bases of Education. National Education (STF, 2020).

The rapporteur Minister Gilmar Mendes stated that only censorship of the discussion is unconstitutional, and it is the duty of the education departments, schools and educators to address sexuality and gender, in promoting non-discrimination and equality policies, establishing a broad group of parameters, guidelines , educational and preventive (CNTE, 2020).

2.4.1 Sex Education in Schools

According to Costa (2016), issues surrounding Sexual Education have been attracting the interest of several researchers, and it is possible to find many books, academic articles, theses and dissertations on this topic in the literature. Therefore, it is noticeable that there are different positions regarding terminologies, concepts and classifications, therefore, it is viable to seek a better understanding.

In this context, consideration and questioning regarding terminologies, concepts and classifications are essential, as well as taking a position on what is important, understanding Sexual Education and why to adopt the subject. Even in the face of such a challenge, it is important to carry out a survey of the different terms used in the period from 1980 to 1993, and note the predominance in the use of Sexual Education and Sexual Orientation, these being sometimes used as synonyms, without due differentiation (FIGUEIRÓ).

In this way, every teaching-learning action about human sexuality, whether in the degree of knowledge of basic information, or in the degree of knowledge or discussions about values, fundamental feelings, emotions and attitudes linked to sexual life, this subject is one of the themes study of Sexual Education experiences in Brazilian schools (FURLANI, 2016).

Sexual education at school is important as it clears up doubts that students may have. It is possible to verify that both, as they consider Sexual Education as something informal, which happens in many scenarios and throughout the lives of individuals; and that sexual orientation would be something more punctual, as a systematic, institutionalized, ordered action especially directed to schools and trained professionals (SUPLICY *et al.*,2004).

For this reason, working on sexual education at school goes further, as it addresses different aspects of sexuality, however, the school should not restrict itself only to the biological-hygienist approach to dealing with this subject with its students, but

when discussing this context, he must take into account social and legal issues, in addition to those linked to ethical, moral and cultural values (OLIVEIRA; BARBOSA; OLIVEIRA, 2017).

FINAL CONSIDERATIONS

From carrying out this study, it can be stated that school education today seeks to act on the conception of cultural variety, which means that a pedagogical action based on the identification that students in the school environment are distinct because they have their aesthetics, are part of a given social group, personal options and the appreciation of the collective, differences and universal rights that can combat discrimination and prejudice in all areas.

The Federal Constitution was an important milestone in terms of equality, determining that all individuals have the right to similar treatment by law and presenting the State's duty to promote policies of non-discrimination and equality in the school environment, however, for To achieve these results, it imposed the use of a wide range of guidance, preventive and educational measures on gender relations and sexual education in schools.

School is the appropriate environment for discussions of prejudice and gender, due to the diversity that presents itself and the multiple universe. It is important to work with students taking into account respect for others, certain that this contributes to their development based on the concept of respect for others.

REFERENCES

ANGHER, AJ Vade mecum academic of law. **Current rev. and ampl.**, v. 11., 15. ed. 2056 p., São Paulo: Rideel, 2012. Available at: <http://www.conteudojuridico.com.br/consulta/Monografias-TCC-Teses-E-Book/54228/odireito-constitucional-diversidade-sexual-e-de-gender-the-need-for-statutory-regulation>. Accessed on: 22 Aug. 2020.

BARREIRO, A.; MARTINS, FH Legal bases and foundations for discussing gender and sexuality in the classroom. **Reading: Theory & Practice**, Campinas, São Paulo, v.34, n.68, p.93-106, 2016.

BUCCI, MPD **Administrative law and public policies**. Saraiva Jur, 2002.

BUTLER, J. Gender problems: feminism and subversion of identity. 15 ed. Rio de Janeiro: **Brazilian Civilization**, 2017.

BRANDÃO, AP **Knowing and doing**. v.2: ways of feeling. Rio de Janeiro: Roberto Marinho Foundation, 76p: il. color. (The color of culture), 2006.

BRAZIL. **Brazil without homophobia**. 2004. Available in: http://www.uel.br/eventos/gpp/pages/arquivos/GT6_L%C3%BAcia%20Aulete%20B%C3%BArigo%20de%20Sousa.pdf. Accessed on: 22 Aug. 2020.

BRAZIL. **Constitution of the Federative Republic of Brazil**. Brasília, DF: Federal Senate, October 5th. 1988.

BRAZIL. Special Secretariat for Policies for Women. **II National Policy Plan for Women**. 2. Reprint. Brasília: Special Secretariat for Policies for Women, p. 57, 2008.

BRAZIL. **Gender and diversity at school**: training of teachers/HE in gender, sexual orientation and ethnic-racial relations. Contents Book. Andreia Barreto; Leila Araújo; Maria Elisabete Pereira (Org.). 2009. Rio de Janeiro: CEPESC; Brasília: SPM, 2009. Available at: http://www.uel.br/eventos/gpp/pages/arquivos/GT6_L%C3%BAcia%20Aulete%20B%C3%BArigo%20de%20Sousa.pdf. Accessed on: 22 Aug. 2020.

BRAZIL. **Brazilian Inclusion Law. Federal Law No. 13,146**. Brasília, DF: Presidency of the Republic/Civil House/Sub-Head for Legal Affairs, 06 Jul. 2015.

BRAZIL. **Law guidelines and bases of national education**. Federal Law No. 9,394. Brasília, DF: Federal Senate, 20 December. 1996.

BRAZIL. Ministry of Education. Secretariat of Basic Education. **Directorate of Conceptions and Curricular Guidelines for Basic Education**. General Coordination of 50 Early Childhood Education. National Curriculum Guidelines for Early Childhood Education. Brasília: MEC, 2010.

BRAZIL. **3rd National Conference for Women**. 2011.

BRAZIL. Ministry of Education. **National Education Plan 2011 -2020**. 2011. CAMPOS, EM de; GODOY, IASF de; ZULSI, RM of BC; ROHR, M.T. **Coping with school failure**: problematizing the social function of the school, the curriculum, assessment and teaching work. School failure: contextualization, history and theories. City: Editora, 2019.

CAVALLEIRO, ES **From the silence at home to the silence at school**: racism, prejudice and discrimination in early childhood education. São Paulo: Contexto, 2018.

CNT. **National Confederation of Education Workers.** In a new decision, the STF states that it is the State's duty to address gender and sexuality at school. 01 Jun.2020. Available at: <https://www.cnte.org.br/index.php/menu/comunicacao/posts/noticias/73170-em-novadecisao-stf-afirma-que-e-dever-do-estado-abordar-genero-and-sexuality-at-school>. Accessed on: Aug 25, 2020.

COSTA, IS **Analysis of training and practice in Sexual Education of Science and Biology teachers at State Schools in Macapá/AP.**2016. Available at: http://www.pmf.sc.gov.br/arquivos/arquivos/pdf/01_07_2019_9.02.47.a8b4f91d29838781b849332fe08bb54d.pdf. Accessed on: Aug 24, 2020.

CRUZ, L.M. **Changing discourses about body, gender and sexuality in the Pedagogy course at Uesb.** Jequié: Uesb, 2014.

DIAS, MB Sexual Diversity and Homoaffective Law: Collective Work/ coordination. **Rev. of the Trib.** 1st ed.: São Paulo/SP, 2011.

FERRAZ, MOK **Public Policies on Gender in Education: An Analysis for Development.** 2019.

FIGUEIRÓ, MND Sexual Education: resuming a proposal and a challenge. 3rd ed. **rev. e ampl.**, Londrina, PR: Eduel. P. 240, 2010.

FURLANI, J. **Sexual education in the classroom: gender relations, sexual orientation and ethnic-racial equality in a proposal to respect differences.** Belo Horizonte: Autêntica, p. 190, 2016.

GOMES, NL Education, Ethnic-Racial Relations and law n.10.639/03: Brief Reflections. In: Brandão, A. P; Trindade, A. L (Org.). **Ways to do it:** notebook of activities, knowledge and actions, v. 4, Rio de Janeiro: Fundação Roberto Marinho, 2010.

HERZOG, R. From Prejudice to Intolerance: When Humanity is Stolen from Others. **Now**, v. 22, n.3 Rio de Janeiro, set. ten. 2019.

LIMA, JG **Prejudice, Society and Violence Against Women Ariquemés.** RO 2019.

LOURO, G. Lopes. **Gender, sexuality and education: a post-structuralist perspective.** Petrópolis: Voices, 2004.

MACHADO, GE; OLIVEIRA, VMF **Gender, sexual diversity and education.** Rio de Janeiro Eulim2018. Available at: https://www.ufsm.br/app/uploads/sites/373/2019/01/Livro_G%C3%AAnero-Diversidade-Educa%C3%A7%C3%A3o-1.pdf. Accessed on: 24 Aug. 2020.

MARTINEZ, AM School and Educational Psychology: commitments to Brazilian education. **Semiannual Magazine of the Brazilian Association of School and Educational Psychology** – ABRAPEE, v.13, n. 1, Jan. Jun., p. 169-177, 2009.

MBEMBE, A. Criticism of black reason. Portugal, **Antigone**, P. 312, 2014. Available at: https://www.scielo.br/scielo.php?pid=S1516-14982019000300273&script=sci_arttext#B13. Accessed on: 22 August 2020.

MELLO, CAB de. **Administrative Law Course**. 31. ed. São Paulo: Malheiros, p.832, 2014.

MISKOLCI, R. No to king sex: from the aesthetics of Foucauldian existence to queer politics. *In*: SOUZA, LAF de; SABATINE, TT; MAGALHÃES, BR de (Org.). Michel Foucault: sexuality, body and law. Marília: **University Workshop**; São Paulo: Academic Culture, p. 47-68, 2011.

MORAES, A. **Constitutional right**. 20. ed., p.3, São Paulo: Atlas. 2006.

MOURA, TM de. **Foucault and the school**: discipline, examine, manufacture. Dissertation (Master's) – Federal University of Goiás, Faculty of Education, 2010.

MPF. JUSBRASIL. **PGR challenges law that prohibits material about “gender ideology” in municipal schools**. 2017. Available at:

<https://mpf.jusbrasil.com.br/noticias/462616263/pgr-contesta-lei-que-proibe-material-sobreideologia-de-genero-em-escolas-municipais>. Accessed on: Aug 24, 2020.

MUNANGA, K. (Org.). **Overcoming Racism at School**. Ministry of Education, Secretariat of Continuing Education, Literacy and Diversity. Brasília, 2nd ed. Rev. 2005.

OLIVA, DV Social and psychodynamic roots of prejudice and their implications for inclusive education. **School and Educational Psychology**, SP. v. 20, no. 2, May. Aug. 349-356p., 2016.

OLIVEIRA, AMAR **Right to Sexual Self-Determination**. São Paulo: Editora Juarez de Oliveira, 2003.

OLIVEIRA, APS; BARBOSA, MG; OLIVEIRA, MCA The curricular configuration for sexual education in the training of Science and Biology teachers. National Congress of Science Research and Teaching, 3, 2017, Campina Grande. **Annals**. Campina Grande: CONAPESC, 2017.

KINGDOM, LMG; ENDO, PC Three versions of the narcissism of small differences in Freud. **Trivium**, v. 3, no. 2, Jul. ten. 2011, Rio de Janeiro, 2011.

SILVA, DRQ **Gender, sexuality and public education policies**. Porto Alegre, vol. 41, no. 1, p. 49-58, Jan. Apr. 2018.

SILVA, TT da (Org.). **Identity document: an introduction to curriculum theories**. Belo Horizonte: Autêntica, 2001.

SOUSA, LAB **Gender and Public Education Policies**. State University of Londrina, May 27th to 29th, 2014.

STF. **Allegation of Non-compliance with Fundamental Precept 457 Goiás**. 27 Apr. 2020. Available at: <http://www.stf.jus.br/arquivo/cms/noticiaNoticiaStf/anexo/ADPF457.pdf>. Accessed on: Aug 24, 2020.

SUPLICY, M. *et al.* Sexual orientation guide: guidelines and methodology. 10. ed. São Paulo: **Psychologist's House**; P. 161, 2004.

TEIXEIRA, ABM DUMONT; ADLSON. (Org.). **Discussing gender relations at school: reflections and proposal for teaching action**. Araraquara, SP: Jaqueira & Marin; Belo Horizonte, MG: FUNDEP, 2009.

TOLENTINO, PHDP **Sexual Law and Education: Perspective on Freedom**. 2018. Course Completion Work (Bachelor of Law). Federal University of Uberlândia, Uberlândia, 2018.

TRAVERSINI, CS; COSTA, ZLS Do ways of teaching produce learning? VI Education Research Seminar in the Southern Region, **Annals**. Santa Maria, RS: UFSM, 2006.