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The experience of the reform of the curricular matrix of the Federal University Law School: participatory processes and perspectives

A experiência da reforma da matriz curricular do Curso de Direito de uma Universidade Federal: processos participativos e perspectivas

La experiencia de la reforma de la matriz curricular de la Facultad de Derecho de una Universidad Federal: procesos participativos y perspectivas

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Abstract: It is a research aimed at analyzing and systematizing the phases and the operationalization of the reform procedure of the curricular matrix of the Law School of the Federal University and to elaborate a synthesis and a report of the procedure to guide other curricular reforms. The Law School of University adopted a participative democratic procedure in the process of reforming the curricular matrix required by the 2018 National Curricular Guidelines. The methodology was qualitative, bibliographic and documental, as well as analytical and interpretative, because from the report of the experience lived in the first phase of the reform, an inspiring and propositional orientation was elaborated for other processes.

Keywords: law school; curricular reform; participatory democracy.

Resumo: Trata-se de pesquisa destinada a analisar e a sistematizar as fases e a operacionalização do procedimento de reforma da matriz curricular do Curso de Direito de uma Universidade Federal da Região Sudeste do Brasil e elaborar uma síntese e um relato do procedimento para orientar outras reformas curriculares. O Curso em questão adotou um procedimento democrático participativo no processo de reforma da matriz curricular. A metodologia foi a qualitativa, do tipo bibliográfica e documental, além de analítica e interpretativa, pois, a partir do relato da experiência vivenciada na primeira fase da reforma, foi elaborada uma orientação propositiva e inspiradora para outros processos.

Palavras-chave: curso de direito; reforma curricular; democracia participativa.

Resumen: Esta es una investigación dirigida a analizar y sistematizar las fases y operacionalización del procedimiento de reforma de la matriz curricular de la Facultad de Derecho de una Universidad Federal de la Región Sudeste de Brasil y preparar una síntesis y un relato del procedimiento para orientar otras reformas curriculares. La Facultad de Derecho de la Universidad en mención adoptó un procedimiento democrático participativo en el proceso de reforma del plan de estudios exigido por los Lineamientos Curriculares Nacionales de 2018. La metodología fue cualitativa, de tipo bibliográfica y documental, además de analítica, interpretativa y propositiva, pues a partir del relato de la experiencia vivida en la primera fase de la reforma se elaboró una guía inspiradora para otros procesos.

Palavras chave: facultad de derecho; reforma curricular; democracia participativa.

1 Introduction

This research aims to analyze the procedure for reforming the curriculum matrix (version 2020) adopted by the Structuring Teaching Nucleus (NDE) of the Law School of a certain Federal University, through the analysis of its phases and stages, as well as the dialogue with documents produced by characters from each of them. Thus, the research aims to contribute to the systematization of possibilities and the identification of challenges and limits for carrying out a curriculum reform within the scope of law schools and, in a special way, in the Law School of the educational institution, considering its peculiarities.

The changes required by the 2018 National Curricular Guidelines were analyzed in comparison with the standards of the 2004 DCNs, which required the curricular reform of Law Schools. Therefore, the research dealt especially with the *prescribed* or *formal curriculum*, as it refers to the curricular reform based on the National Curricular Guidelines for Law Schools, established by Resolution No. 005, of December 17, 2018, of the Higher Education Chamber of the National Education Council of the Ministry of Education.

Among the objectives, the research intended to propose paths for a democratic-participatory curricular reform process. To this end, it was necessary, preliminarily, to systematize the phases and operationalization of the procedure for reforming the curricular matrix of the Law School of the chosen university, and to prepare a summary report of the procedure to guide other curricular reforms. However, as the process developed through a participatory procedure, it was necessary to theorize about the viability and the necessary conditions for democratic-participatory processes in curricular reforms.

The problem that the research faced is the greatest difficulty that can be found in a process of curricular reform, especially within the scope of a Law School where — due to the nature of the undergraduate and graduate professionals — there are strong divergences of ideas and strong defenses of the way of thinking. To address the various demands surrounding the curriculum and academic training, the Structuring Teaching Nucleus (NDE) adopted a participatory procedure for the reform of the curricular matrix of the Law School in question, with broad public discussion and opening several channels of communication. Hence, this research needed to face how all biases should and need to be heard and, as far as possible, addressed, as this makes the curriculum and the pedagogical project as democratic as possible.

To address the issue, the research outlined the following problem to guide the investigations: how did the process take place and what impact did the participatory democratic procedure adopted in the development of the new Law School curriculum at this Federal University have on the constructed curricular matrix?

The assumption is that the formulation of a reform process based on the idea

of participatory democracy means that the various segments can be served and favors emancipatory attitudes of students, professors and others involved, guaranteeing the legitimacy of the new curricular matrix of the Law School, as well as the emancipation of the agents directly involved with the adoption of a new matrix.

The methodology used was qualitative, bibliographic and documentary, in which the bibliographic review that resulted in this work was carried out based on contemporary theoretical frameworks on curriculum and democracy. Following this methodology, the research aimed to construct new knowledge on the procedure of curricular reform, so that the product of this process meets the interests of the various segments of professionals in the area. To this end, the starting point was the knowledge already developed in the bibliography and in other research, referencing in such concepts the practice of curricular reform at Law School. In this sense, the research was analytical, interpretative and propositional, since, based on the report of the experience lived in the first phase of the reform, the intention is to develop a guideline that will be inspiring for other processes.

Ultimately, this work offers tools to alleviate the rigors and rigidity of the curriculum prescribed by the 2018 National Curricular Guidelines, which do not include the specificities of a Law School curriculum. It is the participatory procedure that will make it possible to build a multicultural curriculum that recognizes the identities of the characters involved in teaching and practicing Law.

2 Elements of the 2018 National Curricular Guidelines that influenced changes in Law School Curricular Matrices

The driving factor behind the 2020 Curricular and Pedagogical Reform of the university's Law School was the set of revisions to the National Curricular Guidelines for Law Schools, which took place in 2018 through Res. No. 005, of December 17, 2018, of the Higher Education Chamber of the National Education Council of the Ministry of Education.

The new guidelines were proposed by the Thematic Advisory Board for Regulatory Policy on Legal Education and gave rise to Process No. 23001.000020/2015-61. Since then, the objective was not to reform the 2004 DCNs, but to review them. Despite giving rise to a new regulatory instrument, many of the normative formulations in the 2018 document repeat formulations from the 2004 DCNs (Res. No. 009/CES/CNE/MEC, of September 29, 2004).

On October 4, 2018, the Higher Education Chamber approved Opinion No. 635/2018, which recommended the approval of the proposed revisions through the creation of a new regulatory instrument for the DCNs for Law Schools.

This Opinion becomes an object of study and analysis of this research, since it

contains the foundations that led to curricular reforms in undergraduate Law Schools in Brazil. However, the research proposed to ask and find an answer: were the factual, political, social and pedagogical elements that led to this change *motivating* or *pressuring* the new Guidelines?

Opinion No. 635/2018 begins by highlighting that the new DCNs result from expectations of two sectors of the legal world, namely: the academic community and professional representation bodies. And these expectations would revolve around the “need to adjust the structure of these schools to the current historical moment, considering the country’s perspectives with regard to the development of society and its presence in the global context”.

The DCNs reflect a true — and legitimate — concern for law school graduates and their performance in society, which, according to the Opinion, are impacted by factors such as:

- process of expansion of higher education;
- institutional governance;
- evaluation;
- content management, development of skills and competencies;
- definition of curricular strategies; and
- organization of research.

In this sense, Opinion No. 635/2018 highlights what is the most urgent issue surrounding the review of the guidelines: “the social interest of graduates and society in terms of employment and its meanings aimed at economic competitiveness, inclusion, access to income, knowledge production and the well-being of society”.

Please note that this part of the Opinion reveals:

- 1) confirmation that the new instrument is concerned with the graduate’s profile and aims to solve the difficulties encountered by graduates in entering the job market;
- 2) the factor that led to the re-discussion of the standards of Law Schools has to do with the unemployment situation experienced by the country in the period from 2015 to 2018, which at the time of the opening of Process No. 23001.000020/2015-61 was imminent given the unemployment rate, according to PNAD (National Household Sample Survey) of the IBGE (Brazilian Institute of Geography and Statistics) was 9.8%, having increased to 11.5% in 2016, 12.7% in 2017 and 11.6% in 2018¹; e

¹ Source: PNAD Contínua / IBGE. Available at: <<https://www.ibge.gov.br/explica/desemprego.php>>. Accessed on September 20, 2020.

- 3) as condições políticas, econômicas e sociais do momento da recessão econômica do país *pressionaram* a revisão das DCN's de 2004 e deram origem às DCN's de 2018, ou seja, não se tratou de uma reforma originada de uma nova visão pedagógica que veio para motivar livremente novas experiências de ensino, mas a pressão das necessidades que os bacharéis possuem ao concluir o curso e se encontrarem em situação de desemparo.

O Parecer revela essa preocupação com a inserção do egresso no mercado de trabalho e se propõe a solucionar os problemas pela via de novas DCN's. E isso obriga, necessariamente, a uma reforma das Matrizes Curriculares:

A realização de revisão das Diretrizes Curriculares do Law School pauta-se especialmente no interesse da sociedade na área e na longevidade da vigência do atual currículo. Nessa circunstância, é relevante lembrar que a revisão de uma diretriz alcança, sobretudo, a estrutura curricular, indo, no entanto, além da atualização de disciplinas e conteúdos, quando for o caso.

This concern for the graduate is manifested in the profile that the Opinion builds for the undergraduate and future graduate, through which a Law School must ensure:

- general and humanistic education;
- analytical capacity;
- mastery of legal concepts and terminology;
- adequate argumentation;
- interpretation and appreciation of legal and social phenomena;
- mastery of consensual forms of conflict resolution;
- reflective stance;
- critical analysis; and
- aptitude for autonomous and dynamic learning.

In this context, professional training is highlighted in the national curriculum review: "teaching strategies that value student protagonism should be considered in order to enable professional training that reveals cognitive, instrumental and interpersonal skills that are important to legal professionals".

Therefore, Opinion No. 635/2018 expresses the idea that the Law School curriculum must be committed to developing the skills of professionals in the field. To this end, students must develop solutions to problems that they will face in their professional practice: "it is through reflection and theorizing, based on practical situations, that the teaching-learning process is established".

Hence, the new DCNs — compared to those of 2004 — are more rigorous in

terms of preparing Law students for the job market.

The “general training” axis remains the same, being composed of the propaedeutic subjects: Anthropology, Political Science, Economics, Ethics, Philosophy, History, Psychology and Sociology.

A noticeable change in the plan was the inclusion of three new subjects in the “technical-legal training” axis: General Theory of Law, Social Security Law and Mediation, Conciliation and Arbitration.

The last “practical-professional” axis was reformed to be applied transversally to the other learning axes, revealing that concern with the training of professionals that pressured the reform of the guidelines to harmonize theory and practice.

According to this logic of the practical-professional axis, theory must be taught for the practical implementation and operability of Law. It reveals that legal theory and dogma must also be taught with a view to professional development. This makes perfect sense within the logic of the new DCNs, which is to prepare graduates to practice the legal profession, especially as lawyers.

And, still, two other points — always aiming at insertion in the job market — gained importance: the first was the concern with the relationship between the professional future and new technologies, especially because of the strong tendency towards exclusivity of the electronic judicial process and sessions held by videoconference; and the second is the extrajudicial performance of the professional, not only in alternative methods of conflict resolution, but also in administrative and fiscal channels.

From all this, we can see a clear concern with the training of graduates for the exercise of the profession. Insertion into the job market should be the main concern when preparing the Curricular Matrix and the Pedagogical Project of the Law School.

It is also important to highlight that when analyzing Res. No. 005/2018 and Opinion No. 635/2018 in detail, it is clear that these instruments do not offer spaces and opportunities for a democratic-participatory process for the construction within the scope of the schools. It is not that the instruments prohibit it; they simply do not encourage or require procedures for broad discussion. In other words, the DCNs are content with discussions internal to the institution and limited to the school. In other words, they are very concerned with the formal legitimacy of the curriculum and less with the substantial legitimacy of the process.

3 Participatory democracy and curricular reform: theoretical foundations

Law is power: whether as a set of norms that organize society; or as a set of rules that control conduct; or even as an instrument for promoting peace, well-being and

equity (Amaral, 2015) (Coelho, 1992). Therefore, a Law School is — in addition to training professionals — a political school, as it forms those individuals who will exercise power and who will operationalize power. Demonstrating this bias, José Martins Rodrigues (1953, p. 52-53) thus describes one of the main characteristics of Law Schools:

As escolas jurídicas, por isso mesmo que as primeiras a se constituírem no Brasil, foram, durante várias décadas, os principais centros de preparação para a política, a atividade parlamentar e a administrativa, que de preferência recrutavam, entre os que por elas se diplomavam, os estadistas e homens públicos de maior relêvo. Hoje, com o desenvolvimento dos outros ramos de ensino superior, já não é sua a exclusividade, que a bem dizer lhe cabia; todavia, ainda há de persistir, até certo ponto, pela própria natureza dos estudos que nelas se realizam, a sua predominância, dado que aparelham melhor o espírito para as tarefas superiores da obra legislativa e da organização da vida pública².

And the formation of this “subject of power” will depend on the curriculum of the Law School that forms this individual: the training that an institution offers its students, via curriculum, will impact the way of conceiving power and, mainly, exercising this power.

Not surprisingly, João M. Paraskeva understands that a curriculum is a document implicitly materialized by power relations (2008, p. 135-168).

In this sense, a Law School curriculum and project is not (only) the institution’s, it is not (only) the student’s, it is not (only) the professors’; it is a School for the entire *community*, for all of “*us*” as a society. After all, it is this curriculum and this School project that will be the basis for the training of the agents who will exercise power and apply equity.

In parallel, there are different conceptions of *power*, *equity* and *how* they should be implemented. For example, in addition to the ideological spectrums, there are also the jusphilosophical spectrums, which refer to the conception of the object of legal disciplines (Martínez, 2006): there is talk of natural law, neo-natural law, positivism, post-positivism, jusrealism and a series of other conceptions. Each of these factors — ideological and philosophical — influences the way a Law School is conceived and, mainly, what should be prioritized in the training of students.

This is, therefore, the greatest difficulty encountered in a process of curricular

² In free translation into English: “Law schools, for this very reason being the first to be established in Brazil, were, for several decades, the main centers of preparation for politics, parliamentary and administrative activity, which preferably recruited, among those who graduated from them, the most prominent statesmen and public figures. Today, with the development of other branches of higher education, they are no longer the exclusivity that they once had; however, their predominance will still persist, to a certain extent, due to the very nature of the studies carried out in them, given that they better equip the mind for the higher tasks of legislative work and the organization of public life”.

reform, especially within the scope of a Law School where — due to the nature of the undergraduate and graduate professionals — there are strong divergences of ideas and strong defenses of the way of thinking. All biases must be brought into the debate, as this makes the curriculum and the pedagogical project as democratic as possible (Mazzante, 2005). In this sense, Rosa Virgínia Diniz and Pedro L. Goergen (2019) highlight the multiple factors that, in a general sense, are capable of subsidizing the quality of higher education, among them respect for heterogeneity: “devem ser consideradas todas as suas possibilidades estruturais, pedagógicas e discentes, convergentes com a heterogeneidade presente no sistema, inerente à realidade brasileira, necessária para uma oferta de ensino superior que se pretenda universalizada”³.

Hence the need to formulate possibilities in the organization of a process of curricular and pedagogical reform whose phases and operationalization allow for broad participation not only of professors and student representatives in collegiate bodies. In this sense, the ideas of *participatory democracy* contributed substantially to a process of curricular reform.

João M. Paraskeva (2008) defines the curriculum as a “(regulated) practice of meanings”. For him, the curriculum is a practice of life, and not just a written and static document. The text that represents the curriculum implicitly contains multiple tensions, negotiations and educational policies established between different social groups. However, João M. Paraskeva (2008) understands that the curriculum will end up expressing an “official discourse” that is the result of the “voice of the winners at a social level”. These tensions are perceived in the process of curricular and pedagogical reform at Law School and it is necessary to reconcile all these multiple tensions between different social, political and ideological groups so that the curriculum is not the imposition of ideas and conceptions of the “voice of the winners”, which in the context of curricular reform in higher education tends to be that of teachers and student representatives.

According to the *caput* of art. 215 of the General Regulations of the Federal University studied, as a segment, students participate in deliberative processes, but without the same weight in terms of the proportional aspect. § 2 of art. 215 provides that student representation in deliberative bodies is $\frac{1}{5}$ of the total number of members of the collegiate body:

Art. 215. O corpo discente terá representação, com direito a voz e voto, nos órgãos colegiados da Universidade bem como em comissões instituídas na forma do Estatuto da Universidade, deste Regimento e dos Regimentos dos Centros.

³ In free translation into English: “all of its structural, pedagogical and student possibilities must be considered, converging with the heterogeneity present in the system, inherent to the Brazilian reality, necessary for a higher education offering that aims to be universalized”.

[...].

§ 2º. Os representantes estudantis integrarão os Órgãos Colegiados e Comissões Acadêmicas na proporção de até $\frac{1}{5}$ (um quinto) do total dos membros, vale dizer, o seu número corresponderá a $\frac{1}{4}$ (um quarto) do número de participantes não alunos, desprezados os dígitos da parte fracionária.

[...]⁴.

Although numerically and proportionally smaller, students can participate by exercising not only their right to vote, but mainly their right to speak. With this, they have the possibility of influencing with their arguments.

This became very clear in the Law School's curricular reform process in 2020, when, despite the number, the members of the Student Union had the opportunity to give their opinions and engage in dialogue with the Structuring Teaching Nucleus and the School's Board, having met several requests based on their conviction. For example: creation of the mandatory subjects Execution of Criminal Sentences and Research Methodology.

It is also worth noting that there is no provision for participation in this process by the category of Technical-Administrative Education (TAEs). In addition to the lack of representation in the School Boards and NDEs, in the deliberative bodies in which they participate, their proportion is even lower than that of the students. In other words, only in the democratic-participatory process will the category be able to have a voice and present, thus, the issues and difficulties that they face on a daily basis in dealing directly with School issues.

Therefore, methods and processes for publicizing curricular reform must be designed so that everyone has a voice and can be heard and served, after all, "por mais que o texto curricular represente uma determinada política oficial, não pode ser compreendido se não se entende e atende os indivíduos que nele operam"⁵ (Paraskeva, 2008, p. 135).

But, after all, what is meant here by *participatory* (or *deliberative*) *democracy* and what are its interferences in a process of curricular reform?

In this research, the concept is adapted to the process of curricular reform. This is because it has a broad political meaning, through which the people directly exercise

⁴ In free translation into English: "Art. 215. Students shall be represented, with the right to speak and vote, on the University's collegiate and on committees established in accordance with the University Statute, this Statute and the Statutes of the Faculties. [...]. § 2. Student representatives shall comprise the Collegiate in a proportion of up to $\frac{1}{5}$ of the total number of members, that is, their number shall correspond to $\frac{1}{4}$ of the number of non-student participants, disregarding the digits of the fractional part. [...]".

⁵ In free translation into English: "even though the curriculum text represents a certain official policy, it cannot be understood if it does not understand and serve the individuals who operate within it".

power (unlike what happens with representative democracy).

Obviously, when we talk about participatory democracy in the (re)construction of a curriculum for a higher education at a specific institution, we are not saying that the people can decide the process; what we are defending is that they can participate in the deliberations, give their opinions and try to influence the agents who will ultimately decide on the curriculum presented. And it is also clear that not everyone is interested in the curriculum of a Law School at an institution. But those who are interested should have the opportunity to participate.

Therefore, participatory democracy in the curricular reform of a higher education means providing opportunities for broad discussion and presentation of proposals, in addition to those already consolidated spaces for deliberation, namely, the representative collegiate. It will be up to these sectors to decide; however, they must do so after listening to and reconciling — in a democratic manner — the various people interested in — participating — in that curriculum. Participation in school management is the “exercise of voice”, which is an inherent right of citizenship. (Freire, 2001, p. 73).

This already brings four advantages of adopting the principles of this policy:

- credibility of the process;
- meeting the demands of the community regarding the graduate profile;
- collective feeling of being a participant in the process; and
- legitimacy and acceptance of the curriculum.

In this sense, for Paulo Freire (2000, p. 75) the idea of participation implies that people mark their presence in history, and are not simply represented.

Much is said and written about participatory democracy. A theoretical framework led this research to be inspired and adopt Boaventura de Souza Santos and Paulo Freire as references.

First of all, it should be clarified that these authors deal with participation, emancipation and democracy within the scope of theories of social emancipation and transformation of social inequalities. They have a broad, systemic thinking. This research, in turn, will dialogue with these concepts in a specific aspect: the decision-making process of curricular reform, which is not the object of direct reflection in the analyzed works authored by these authors.

But, before understanding what participatory democracy is, it is necessary to understand what *participation* is.

Juan E. Diaz Bordenave (1983, p. 8) demonstrates the intimate relationship that exists between democracy and participation: democracy is not just a form of government in which citizens vote; it is a state of mind of relationship between people, con-

cluding that “democracy is a state of participation”. Therefore, it is concluded that being democratic is allowing others to participate and feel part of.

Juan E. Diaz Bordenave (1983, p. 16) continues by stating that participation has an *instrumental* basis: the individual participates because “doing things with others is more effective and efficient than doing them alone”. This makes perfect sense, since a discussion at a broad participatory level allows for the oxygenation of ideas and practices, knowledge of previous failures, participation in old demands and, most importantly, knowledge of things that the representative-decision makers do not know or do not understand the importance of.

For a more efficient curricular reform, it is not enough to guarantee *micro-participation*, which means the gathering of people in discussion or work groups. Due to the impact that the training of legal professionals has on society, the process must be one of *macro-participation*, which is the “participação macrossocial, compreende a intervenção das pessoas nos processos dinâmicos que constituem ou modificam a sociedade, quer dizer, na história da sociedade”⁶ (Bordenave, 1983, p. 24).

Participation, for Paulo Freire (2000, p. 129), has to do with the possibility of expressing oneself. In this sense, this is how he characterizes participation in democratic school management: “Participar é discutir, é ter voz, ganhando-a na política educacional das escolas, na organização de seus orçamentos. Sem uma forte convicção política, sem um discurso democrático cada vez mais próximo da prática democrática, sem competência científica, nada disto é possível”⁷.

Participation in democratic procedures should not be seen as a method of exercising power, but as a social practice, according to Boaventura de Sousa Santos and Leonardo Avritzer (2002, p. 52 et seq.), discussing Jürgen Habermas’ leading role in treating democracy in this way of seeing it. To be democratic, then, is to act with a practical reason: to see oneself as a participant and to enable others to participate. It is no wonder that Paulo Freire (1981, p. 96) sees it as a “farce” to talk about democracy and silence the people.

Therefore, democracy is not just about how to govern and choose rulers; democracy also concerns the way in which a decision is reached. And Boaventura de Sousa Santos (2002) understands that participation rebuilds the ideal of democracy.

Still for Boaventura de Sousa Santos (1998, p. 80 et seq.), this democratic rein-

⁶ In free translation into English: “macrosocial participation, includes the intervention of people in the dynamic processes that constitute or modify society, that is, in the history of society”.

⁷ In free translation into English: “Participating means discussing, having a voice, gaining it in the educational policy of schools, in the organization of their budgets. Without a strong political conviction, without a democratic discourse that is increasingly closer to democratic practice, without scientific competence, none of this is possible”.

vention reconstructs the social contract. Luciana Rosa Marques (2008, p. 67) thus characterizes this reconfiguration of the democratic social contract:

Este novo contrato, de natureza inclusiva, abrange não apenas homens e grupos sociais, mas também a natureza; é mais conflitual, pois a inclusão se dá tanto por critérios de igualdade como de diferença; inclui os espaços-tempos local, regional e global e, por fim, não se assenta em distinções rígidas entre Estado e sociedade civil; entre economia, política e cultura; entre público e privado⁸.

A concept dear to democracy in Boaventura de Sousa Santos (2008, p. 70) is that of an *emancipatory relationship*, which consists of a transformation of power relations that involves shared and egalitarian authority. In other words, from participatory democracy it is possible to see the subject as autonomous, capable and equal to exercise shared authority; to see the individual as emancipated, and not interdicted to the point of deserving to be represented.

This democratic-participatory process, however, does not occur by imposition, but by concession. Guaranteed participation is that in which everyone is allowed to be part of the decision-making power (Bordenave, 1983, p. 29), even if only as influencers or clarifiers of agendas. This concession must be made by those who have control of the process. It is not about granting the power to decide, since in certain situations it will be non-delegable by legal determination, but rather about enabling interested parties to know the process and express themselves in it.

What this research argues, based on this practical democratic reason, is that the concession by decision-makers for others to participate in the process is an obligatory concession, and not a concession out of liberality; it is not a favor that the leaders do, but a *duty*, since all those involved and interested have the right to participate in the process.

Being democratic means conceiving the other as emancipated and capable of participating in discussion spaces. Otherwise, we will not have emancipated individuals (students, graduates, professors, employees, community); and if they are not, they must be banned. This ultimately reveals the institution's ability to educate its students. For Paulo Freire (2008), participation — and democracy — are also learning experiences, since democracy and education form a whole (Kay; Carrara; Kay, 2013) (Alcântara; Borges; Filipak, 2018). Not teaching participation is transmitting disbelief in the *power to do*: this transforms the subject into an emancipated person. Democracy in education

⁸ In free translation into English: "This new contract, of an inclusive nature, encompasses not only men and social groups, but also nature; it is more conflitual, since inclusion occurs both through criteria of equality and difference; it includes local, regional and global spaces-times and, finally, it is not based on rigid distinctions between State and civil society; between economy, politics and culture; between public and private".

— through participation — enables “society in movement” to provide new and authentic ideas for the educational process (Freire, 2008). In other words, if the institution does not see its agents as emancipated, then its ability to teach is limited and inefficient.

What graduates (undergraduate and postgraduate) has the institution trained if they cannot even be heard about their impressions of the School? What students (undergraduate and postgraduate) is the institution training if it does not even trust the assessment that they can make of the teaching-learning that it is offering? And what social inclusion can an institution provide if it does not listen to society regarding its needs regarding the legal professionals launched annually into the job market?

Not listening to society is confirmation of Ariano Suassuna’s legitimate impression: “Brazilian universities think and teach with their backs turned to the country and the people”.

The vision of different subjects is important for the legitimization of the curriculum (Arruda Souza; Filipak, 2001). In this sense, Janete Magalhães Carvalho, Sandra Kretli da Silva and Tania Mara Zanotti Guerra Frizzera Delboni (2018, p. 811) state that “uma comunidade política não é simplesmente como um grupo de indivíduos governados por um poder, visto que precisamos pensar a comunidade como um organismo animado. Concordamos que, na qualidade de organismo animado, a política precisa ser afirmada como ação coletiva nos espaços-tempos públicos e, nestes, os educativos”⁹.

In view of this — and considering that a curricular change implies educational and pedagogical processes (Silva, 2011) (Libâneo, 2007) —, it is necessary to implement the reform through a widely public process, so that its conception and final result are not purely dogmatic and an “imposition” by a small group of teachers and student representatives.

The formulation of a reform process based on the idea of participatory democracy means that the various segments can be served — even if minimally — and favors emancipatory attitudes of students, professors and others involved, guaranteeing the legitimacy of the new School curriculum matrix.

4 Participatory democracy in the 2020 Curricular and Pedagogical Reform of the Law School of a Federal University: instruments used for its implementation

This research aimed to study a democratic-participatory procedure in the curricular reform of the Law School of the chosen university and the impacts that such a

⁹ In free translation into English: “a political community is not simply a group of individuals governed by a power, since we need to think of the community as an animated organism. We agree that, as an animated organism, politics needs to be affirmed as collective action in public spaces-times and, in these, educational ones”.

procedure has on the final product of the reform, especially in the design of new curricular matrices (or curricular organizations). After all, as Paulo Freire (2000) points out, a curriculum reformulation is always a political-pedagogical and substantively democratic process. Only from this perspective will the curriculum be able to be realized, as José Gimeno Sacristán (1999, p. 61) points out, as the “ligação entre a cultura e a sociedade exterior à escola e a educação; entre o conhecimento e a cultura que herdamos e a aprendizagem dos alunos; entre a teoria (ideais, suposições e aspirações) e a prática possível, dadas determinadas condições”¹⁰.

Res. No. 005, of December 17, 2018, of the Higher Education Chamber of the National Education Council of the Ministry of Education put into effect the new National Curricular Guidelines for Law Schools. The changes determined by the DCNs opened the opportunity for a broader debate beyond the simple inclusion of some mandatory subjects, which were:

- opportunity to discuss pedagogical practices in the classroom;
- evaluation of the 2009 Curriculum and PPC;
- strengthening practical training; and
- creation of mechanisms for the inclusion of graduates in the job market.

To encourage a broad discussion on all curricular and pedagogical nuances, the reform rapporteur proposed to the Structuring Teaching Nucleus (NDE) that the process be divided into three phases:

1st phase: discussion and reform of the curricular matrix (curricular organization);

2nd phase: discussion and reform of the other pedagogical elements; and

3rd phase: consolidation of the pedagogical project (PPC).

Each of these phases constitutes a process that, in the end, will be merged to create the new PPC.

This research focuses on the 1st phase and aims to expose: 1) which democratic-participatory elements were used in the 1st phase; and 2) what are the advantages of having applied such elements to reformulate the curriculum matrix.

When we talk about “curricular and pedagogical reform”, at least three dimensions are necessarily involved:

1. *Pedagogical conception of Law School*, which concerns the political, axiolog-

¹⁰ In free translation into English: “the link between culture and society outside school and education; between the knowledge and culture we inherit and students’ learning; between theory (ideals, assumptions and aspirations) and possible practice, given certain conditions”.

ical, gnosiological, epistemological and formative principles that are expected in the Law School;

2. *Law School curriculum design*, which refers to the organization of the formative experiences of the agents involved in the educational process; and
3. *Conceptions of didactics and pedagogical practices*, which concern the professor's choices in the teaching-learning process.

The report on the reform with the NDE was based on the concept of the Curricular Matrix established by the university, by the 2018 National Curricular Guidelines for Law Schools and by the literature in the area of education-curriculum.

According to José Gimeno Sacristán (1998, p. 148; 1999), curriculum is a "historical process" and a "cultural project". "It is a project that can only be understood as a historically conditioned process, belonging to a society, selected according to the dominant forces in it, but not only with the capacity to reproduce, but also to influence that same society"¹¹. On the other hand, it is also a cultural project, as it "conditions the professionalization of the teacher and it is necessary to see it as an agenda with a different degree of flexibility so that teachers can intervene in it".

Therefore, the NDE wanted to listen to the community, civil society, graduates, professionals in the field, leaders, to build a curricular matrix that reflected practices and needs not only of (current) students, (current) professors and (current) DCNs, but of all those who, directly or indirectly, are impacted by the training given to legal professionals.

Consolidating these multiple idealizations of curriculum is not an easy task. However, to contribute to the *discussion*, José A. Pacheco and João M. Paraskeva (1999) present guidelines for decision-making in curricular contextualization. According to them, the curriculum is a deliberation, and not exactly a plan or "technical artifact"; therefore, it is a situation that involves functions, competencies and actors. Thus, they discuss the various contexts and phases of curricular deliberation and the competencies of each of the actors in the decision-making process.

In general terms, the proposal by José A. Pacheco and João M. Paraskeva (1999) for organizing decision-making in curricular contextualization can be summarized as follows:

- They focus discussions on sharing decisions;
- They especially emphasize the role of the student in the curricular partnership; and

¹¹ Original citation in Portuguese: "É um projeto que só pode ser entendido como um processo historicamente condicionado, pertencente a uma sociedade, selecionado de acordo com as forças dominantes nela, mas não apenas com capacidade de reproduzir, mas também incidir nessa mesma sociedade".

- They give the teacher the role of curricular leadership.

This research analyzed the intention of the reform rapporteur to go a little further, verifying the possibility and effectiveness of the participation in this process of actors who are people outside the academic community. For example, does the opportunity to hear from civil society, graduates, and retired professors at a public event offer any contribution to this process of consolidating a curriculum? It seems so, after all, they can indicate the professional that society wants and the professional education that professionals graduated from that institution want. And we cannot forget that the main reason for the 2018 DCNs is the concern with the insertion of graduates in the job market, as well as their retention and permanence in the professional routine.

According to Leonardo Avritzer (2000, p. 44) there is an element of deliberative democracy that presents itself as an advantage, namely, the possibility of testing multiple experiences:

os chamados arranjos deliberativos trabalham com a idéia de que a inovação institucional depende da capacidade de experimentar e partilhar resultados. De acordo com essa concepção, a racionalidade ou a eficiência é gerada de forma descentralizada e *a posteriori* por múltiplos experimentos. Nesse sentido, o elemento central dos arranjos deliberativos passa a ser a sua diversidade e não a sua unidade. Podemos, mais uma vez, observar tal elemento em operação nas diversas experiências de deliberação argumentativa acima mencionadas nas quais o elemento central passa a ser a possibilidade da variação e não da repetição institucional. Os arranjos deliberativos, nos casos do orçamento participativo no Brasil ou dos planos de conservação ambiental nos Estados Unidos, são conhecidos exatamente pela sua capacidade de variação, variação essa partilhada pelos atores em público¹².

Note that participation — deliberation and argumentation — has a role that not only legitimizes the process, but also has a pragmatic — and, why not, utilitarian — role: listening to other people, especially those outside the environment where the curriculum reform is being designed, brings the advantage of oxygenating practices and ideas (Moreira; Silva, 1997) (Pacheco, 2005).

There are seven forms of participation, based on the degree of involvement of

¹² In free translation into English: "The so-called deliberative arrangements work with the idea that institutional innovation depends on the capacity to experiment and share results. According to this conception, rationality or efficiency is generated in a decentralized and *a posteriori* manner by multiple experiments. In this sense, the central element of deliberative arrangements becomes their diversity and not their unity. We can, once again, observe this element in operation in the various experiences of argumentative deliberation mentioned above in which the central element becomes the possibility of variation and not of institutional repetition. Deliberative arrangements, in the cases of participatory budgeting in Brazil or environmental conservation plans in the United States, are known precisely for their capacity for variation, a variation shared by the actors in public".

society in the decision-making process. According to Jules N. Pretty (1995), they constitute the following participations:

- simulated;
- passive;
- by consultation;
- through incentives;
- functional;
- interactive; and
- community self-mobilization.

In the case of the Law School reform, the consultative form of participation was adopted, through which consultations were carried out through questionnaires, public hearings and the provision of a communication channel via e-mail. Participation was guaranteed through the creation of communication flows to facilitate access to information and the expression of people's opinions.

The NDE approved the organization of the first instance procedure for deliberation on the phases of the Reform.

The 1st phase of the reform consisted of the following spaces for deliberation and decision and debate/discussion:

Table 1 – Phases of curriculum reform

Debate/Discussion		Deliberation/Decision	
Datw	Meeting	Date	Meeting
Nov/Dec 2019	Meetings with student representatives to begin the reform process		
		Mars 2020	Meeting of the Departmental Chamber of Law (faculty in the area) that indicated the new members of the Structuring Teaching Nucleus based on their legal expertise
April 2020	Preparation of the Preliminary Draft Curricular Matrix, with weekly meetings with student representatives		

April 2020	Creation of the NDE's visual identity and website to promote the work and relevant documents		
		May 2020	Approval of the Preliminary Draft Curricular Matrix by the NDE and publication
May 2020	Disclosure of the evaluation form and questionnaire for the 2009 Curriculum and the 2020 Draft Curriculum		
May 2020	Provision of institutional email, with the institution's domain, for sending criticisms and suggestions.		
May 2020	1st Public Event		
May 2020	Consolidation and analysis of the following documents: <ul style="list-style-type: none"> proposals for the public event; opinions from student representatives about the public event; evaluations and responses to the questionnaire and form; and suggestions received by email 		
May 2020	Participation of student representatives in the NDE meeting that deliberated on the Curricular Matrix Project Proposal (right to speak, but not to vote)	June 2020	Approval of the Curricular Matrix Project Proposal at NDE and forwarding to the Law School Board
		June 2020	Deliberation and approval by the Law School Board of the Curriculum Matrix Proposal prepared by the NDE. Note: the Board also made specific changes to the submitted proposal.

Source: own elaboration.

It is interesting to report here how some simple preparatory elements influenced the participation process:

1. Creation of a visual identity and a logo for the curriculum reform. The art brought seriousness to the process and the visual elements, one could say, made participation more attractive. Likewise, the layout of the preliminary draft document made it more attractive and enjoyable to read, attracting a greater number of interested parties. An email received from a former student clearly demonstrates that “care” is essential to make people want to participate: “Congratulations on the art of the curriculum. Everything is very beautiful and well done. It is a pleasure to read. It is clear that the curriculum is being conducted responsibly”;
2. Development of a reform page on the Law School’s institutional website. On the NDE page, located on the Law School’s website, all documents related to the reform process were placed, from the Preliminary Draft, through the regulations of the Ministry of Education and the university, to the Digital Process link, so that all people — whether linked to the university or not — have access to the process records and the acts carried out in it; and
3. Creation of an institutional e-mail. The university’s information technology department was asked to create an institutional e-mail. However, the issue that stands out is not only the creation of an e-mail, but also of an institutional e-mail (i.e., the domain @universidade.br). This reveals that the reform process is a public administrative act, and not a private act of a group or category. There is a subliminal message: the reform is the responsibility of the university, and not of the NDE or the Board of Directors. The intention is to reveal the publicity of the process, as opposed to the privatization and appropriation by a group of category representatives.

All these elements, although simplistic, were essential to depersonalize the reform process and encourage broad participation.

Interested parties presented their proposals through various communication channels and spaces for deliberation. They criticized the preliminary draft submitted for consideration and the Núcleo Docente Estruturante (NDE) — in its role as drafter and forwarder of proposals — identified problems and analyzed the proposals and evaluations in order to then decide. Note that the decision was made by a specific body, and not by the people; however, the collective influenced the final decision of the NDE. And this influence is reflected in the following changes from the Preliminary Draft to the Project decided upon:

1. *Bringing the Philosophy of Law subject forward*: this was a demand that was completely unknown to the NDE. The subject, taught since 1996 in the 10th

period (5th year), lost its main purpose, which is to prepare the student to know the Law and evaluate it. In the 10th period, the Law student gets involved with other issues, which end up taking the focus away from an important subject. (For example: the student is worried about the Brazilian Bar Association Exam or about his/her insertion in the job market). By bringing the Philosophy of Law forward to the 2nd period (1st year), it is expected that the student will form a solid foundation to understand the dogmatic content that will lie ahead;

2. *Inclusion of the Research Methodology discipline as mandatory*: this is a long-standing demand of graduates and current undergraduates, who feel the need for a discipline that teaches them how to research and encourages them to pursue an academic career after graduation. Thus, the creation of this discipline tends to strengthen research at Law School (with direct impacts on the Postgraduate Program in Law) and the training of future professors;
3. *Inclusion of the subject Labor Procedural Law II as mandatory*: a demand that enables the strengthening of the labor area and a better approach to the subjects in the area, which previously ran the risk of being taught in a cursory manner and hindered the work of professors;
4. *Decrease in "theorizing"*: some disciplines have ceased to be theoretical and have become more dogmatic, such as, for example, General Theory of Private Law, General Theory of Procedure, General Theory of the Constitution;
5. *Creation of the optional subject Law and Ethnic Relations*: the objective is to provide Afro-descendant and indigenous students with knowledge of the specific legal regime that protects their dignity and grants them special rights, as well as to allow other students to get involved in the cause aimed at reducing prejudice;
6. *Inclusion of Criminology as mandatory content*: the subject remained optional, but an overview of its contents became mandatory, as part of Criminal Law I; and
7. *Inclusion of the Human Rights discipline as mandatory*: this was a way of meeting the needs of those who were seeking a more humanistic education for law students. Furthermore, given the "dogmatization" and "pragmatization" of some disciplines, this was an option to counterbalance this with more sensitive and sociological content.

But, even if no results had been obtained, participation would already be justified in itself, as it is a human right and need (Bordenave, 1983, p. 76-77).

Obviously, the curriculum does not please everyone in its entirety, but it did

please the vast majority of those involved in part: subjects with a humanistic background were guaranteed, but also more dogmatic subjects; propaedeutic subjects were reallocated so that they could be better used and not conflict with the student's interest in their problematization; humanistic subjects and content of a sociological nature were added, counterbalancing the technical training that began to be prestigious. In short, it is a curricular matrix constructed by a collective larger than an institutional college of professors.

5 Conclusion

This research, taking participatory democracy as an epistemological reference, sees the subject as autonomous, capable and equal to exercise shared authority in the process of curricular reform of a Law School. The individual must be conceived as an emancipated subject, to whom it is obligatory to give a voice to interfere in the process; the subject should not be conceived as interdicted to the point of deserving representation.

A Law School curriculum cannot be a reflection of the individual ideas of a leader or coordinator, of a group (NDE) or of a Chamber; these individuals must take on the role of consolidators of the ideas that emerge throughout the process and of all those who wish to express themselves. In other words, the individuals who assume the role of conductors of the curriculum reform process must base their actions on a democratic-participatory procedure. If this is not the case, then there is no participatory democracy and, as a consequence, students and other agents are not emancipated subjects and will be truly interdicted.

Now, if the objective is to construct a curriculum and a pedagogical project that are democratic — in the sense of contemplating, within the possibilities, the legal-philosophical and ideological biases —, then this construction must necessarily be public, so that the various segments can express themselves.

This research identified the need to systematize and formulate possibilities for organizing curricular reformulation processes for Law School, considering, for this purpose, principles and assumptions of the curricular and educational discussion.

In the context of the Federal University analyzed, it is common to observe that curricular reform processes are limited to collegiate spheres that are basically restricted to professors and student representatives; there is no space, for example, for graduates, former professors, postgraduate students and society to express themselves. In this sense, here we systematized a discussion and reflection on the need for these processes to occur collectively, giving publicity and opportunity to participate to all actors directly and indirectly involved in this curricular construction.

Thus, the aim here is to offer tools and contribute to addressing a common issue,

which is that curricula are “born old” and unappealing; they are born to be modified. There must be something that makes the curriculum as satisfactory as possible, so that it is not implemented with its replacement in mind. And that something is to make everyone feel involved in the process and that the various ideas and ideals for curricula can be considered within the possibilities.

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