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Série

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Identity, migation and labour

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A revisão linguística é de responsabilidade dos autores.

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PRESENTATION

This book is a result the process of observation of the process of social reality. It was the observation of arrival, social insertion, movement and attempt to analyze this movement that we were overwhelmed by silencing. Silencing stimulated by the process of encountering new ways of living and relating to the world, external world so obvious and commonplace to our daily life that at first it was difficult to observe that banal was a great attempt to acculturation of groups who arrived in the South of Brazil, driven by the productive redistribution, re-signifying the new labour homelands.

Our academic life allows us to look at our daily lives and see how the world around us needs our silences and sensitivity to interpret some human groups. The observation was our starting point and the sensitivity to the numerous questions gave us the impetus to look and follow social groups in paths of vulnerability and to seek to draw attention of other colleagues to these latent problems that surround the contemporary context.

Observing the child, the adolescent, the immigrants and the formation of the new labour homelands left us occupied for approximately 24 months. Several texts were collectively reviewed and written. Some began by discussing the so-called human dignity. Others by silencing us when we saw arriving in the south of Brazil men and women, hungry and hopeful for finding a job - Haitians and Senegalese.

The present work comprises five chapters which were elabourated for presentation purposes in scientific academic events in Brazil during the years of 2015 and 2016.

The first chapter aims to examine the constitutional principles of freedom and equality as the foundation of the effectiveness of human dignity. It also aims to indicate some correlations for the study of Fundamental Rights by transposing elements of the historical construction of the concept of human dignity, finding the points of intersection between human dignity, freedom and equality, and in a synthetic way, the contemporary conception of dignity as the foundations of human rights. In this context, it seeks from the perspective of contemporary law, especially in its constitutional sense, to demonstrate that the constitutional principles of freedom and equality are the foundation of human dignity and of the effectiveness of fundamental rights in the relations between the State and individuals, as well as when only private subjects are parts in the relationship.

The second chapter entitled ‘Vulnerable and Invisible: Haitian Immigration in South Brazil’ addresses the integration of Haitian Immigrants with Brazilian society - more specifically in the northern region of Rio Grande do Sul (Brazil) - in view of their relation to the material dimensions and conceptions of inclusive educational guidelines. In this sense, the objective was to demonstrate the factors that motivated the displacement of these immigrants and the process of adaptation in South Brazil, as well as to what extent immigration policies threaten the maintenance of Human Rights of individuals from countries with a history of dependence and intransigence to the Civil and Social Fundamental Rights in their country of origin.

The third chapter presents elements of the relationships established among immigrants - in view of their relation to the material dimensions and conceptions of the labour guidelines. Analyzing the world of work and the recent wave of migration to Brazil corroborates to draw perspectives between policies of integration and denial of Human Rights. Over the past twenty years, Brazil has adopted a series of new policies aimed at managing cross-border movements and

immigrants in Brazil, policies that respond not only to the activism of migrants and their allies, but also to the strategy of Brazilian foreign policy. As a methodological procedure, this chapter uses bibliographical research together with the description and interpretation of the subjects' reality in the understanding of the subject matter, using the technique of Focus Group - which represents the data from a perspective closer to the subject, since fragments of oral statements and discourse analysis were used.

The fourth chapter named 'Identity, perspectives and interpretations of child labour in Brazil' emphasizes the need for the evolution and effectiveness of human rights in Western countries and its implementation in Brazil with a focus on promoting child dignity and its relation to combat exploitation of child labour. It is known that this is a recurring theme in the academic and socio-political discussions, throughout the centuries, through its facets and dimensions in the post-industrial society. The chapter aims to analyze the interfaces of child labour in Brazil. Therefore, in its first part, it traces elements about childhood and the world of work, followed by a brief historical review of child labour. It also brings some aspects of national and international law evidencing the law relating to the subject.

The fifth and final chapter aims to evaluate human behavior in the school environment, particularly in the use of ethics. In this reflection, we discuss the presence of information and communication technologies in the daily life of young people and adolescents. In its second part, it discusses the implications of the use of social media for the development of human relations in the school to, later on indicate the consequences of misuse of the media in the socio-cultural context and entertainment networks.

PREFACE

As subjects shape their personality through processes of identification and differentiation with the environment, people forge their particular characteristics within the framework of ruptures and continuities of the international community. Relatively speaking, individuals construct their own identity by referring to the culture to which they belong, and idiosyncrasy of societies is generated in the international community.

There is no doubt that the major challenges that the global agenda presents include migratory phenomena. Both internally and transnationally, countries must combine the diversity of ethnicities, languages, beliefs and, at the same time, secure a kind of universal citizenship.

Professors Rodrigo Espiúca dos Anjos Siqueira and Thaís Janaina Wenczenovicz, two researchers of the highest rank and unyielding commitment to the rule of law, deal with solvency and erudition, and offer in this work the results of their research and reflections.

The challenges of integration pose irrevocable demands: human rights. For this reason, the authors dedicate a first chapter to "The constitutional principles of human dignity, freedom and equality as foundations of horizontal efficacy of the fundamental rights".

Then, safeguarding the platform of fundamental rights becomes an additional concern in contexts of poverty and marginalization. Hence, two special issues are addressed: "Vulnerable and invisible: Haitian immigration in the south of Brazil" (Chapter 2) and "Migrant workers in the north of Brazil": integration and (dis) respect of The rigths related to personality "(Chapter 3).

Along the same lines, a fourth chapter is added with a singularly hostile topic: "Identity, perspectives and interpretations of child labour in Brazil".

Finally, the last chapter investigates a current and untreated theme: "Social networks, ethics and cyberbullying in the school environment".

The social sensitivity of the authors is undeniable. Indignation at injustice transcends mere intellectual speculation. The desire to build a less hostile world, with equal respect for the freedom of all, reveals the deepest feelings of Rodrigo and Thaís, two dear and admired colleagues, who generously grant me the honor of proclaiming this magnificent book.

Elian Pregno – Buenos Aires, mayo de 2017
Universidad de Buenos Aires/UBA

I - The constitutional principles of human dignity, freedom and equality as fundaments of horizontal efficacy of the fundamental rights[1]

[1] This study was partially presented at Congresso Internacional Constitucionalismo e Democracia: o Novo Constitucionalismo Latino-Americano na cidade do Rio de Janeiro em novembro de 2016 – annual official event for Network of Latin-American Democratic Constitutionalism in Brazil.

INTRODUCTION

The study of the efficacy of the fundamental rights is as necessary as the study of the fundaments of those rights themselves.

This is especially true when one needs to discern about the conflict of two fundamental rights, such as property and intimacy. In this sense, it is important to understand, under Brazilian constitutional law, which are the fundaments of the rights granted by the 1988 Constitution and how their implementation is devised.

Some constitutional principles, such as human dignity, freedom and equality, lay down the foundations for the rights provided in the Constitution, and it is the task of this research to investigate the concepts and interrelations between those principles and the horizontal efficacy of the fundamental rights in Brazil.

In order to achieve its goals, this paper will present a brief history of building up of understanding of the fundamental rights in Brazil.

In the sequence, the present paper demonstrates the various theories about the efficacy of the fundamental rights, in both dimensions, vertical and horizontal, aiming to indicate the importance of the fundaments when a conflict is posted.

Towards its end, the paper will present the concepts of human dignity, equality and freedom, as well as, demonstrate their interconnections as foundations of the fundamental social rights.

As conclusions, this study presents the very principles of human dignity, equality and freedom – intertwined as they are – as the main foundations of the horizontal efficacy of the fundamental rights.

1 DESCRIPTION OF THE KEY CULTURAL AND HISTORICAL PROCESSES THAT MARKED THE CONSTRUCTION OF THE COMMON SENSE OF THE REPRESENTATION OF THE FUNDAMENTAL SOCIAL RIGHTS IN BRAZIL

The emergence of a social system in Brazil occurred between 1930 and 1945, with the change of an agricultural economy to an industrial-urban one, encouraging state intervention to guarantee the rights to health, education, social security, job security, housing and so on. To be noted that in this process of construction of Fundamental Rights in Brazil, the social rights had their inclusion in the positive law even before the guarantees of civil and political rights, confirming the strong influence of two sociocultural movements, slavery and colonialism.

From 1946, with the promulgation of the Constitution of 46, as well as through the creation of the Brazilian industry and the major incentive for national industrialization, gained strength grassroots movements, especially the trade union and students. However, in the 1970s and 1980s, with the installation of the military dictatorship, again disempowering the civil and political rights, the social rights were granted as a compensation for the loss of civil and political rights and the excessive control of freedom and ideas from the Government.

In the late 1980s, with the end of the military rule and the democratization of the country, the civil and political rights returned to evidence. These rights had special attention with the promulgation of the Constitution of 1988. A number of other social rights were strengthened, for example, social security, health (with the creation of the National Health System) and social assistance (with the advent the Organic Law of Social assistance).

Allied to all this we see as strong influences in the formation of Brazilian conceptual framework of Fundamental Rights, the "colonels", cronyism and despotism, which left popular accommodation heritage and a political bargaining culture where few hold political power through financial strength, obtaining support by haggling and buying votes.

In this context, and in the pursuit of realization of human rights, there is the need to study and widely disseminate the rights and duties of all citizens, in particular the fundamental rights, as these are the most expensive and necessary to all because of their essentiality in ensuring human dignity, which is the same considered as the foundation of those.

2 THE VERTICAL EFFICACY OF THE FUNDAMENTAL RIGHTS

In relations between the state and individuals, to have the fundamental rights as fundamental in protecting the individual against arbitrariness of government. Without proper guarantee these fundamental rights, the individual is totally vulnerable and likely to suffer from abuses of power, being at the mercy of the state, subject to social abandonment and suffering from a lack of basic resources essential to a dignified life violence. However, this efficiency is not easy to achieve, there are many variables that must be considered, such as the political will of governments and the lack of competent bodies to ensure its implementation.

As a result of the historical construction of human rights, there is the Universal Declaration of Human Rights, adopted on 10 December 1948, the United Nations General Assembly, without, however, practical means to enforce the implementation of the rights contained therein. As can be seen from the jurist Dallari (2011, p. 211):

> The big problem, still unsolved, is achieving effectiveness of standards of Rights. Proclaimed as legal, previous standards to the States, they should be applied independently of their inclusion in states' rights by legislative formalization. However, the absence of a body that can impose their effective implementation or to impose sanctions in case of failure, often the very States that signed the Declaration act against their standards, without which nothing can be done.

Even in the wake of Dallari (2011), the lesson is that the States, in an attempt to realize the rights proclaimed in the Universal Declaration of Human Rights, gradually adopt the practice to include in their chapter constitutions on the rights and guarantees. Brazil adopted this practice, and its Federal Constitution enacted in 1988, by enshrining rights and guarantees, giving this Constitution the nickname "The Citizen Constitution" (DALLARI, 2011, p. 211).

Given the difficulty in ensuring the effectiveness of the fundamental rights standards, duly enshrined in law declarations and constitutions of the states, it is necessary a brief examination of the meaning given to the term efficiency in Brazilian constitutional doctrine. As says the teacher and judge Sarlet (2011), the term effectiveness encompasses a "multiple range of issues subject to questioning and analysis, although this is confined to the constitutional right and is, moreover, neuralgic point for the study of the Constitution." (SARLET, 2011, p. 235).

Says the Brazilian Federal Constitution, in Article 5. § 1. that: "The provisions defining fundamental rights and guarantees are immediately applicable." (BRAZIL, 1988).

This is the normative principle that should be deeply analyzed in the search for the meaning of the effectiveness of fundamental rights, since it is the main weapon given to fundamental rights defenders.

In the study of the meaning of effectiveness, we find some similarity between efficiency and effectiveness. In this sense, it is urgent to differentiate the two concepts, efficiency and effectiveness, to get the results that are proposed this test. Again, we find in the lessons of Professor Sarlet the answer to the question made. In this sense, Sarlet (2011, p. 236) gives masterly lesson demonstrating that the Brazilian doctrine, shows a distinction between the concepts of validity and effectiveness, stating that:

> The term is the quality standard that is legally exist (after regular promulgation and publication), making it mandatory compliance in such a way that the term is true assumption of effectiveness, in that only the current standard may come to be effective.

Assuming that the rules relating to fundamental rights have their undeniable force in Brazil, once properly meet enshrined in the body of the Constitution in force, step to examine its effectiveness itself.

Contemporary Brazilian constitutional doctrine, as in Sarlet (2011), Cunha Júnior (2011), Silva (2011) and Silva (2000), distinguishes between the full effectiveness standards, such as those enshrining political rights and civil liberties, and the rules of limited effectiveness, those enshrining social rights. This is proved by the way it makes up its effectiveness. The full effectiveness of standards is not necessary for its execution, nothing but the abstention of the state and the ordinary legislator. Once enacted the norm, it immediately produces the desired effects without any state intervention required, except, of course, in cases of violation of these rules when it will need state intervention for its guarantee. In the case of limited effectiveness standards, state intervention is essential to its effectiveness, since, because they are social rights, their realization depends on a state action, without which the effectiveness of the standard does not produce complete. In this sense, the lesson of Silva (2011, p. 254):

> Full effectiveness would have the rules, since the promulgation of the constitution and that already gather all the elements necessary to produce all the desired effects. Of limited effectiveness, in contrast, would be those rules that depend on any further regulation to complete their effectiveness.

Once established that effectiveness is the ability to produce legal and factual effects, and that term is presupposed for this same effectiveness and means the legal existence of the standard, has put the importance of determining what the fundamentals of vertical efficiency with regard to realization of fundamental rights in relations between the state and individuals. In the wake of the lessons of the teacher Melo (2012, p. 16), is “the guarantee that contemporary states seek to offer every individual to take your life in accordance with human dignity, fundamental human rights find their explanation and his inspiration.”

3 THE CONSTITUTIONALIZATION OF THE CIVIL LAW

Once settled the issue of vertical effectiveness of fundamental rights standards and placing the dignity of the human person as the foundation of vertical effectiveness of fundamental rights, it adds up necessary to look at a recent phenomenon of the doctrine of fundamental rights, namely the constitutionalization of the civil law.

The post-World War II international scene, brought a number of innovations in the field of international law, in particular with regard to the issue of international treaties and conventions on the subject of fundamental rights and guarantees. The issue is gaining more relevance in Western legal systems to the point of various constitutions have included in their texts a unique chapter to regulate fundamental rights and guarantees.

Among the various socio-political consequences of this scenario are the various innovations in constitutional law, in particular the theory that there is intense dialogue and irradiation of the norms, values and constitutional principles in Private Law, a phenomenon that has been called the constitutionalization of law.

This constitutionalization of law gives new dimensions to the relationship between the constitutional normative instruments and other infra - constitutional legislation, to the point of affirming that the Constitution irradiates values and assumptions in order to change postulates once considered sedimented, such as private autonomy, held dear to scholars of civil law. This radiation then generates several conflicts between the branches of Constitutional Law and Private Law, specifically regarding the effectiveness of fundamental rights.

We see the lesson of Professors Riva Sobrado de Freitas and Alexandre Clemente Shimizu, about the implication of this new understanding of the influence of the Constitutional Law on Civil Law:

> Under this new perspective and parallel to its dissemination, we note overcoming the idea that the fundamental rights only if it would render the protection of citizens in the face of the state, they as essential values of the signed memorandum, come to be understood as "postulates social ", which express a set of values, which provides the source of inspiration, drive and guidance for linking both the legislative process and the acts of public administration and also of all jurisdiction. (FREITAS; CLEMENTE, 2010, p. 69-70).

In this paper, the term constitutionalization of law is used and understood in its broadest sense. It could be said that this expression should be understood as a phenomenon where the legal system of a given country functions under a Constitution endowed with supremacy, though this definition is non-specific and does not address all the senses affects this new phenomenon.

What we want to demonstrate to the affirmation of a constitutionalization of civil law is the fact that there is a strong reflection of the "expansive effect that the constitutional requirements have acquired over the past 50 years. Such diffusion focuses on the material and axiological content of the constitutional provisions, which reflects intense normative force for the entire legal system." (FREITAS; CLEMENTE, 2010, p. 71).

Thus, we can see a large impregnation of the legal system by constitutional standards, expanding the irradiation of the Constitution to all spheres and branches of modern law. This effect

is particularly noticeable in the systems of Western countries, gaining strength in the post-war period with the proclamation of the declaration of fundamental rights and the movement for the protection and promotion of human dignity.

An important effect of the constitutionalization of civil law, particularly for the development of this work is the linkage of interpersonal relations to the fundamental rights. This is due to the overcoming of the liberal view, for which the fundamental human rights shall take effect only in relations where the state is a part and the citizen is at the other end. This new vision is relevant, especially in the view presented by Freitas and Clemente, in the lesson described below:

> It is clear, finally overcoming the liberal view, in which the fundamental rights should only take effect in the relationship between state and citizens. This limited design, following the constitutionalization phenomenon, recognized that in today's society is not always the state the greatest corrupter of Fundamental Rights, for this post, it is often occupied by individuals, especially those endowed with some social or economic power. (FREITAS; CLEMENTE, 2010, p. 75).

Therefore, it is imperative to conclude that the constitutionalization of civil law culminates by bringing new ways of implementation of fundamental rights in interpersonal relations, going beyond the citizen to the state protection, allowing individuals to evoke such rights for their protection in their relations with the State and other citizens.

4 THEORIES ABOUT THE APPLICABILITY OF THE FUNDAMENTAL RIGHTS TO PRIVATE RELATIONSHIPS

The acceptance of linking the special relationship to fundamental rights is the first step faced by scholars who, from there, then pass, the task of developing theories and propose models for the application of fundamental rights in interpersonal relations.

Below, follow the three most important theories about the effects of fundamental rights in relations between individuals: Theory of direct application or immediate effect; Theory applicability or indirectly mediate efficacy and; Theory of inapplicability or *State Action*.

4.1 THE THEORY OF DIRECT APPLICATION OR IMMEDIATE EFFECT

This theory is the most accepted among Brazilian scholars, and has been understood, even by the Supreme Court as the most appropriate to our national law. As we noted in the words of Freitas and Clemente (2010, p. 84):

> It is submitted that this theory, as stated elsewhere, is certainly the one with more supporters in the Brazilian doctrine, it seems appropriate to mention the main theses developed between us, which consider national law (imbued with a social--democratic constitutional paradigm), which imposes, in a way, a unique model that aims to meet the individualized needs of our society.

The theory of direct application or immediate effectiveness has its origins in Germany and was initially developed by Hans Carl Nipperdey in the mid-50s, and seeks to argue that no direct

linkage of Fundamental Rights in both aspects of social relationships, whether between individuals and the State is in conflicts between individuals.

In direct application of fundamental rights, the particular conflict can evoke such rights without the need to find any "bridges" or "gateways" originated in Private Law, since to this theory Fundamental Rights are considered as subjective rights of individuals in the development of their relations. This means affirming the real possibility for individuals to assert fundamental rights against other individuals.

Freitas and Clemente (2010, p. 82) teach towards the Theory of Direct Applicability require weighting rights when applying them to a specific case, as shown below:

> It is worth noting also that the supporters of this theory do not not ignore the existence of specific in its application and, therefore, before a case, recognize the need for balance between the fundamental right and the private autonomy of individuals involved in the relationship.

So, applying this theory to the case makes necessary using the weighting or balancing of rights, in other words to say it should be applied to the situation the factual balancing between the conflicting rights. This is to say that the greater the restriction to the right, the greater must be the importance of realization of other rights as opposed to that limited.

When deciding on proceedings, the judge should assign value and importance of satisfaction to discuss rights and judge which one is more relevant to society by providing the most important accomplishment and achievement at the expense of other rights which will have its limited effectiveness. Thus, for this theory, Fundamental Rights can be applied directly in interpersonal relations, using the balancing of rights when there are conflicts between them, just as they are in relations between the state and the individual.

4.2 THEORY OF INDIRECT APPLICABILITY OR MEDIATE EFFECTIVENESS

This theory about the effects of Fundamental Rights in interpersonal relations is an intermediate construction between theory that denies the binding, also called the State Action, and one that says the direct and immediate effect, treated the topic above.

It has its beginnings in Germany, being its precursor Günter Durig, and is being adopted today, predominantly in that country, especially by the German Constitutional Court.

Its scope of the search for balance between private autonomy on the one hand, and fundamental rights on the other. This is due to this theory recognize a general right of freedom, in response to an attempt to avoid domination of Private Law by the Constitutional Law.

Thus, this thesis draw up an effective model of Fundamental Rights in private relations which allows the binding occurs through the intermediation of norms and principles peculiar to private law in the form of general provisions and indeterminate concepts. That is, so there is linkage of fundamental rights in private relationships, the theory Effectiveness mediately, demand the existence of "bridges" between the Public Law and Private in the form of general clauses or indeterminate concepts.

In the words of Freitas and Clemente (2010, p. 79):

> In this vein, the Fundamental Rights represent an objective order of values, or even a system of values, causing their radiating effects are felt in all branches of law. In private law, these values (ie, Fundamental Rights) step into the private sphere through the general clauses and indeterminate concepts.

4.3 THE THEORY OF INAPPLICABILITY OR THE THEORY OF STATE ACTION

Being predominantly accepted in the United States, this thesis has its basis in liberal view. This theory denies primarily linking the special relationship to Fundamental Rights. However, a closer study of the concepts and application of this theory reveals a contradiction between the theoretical and the practical. It is an apparent denial of the link, but that case law, is revealed as effectiveness of Fundamental Rights in interpersonal relations, as will be shown below.

Because of its apparent denial of the binding, the Theory of *State Action* found a loophole to apply the fundamental rights in relations between individuals. This device is to give the state responsibility for acts of private order, or even make the assimilation of these through acts of public policy. Through this legal fiction, the scholars of the Theory of *State Action* can solve, albeit unsystematic way, equating the dilemma of knowing when a private action has possibility to compare or even be transformed into public action.

According to the lesson Freitas and Clement (2010, p. 77), we see that:

> Despite the Theory of *State Action* wants to deny (although apparently) the binding of Fundamental Rights, the judicial work of the Supreme US Court ends up finding, one way or another, a conformation that private action, transforming it in public, ensuring thereby that preserves a rifled constitutional right.

Thus, we see that even if there is apparent linking negative for those who deny such a possibility, the courts find ways to remedy the violation of fundamental rights in private relationships, forcing the conclusion that such rights are of utmost importance to the full realization of democracy and the protection of the democratic rule of law.

5 **THE PRINCIPLE OF HUMAN DIGNITY**

Based on the achievement of Fundamental Rights in the relations between state and individual as well as in relations between individuals, remains conceptualize human dignity, in order to situate it between the grounds of the effectiveness of those rights.

Through the study of fundamental rights and, in particular, of the historical process of conquest and acquisition of those rights, we stumbled on the concept of equality under the law. However, this legal equality must be understood in a different light than the simple definition of the word, therefore, manifests itself in a very peculiar way, intrinsically linked to the notion of dignity.

By stating that all are equal before the law, you must have in mind that not all people are in fact equal in many ways. So, for the right to equality, the right to differences arises. Therefore, in this strict sense, the concept of equality must allow the recognition of differences, such as those related to gender, race, age, etc. Only then can we speak of an effective equality and promoting a radical protection and guarantee of rights. Thus, equality, considered in the light of

human dignity, guarantees every human being the order of nature itself and grant you the rights to subject status. Then, if it enters under the Law of Minorities.

In this sense, the Right of Minorities lends itself to protect portions or vulnerable groups in society, reducing inequalities among citizens. For this perspective, the Right of Minorities focuses its activities on the human person, as a subject of law, considered in its peculiarities and vulnerabilities and use of formal equality concepts, abstract and general and material equality, concrete and specific, therefore, considers the right to equality and the right to difference, showing the two-dimensional character of justice as redistribution and recognition of identities.

Consolidates, so the two-dimensional character of justice, making necessary an equality that acknowledges differences and a difference that does not produce, or reproduce inequalities. According to Fraser (2001, p. 55-56):

> The recognition of identities is not limited only to the distribution because the **status** is not due simply in terms of social classes. At the same time, the distribution cannot be reduced to the recognition of identities because access to resources does not result simply in **status** function.

Indeed, the guarantee of rights is not the result of simple assignment of rights subject *status,* state intervention is necessary, as guarantor entity, in the implementation of established standards and is, ultimately, to give the citizen their dignity.

Doctrinally conceptualize dignity is not an easy task. Being relatively recent development, because only after the Second World War, went beyond the sphere of philosophy and today is imbricated in the legal systems and political discourse without any possibility of return. It is also difficult to specify the concept of human dignity under cover itself other concepts such as “human person” and “dignity”. This idea of human dignity is inextricably linked to the concepts of freedom and equality, both older development than that.

For several years the concept of human dignity was closer to philosophy, and therefore owned status value and not standard. For this reason, it is that one can understand the absence of the legal systems that emerged from the French Revolution, as these orders gave greater importance to formal equality and positivism has always prioritized the norm at the expense of other paradigms. After the Second World War, with all the barbarism that characterized, and in the twentieth century is that the dignity of the human person shall be recognized and enshrined as a fundamental principle, as taught by Melo (2012).

For the purpose it is intended for this work, I chose to simplify the discussion of the concept of the human person. I chose to adopt this notion in its broadest possible sense, which is covering all people without distinction of their legal status or citizenship (MELO, 2012). Even because the very use of the term “human being”, rather than the customary “citizen”, accustomed word to the liberal conception of constitution, already shows us the legislator’s intention to expand the scale of its application as opposed to the concept of limitation citizenship (CUNHA JÚNIOR, 2011).

Human dignity, therefore, should be understood as the fundamental principle of fundamental rights, although not exhausted these rights their legal content.

The historic building of the modern concept of human dignity goes through several times. One can, with some certainty, say that Christianity is the precursor of the dignity of idea inherent to all men, as among its postulates there is a strong determination that all men were created in

the image and likeness of God himself and therefore are deserving the same treatment must love each other.

It should also be credited to the Enlightenment the historical construction of the doctrinal concept of human dignity. Among many others, and as taught by Bobbio (2004), Immanuel Kant, whose work is still cited in discussions on the subject, is brave exponent of this concept, especially when he said that man must be an end in itself. In the wake of Kant's teachings, we have Sarlet (2011, p. 63), stating that:

> Yet this perspective, it has been pointed out - rightly, in our experience - to the fact that the performance of social functions in general is linked to a mutual subjection, in such a way that the dignity of the human person, understood as seal human exploitation in principle prohibits the complete and egoistic available on the other, in the sense that if you are using another person only as a means to achieve a particular purpose, in such a way that decisive criterion for identifying a violation of dignity becomes (in many situations, it is proper to add) the objective of the conduct, I mean, the intention to instrumentalize (objectify) the person.

Thus, in seeking to conceptualize dignity, we came across some ideas that are akin, and, among them, the impossibility of instrumentalization of human beings. (BOBBIO, 2004). As explained above, the exploitation of one person by another, violates the dignity of the exploited and makes us consider that the dignity of notion is closely linked to the notions of equality and freedom.

Take as an example the fact that someone who subjugated the other, become linked to the interests of this and be used as a means for achieving purposes other than their own, you will find yourself deprived of their freedom and cannot be considered on equal footing with respect to the one that overwhelmed him. There will be, in this case, a flagrant violation of the principle of human dignity, since without the right to self-determination and deprived of their right to formal equality and material, one man leaves his condition of human being, and will identify themselves with the instrument concept, object used to obtain particular purpose.

It is necessary to consider the possibility of subjection of one person by another is due to the will of those who are subject, but, even so, should this unequal situation be understood as an exception to the characterization of the violation of human dignity. In this case, the very willingness to subject itself can be the result of an uneven material or financial, even the result of a weak and conformist mental condition that states that such a circumstance is socially acceptable. This condition can even be invoked by the operator as excluding the possibility of guilt, in the event of a possible criminal responsibility for the act.

However, the dignity of the human person, being inherent in the human condition, cannot be dismissed or waived, precisely because its characteristic of being intrinsic to the human person, and due to the mere condition of being a person. In this view, once again, we turn to the teachings of the teacher Sarlet (2011, p. 52) to state that:

> dignity as an intrinsic quality of the human person, an indispensable and inalienable constituting element that qualifies the human being as such, and it cannot be highlighted in such a way that it cannot entertain the possibility of a particular person hold a claim to be granted dignity.

Therefore, dignity cannot be granted to anyone by state administrative act, and not through legislative or judicial process. Clearly the dignity exists not only where it is recognized by the legal system, but its existence is due solely to the existence of person, human being. In the presence of the human being there is the dignity of the human person. So, being the law of a democratic state the guarantor of rights for excellence, should the government protects it whenever there are violations of dignity or imminent danger of such.

6 THE PRINCIPLES OF FREEDOM AND EQUALITY AS FUNDAMENTS OF THE EFFICACY OF THE FUNDAMENTAL RIGHTS

In a brief study of the Constitution of the Federative Republic of Brazil, we found several devices that point to the correlation between human dignity, equality and freedom. Article 1, section III of the Constitution establishes as one of the foundations of our Federal Republic, the dignity of the human person, which can also be considered as the foundation of freedom, equality and other fundamental rights.

This is observed in the following constitutional provisions: Article 5, *caput* and item I, where you see this equality; Article 3, III, where the Constitution is committed to the reduction of inequalities, and the abhorrence of discrimination, in that Article 3, IV; beyond the literal linking of the Brazilian state with the search for social welfare and social justice, as seen in Articles 170 and 193.

In order to clarify the relationship between human dignity, equality, freedom and the horizontal effect of fundamental rights, I turn to examine, albeit briefly these correlations. For the purposes of this study, this brief analysis is restricted to the study of these concepts and their correlations within the law.

Being an old construction, the freedom and equality concepts are objects of study since antiquity, reassembled to ancient Greece their first doctrinal records, culminating in winning attention at the time the statements of eighteenth century rights and constitutionalism in the early days. On the other hand, the concept of human dignity, is the beginning of his doctrinaire treatment from the Middle Ages, climbing precedence under constitutional law in the contemporary era (MELO, 2012).

Arduous task is to conceptualize equality, as to be open to a large number of evaluative criteria, it has been and is subject to the content variations throughout history since, as the ideological movements alternate their conceptualization to the world of law, also undergoes changes often significant.

Under the specific perspective of the law, it can be stated with reasonable safety and Melo Lesson (2012), the intimate connection between equality and justice, not only with regard to social justice, but also in the context of commutative and distributive justice. In essence, this close relationship is often the fruit that is questioned activity to do justice when it is understood as the set of action which is due to each. This is what teaches Lopes (1998, p. 139 apud MELO, 2012, p. 23):

> The theory of justice always begins with the issue of equality. So much so that the pursuit of formal rule of justice often ends in the formulation of the following

> proposition: 'Justice is an action principle that the beings of the same class must be treated the same way.'

According to this understanding, all citizens must obtain from the state, the same treatment is in the administrative, legislative or judicial. The state has a duty to provide everyone with the same measure of care and protection. This obligation arises from the law itself. The rule, which states that all are equal before the law, saying the State that it must provide to all beings within its jurisdiction one equal treatment in law enforcement. As is clear from the lesson of Alexy (2011, p. 394):

> In detail, the duty of equality in law enforcement has a complicated structure, for example where it requires the development of related rules to the case, either for the accurate determination of vague concepts, open ambiguous and evaluatively, either for the exercise of discretion. At its core, however, this duty is simple. It requires that all legal standard to be applied to *all* cases which are covered by their factual support, and *any* case that is not, which means nothing more to say that legal rules must be met. (emphasis added).

The Dirley professor Cunha Júnior (2011, p. 676), elucidates the issue of equality before the law as follows:

> The right to equality is the right of everyone to be treated equally in that are equal and unequally the extent that desigualem either to the law (*formal equality*), either to the opportunity of access to the goods of life (*material equality*), because all people are born free and *equal* in dignity and rights. The demand for equality stems from the constitutional principle of equality, which is a basic tenet of democracy because it means that everyone deserves the same opportunities, closed with any kind of privilege and persecution. The first screen prohibited unequal treatment to the same people and the same as the unequal people.

As teaches Cunha Júnior (2011), equality manifests itself in two forms: the formal equality and equality material. Formal equality, for teaching purposes, can be subdivided into equality in law and equality before the law, understood as the development of standards that do not contain distinction that is not authorized by the Constitution, preventing the legislature from creating rules that may break the isonomic order; and that the application of the law equally to all, even if you create inequality, preventing law enforcement is made according to discriminatory criteria or privilege. Have material equality must be understood as the application of the law to the case, taking into account the subjects of rights in their peculiarities and subjectivities, in order to provide an administrative action or judicial assistance with equity in the specific case.

In other words, in consideration of the concept of equality in the development and application of the law, it must be taken into account that there are two types of discrimination: those opposing and those favoring the set of values, principles and rights enshrined in the Constitution parents. Being sealed the opposed and should be promoted by the latter to be effective measures delivery of justice with equity, and mainly because they are enshrined in the Constitution itself, as necessary standards and mechanisms.

This is a masterful lesson from Piovesan (2010, p. 243) when she states that are essential for the implementation of the right to equality, combating discrimination and promoting equality:

> In contemporary perspective, the realization of the right to equality implies the implementation of these two strategies, which can not be separated, that is, today combating discrimination becomes insufficient if there are no measures aimed at promoting equality. In turn, the promotion of equality by itself, it is insufficient if there are no anti-discrimination policies.

So we have that equality is the fundamental principle in the realization of fundamental human rights, and is inextricably linked to the dignity of the human person when understood as assumption of realization of justice.

In turn, the concept of freedom, is the beginning of his theoretical construction dating back to ancient Greece, and also presents multifaceted and affected by various ideological fluctuations in historical times. Aiming to achieve the purposes for which it is proposed this test is restricted, the brief analysis that will make the concept of freedom, the scope of the law.

It is from the nineteenth century that the legal meaning of freedom begins to dissociate and establish its independence from the philosophical meaning of that freedom. This is due to the fact that it is at that time that began to be enshrined civil liberties and fundamental rights. Today, freedom is enshrined as a fundamental human right, and the example of equality, in the words of Melo (2012, p. 28), it can be considered "as a value, as a principle and as a rule. In terms of meaning, freedom is increasingly rich, and you can better understand it from a global vision of two great 'rating blocks' positive freedom and negative freedom."

Continues Melo (2012, p. 28) to teach:

> The first covers everything that relates to the classic autonomy of the will, and the second concerns the possibility of the individual to act without interference or obstacles, whether opposed by the State or by individuals. In addition to this classification, one can still distinguish between real freedom, represented by the absence of obstacles to personal someone to do something, and formal freedom, which translates in legal freedom, ie in the absence of legal obstacles to individual action. In the area of legal freedom should be mentioned political freedom, which simultaneously identifies with the possibility of democratic participation.

Thus, we must undesrtand freedom in its various forms of expression, it follows that the citizens should have guaranteed their right to free determination of his will, to no impediment to act in accordance with the law, active participation in the political decisions of their parents. However, all forms of freedom of expression also bring in its wake the limitation of that freedom when exercised in society.

This is due to the fact that for that exercise their right to freedom for all citizens, it is necessary to impose limits on this same right, in an attempt to ensure equal social life. Paradoxically, for all to enjoy, simultaneously, the freedoms won, mister there are restrictions on the exercise of individual freedom in order to guarantee human dignity. To these restrictions, we call responsibility.

Thus, freedom can be legally understood as the ability of human beings to determine their will freely, even to refrain from acting, jealous of their liability for each act or omission her before their fellow citizens and to society generally, represented by the state coercive apparatus.

Finally, as appears from the above, freedom and equality are founded on human dignity. And when enshrined this right, the legislature aims to prevent the abuse of power, whether by an individual, group of individuals or the state itself.

Being denied the link between these values, norms, principles, remains conclude that if dignity is indeed the ultimate foundation of these values as it is for the fundamental rights and should serve to support its practical and doctrinal aspects, always bringing their interactions with the concepts of equality and freedom.

7 THE HORIZONTAL EFFICACY OF THE FUNDAMENTAL RIGHTS

It is in the pursuit of social equality and the evaluative increase accumulated for human rights in the early twentieth century that gave birth to differentiate between vertical effectiveness (already addressed before) of the horizontal effect of fundamental rights (to be treated in this topic).

Established that there are differences between the vertical and the horizontal effectiveness of fundamental rights is not simply divide between public and private freedoms and name those as vertical as horizontal effectiveness and these effectively.

Understanding proposed here is to highlight the difference between the two efficiency levels, vertical and horizontal, of fundamental rights, since they are binding on all, in different ways, according to the ball and relationships on which encompass both in the public or private aspect.

Likewise, the teachings of Melo and Costa Junior (2007, p. 262): “When it comes in vertical and horizontal efficacies, is intended to allude to the distinction between the effectiveness of the fundamental rights of the Government and the effectiveness of fundamental rights in relations between individuals.”

Still based on the teachings of Melo (2012, p. 30-31), one can adduce:

> In his classic feature, the theory of horizontal effect of fundamental rights advocates that those rights are not enforceable only against the state and its agents, which would sense when its historical appearance, but also within the private relations, directly (effectiveness or immediate relevance) or through state act intermedeie this application (mediate efficacy or relevance).

Thus, the effectiveness of fundamental rights is an institute that all links and under its aegis all, Brazilians and foreigners during their stay in the country, should guide their conduct, without infringing the principle and constitutional rule. So even in relations between individuals, they should be considered with priority, fundamental rights.

Given that fundamental rights have as its theoretical basis and main ground the dignity of the human person must, likewise, be understanding that these rights are also applied in relations between individuals. However, there is some resistance from the private law doctrine to accept any limitations, even if derived from the Constitution, the freedom of choice or, ultimately, freedom and equality.

In response to the resistance of the scholars of private law the opposition limits the freedom of choice as a result of the horizontal effect of fundamental rights, I invoke the lesson Melo (2012, p. 32):

> One can easily sustain the horizontal effect of fundamental rights as a mere consequence of the constitutional treatment of various institutes of private law and / or as a result of the principle of constitutional supremacy, in the sense that the constitutional requirements are norms of higher hierarchy, which must always prevail and that permanently radiate a parametric and shaping effect to any legal, public and private land.

Undeniable, as it turns out, the effectiveness of fundamental rights, either in verticality or horizontality of human relations, either by nature of constitutional rule and the consequent primacy in national law, either by its main foundation in the dignity of the human person. It is held later this horizontal effect of fundamental rights by virtue of its main foundation in the dignity of the human person, in its correlation with the concepts of equality and freedom.

Taking as a definition of dignity, Oliveira (2011, p. 90) teaches:

> It is the value that is revealed in every person just because exist, which means that the dignity is immeasurable and static. Human people do not lose or gain dignity, as there is no way to measure it or upgrade it. The inherent dignity intrinsic to being, is not assigned, but a given limiting human activity and concomitantly liberating.

Finally, it remains to admit the need for recognition of human dignity as a basic and defining element of the human condition and cannot therefore be dissociated from human existence, denied, granted, waived, destitute or relegated to the *status* of secondary attribute.

For all the foregoing, there is a fact that the dignity of the human person is the last and main foundation of the effectiveness of fundamental rights in the public sphere (relations between state and private) and the private sphere (relations between individuals).

CONCLUSION

Considered the concepts of equality, liberty and human dignity in its historic construction, one sees a clear link between them. It should be noted that the first two, although oldest legal-philosophical constructions that the latter, are mainly a plea and therefore are seen as subsidiary to the dignity of the human person in his capacity of human rights fundaments.

Throughout history, the dignity of the human person has to take precedence as the foundation of fundamental rights, especially because of their positive on normative instruments, constitutions and bills of rights, making it, in contemporary law, the fundamental principle of the fundamental human rights.

The insertion of human dignity in the constitutional texts can also be identified as a decisive factor for its ground condition in the effectiveness of fundamental rights in the vertical level, that is, in relations between the state and individuals.

The search for the expansion of the scope of this effectiveness by linking of individuals is what gave rise to the theory of horizontal effect of fundamental rights, just as the vertical efficiency, has its main foundation in the dignity of the human person.

Thus, it is recognized the foundational character of the human dignity to the horizontal effect of the fundamental rights. This is a result of the supremacy of constitutional norms, the intertwining of the dignity, equality and freedom and decision to prioritize certain basic values of national law.

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II - *Vulnerable and invisible: Haitian immigration in southern Brazil*[1]

[1] Parts of this research have been presented and/or published at various occasions, such as: (Journal) Revista Direitos Humanos e Democracia, 2015; (Journal) Revista de Direito Brasileira, 2015; (Book) Direitos da Personalidade e estado democrático de direito na contemporaneidade, 2016; (Book) Sociologia, antropologia e cultura jurídicas I, 2015; (Book) A proteção constitucional da seguridade social e do trabalho digno, 2015; (Book) Os limites da tutela dos direitos da personalidade na contemporaneidade, 2015.

INTRODUCTION

Since the dawn of humanity, people have migrated for various reasons, driven by endogenous and exogenous motives. One migrates for cultural, economic, political and socio-religious issues or environmental and climatic disasters like the study group in this work.[2] Haitian immigration to Brazil is a migratory phenomenon that gained large proportion after the earthquake which struck the Caribbean country on January 12, 2010 and caused the deaths of more than thousands of people and left many others on condition of IDPs.

It has to be persistently said that the levels of affectation in so-called natural disasters have obvious correspondences with class structure, and these, in Haiti, as official statistics reveal, have historically produced social correspondences. Those who face less suffering have incomplete narratives about the operational shortcomings of the state. Those who die, however, are the ones who bear the true testimony of the indifference, incapacity, misunderstandings and ill-will contained in the coordination arrangements of the devastated scenario. Since the dead are, by definition, incapable of self-expression in the theme, the appearances of the fulfillment of duty are circumstantially safe.

In spite of this, the providential silence of the dead also generates a narrative, accessible to those who have eyes to see: it is expressed in the number of fatal victims in a long forgotten place by the measures of the public entity, expressed in the bodies that remain, for a long time unburied, in those who are easily reported as missing, in those who are found with significant mutilations and traumas, and in those who are ignored without any concern in rescuing them.

The presence of Haitians in Brazil was inexpressive before the political instability that affected the country in 2003-2004. Since then, with the presence of the UN peacekeepers (mostly Brazilian), Haitians have come to see Brazil as a point of reference. After the earthquake of 2010, which triggered a great impulse to the displacement of medium and large groups, Brazil has become one of the preferential destinations of the migrants. According to data released by the Pastoral of the Immigrant (2015), currently about 50 to 100 Haitians enter Brazil illegally per day, through the state of Acre and other. From this entry - official or illegal - various relationships and contacts are developed and social contact zones between national and foreign are consolidated.

For Santos (2003, p. 43), contact zones are social fields in which different worlds of normative life meet and face each other. For the author it is in these spaces that different legal cultures are confronted in highly asymmetric ways, that is, in clashes that mobilize very unequal power exchanges. Zones of contact are, therefore, zones in which ideas, knowledge, forms of power, symbolic universes, and normative and rival agencies find themselves in unequal conditions and mutually repel, reject, assimilate, imitate and subvert, in order to give rise to Political-juridical constellations of a hybrid nature in which the trace of the inequality of trade can be detected.

As a result of the interactions that occur in the contact zone, both the nature of the different powers involved and the power differences between them are affected. The understanding

[2] The Haitian climate is characterized as tropical and is influenced by maritimidade, plus the condition of being located in Hurricane circuit, often resulting in the incidence of tropical storms and hurricanes from June to October. The average minimum temperature is 20 ° C and maximum 34 ° C. The rainy season occurs twice a year from April to June and from October to November. These characteristics contribute to the history of frequent flooding and environmental disasters (OFFICIAL WEATHER AGENCY, HAITI, 2015).

of this concept is fundamental to this work, since integration - being Brazil a multiethnic country - is one of the many current examples of social groups that get involved and have been involved in asymmetrical conflicts with dominant national cultures.

We start from the perception that Brazil has always been considered a country of easy coexistence among the different, including in the field of integration. However, in recent years, as society becomes increasingly plural in socio-cultural and religious terms, we have paradoxically witnessed public manifestations of stigma, intolerance, prejudice and xenophobia.

For the UN, based on its 2013 Report on International Migration and Development, migrations continue to increase in complexity and global impact. Demographic transitions, economic growth and international financial crisis tend to reshape the migration facet (UN International Migration and Development, 2013, p. 4).

Added to this is the fact that the new transport technologies enable thousands of people to migrate more frequently even to distances previously unthinkable. This creates great human mobility, making it an accessible service for the majority of the world's citizens, circular immigration, return immigration, short-term mobility, which has been consolidating as long-term complementary by whole families, with a view to solving their economic problems. (UN: International Migration and Development, 2013)

There is a proliferation of forced (unwanted) displacements and situations of refuge due to armed conflicts, dictatorial regimes and climate change. In matters relating to international refugee law in the 1990s, Brazil was adapted from Law No. 9,474 of July 22, 1997. However, the confusion between situations of refuge and migration translates humanitarian aid into migration policies, with serious consequences for migrants, but also for the Brazilian State, reducing citizenship to mere assistance. In spite of international and national efforts, the cases of stateless persons still persist (CAVALCANTI; OLIVEIRA; TONHATI, 2014, p. 18).

This article is divided into five parts. The first deals with a brief overview of the immigration scenario in Brazil and its interrelations with Human Rights. The second part presents an account of the historical trajectory of Haiti - the country of origin of the group analyzed in this study. The third part outlines a succinct overview of Haitians in Southern Brazil and the last two parts discuss elements of integration and understanding of the material dimensions of Human Rights and integration through Education.

1 BRIEF HISTORY OF THE IMMIGRANTS IN BRAZIL: CONVERGENCES AND REFLEXIONS IN THE LIGTH OF HUMAN RIGHTS

At present, it can be pointed out that between 800 thousand and 1.2 million foreigners live in Brazil. The number is considered reduced if we take into account the total size of the Brazilian population, however the concentration of some groups in specific cities has contributed to a greater visibility of migration in Brazilian society (IBGE, 2010).

The communities of Bolivians and Chinese in the city of São Paulo and the Lebanese in Foz do Iguaçu - State of Paraná are some emblematic cases. The "foreigners law" that regulates the entry and staying of immigrants in Brazil was created in 1980, still under the dictatorial regime in Brazil and is part of the "national security" logic of the period. The drafting of this law came at a time when the military regime was particularly unhappy with the "interference" of foreign

religious in domestic affairs and sought a mechanism to facilitate the expulsion of foreigners involved in political activities in the country. In fact, since the beginning of the Republican period (1889) the Catholic Church in Brazil has been one of the main criticisms of Brazilian legislation for foreigners, and it continues to be the basis for many of the organizations defending the interests and rights of foreigners in Brazil (REIS, 2011).

The main criticism of the organizations that defend the interests of immigrants in Brazil is that many of the norms of the 1980 law are in disagreement with the provisions regarding recognition of human rights in the 1988 Constitution (UNHCR et al., 2007). The inconsistency of the 1980 legislation is seen as a fragility of the demands of the Brazilian State to address the issue of immigrants in bilateral and multilateral negotiations and forums.

Brazil's social movements, non-governmental organizations and researchers over the years have sought not only to sensitize the Brazilian State to the demands of foreign emigrants, but also to build consensus on the importance of changes in the national immigration law and its connection with the needs of Brazilians abroad. The letter sent by the coordinator of the São Paulo Migrant Support Center, Paulo Illes, to the candidate Dilma Rousseff in October 2010 is very illustrative of this argument:

> [...] in defending a policy of integral migration, which contemplates both the migration of Brazilians and Brazilians abroad, the return of emigrants and immigration in our country, always under the human rights approach, we perceive the need for Construction of a Secretariat for Migration Policies, linked to the Office of the Presidency of the Republic that can articulate and promote the implementation of a coordinated migration policy between these organs and others in the public administration.
> [...] Overcoming the dispersion of competencies that sometimes make progress difficult, one of the main tasks of this new institution would undoubtedly be to strengthen Brazil's position as an example of welcoming immigrants and free from discrimination and xenophobia.

In institutional terms, the movement of people across Brazilian borders involves a varied set of Ministries and local authorities such as: the Ministry of Foreign Affairs, the Ministry of Labour, the Ministry of Justice, the Federal Police, among others. In principle, the body that coordinates the actions of these various institutions in relation to the entry of foreigners into Brazil is the National Immigration Council (CNIg), created by the law of August 19, 1980 and linked to the Ministry of Labour, has the duties to: "Formulate immigration policy," "coordinate and guide immigration activities", "to survey the labour market needs in Brazil, conduct studies, collect information", and "express opinions on changes in immigration legislation when proposed by any body of the executive government." (PRESIDENCY OF THE REPUBLIC, 1993).

The debate about the need to transform the legislation of foreigners is characterized by the low repercussion in the varied scenario of the political interests. In 2009, the government forwarded to Congress the proposal for the New Foreigners Statute (Bill 5.655/2009). Among other changes, the law foresees the transformation of the CNIg into the National Migration Council, formally extending its competence to issues that concern the emigration of Brazilians.

In this statement, it is important to note that three amnesties were held in Brazil: the first in 1988, then in 1998 and finally in 2009. In the latter, 43,000 foreigners were regularized, including 17,000 Bolivians[3] and more than 4,000 Paraguayans. While, on the one hand, amnesties demonstrate the official "willingness" to deal with the issue of undocumented immigrants, on the other hand they reveal the persistence of the problem over the years and the need for a more comprehensive policy. Ideally, with the implementation of free movement agreements and new foreign legislation, the number of undocumented nationals in the country should fall (REIS, 2011).

2 **HAITI: HISTORICAL AND CULTURAL ELEMENTS**

Traditionally, it is customary to point to the year 1804 as the landmark of Haiti when it declared its independence from the French Empire.[4] The story of the first Latin American country independent portrays an unstable way in its political, economic and social history to the present day. Revolts, coups and repressions have marked the Haitian people who survive countless human rights violations.

Today, the "Pearl of the Caribbean" has become one of the poorest nations in Latin America and has drawn the attention of the international community since 1991 due to the presence in its territory of several missions of the Organization of American States (OAS) and the United Nations (UN) driven by the internal framework of violence and misery installed in the country, plus the environmental disasters experienced after the year 2010.

Haiti occupies a western part of Hispaniola island and is bathed by the Atlantic Ocean; to the south by the Caribbean Sea (or Sea of the Antilles); to the west by the Bay of Gonaïves, Windward Passage and Strait of Jamaica; and east, shares the island of Hispaniola with the Dominican Republic, only land border with about 360 km long. This island characteristic of its area gives it a predominantly individual physical structure and has given it a character of facilitating territory to the projection of air and sea routes to Europe and Africa (JAMES, 2000).

Its economy is focused on agriculture - accounting for 28% of GDP, industry (20%) and services sector with 52%. In agriculture the main products are coffee, sugar cane, mango, corn, sorghum and rice. Livestock is incipient, but it develops with small herds of horses, cattle, goats and poultry. Due to its geographical feature it is possible to point fishing as one of the elements that also collabourate with the local economy (GENERAL MINISTRY OF HAITI, 2015).

[3] According to the IBGE (2013), the Bolivian immigration in Brazil is a migratory movements from the last quarter of the twentieth century. It is one of the largest populations of 0.5% of the population that is coming from the countries of South America and are mostly located in the Mato Grosso do Sul and São Paulo. It is the fifth largest group of immigrants living in Brazil, overcome by Americans, Japanese, Paraguayans and Portuguese .

[4] In 1492, Christopher Columbus, under the flag of the Kingdom of Spain arrives at the newly christened discovered the island of Hispaniola. Initially, the Spanish established strong on the coast; after the second trip to the Caribbean Admiral, colonization was extended to the whole island, taking place in a first step the enslavement of Indians to work in agriculture and pottery. From 1520 to Spanish colonization in the region had its decay. During this period, practically all the native population, composed mostly by Arawak Indians and Caribbean, had been wiped out by the Spaniards. After the Spanish decay, from 1625, the island had great French influence. In 1697 Spain and France signed the Treaty of Ryswick, which determines when the western third control Hispanhola (Haiti) to France (JAMES, 2000).

The other sectors, such as the mining activity that extracts marble, clay and limestone are almost inexpressive in volume and the fragile industry is concentrated in the areas of food (flour and sugar), textiles, and cement. According to economic data from 2009, it is possible to point out that the trade balance of Haiti is deficient and thus constitutes: exports of US $ 558.7 million and imports of US $ 2.048 billion with the United States as the main trading partners - 33.11%, The Dominican Republic - 23.53%, the Netherlands Antilles - 10.75% and China - 5.36% (MINISTRY OF INTERNATIONAL RELATIONS, HAITI, 2013).

As a social condition, the Haitian population has high data on illiteracy, unemployment, disease and epidemics, plus violence leading to the title of the country that has 70% of the total population classified as poor or vulnerable and prone to poverty whenever a natural disaster or a disease falls upon them (USAID, 2015).

The UN and UNESCO, meanwhile, point out that out of a million and a half of the camps set up in 2010 to temporarily shelter families displaced by the earthquake, there are still 123 and there live more than 85,000 people, most of whom do not have access to drinking water, garbage collection or electricity, or are at risk of succumbing to the next natural disaster. In short, the poorest and most unequal country in the hemisphere, and its fragile democracy, are still trying to survive, and in this assertion they risk traveling to try and live a safe and dignified life.

Thus, it can be summarized that the thousands of people who left Haiti for Brazil are not the product of an imagined and pretended migration culture, but a decisive element: the lack of adequate remuneration, sickness, hunger and several kinds of exclusion, constantly putting to proof the dignity of the human person. Economic and social problems, coupled with the environmental disaster of 2010 and the dilemmas of colonial heritage - have resulted in the disruption of traditional organizations, as well as the economic and financial neocolonialism that are specifically submitted to the cities of Port-au-Prince, Carrefour and Delmas.

3 **MIGRATORY PROCESS AND HAITIANS IN SOUTHERN BRAZIL**

As already pointed out, Acre is one of the states that first received Haitian immigrants in Brazil. According to data from the Federal Police (2014), in December 2010, about 130,000 Haitians have been using the Peruvian border with the state and have settled precariously in the states of Amazonas, Mato Grosso, Mato Grosso do Sul and Pará. It is estimated that between January and September of 2011, there were 6,000 and in 2012, 2,318 Haitians who illegally entered Brazil. Later, the migratory flow also included the states of Southeast and South of Brazil - Paraná, Santa Catarina and Rio Grande do Sul.

As a legal matter, it is known that the vast majority of Haitians who have applied for refuge in Brazil do not qualify as refugees under specific legislation. Meanwhile, the Brazilian Government, through the National Immigration Council (CNIg), has decided to authorize the stay on humanitarian grounds for Haitians who have landed until 13/01/2012. In this case, after the CNIg granted residence in Brazil and the publication of this decision in the Federal Official Gazette, Haitians were recommended to go to a Federal Police unit to register and apply for an Identity Card Foreign.

After registration with the Federal Police, the immigrant will be able to extend the term of his Work and Social Security Card (CTPS), at the agencies accredited by the Ministry of Labour

and Employment (MTE). It should also be pointed out that even if the immigrant with the protocol of request for refuge and awaiting the granting of his residence by the CNIg, he can withdraw his CTPS and work in any entity enjoying the labour legislation of the host country.

According to data from the Ministry of Labour (RAIS, 2014), it is possible to point out that among the Haitian immigrants - category - foreigners with formal employment, according to the main nationalities of a total of 14,579 admissions in Brazil in 2013, 12,518 were of the sex Male and 2,061 female. We observed that, in the analysis of the gender variable, in the three-year period (2011, 2012 and 2013) and taking into account all nationalities, we obtain an average of 72% of foreign men and 28% of foreign women (MTE / RAIS, 2014).

Taking into account the reasons that caused the Haitian immigrants to move to Brazil it can be said that in Rio Grande do Sul the reception spaces were the cities of Rio Grande and Porto Alegre, however, driven by their main objective - work[5] - fixed residence in cities in other regions such as Bento Goncalves, Caxias do Sul, Erechim, Marau and Passo Fundo.

In the city of Erechim, besides the Haitians, it is possible to identify Senegalese, a small group from Ghana and some Angolans who present themselves as a labour option to civil construction sporadically. As of 2012, the group of Haitians living in Erechim totaled around 50 people, the majority of whom were men aged 18-45 years, mostly in the metalworking industry and civil construction (SMED: Pedagogical Coordination - NEJA, 2013).

According to Tedesco (2012), in economic terms, the Haitians, just like the Senegalese, also exhibit entrepreneurial behavior, taking risks, marketing costume jewelry and accepting temporary jobs to form funds and carry out life projects ("set up my own venture in Senegal", "maintain my family in Senegal"). The flow of financial remittances and the development of competencies of those who have passed through Erechim and Passo Fundo (RS) confirm this perspective.

Among their insertions in the local and regional community it has become routine to see them wandering the streets of the city. As a social and citizen insertion there are some actions already carried out in the area of Education and Health with the support of government agencies. They attend classes in the evening shift with the Municipal Literacy Program as a way to ensure better integration of national and regional society.[6]

The possibility of literacy in Portuguese also extends to other benefits, such as accessibility and permanence to the right to education.[7] In this space Haitians also receive food during the period between classes, transportation vouchers and courseware. This action, as pointed out is the result of a protocol of intentions signed by the Anglican College of Erechim and the Municipal Public Power - Secretary of Education - which made it possible for other social demands to be attended such as access to health and follow up with the process of Legalization-documentary.

[5] Between 2011 and 2013 the total number of foreigners with a formal job in Brazil increased by registering a 19% increase in 2012 compared to 2011 and 27% in 2013 compared to 2012. In 2011 accumulated to 2013, the number of foreigners increased by 50.9% (Annual Social Information (RAIS) / MTE, 2014).

[6] In September 2013, the Municipality of Erechim Department of Education and the Anglican School of Erechim have provided physical and pedagogical structure to students coming from Senegal to work in the city in Ceja category - with an emphasis on literacy process in Portuguese. The group started with 13 adult students. After 6 months the group entered the first Haitians and later the immigrants from Ghana.

[7] Haitians are bilingual (to designate the linguistic situation in which, in a society, two languages or functionally different linguistic registers coexist, and the use of one or the other depends on the communicative situation), because most of the population speaks Haitian Creole but understands French.

The movement of immigrants in new offshore communities provokes some new situations, interests and doubts because of their presence, as they establish informal networks of help and consolidate a dynamic that integrates and identifies the migration of Senegalese in Brazil. Several interviewees reported that they ended up attracting the attention of local residents for their clothes, for moving in the streets and squares, for marketing in the streets of great flow and concentration area of formal commerce, as well as for strangeness when listening to the language used by the majority - the Creole[8] with little knowledge of Portuguese and concentrations in some city - specific spaces to develop some leisure and sightseeing activities. It is also possible to observe that some of them entered the religious eclecticism so well promoted in Brazil: they became adherents of Neo-Pentecostal Churches. In our research the deponents stated that they attend the following Churches: Assembly of God - from the branch of historical Pentecostalism - and the new pentecostal Universal Church of the Kingdom of God and International Church of the Grace of God.

Regarding cultural aspects, Haitians maintain religious, eating and coexistence habits compatible with the group. Among them, besides the cordiality and spontaneity, the family hierarchy is conserved. In this regard, it is possible to indicate that they adhere to integration with the regional community outside the pragmatic scope of work. Yes, they feel the strangeness mixed with curiosity by those who surround them and see them.

In the cultural aspect, it is possible to realize that they practically use the vacant spaces of days and/or weekends - in moments that are not working - to call friends and relatives in Haiti and Brazil, watch television and listen to music. Some say they already attend clubs that offer dance activities.

It is known that the absence of contact with the community produces detachment, indifference and absence of integrative factors and sociability. Beccegato (1995) and Sayad (2008) point out that it is not enough simply to acquire some information about customs, customs or learn foreign languages to do interculturalism; rather, it is necessary for cognitive, affective and social problems to develop an open, flexible and inclusive thinking that values the behaviors recognized in dialogue and encounter. The identities and identifications produced inside the host societies are (re)constructed by the native and foreigners also from symbolic references (MEIHY; BELLINO, 2008).

4 HAITIANS IN THE NORTH OF RIO GRANDE DO SUL: SOME METHODOLOGICAL QUESTIONS

As already indicated, the study carried out direct contact with a group of 30 students duly enrolled in the municipal education network in the northern region of Rio Grande do Sul, speci-

[8] Haitian Creole, also known as Creole is a language spoken by almost the entire population of Haiti (8.5 million), there are still about 3.5 million immigrants who speak Haitian Creole in other countries, such as Canada, United States, France, Dominican Republic, Cuba, Bahamas. It has two dialects distinguished: the fablas and plateau. Many Haitians speak four languages: Creole, French, Spanish and English. The other official language of Haiti is French, the language in which the Creole of Haiti is based, with 90% of its vocabulary comes from this language. Other languages also influenced Haitian Creole, among which the Taino (native of the island), some languages of West Africa (Yoruba, Fon, Ewé). Since 1961, efforts by Felix Morisseau-Leroy and others, Haitian Creole has been recognized as official language next to the French, who had until then only as a literary language since the independence of that nation in 1804. Since Morrisseau-Leroy writer, his literary use is growing though still small. Since the 1980s, activists, among them educators and writers have emphasized the pride of Creole literature, with this twenty-first century many newspapers, television and radio programs in the language.

fically in the city of Erechim. Of the total of 30 students, 15 are Haitian and had direct contact with the proponents of the study. Five night visits were held at the Anglican School in Erechim - a partner of the educational activity together with the Municipal Education Department / Erechim.

Among the activities were interviews, exchange of ideas and knowledge, as well as moments of collective dialogues to discuss the factors that drove the departure of the country of origin, travel, adaptation and initial visions of the immigrant situation. The study adopted a qualitative approach and the type of research used was action research and the universe was represented by 15 students - literacy level and one educator.

The collection technique was performed through Focal Groups, whose function was to gather detailed information about the process of displacement, reception, denials and identities built in the recipient country.

The meetings were held for ten (10) days with two (02) hours of duration, accompanied by the titular teacher. After obtaining the data collected from the interview script, the data was transcribed and compiled. The analysis and interpretation of the data were organized in the form of theme x percentage.

Once the structuring was done, the obtained data were compared among each other in order to trace characteristics common among them. From this analysis it was possible to conclude: 14 interviewees are male and one female; 75% had a stable civil relationship when leaving the country of origin, most of whom maintain weekly contact with the family through social networks. The use of the technology was pointed out by all the interviewees and these pointed out that the networks most used to effect communication are Facebook, WhatsApp, and Viber - all with free of charges access.

In the topic that asked for travel information, 55% said they had passed through Central American countries such as Colombia, Peru and Venezuela, and one deponent said he tried to live in Spain before moving to Brazil. As means of transport pointed to automobile (small displacements), collective transport (bus and train) and airplane. The average amount of investment expended since leaving Haiti to Brazil was around 10,000.00 to 15,000.00 brazilian reais. This amount in many interviews was signaled that was obtained by means of loans - with relatives or moneylenders.

According to data supplied by the Brazilian Intelligence Agency (Abin, 2015) at least 38,000 Haitians who have crossed, without a visa, the border of Brazil for Acre[9], plus the information that coyotes network has earned $ 60 million - Equivalent to more than R $ 185 million - in the last four years. On this fact there was a certain resistance on the part of the deponents to pronounce on the subject.

It is important to note that the resolution of the CNIg (National Immigration Council) of 2012, the granting of humanitarian visas for Haitians ends in October 2015, increasing the pressure for admission. However, there is a possibility that the deadline will be postponed until the end of 2015, but the movement of foreigners at the border should not be reduced or terminated.

[9] In 2011, the number of asylum applications in Brazil, made by the Federal Police, were 3,501. In 2013, they reached 17,927. In mid-2014, under requests in the country were 17,903.

Another determination of the Conare (National Council for Refugees) last year makes access to the country easier for those who declare in that condition before the Federal Police. This also explains the large number of African and even Asian immigrants entering the country through Acre.

Another analyzed element was access to communication technologies. 100% of respondents were everyday statement. They used them primarily for entertainment and get contact with family members. The acquisition of a mobile communication device is among the most coveted objects after receiving the first paycheck.

Also the point which questioned the relationship established in the workspaces was analyzed. Among the most used observations are expressions: here work a lot, but I earn a salary; employers in Brazil are not bad, but they often change our job stations, and the difficulties in adapting to the work safety standards. Many testimonials claim that the given training with a view to worker protection are not well assimilated by the difficulty imposed by language.

5 EDUCATION AND INCLUSION: IMMIGRANT HAITIANS IN SOUTHERN BRAZIL

As already pointed out, men and women from various ages circulating in various regions of Brazil with the aim to integrate the "Country of Labour". Among the many difficulties of adaptation and inclusion is the knowledge of Portuguese. The language learning has been the most difficult of immigrants and some are observable actions taken on behalf of non-governmental organizations. The Catholic Church through your local ministry took the initiative to start a basic Portuguese course (Porto Velho / RO), taught by a Haitian who has learned Portuguese (Brazil). From this initial learning, it created an extension project at the Federal University of Rondônia, called Haitian Migration in the Brazilian Amazon: language and social inclusion of Haitians in Porto Velho, aiming immediately the teaching of the Portuguese language, sense of history and geography Brazil and the Amazon, human and labour rights of notions, for their social inclusion (COTINGUIBA; PIMENTEL, 2012, p. 101).

On the other hand by an independent initiative of the Government and in order to assist and teach, it was designed the Portuguese teaching method for Haitians, implemented by Marilia Pimentel and Geraldo Cotinguiba of Rondonia where they proposed a program in Santa Catarina and another in Porto Alegre in the year 2014 (COTINGUIBA; PIMENTEL; NOVAES, 2014).

In this statement, one can also cite the experience developed in the north of Rio Grande do Sul, but specifically in the Erechim city with the local Anglican Congregation. This appreciation of citizenship and promoting social inclusion of a conscious citizen and relevant activity reveals continued throughout the history of the Anglican Church in Brazil, as Guedes (2010) asserts that the relevance of education for the Church always has, also, in the context of citizenship and the pursuit of democracy fully exercised in the life of the country.

Also in the words of Drey, there is a imbricated relationship regarding the performance of the Episcopal Anglican Church of Brazil for the construction of a democratic society and the empowerment of individuals who are able to exercise full citizenship through the establishment of educational institutions:

> An extremely important point for the development of these missions in the educational field, particularly training of educational institutions, was the concern with the inclusion of new active subjects in society, which could fully exercise their

> citizenship and thus contribute to the consolidation of the Brazilian Republic, that was taking its first steps in the first decades of the twentieth century. (DREY, 2013, p. 38).

The main motivation of the Episcopal Anglican Church of Brazil for the maintenance of schools and missions is the emancipation of the subject. Through education, the Church propagated ideals of brotherhood, justice and equality. This educational activity provided to the faithful, and those in another band would not find shelter, opportunity for personal, and consequently social, growth.

Thus, the Anglican Church held stance historically linked to the spread of the ideals of full citizenship and providing educational services to vulnerable parts of society or those socially excluded, as evidenced by Drey's statements:

> The educational offer by Anglican institutions, as consistent with the documents, was aimed at two distinct audiences: members of non-Catholic elite, who sought a teaching alternative to Roman Catholic institutions; and some historical subjects from less advantaged social groups, which met in Anglican institutions, the possibility of access to literacy and knowledge. (DREY, 2013, p. 84).

It was through these activities that the Episcopal Anglican Church of Brazil showed its appreciation of citizenship and education as a liberating and empowering tool, behavior that continues today as a posture of welcome and guaranteeing the rights of migrants, either through training opportunities offering and learning the Portuguese language - as a means of social inclusion and citizenship - whether through the provision of basic services within the missions to merchant seamen, as will be shown below.

As a means of achieving their ends, the Anglican Church in various locations around the globe, has historically developed projects in the field of education, showing his concern for the spread of knowledge to all as possible. In 1907, already showed this concern, as the 9th General Synod of the Brazilian Episcopal Church (as it was called the Church at the time).

> Government schools are woefully inefficient. The lack of intellectual and moral discipline is so evident that neither the clergy nor the layman can support schools around them. The problem has become urgent and opportunities give the Church the opportunity to deepen its influence in the lives of those entrusted to them. (MINUTES OF THE 9th GENERAL SYNOD, BRAZILIAN EPISCOPAL CHURCH, 1907, p. 25).

For Guedes (2010), the importance of the church attributed to education also had a political character, that is, the exercise of citizenship to the full realization of democracy in national life.

Thus, there is the great importance attached by the Anglican Church to education as a social inclusion tool and development of citizenship that has echo today in the various actions undertaken to promote education.

The partnership between Erechim City Hall and Anglican College of Erechim, aims at teaching the Portuguese language and is developed by the two entities, establishing the responsibility of the political entity in the granting of transportation vouchers, food and professional teachers

specialized in literacy to youth and adults; and higher education institution in providing classroom infrastructure.

This agreement already generates new opportunities for integration and integration to Haitians, as some students that have been attending the course of Portuguese language for longer, and dominate better the vernacular, started their studies at the technical course in Occupational Safety at Instituto Anglicano Barão do Rio Branco (basic education school run by the Anglican Episcopal Church of Brazil in Erechim), thus expanding its technical training and increasing their chances of insertion in the labour market.

Also as part of acceptance and guarantee rights to migrants, also the Anglican Church has made their efforts. Cite as an example the initiatives developed by The Episcopal Church[10] through the mission to the merchant mariners called The Seamen's Church Institute of New York and New Jersey, based in New York and service bases Port Newark, New Jersey, and even in Brazil (in the Espírito Santo State). This mission develops assurance activities of the rights of merchant seamen, through awareness actions and monitoring of the condition of vessels through its Center for Seafarer's Rights that includes lawyers and academics of law designed to provide legal advice to seafarers and, if necessary, resort to the judiciary to guarantee protection and labour standards, occupational safety and international maritime law. One of the activities carried out that mission is the liaison with the US port authorities to be granted the so-called shore-leave,[11] much coveted by seamen when docked in US ports.

Another initiative worth mentioning, in the same sense of the protection of the rights of seafarers, is the The Mission to Seafarers (The Mission to Seafarers) of the Church of England,[12] whose mission is the guarantee and protection of seafarers' rights in ports to around the world. The Mission to Seafarers has facilities in several ports, including Belém, Pará, Pernambuco and (more specifically, in the Port of Suape-PE). The activities developed by the mission range from the provision of spiritual counseling to assistance given the difficulties with access to the premises of the mission or facilities installed in the port sector.

In Brazil, the Anglican Episcopal Church of Brazil (official nomenclature of the Anglican Church in the country), has developed, in addition to partnerships with The Seamen's Church Institute and the The Mission to Seafarers above, means of meeting the needs of migrants through the aforementioned agreement signed between the Municipality of Erechim-RS and the Anglican College of Erechim-RS where Portuguese classes are offered free of charge to the immigrant community in the region.

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[10] *The Episcopal Church* is the official nomenclature of the Anglican Church adopted in the United States featuring their form of government through the Bishops, as well as its historical and theological origin in the Protestant Reformation in Europe.

[11] *Shore-leave* is granted permission to maritime to land on US territory, even for a few hours so that they can make use of the mission's premises - which has chapel, games room, TV room, snack bar, computers with access to internet, telephone booths and a bar with access to alcoholic beverages - or can attend a shopping center nearby.

[12] Church of England is the official name of the Anglican Church in England. This designation refers to the national and state character of the Church of England, determining their official condition of church of the state and its relationship with the British Crown.

6 COLLECTIVE EXPERIENCE: ANGLICAN COLLEGE OF ERECHIM AND MUNICIPALITY OF ERECHIM

One can notice that the school for Haitian immigrants indicates to be reference of a new status, since most of them wear their best clothing to go to school, with the teacher being highly regarded.

Add up that the space provided by the Anglican Church for classes ends up being a point of meetings. Specifically it comes to these meetings a network of sociability that strengthens their social network, a place where information is shared, meetings are held towards employment and also attends the building bonds of friendship and expressions of kinship relations.

In this process of strengthening of citizenship, through the consolidation of social interaction tools, cultural integration and insertion in the labour market, it appears that, for Haitian immigrants in northern Rio Grande do Sul, the chances to achieve personal and collective goals of a better life are higher. The condition to express themselves and be understood, and understand clearly what is said to them, provides better conditions for understanding the world around and also possibilities of staying longer in employment.

This increased understanding also allows immigrants to better understand the rules and regulations relating to health and work safety and culminates to minimize the risks in the workplace. Not only allows the immigrant worker better understanding of safety standards, as well as greater ownership of labour rights guaranteed to workers in Brazil and the ability to report, clearly, the abuse suffered and any disrespect inflicted to their legal and employment equity.

CONCLUSION

This study aimed to discuss elements of the relationship between the arrival of Haitian immigrants in southern Brazil and their integration process through education.

On the trail of the miserable living conditions and more specifically to the group of Haitians – the environmental disasters, it was observed that hundreds of men from the peripheral economy countries seek refuge in the central economy countries, but in most cases cannot escape the stigma of poverty. This is a new era of colonization, but this time a colonization made by (and for the benefit of) capital.

The technological revolution brought about consequences in the labour market, which led to reflections on migratory masses of workers, who set out in search of job placement. The same technological revolution facilitates the traffic information and people in the world, which also influences the migration in general.

Contact with the group of Haitians allowed us to conclude that when the immigrant is identified only by their ethnic characteristics and the labour market niche that they can be inserted, which occurs with a certain constancy, there is a negative identification, an identification that leads to the denial of recognition as full human being. Identification as a migrant worker to society ends up serving as a deterrent so you can get better job placement, even in the case of skilled workers, frustrating their hopes, to cross borders and gain access to a better world.

We noticed, in interviews, that some basic working conditions are disregarded because of immigrant status of Haitian workers and difficulties such as: linguistic difficulty, historical and

cultural adjectives, and difficulty in adapting to the multiple tasks required by the employer. No doubt, mastering the national language and expansion of education makes them included citizens.

Through the concern with the formation of individuals aware of their civic duties and critical capacity to enhance the democratic coexistence, the Episcopal Anglican Church of Brazil has promoted the establishment of educational institutions with a view to the consolidation of democratic ideals in Brazil since the nineteenth century.

This attitude reveals the importance given to education as a tool for social transformation and personal, in that it provides to the individual conditions of personal and social role, as well as a solid and critical social inclusion.

To the migrant workers, the Anglican Church seeks to provide the same tools dedicated to the training of citizens - education and knowledge of their rights - as a guarantee of rights measure and to promote its objectives and social welfare. The initiatives reported in this article are concrete evidence of this.

In the case of Haitian immigrants in Erechim, northern Rio Grande do Sul, the opportunities for solidification of knowledge about the Portuguese language become in indispensable tool for understanding the society that surrounds them.

At the same time, mastering the national language enables them to greater and more concrete personal safety through understanding of the work safety standards and specific labour standards. Not forgetting the better understanding of the specific and non-specific labour rights, which enables better defense and struggle to guarantee such rights often denied at the unjust and wrongful attitude of employers.

Thus, immigrants studied here become to integrate the surrounding society, with greater security, understanding and more likely to take place as citizens and individuals, and especially becoming the protagonists of their own life story.

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III - Migrant workers in the northen part of Rio Grande do Sul (Brazil): integration and (dis) respect of the rigths related to personality[1]

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INTRODUCTION

Since the dawn of humanity, men have migrated for various reasons, driven by endogenous and exogenous reasons. Migration happens by cultural, economic, political and socio-religious or environmental and climatic disasters such as the study group.[2] Haitian immigration to Brazil is a migratory phenomenon that gained large proportions after the earthquake that struck the Caribbean country on 12 January 2010 and killed more than thousands of people and left many others on condition of Internally Displaced Persons.

It must be persistently said that affectation levels in natural disasters have evident correspondence with the class structure and those, in Haiti and according to what official statistics show, have historically produced ethnic correspondence. Those who suffer less have incomplete accounts of the operating state shortcomings. Those who die, are those who have the best witnessing of indifference, failure, mistakes and unwillingness contained in the provisions for coordination of the devastated landscape. As the dead are, by definition, unable to self-express in the subject, are circumstantially saved the appearances in the line of duty.

While this, the providential silence of the dead also generates a narrative, accessible to those who have eyes to see: is expressed in the number of fatalities occurred in a town forgotten since long, by the provisions of the public entity, and is also expressed in the bodies that remain unburied for long time, those who are easily reported missing, those located with significant mutilations and traumas, those who are ignored without concern to rescue them.

The presence of Haitians in Brazil was inexpressive before the political instability that affected the country in 2003-2004. Since then, with the military presence of the UN peacekeeping force (formed mostly by Brazilians), Haitians have come to see in Brazil a reference point. After the earthquake of 2010, which triggered a major boost to the movement of medium and large groups, Brazil has become one of the preferred destinations for migrants. According to figures released by the Ministry of Immigration (2015), currently about 50-100 Haitians come illegally in Brazil daily, through the state of Acre and other states. These entries - official or illegal - trigger up relations and several contacts and consolidate up social contact zones between domestic and foreign citizens.

To Santos (2003, p. 43), the contact areas are social fields in which different worlds of normative life meet and face. For the author, it is in these spaces that different legal cultures are facing highly asymmetric modes, that is, in clashes that mobilize very unequal power exchanges. The contact areas are therefore areas where ideas, knowledge, forms of power, symbolic universes and regulatory agencies and rivals are in unequal conditions and mutually repel, reject, assimilate, imitate and subvert in order to give rise to hybrid nature, political and legal constellations in which it is possible to detect the trail of inequality of exchanges.

Because of interactions that occur in the contact zone, both the nature of the different powers involved and the differences in power between them are affected. Understanding this con-

[2] The Haitian climate is characterized as tropical and is influenced by the sea, plus the condition of being located in Hurricane circuit, often resulting in the incidence of tropical storms and hurricanes from June to October. The average minimum temperature is 20 ° C and maximum 34 ° C. The rainy season occurs twice a year from April to June and from October to November. These features contribute to the history of frequent flooding and environmental disasters (AGENCY OFFICIAL WEATHER, HAITI, 2015).

cept is essential for this paper, since the integration - and Brazil is a multiethnic country - is one of many current examples of social groups that are involved and have been involved in asymmetric conflicts with dominant national cultures.

We start from the perception that Brazil has always been considered a country of easy coexistence between those who are different, including in the field of integration. However, in recent years, as society becomes increasingly plural in social, cultural and religious terms, paradoxically we have seen public demonstrations of stigma, intolerance, prejudice and xenophobia.

The immigrant inflow of experience in Brazil was given by the Portuguese, followed by Spanish, French and Dutch. In 1817 they enter in the Swiss country and in 1824 the first Austrian to reach further stimulate the inflow of Germans, Italians, Poles, Russians and Jews. After World War II there were several waves of Japanese who enter the country. Secondly the twentieth century can be seen the arrival of African and Asian considering the emancipation of the colonies to the state Independence Policy. The study group - Haitians - is included in the category economic boost and socio-political (MAESTRI, 2001, p. 136-138).

This article is divided into three parts. The first covers a brief overview of immigration scenario in Brazil and its interrelations with human rights. The second part presents a report on the historical trajectory of Haiti - the country of origin of the group analyzed in this study. The third part sets out a brief overview of the Haitians in southern Brazil and the last two parts discourse on integration elements and understanding of the material dimensions of human rights and their relationship to the labour market by the Haitian immigrant residents in northern Rio Grande do Sul /Brazil.

1 **HUMAN RIGTHS AN THE MIGRATION OF WORKERS IN BRASIL**

Nowadays, one can point out that between 800,000 and 1.2 million foreigners live in Brazil. The number is considered impaired if we consider the overall size of the population; however, the concentration of some groups in specific cities has contributed to greater visibility of migration issues in Brazilian society (IBGE, 2010).

The Bolivian and Chinese communities in São Paulo and the Lebanese in Foz do Iguaçu - Paraná State are some emblematic cases. A “foreigner’s statute” regulating the entry and stay of immigrants in Brazil was established in 1980, even in the presence of the dictatorship in Brazil and is included in the logic of “national security” of the period. The preparation of this law was given at a time when the military regime was particularly unhappy with the “interference” of foreign religious individuals in internal matters and sought a mechanism to facilitate the expulsion of foreigners involved in political activities in the country. Indeed, the Catholic Church in Brazil was, since the beginning of the republican period (1889), one of the main critics of Brazilian law for foreigners, and continues today to be the basis for many of the organizations that defend the interests and rights of foreigners in Brazil (REIS, 2011).

The main criticism of the organizations that represent the interests of immigrants in Brazil is the fact that many of the provisions in the law of 1980 are in step with those concerning the recognition of human rights present in the 1988 Constitution (UNHCR et al., 2007). The 1980 legislation inconsistency is identified as a weakness of the demands of the Brazilian state to address the issue of immigrants in negotiations and bilateral and multilateral forums.

Social movements, non-governmental organizations and researchers in Brazil over the years sought not only sensitize the Brazilian government to the demands of foreign migrants, but also build a consensus on the importance of changes in national immigration law and its connection with the needs of Brazilians abroad. The letter sent by the coordinator of the Center for Migrant Support of São Paulo, Paulo Illes, for the time candidate Dilma Rousseff in October 2010 is quite illustrative of this argument:

> [...] To defend a comprehensive migration policy, which includes both the migration of Brazilians abroad, the return of immigrants and immigration in our country, always from the standpoint of human rights, we realized the need of construction of a Department of Migration Policy, under the Office of the President of the Republic who can articulate and promote the implementation of a coordinated migration policy between these agencies and other public administration.
> [...] Overcoming the dispersion of skills that sometimes hinders advancement, one of the main tasks of this new institution would undoubtedly further strengthen Brazil's position as a country example of welcome for immigrants and free of discrimination and xenophobia.

In institutional terms, the movement of people across Brazilian borders involves a wide range of ministries and authorities such as the Ministry of Foreign Affairs, the Ministry of Labour, the Ministry of Justice, and the Federal Police, among others. In principle, the body that coordinates the actions of these various institutions regarding the entry of foreigners in Brazil is the National Immigration Council (CNIg), created by the law of August 19, 1980 and under the Ministry of Labour, and aims to, inter alia, "formulate immigration policy", "coordinate and guide immigration activities," survey the labour market needs in Brazil, conduct studies, collect information and "say in amending legislation on immigration when proposed by any organ of executive government." (PRESIDENCY OF THE REPUBLIC, 1993).

The debate on the need to modify the foreigner´s law is characterized by low repercussion on the varied scenery of political interests. In 2009, the government submitted to Congress the proposal of the New Status of Foreigners (PL 5,655 / 2009). Among other changes, the law provides for the transformation of CNIg in the National Council for Migration, formally extending its jurisdiction in matters concerning the emigration of Brazilians.

In this statement, it is important to note that three amnesties were held in Brazil: the first in 1988, then in 1998 and finally in 2009. In the latter, 43,000 foreigners were settled, including 17,000 Bolivians[3] and more than 4,000 Paraguayans. If, on one hand, amnesties demonstrate the official "good will" to deal with the issue of undocumented foreigners, by contrast, it shows the persistence of the problem over the years, and the need for a more comprehensive policy. Ideally, with the implementation of the free movement agreements and the new legislation to foreigners, the number of undocumented foreigners in the country should fall (REIS, 2011).

[3] According to the IBGE (2013), the Bolivian immigration to Brazil is a migratory movements from the last quarter of the twentieth century. It is one of the largest populations of 0.5% of the population that comes from the South American countries and is mostly located in Mato Grosso do Sul and São Paulo states. It is the fifth largest group of immigrants living in Brazil, overcome by Americans, Japanese, Portuguese and Paraguayans.

2 MIGRATION PROCESS AND HAITIANS IN SOUTHERN BRAZIL

As already pointed out before, the state of Acre figures among the states that received the first Haitian immigrants in Brazil. According to the Federal Police (2014), arrived in Acre - since December 2010 - about 130,000 Haitians using the border with Peru with the state, and settled down precariously also in the states of Amazonas, Mato Grosso, Mato Grosso do Sul and Pará. It is estimated that between January and September of 2011, the immigrants were 6000 and in 2012, there were 2,318 Haitians who illegally entered Brazil. Later the migration also entered through the states of the Southeast and South of Brazil - Paraná, Santa Catarina and Rio Grande do Sul.

In Rio Grande do Sul, the places of reception were the towns of Rio Grande and Porto Alegre, however, driven by the main objective - the work – migrant workers established residence in cities like Bento Goncalves, Caxias do Sul, Erechim, Marau and Passo Fundo.

In the city of Erechim, in addition to Haitians is possible to identify Senegalese, a small group of Ghanaians and some Angolans posing as labour force option to construction, sporadically. From 2012, the group of Haitians residing in Erechim totaled around 50 people, mostly men, aged 18 to 45, appearing mostly as labour force for the metalworking industry and construction (SMED: Pedagogical Coordination - neja, 2013).

According to Tedesco (2012), in economic terms, the Haitians, likewise the Senegalese, also have an entrepreneurial behavior, taking risks, selling trinkets and accepting temporary jobs to form funds and carry out life projects ("make my own venture in Senegal", "support family in Senegal"). The flow of remittances and the development of skills of those who have passed by Erechim and Passo Fundo (RS) confirm this view.

Amidst their insertions in local and regional community, it has become routine to see them roaming the city streets. As to social inclusion and citizenship, there are some actions, already in effect, related to Education and Health issues backed by government agencies. They attend classes on the night shift within the Municipal Literacy Program as a way to ensure better integration into national and regional society.[4]

The possibility of learning to read and write in Portuguese language also extends to other benefits such as accessibility and retention of the right to education. In this program, Haitians also receive food in the period between classes, transportation vouchers and teaching materials. This action, as pointed out before, is the result of a memorandum of understanding signed by the Anglican College of Erechim and the Municipality Government - Department of Education - that made it possible for other social demands to be met, such as access to health and help with the process of documentation legalization.

The movement of immigrants in new overseas communities, cause some new situations, interests and concerns as a result of their presence, because they establish informal networks of support and helps consolidate a dynamic that integrates and identifies the migration of Haitians in Brazil. Several respondents reported that they end up drawing the attention of local residents

[4] In September 2013 the Municipal Erechim municipal Education and the Anglican College of Erechim have provided physical and pedagogical structure to students coming from Senegal to work in the city in Ceja category - with an emphasis on literacy process in Portuguese. The group started with 13 Senegalese adult learners. After six months, the first Haitians stepped into the group and later on, joined the immigrants from Ghana.

for their clothing, by moving in the streets and squares, for trading on the streets of big flow and formal trade concentration area and the estrangement to hear the language used by the majority - the Creole[5] with little knowledge of Portuguese and concentrations in some city-specific spaces to develop some leisure and sightseeing activities. You can also see that some stepped into the religious eclecticism as well divulged in Brazil: they have become adherents of neo-Pentecostal churches. In our survey, the interviewees stated that they attend the following churches: Assembly of God - from the historic Pentecostalism branch - and the neo-Pentecostal Universal Church of the Kingdom of God and the International Church of the Grace of God.

With regard to cultural aspects, Haitians retain religious, eating and conviviality habits compatible to the group. Among them, in addition to the warmth and spontaneity, it is conserved the family hierarchy. In this respect, it is possible to signal that they adhere to regional integration with the community outside of the pragmatic work scope. And yes, they feel the merged estrangement with curiosity by those around them and see them.

In the cultural aspect, it is possible to see that they make use, almost solely, of free spots, during the days or weekends - when they are not working - to call friends and family in Haiti and Brazil, watch television and listen to music. Some state that are already attending clubs that offer dance activities.

It is known that the absence of contact with the community produces estrangement, indifference and lack of integrative factors and sociability. Beccegato (1995) and Sayad (2008) state that it is not enough just to get some information on uses, customs and learn foreign languages to make intercultural exchanges; one should get involved in the problematic of, even for the cognitive, affective, social issues, and develop an open mind, flexible, inclusive, which values the behaviors recognized on dialogue and encounter. The identities and identifications produced within the host societies (re)construct the indigenous and foreign from symbolic references (MEIHY; BELLINO, 2008).

3 **HAITIANS AND THE (DIS) RESPECT FOR THE RIGHTS OF PERSONALITY**

The conception of labour currently takes varying contours according to the culture that uses it, allowing the individual or group of people, in the context of a specific culture, the construction of the notion that certain labour activity is valuable or worthless. Moreover, it confers desirable social status, whereas another culture assigns to the same kind of function, an undesirable character, and the people who play it, an “inferior” status of individuals.

[5] Haitian Creole, also known as Creole is a language spoken by most of Haiti’s population (8.5 million), there is still about 3.5 million immigrants who speak Haitian Creole in other countries, such as Canada, United States, France, Dominican Republic, Cuba, Bahamas. It presents two distinct dialects: fablas and the plateau. Many Haitians speak four languages: Creole, French, Spanish and English. The other official language of Haiti is French, the language in which Haitian Creole is based upon, with 90% of its vocabulary coming from this language. Other languages also influenced Haitian Creole, among which the Taino (native of the island), some West African languages (Yoruba, Fon, ewe). Since 1961, by Felix Morisseau-Leroy and other efforts, Haitian Creole has been recognized as official language, alongside with French, that had been the only literary language since the independence that nation in 1804. Since the writer Morrisseau-Leroy, its literary use is growing though still small. Since the 1980s, activists, among them educators and writers have emphasized the pride of Creole literature. In the twenty-first century many newspapers, television and radio programs in the language appeared.

This cultural diversity, in which the employment relationship is inserted, is accentuated in the globalized world. In this regard, Teubner said that globalization should be understood as a global society, resulting from growing range of communication that goes beyond cultural or geographical barriers, and not as a national society that gradually and slowly moves towards integration with an establi shed global society. According to this view of globalization, the internal organization of nation-states are mere expressions of regionalized global society (TEUBNER, 2003).

According to Bauman, it is also emphasized the role of communication in the transformation of contemporary society in a globalized society. The sociologist affirms that the mobility resulting from the creation of new media resources enables information to travel independently of their physical carrier or the object about which informs, that is, the development of technical means of communication that separate the movement of information from the movement of its bearer and object. Therefore, allowing the significance to no longer have full control of the signifier. Thus, the speed with which information is traveling is much greater than the physical bodies. Moreover, with the emergence of the World Wide Web, continues to assert Bauman, the very concept of distance has changed, therefore, the information is instantly available at all points of the planet (BAUMAN, 1999).

And this constant movement of information also leads to migration of the labour force that, through improved access to information, are better qualified and thus seeks improvement in living conditions through migration. Such movement of workers causes certain conflicts.

It is in this global village context that the employment contracts serve as a pretext for serious disrespect to the fundamental right to decent work, since the corporations, owners of private centers of power, not in a few occasions, violate the most basic rights of the workers, disregarding their dignity.

This migration can also lead to the weakening of workers' rights of the individual, since the entry of skilled labour force in the labour market provides employers a "best choice" of their employees. This choosing can happen in a way that privileges the hiring of migrant workers, which, in theory, have less knowledge about the legislation pertaining to labour standards and consequently will require less investment from the employers in terms of guarantees and rights, as well as, in the maintenance of a healthy work environment. This position entails serious violations of labour and personality rights.

The constitutional provisions dealing with the fundamental rights issue - among them the fundamental right to decent work - enshrine the prohibition of submission of the person to degrading situations and violating the individuals in their inherent and most striking feature, human dignity.

Among the various and most ordinary situations of violation of human dignity are degrading labour and poor working conditions. Just a quick look to periodicals and TV news is enough to realize the amount of situations in Brazil where workers, whether national or foreign, suffer violations of their dignity.

Necessary to mention here that the binding of individuals to the fundamental rights, called horizontal effect of the fundamental rights, is an indispensable element in the protection of individuals against the actions of their own peers. This is because private actors are responsible for violations of human dignity through abuse of right attitudes, exploration of labour, and discriminatory practices.

It happens that sometimes, on the grounds of the governing employer power, many partners or owners of corporations extrapolate their power and exceed when applying penalties to employees, and this happens because the great economic vulnerability of employees, who need to stay in jobs in order to earn the basic salaries to their own maintenance and their families. In this particular case, these are immigrant Haitian workers in Brazil.

However, one cannot forget to take into account that, before being a worker, every individual is a human being, and, therefore, must have his/her dignity granted in every circumstance of his/her life, and even in private relationships of employment and work.

Corroborating this understanding, Vecchi (2009, p. 55) states:

> In addition, there is another serious problem that has shaken labour relations, i.e.: the disregard of the worker as whole individual, as a human person with fundamental human rights that must be understood in their indivisibility, rights that the employee does not give up when becomes subject to an employment relationship, rights that cannot be left out "at the factory gate" waiting for the end of the working day. This problem also becomes global, i.e.: is faced by workers in various "corners of the Earth", being facilitated by the weakening of labour rights, which weakens more and more the position of workers.

Thus, the placement of workers' rights in the list of fundamental rights prevents the weakening of the workers' rights or even the lack of employer's scruples, from removing such special guarantees and strengthens workers' position before the employer. It should be noted that provision and protection labour rights should be considered as such.

This is a result of what is called the "constitutionalization" of the Labour Law. The worker, as a result of this permeation of constitutional law, in particular of fundamental rights in private relationships, begins to no longer be seen as merely an employee, as one who by the employment contract makes available to other his labour force. The person who submits to the employment contract, understood as private legal business in this process of "constitutionalization" does not cease to maintain their human condition, and, therefore, cannot have his human rights mitigated or suppressed, as a direct result of the labour agreement. Now, we must pay special attention to the so-called "worker-citizen", to whom is assured the recognition of rights as citizen and enshrined in constitutional law, by requiring the employer and others involved in the employment relationship, to respect and the obligation to promote human dignity (AMARAL, 2014).

Amaral points out that this "constitutionalization" of labour law occurred in two phases. The first, in which the specific fundamental labour rights were highlighted, such as the rights to: go on strike, freedom of association, paid weekly rest, breaks for food and rest intra-day, time to rest between journeys, limiting the maximum daily working time, protection from arbitrary dismissal, prohibition of night, dangerous or unhealthy work for persons under 18 years and any work for persons under 16, except as an apprentice, and only after completing 14 years, protection of women's labour market, prohibition of discrimination between Intellectual, manual or technical work, among others. The second phase, in which the focus is no longer the guarantee of labour rights to the employee, but takes care of the conduct of the employer, the broader and more comprehensive way now. The company begins to be seen as a place of exercise of "citizenship", with more emphasis on so-called "non-specific labour rights." (AMARAL, 2014).

In this new context, gain more prominence, in addition to the fundamental social rights listed in art. 7, and its clauses of the 1988 Constitution, the employee's rights of personality, those that are very personal and that cannot be dissociated from the person, even during the term of the employment contract.

Understanding that employers' rights cannot be seen as authorization to commit arbitrariness, injustice or personal discrimination, it is further consolidated this doctrinal path, which crystallizes the employee's condition as a citizen. The governing power of the employer will only be legitimate when it is directed, led and guided in order to work on a sense of unity, in achieving its economic goals - reason for its creation and existence - but without causing injury or threats to the rights of its employees.

This phenomenon of "constitutionalization of labour law" aims to prevent the transformation of the workers in "commodity" or "thing", intensifying the protection of the "working person", guaranteeing the same constitutional protection of all other subjects of law, going beyond the protection of the worker to protect the citizen (AMARAL, 2014, p. 103).

Vecchi agrees on this direction, stating that the employees don´t lose their human condition when agreeing upon an employment contract, thus keeping their aspects and, especially, their personality rights intact, so it is not enough to guarantee and protect their social rights, but must also respect their dignity (VECCHI, 2009).

That is why the "nonspecific labour fundamental rights" gain greater importance in this context of "worker-citizen." We must grant more than just labour rights to employees, they must have protected their status as human beings, and ensure their dignity as a person.

These called nonspecific labour rights, are those arising from the worker's human condition. These rights of the worker-citizen need to be exercised as personality rights impregnated of the employment relationship. We can cite, as examples: the right to privacy and to private life, right to freedom of expression, the right to protection of honor, right to ideological and religious freedom, the right to protection against discrimination, etc. Although they are not specifically connected to or arising from the employment contract, those rights are inherent to the human being, and therefore must be guaranteed during all time.

Noteworthy that the Federal Constitution of 1988 guarantees and protect labour rights in Brazil, whether specific or non-specific, to everyone in the country independent of birth or nationality of the worker.

In fact, we can say that is an addition to the contract, all the rights and duties to maintain the dignity of the human person, which affect the exercise of the contractual agreement between the parties. This is because the worker cannot waive those rights or their own dignity. Important to remember here that dignity cannot be withdrawn or given to any person, by any legal or judicial act, but it is merely recognized and protected.

From the above, it is impossible to sever one between the citizen and the worker; there is no excise from the employee his condition of human being in any activity that he/she is exercising. Much less, can the employer on the grounds of the worker's foreign status, deny him/her such guarantees.

Thus, the workers whatever their personal status, should be seen in their wholeness as human beings. Their natural condition as rights-holders, their inherent dignity directly linked to their human being condition, cannot be dissociated from their contextualized rights, namely, the

specific labour rights, as well as their personality rights - here known as non-specific labour rights - deserve assurance and protection. In short, all the employee's rights and interests should be protected even in the context of the employment relationship.

This protection and security are essential to the maintenance of the democratic rule of law, where the "evolution and development of fundamental rights should be directed to the purpose of 'guarantee of freedom', as a 'power of self-determination' in all spheres of social life." (AMARAL, 2014, p. 104).

This should occur so that all rights related to the individual can be fully exercised, without any unjustified restrictions.

Gabriela Delgado Neves confirms this understanding proposed here:

> If the worker receives low income, if there are no minimum conditions of health, for example, there is no room for the realization of dignity. The law is a mere abstraction. Understanding the worker as a mere instrument for the realization of a given task, tonic of contemporary civil society, compromises the greater understanding that man must be an end in himself. (DELGADO, 2006, p. 237).

Thus, the worker must have secured the minimum working conditions such as safety and health in the working environment and receive fair payment for the work done, without which one cannot speak of workers' dignity. The work should be taken as means of ennoblement and exaltation of the worker's personal condition, in order to develop their full potential as human being. Moreover, this is independent of their nationality or personal condition.

The engagement of the person in a for profit entity should be developed in addition to the economic objectives of the owner, especially when it goes by migrating in search for better working conditions, and to facilitate the obtaining of personal desires of a working-class person, for it is there where they will apply their skills at the employer's service. However, that should happen by pecuniary compensation that should enable their personal and family development.

Thus, it is safe to assume that it is in the context of labour relations where we can find one of the most fertile fields for the proliferation of unwanted violations of fundamental social rights, on the one hand, but also, it is within the relationship between employee and employer where fundamental rights become increasingly important, on the other.

It is the nature of economic dependence of this relationship that makes it vulnerable to these attacks on the employee's dignity, since it is subject to the will of the employer through monetary compensation. Under this relationship of subjection, it is clear that the employee is most vulnerable in these labour relations than in other interpersonal relationships, both in employee status, as in the person's condition or citizen and should therefore be given special care in protection and guarantee of human dignity in this context.

Also noteworthy that Brazil ratified the Convention n. 155 from the International Labour Organization, ratification that was promulgated by Decree 1,254 / 94. Such Convention provides, in article 4, paragraph 1, that the signatory countries should formulate and implement a national policy on safety and health of workers and commit to protect the working environment.

Therefore, reducing inherent work risks is a provision from the constitutional rule in Article 7, item XXII of the 1988 Federal Constitution, through the development of safety standards.

That rule requires all businesses and employers to provide such risk reduction, under penalty of being obliged to compensate victims of industrial accidents.

The lack of respect for life or moral and physical integrity of the worker, by the absence of minimum working conditions, i.e., the absence of a healthy work environment, are in frontal disrespect of the constitutional provision of social fundamental rights. Likewise, the discriminatory treatment of Haitian workers, whether because of their difficulties with the language, ethnic origin or skin color, or even ignorance of the rights guaranteed to workers in Brazil, should be considered as a violation of personal rights of the migrant worker.

CONCLUSION

This study intended to discuss the elements of the relationship between the arrival of Haitian immigrants in southern Brazil and their insertion process in the labour market linked to their personality rights.

Running away from squalid living conditions - and more specifically to the group of Haitians – and from environmental disasters, it was observed that hundreds of men from the peripheral economy countries seek refuge in the central market countries, but in most cases fail to free themselves from the poverty stigma. This is a new era of colonization, but this time, a colonization made by (and for the benefit of) capital.

The technological revolution brought about consequences in the labour market, which led to reflections on migratory masses of workers, who have left in search of work placement. The same technological revolution facilitates the information and people transit in the world, which also influences the migration in general.

Contact with the group of Haitians led us to conclude that when the immigrant is identified only by their ethnic characteristics and the labour market niche in which can be inserted, which occurs with some constancy, there is a negative identification, an identification that leads to a denial of recognition as human being in his/her entirety. His identity as an immigrant worker in society ends up serving as an obstacle to a better job placement, even in the case of skilled workers, frustrating their hopes of, after crossing borders, gain access to a better world.

Imperative to state that the employee is, and as such should be seen much more than mere instrument for meeting the needs and interests of the employer. They are actually persons, human beings, which, although subjects to certain restrictions on their personal freedoms - these limitations resulting from the employment contract - do not lose their personhood that must have respected their rights, private and very personal interests – the nonspecific fundamental labour rights - as well as social fundamental guarantees of the Labour Law, i.e., the specific labour rights. This statement is also based on the four principles of affirmative constitutional importance of the work under national law: the valorization of work, especially the work covered by the employment relationship; the social justice; the submission of the property to its social and environmental role; and the principle of human dignity.

It was found, in the interviews, that some basic working conditions are disregarded because of the immigrant condition of the Haitian workers. The denial of a healthy work environment constitutes a violation of human dignity. This negative of decent work, can be seen as lowering the

human condition analogous to that of a mere object whose usefulness is only the satisfaction of the employer's interests, disregarding the employee's status as a subject of rights.

This distinction between domestic and foreign workers, and the unscrupulous attitude of employers who believe they can benefit from the status of immigrants who are unaware of the labour protective legislation, such as the Haitian workers, it is a true decrease in the *status* of the subject of rights. It is also a flagrant violation of their dignity that cannot be tolerated by society and government bodies of labour inspection, under the penalty of becoming accomplice with violations and failure to comply with constitutional obligations of protection and guaranteeing the decent work, incumbent to the state.

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IV - *Identity, perspectives and interpretations of child labour in Brazil*[1]

[1] This study was partially presented in III Jornada Interamericana de Direitos Fundamentais e I Seminário Nacional da Rede Brasileira de Pesquisa em Direitos Fundamentais | RBPDF at Universidade Presbiteriana Mackenzie, São Paulo, Brasil, between 26th through 28th, October, 2016.

INTRODUCTION

Child labour has been of concern worldwide. There are children working in various activities throughout. In all historical periods, children were involved in vulnerable labour activities – economic or not. Among the numerous contexts and socio-historical temporalities that had been linked to the issue, without doubt, there is the Industrial Revolution. This, through endogenous and exogenous mechanisms, effected the cooptation of children and adolescents for the labour market, subjecting them to excessive hours, arduous and unhealthy activities, robbing them of the right to a childhood and adolescence safe and full personal development. This fact has repeated itself for many decades and therefore caused estrangement and indignation within society. However, after the establishment of the ILO - International Labour Organization - in 1919, measures to prevent and combat child labour gained relevance.

Such measures take up such importance that influence the creation of constitutional texts such as the current Constitution of the Brazilian Republic, which adopts provisions of the International Conventions 138 and 192 of the International Labour Organization.

In Brazilian national law there are several prescriptions that protect the children and adolescents from work before turning 16 years old, except as apprentices. Those over 16 and under 18 years old are prohibited from performing strenuous, unhealthy or dangerous work, as well as night work or other work that may cause damage to their mental, moral and social development.

However, such legal protections have not been sufficient to prevent children and adolescents from being drawn into the ranks of precarious and illegal labour, under low health standards of the working environment or below the constitutional minimum, as well as in conditions analogous to slavery.

This study aims to analyze the current situation of child labour in Brazil and applies the methodological procedure of bibliographic-investigative research. The article is divided into three parts.

1 INITIAL WORDS ABOUT CHILDHOOD AND THE WORLD OF LABOUR

The children were, for a long time, left in the shadow of historical, legal and social narratives. Generally, children were understood as individuals lacking capacity to speak for themselves and with no citizen attributes. To say that the child is a social being means considering that he or she has a history, a geographical life, and belongs to a social group. It also means that they are able to establish relationships defined according to their context of origin. He or she also features a language, and due to these social and cultural relations established by adding in this context the need for protection.

The development of anthropology and the emphasis on family and women, the advent of Nouvelle Histoire, and the affirmation of new research fields and lines of research, closer to daily life and the private contributed to make them get out of this minimization as study object.

Most of the studies that revealed the childhood interfaces were inserted in the discussions in the area of Human and Social Sciences at first, and later to be inserted into other fields of knowledge. For example, we can mention the study of representations or children's practices – in the international historiography - which has accumulated considerable research on the child and his or her past. When talking about Europe, for three decades, historical demography helped

detect the life expectancy, the role of children in family structures, child abandonment numbers, contraception and mortality resulting from infectious diseases.

According to Foucault (1974), both legal and judicial practices are the most important in determining subjectivities because through them you can establish forms of relationships between individuals. Such practices, subjected to the state, begin to interfere and to determine the human relations and thus determine the subjectivity of individuals.

According to the International Labour Organization, ILO, more than 215 million children are working worldwide, some are only 3 years old, and only 1 in 5 children gets paid, and many of them perform dangerous tasks. In Brazil, based on data from the Brazilian Institute of Geography and Statistics (IBGE), there are 554,000 children aged 5 to 13 who are employed, equivalent to 2.5% of this population. On average, each worker in this age group receives R$ 178 per month. These children work an average 17 hours a week. Most of them are students: the schooling rate of this group reaches 96.8%. A large part (63.5%) carries out activities in agriculture.[2] (IBGE, 2015)

In this setting of school and work, one can state that the crossing of data on child labour that the IBGE released in 2015 shows that from the number of children aged between 10 to 13 years old and who attend school, 4.8% also worked. Among those who were out of school, the percentage of working children rises to 17.5%. The same situation is seen among those children between 14 and 15 years old. Among those who were students, 11.7% also worked; among those who do not study, the percentage rises to 23.2%.

In line with several studies, it is possible to point out that the earlier a child begins to work, the lower his or her average income over life will be. You can not cite a specific cause, but it is thought that this is because, when working, the child disposes of less time and inclination to study and prepare the next stage - adulthood.

In addition to the subject and according to the ILO report (2015), the following notes are observed:

- Children who began working before the age of 17 did not reach average salaries over R $ 1,500 until the age of 59 years old;
- Young people who started working after age 18, reached R$ 2,500;
- A person will have 35% more income for life if he or she did not start working before reaching 9 years old;
- Young people who have not worked before age 18 may have an increase of 85% in wage income;
- 68.6% of boys and girls between 7 and 17 years who are working, are late at school.

With the mapping of the working world scenarios and childhood in Brazil, were being instituted, through public policies, several programs and actions in order to eradicate child labour. Among them, we can mention the eradication of child labour program. – PETI.[3] This is a program

[2] From the entire population between 5 and 17, 8,3% were working in 2012, 10,4% in the South region. In the north region, had 9,7% and in the northeast region only 9% (IBGE, 2015).

[3] PETI began in the 1990s as a pilot experiment to combat child labour, which was implemented in charcoal production of Mato Grosso do Sul, aiming thereby eradicate child labour in the charcoal kilns and harvest yerba mate, in 14 municipalities of this state.

that aims to combat and eradicate all forms of child labour. It is intended for families with per capita income of up to half the minimum wage and with children and adolescents up to 16 years old in work situation, in order to ensure the access and the retention of children and adolescents to school and socio-educational activities.

According to the guidelines of the federal government, managing PETI involves the Federal Union through the Ministry of Social Development / National Secretariat of Social Assistance, that establishes guidelines and program rules, co-finances the activities and participates in the monitoring and evaluation of actions and the results, in partnership with other levels of government.

The actions of States[4] are developed through the State Departments of Social Welfare or similar institutions, engaged in the coordination of the program in accordance with national guidelines. It is up to municipalities, through the governing bodies of social assistance (Municipal Social Assistance or similar), to run the program according to the established guidelines and social assistance councils in each sphere of government, and operate in deliberative status, whose functions are established by Article 30 of LOAS, which have the greatest responsibility social control of program management.

In this context it is necessary to support existing initiatives, and revitalize efforts, worldwide, for the total abolition of the practice in all its forms and re-evaluate and enhance the income supplement programs to benefit older adolescents who live in cities. In addition to those initiatives, the government should invest more in the communities, creating job opportunities for parents and apply first job programs resources, to generate decent work opportunities for these young people.

2 **BRIEF HISTORY OF CHILD LABOUR**

One cannot say that child labour is a historically recent practice, but in fact, this human behavior to early submit their sons and daughters to the labour market rigors is old, and dates back to the time when children were not seen as rights-holders, but were subjects to patriarchal power.

For example, Article 14 of the Code of Hammurabi, developed in ancient Babylon about 2000 BC, stated that if someone stole one prepubescent child from another person, the penalty for that crime was death. This prescription protects not so much the child itself, but clearly the patriarchal power, the “property” of the patriarch, who could not lose some of his “property”.

According to Azambuja (2004), for the Spartans, the child was owned by the state, and education was dedicated to training warriors from an early age. In that ancient society, occurred a kind of selection at birth, when the newborns with visible physical defects, unserviceable for war, were thrown off cliffs.

[4] It is the State´s responsibility the supervision through social organ cases of child labour, the identified cases undergo a process of validation, to participate in the PETI is necessary that the interested families are registered in the single register and through this the municipal governments make the selection of the selected. The amount of the scholarship depends according to the activity that the young or adolescent exercised. For children exercising activities in the urban area the bag is in the amount of R$ 40 per child, rural activities the bag is R$ 25 per registered child. MDS considers urban area only capitals, metropolitan areas and municipalities with more than 250,000 inhabitants.

Similarly, in ancient Rome, the children of the patricians received education with orientation to war. The children of slaves were considered property of the masters of their parents, and were forced to work for those or other Roman citizens, as payment of debts, for example.

Examples of child labour are revealed throughout the history of mankind, especially in the sectors of artisanal and household production, when children received from their parents and family, the teachings of the family art or land cultivation. This situation of child labour in the family lasted until the beginning of the Industrial Revolution in XVIII century England.

It was the discovery of the steam force that made a profound transformation in the means of production, at the time of the Industrial Revolution. This revolution was decisive for increased integration, in large scale, of child labour outside the home and artisanal level.

Marx attests to this fact, stating that:

> The use of machines makes superfluous the muscle strength and becomes a means of employment for workers without muscle strength, or in a non - full physical development, but with great flexibility. Let us make women and children work! Here is the solution that preached the capital when he began to use up the machines. (MARX, 1982, p. 90).

At the time, there were no rules regulating the work and no rules relating to the conditions and the working environment. The position of the classical liberalism non - state intervention also provided fertile ground for the exploitation of child labour, as called for the self-regulating market economy, advocated freedom of contract, as well as guarantee freedom of private initiative.

In this regard, says Silva (2009, p. 35):

> Thus, the abuse of the bosses was justified by the very axiological dictates rooted in European society.
> The lack of regulation, combined with the intense search for profit, caused physical and mental deterioration in children at the time. The work was carried out in unhealthy environments, dangerous, occasioning many accidents and diseases related to the activity performed. It was common to occur mutilations, chemicals poisoning, lung defects, spinal pain. These problems directly hit the physical integrity of the small workers.

Thus, we see the existence of a social policy of exploitation of child labour. Added to this, the lack of state regulation of labour relations, which also favored the practice, causing huge losses to child workers.

The main consequence to children workers of the time was early mortality. Marx (1982, p. 92) states that in 1861, in some districts of England, the mortality rate per 100,000 children came to 9,000 per year.

Do not forget other social and even theological conditions in England which served as fertile ground for the exploitation of children's labour, with the endorsement of society and religious authorities and thunderstorms. This is evident in the words of Campos and Alverga (2001, p. 230):

> In this case, generally, the demand of the capitalists for easy profit, the misery of the families who abandoned their children in orphanages or rented them to the factory owners and the religious ideology that allowed everyone to avail themselves of children, without guilt, and under the mantle of moral training, were the factors that were integrated in order to converge to the capitalist British industry thousands of children's arms.

Valid now, the claims of Horn (1994) concerning the theological conception invigorating in England at the time. For English Puritanism, revealed and preached by Calvinists, the whole of humanity was suffering from an inherent sinfulness, innate, which demanded greater control of mind, especially for young people. This sinfulness would only be quelled by the teaching of moral values and norms, from an early age, to children and adolescents. We can cite, as examples of values desired by religion, discipline and application, and emphasize that such values were also very desired by the industry. Thus, the targeting of the young, by the industries, also reinforced the indoctrination desired by puritanical Protestantism, about the existence of an inherently sinful human spirit that needed to learn a higher morality, through self – control one can raise the spirit and master the body's desires (HORN, 1994).

Nevertheless, we still find today the same thinking that start to work early is beneficial to children and adolescents, as in theory, facilitate them to acquire desirable social and working tools. This mindset is still applicable in countries whose social matrix is marked by Protestantism and individualism, which propagate meritocracy, such as the United States, as appears from the words of Wegmann (2003, p. 1030):

> Today, work is a common part of the lives of many children and most adolescents in the United States. In general, the US public Believes que work is beneficial - and at worst, benign - for children and adolescents. Indeed, working provides many young people with valuable lessons about responsibility, punctuality, dealing with people, and money management, while increasing their self-esteem and helping them to become independent and skilled. Working during high school may contribute to increased rates of employment and better wages up to a decade after high school completion.

However, despite the political, social and even theological condescension in relation to the unbridled pursuit of profit by the capitalists who exploited labour, especially the children, these cruel working conditions have been the cause of many revolts from the working class. Such revolts led the state to abandon its non-interventionist stance and produce legal status of labour protection, specifically the child labour.

According to Nascimento (2004), it is at this time that arose legislation which guaranteed, for example, limiting of the working journey for those under 16 years old to 12 hours in the cotton industry, or that prevented the hiring of children under 9 years old in factories.

For Silva, it was in 1833 the Sadler Commission carried out the legislation that states:

> [...] Prohibiting the work of children under nine years, restricting the nine hours the working day for children under 13 and for 12 hours for persons under 18 years. Furthermore, it forbade night work. To close the cycle of youth protection laws in 1842, it banned underground labour to children. (SILVA, 2009, p. 36).

Thus, such undesirable working conditions and exploitation of child labour and, in general, led to the creation of laws protecting the child labour and establishing the basis for the creation of a legal system geared to labour regulations and favorable environmental working conditions.

This legislative evolution is true today, particularly in the production of international standards, as well as in national legal systems for the eradication of child labour, as seen below.

3 **LEGAL ASPECTS OF CHILD LABOUR**

It is only with the end of World War I and the creation of the International Labour Organization that were created international standards of labour protection. A committee composed of representatives of governments, employers and workers with the task of drawing up proposals was created for an international normative regulation on labour. This committee drafted a Work Charter, containing a list of guiding principles of the legislative proposal, and among them, already included the abolition of child labour.

The rationale for the creation of an international body to protect work was grounded in issues such as: humanitarian, eradication of degrading conditions of work; political, as a means to avoid conflicts; and economic, to ensure equal working conditions at the international level so that global competition does not become an obstacle to progress in terms of labour protection in the world (ILO, 2006).

The ILO has always maintained, among its priorities, the fight against child labour, depending on the understanding that the work of children removes from them their dignity and contributes to the reduction of access to education and health.

To that end, the ILO launched in 1992 the International Programme on Elimination of Child Labour, which became the largest international technical cooperation program against child labour that guides and supports the development of national initiatives towards eradication of child labour.

In addition to the above mentioned program, the ILO drafted international conventions dealing with the issue of child labour, among them worth mentioning the Conventions 138 and 182.

The International Convention No. 138 of 1973 establishes a basic level about the minimum age for admission to employment. Although it does not establish a single stable objective quantitative criterion, the Convention 138 takes into account the different socio-economic conditions of developing countries and determines the signatory countries to establish policies to ensure the effective abolition of child labour by gradually raising the minimum age admission to employment.

In fact, the mentioned International Convention provides that the minimum age for work should not be less than that required to complete compulsory schooling or, in any event, be not less than 15 years, excepting in underdeveloped countries, where it allows work from the age of 14. As for the unhealthy or dangerous work purposes, or even those types of work that exposes children to situations offensive to their morals, the Convention establishes the minimum age of 18 years.

This convention was ratified by Brazil through the Legislative Decree on 14 December 1999, and entered into force on 28 June 2002.

The International Convention No. 182, in its turn, deals with the worst forms of child labour, reaffirming the eradication of this form of early work as a main objective of the ILO. Also determines that countries concentrate efforts to eliminate, immediately and effectively: all forms of slavery and practices similar to this; forced labour and the use of children in armed conflict; the use of children in prostitution networks or the production of pornography; the use of children in illicit activities, particularly drug trafficking; and finally, any work that is likely to harm the health, safety or morals of children.

Convention No. 182 was ratified by Brazil, and entered into force on 2 February 2000.

Delgado (2006, p. 236) demonstrates the importance of work as lifting tool of the human being:

> The work should be understood in its ethical meaning, that is, at any time and culture man must affirm and consolidate the universality of time and space, considered no chance and circumstance, their condition of being human. In addition, through work, man must also be carried out and revealed in their social identity.

Delgado continues to state:

> If the worker gets ill, if there are no conditions of minimum health, for example, there is no room for the realization of dignity. The law is a mere abstraction. Understanding the worker as a mere instrument for the realization of a given service, tonic of contemporary civil society, undermines the greater understanding that man must be an end in himself. (DELGADO, 2006, p. 237).

So, work in Brazil assumes great relevance to concretizing the element of dignity, so that the same work cannot be used to promote the worker´s degradation.

Under national legislation, Brazil currently has in the Decree 5,452, of May 01, 1943, known as the Consolidation of Labour Laws, and the Federal Constitution of 1988 the main rules of organization and protection of the children labour. There is also the Statute of Children and Adolescents, which regulates the treatment offered to children and adolescents determining the full protection of children and adolescents.

The Consolidation of Labour Laws establishes, in Articles 402-441, the prohibition to work before 14 years old; the limitation of the working hours; the kinds of prohibited work; the organizing the work in apprenticeships; the forms of termination of the contract of apprenticeship; and the penalties for noncompliance with the law.

The Federal Constitution of 1988, in turn, in its article 227, stipulates that it is the duty of the family, society and the state, to ensure the basic rights “to life, health, food, education, leisure, professional training, culture, dignity, respect, freedom and family and community life, and put them safe from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.”

It can be seen here, the preference for education and professionalization, as ways to the preparation of the young for the future job market, instead of premature entry into the workplace. Similarly understanding from the Art. 205, which establishes education as a right of all and duty of the State and the family as a means of personal development for citizenship and preparation for the labour market.

The Federal Constitution of 1988, with the wording of Constitutional Amendment No. 20, which amended the item XXXIII of Art. 7, increased the minimum age for working teens to 16, and stipulated the minimum age of 14 for apprenticeships. It should be noted that before the mentioned amendment, the minimum ages were 14 and 12 years, respectively.

The Statute of Children and Adolescents, created by the Law 8.069 of 1990, in its turn, explicitly states the rights of children and adolescents, as well as establishing, in parallel, the appropriate instruments to achieve these rights in Brazilian society.

This status recognizes as a child, those up to 12 years of age and, as a teenager, one person from 12 to 18 years old. Regarding child labour, the Statute reserves the Title II, Chapter V to address the issue, regulating the right to vocational training and protection at work, reiterating the need for respect for the peculiar condition of the person in development and need for professional training appropriate prior to entering the job market.

By analyzing the above legislation, it can be said with some degree of certainty that in Brazil child labour is not desirable by the legislation. In fact, by setting minimum ages for legitimate work and determining that the minor can only enter the labour market through regulated employment (or apprenticeship contract before age 16), the national law provides minimum protection to underage workers' rights. The prohibition of work before 14 years old is a clear indication of the rejection of child labour in Brazil.

CONCLUSION

The eradication of child labour is a recurring theme in several areas of knowledge, through its multidisciplinary nature, and especially in education research, in which it reveals itself as a matter of fundamental importance to exploratory studies and individual cases in academic research.

As conclusion, we can say that child labour is an ancient practice that dates back to antiquity and that continues up to the present days. In ancient times, the conception of the child as property, belonging to the family patriarch, favored this degrading and offensive treatment to the infant. The inclusion of children in the labour market continued for centuries, across the Middle Ages, it has intensified in eighteenth - century England, the Industrial Revolution and continued apace in contemporary times.

It is also possible to say that the political conception of classical liberalism (which preached State´s abstention from the intricacies of social and economic life) together with the theological conception of English Puritanism (which proclaimed the mortification of the body through discipline and concentration in the noblest tasks such as work) and family condescension (which needed the meager income earned by young workers for their own survival), favored the unbridled pursuit of profit and the massive use of children and adolescents in the production lines.

This practice has brought many losses to children and adolescents in working conditions, such as physical and psychological illnesses, work accidents, mutilations, poisonings and mortality. The ILO, since its creation, has been fighting for the eradication of child labour through incentive programs to states and governments, as well as the development of international conventions and treaties that promote the elimination of all child labour.

In Brazil, the 1988 Constitution, the Statute of Children and Adolescents, and the Consolidation of Labour Laws have statutes prohibiting work to youngsters under 14 years old, even as apprentices, and out of the apprenticeship contract, it is forbidden to employ those who are not, at least, 16 years old. They are also not allowed unhealthy, dangerous or night work, and also those jobs that can bring about risks to the child's and adolescent's morals.

In addition, the international conventions seek to eradicate all forms of child labour, especially the worst forms of child and adolescent labour as in the requirements established the International ILO Convention 182, ratified by Brazil and in force since 2000.

However, the northeastern Brazil continues to hold the highest rates of child labour. In this scenario, what concerns is that the number of children working in this area (almost 13%) is well above the rates in the South (9.85%) and the Southeast (4.96%). In the Northeast, they act mainly in the agricultural sector, largely unregistered and without any legal protection. There are many small family farms, involving children from an early age in agriculture. Among rural activities, the most common are the sugarcane, pineapple, coconut and sisal extraction.

In the relation between child labour and school, there are unanimous positions to say that there is a substantial loss for the child - one who enters the world of work in early childhood. Given the trajectory on the subject in the country, it is clear that in an attempt to eradicate the so-called worst forms of child labour in brazil, the child labour eradication programme (peti) was established in 1994 in order to ensure the children and adolescents to attend school and socio-educational activities with frequency, with the main axes, the extended school day and elabourating the issue with the families. The mentioned program has fulfilled its social function to include, insert and keep children in school, thereby repairing the denial of this human right and fundamental: education.

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V - *Social networks, ethics and ciberbullying in the school environment*[1]

[1] This study was partially presented in I Seminário Internacional Sociedade da Informação, Desenvolvimento Regional e Sustentabilidade: o papel da informação e das tecnologias no desenvolvimento sustentável e na formação das redes de conhecimento para integração Latino Americana – that occurred at Erechim/Rio Grande do Sul – Brazil, November, 2015.

INTRODUCTION

One of the greatest challenges faced by those who are interested in studying human relations is the very depth of the subject. The great challenge of the human being in its existence goes beyond the world of things and irrational animals, because reflection constitutes the primary part of this existence, with regard to their expectations and needs that go beyond the actual design. In the course of existence, the human being goes through complex experiments that require every effort of it so that the aspirations and collective projects of humanity do not dilute the familiarity of everyday life.

Today's world is increasingly dependent on media, and school, as part of society, should not fail to incorporate technological innovations of this new century. One of the most striking features of today is the influence of mass media in everyday life. Therefore, we are frequently witnessing controversial debates on the benefits and harms of media power and school interaction with these technologies.

The addition of Information and Communication Technologies (ICT) in school highlights challenges and issues related to the spaces and times that the use of new and conventional technologies cause in the practices that occur in the school routine. To understand and overcome them is crucial to recognize the potential of the available technologies, the reality in which the school is located, identifying the characteristics of the educational work that takes place, its faculty and student body, its internal and external community, as well as its presence and accessibility.

There is a generalizing discourse claiming excessive use of interactive technologies for much of the Brazilian society; however, when put in the scope of analysis, the school spaces are faced with different indexes and realities. In the last decade, several programs of State and Municipal Education and the Ministry of Education (MEC) are giving computers and internet for Brazilian public schools; however, the simple introduction of these technologies is not enough to improve the quality of education. In most cases, the computers arrived at schools without the support of a pedagogical proposal (GIMENEZ, 2001 p. 19-32).

There are also those who are radically opposed to the use of computers by children in schools. Setzer argues that they should be used only in high school, when the young already have a degree of intellectual maturity. He based his speech on the concepts of development in children and adolescents introduced by Rudolf Steiner, who spread the Waldorf pedagogy (SETZER, s. d.). This thought, however, is put aside when it comes to children who have contact with mobile phones connected to the Internet.

It is known that in the process of incorporating technology in school, the intention, among many objectives, is to increase the diversity of educational resources, enabling the extent and speed of access to information, and to recognize the new possibilities of communication and interaction. This provides new ways to learn, teach, and produce knowledge that is known to be incomplete, provisional, and complex; however, for this scenario to be concrete, structuralization of these new spaces and contexts in the school environment is necessary.

This massive use of media and information takes place in everyday life of students and not only during the process of teaching and learning. Children and adolescents spend much of their time using the so-called social media, or social networks, and this use is to develop their interpersonal relationships. It is here that the dialogue primarily unfolds.

To prevent a dialogue in diversity means preventing the development of human knowledge and enhancing the unique informative speech assumed by capitalist development globally. Faced with this, the central aim of this paper is to provide a reflection on the use of social medias with the poor manner of ethics and humanity, in order to prevent the healthy development of human relationships and social dynamics.

The central problem of this reflection is underpinned in the following issues that intertwine: What is the relevance of social media to human relationships today? What are the consequences of using such media without an ethical basis that guides the interaction of the interlocutors? What is cyberbullying, and what are the effects on relationships between people?

1 SOCIAL LIFE IN THE AGE OF AN INFORMATION SOCIETY

It is not only in public manifestations of agglomeration that highlight the abuses and the disrespect of human rights. Our lives today are intensely guided by the use of media and social networks.

In contemporary society, one of the tools most used for the propagation of hatred for people different than themselves is the information and communication technology, including the World Wide Web, the Internet. This is a brand called information society.

Only recently has the concept "Information Society" acquired contours and global relevance. This characteristic is evidenced by a result of significant interaction and international integration among people and entire communities in all development areas of human life.

Although most evidence of this new social conformation occurs in the economic sphere, that, associated with the increasingly fast transit of information, interferes directly in culture, human behavior, and axiological vectors (ASCENSÃO, 2002).

This concept specifically from the author

> [...] it is not a technical concept: it is a slogan. It would be better if we spoke about a communication society, since what we want to promote is communication, and only in a very broad sense can we qualify every message as information. (ASCENSÃO, 2002, p. 71).

Already, Bonilha (2003) conceives the "Information Society" as a concept that is only consolidated in the mid-1980s, at the International Conference of the European Economic Community. This meeting sought to analyze the development of this new society, especially digital, conventionally using this name to identify the fierce movement of services and information, as well as seeking to regulate and adjust the rules on access and use of Information and Communication Technologies.

Thus, the Information Society is defined by the heavy traffic of information and the interaction and integration of people in a globalized world where social dynamics change and transform at all times. Therefore, it becomes necessary to regulate this traffic to guarantee to all the enjoyment of the ways of information and communication.

For Pezzella and Bublitz (2014, p. 255-256), the information society can be defined like this:

> Information Society is a term - also called the Knowledge Society or New Economy - that emerged at the end of the 20th century, originating from the term Globalization. This type of society is in the process of formation and expansion and this new model of organization of societies is based on a mode of social and economic development whose information, as a means of creating knowledge, plays a fundamental role in the production of wealth and in the contribution for the well-being and quality of life of citizens. The condition for the advancement of the Information Society is the possibility of everyone being able to access the Information and Communication Technologies present in our daily lives, which are indispensable instruments for personal, work and leisure communications.

It is in this integrated information, knowledge, transit of goods and services at a speed never before seen, that conflicts occur between private and public actors, which extend also to relations between individuals. Such conflicts can cause interference in the field of citizens' rights, especially in human and fundamental rights.

Thus, what happens is a change in the dynamics of social relations. However, there is a continuity in the traditional legal interests, in particular, the protection of individual and collective rights, in order to provide a peaceful coexistence with legal certainty in the construction of democracy and the service of development.

It is an understood right of development as the possibility of the individual to develop freely and through the secure and legitimate use of modern means of interaction and communication, especially the Internet, which provide immediate interaction, instant and unlimited, with world-wide and simultaneous assimilation.

However, in this network of interaction, the individual's rights violations may multiply, especially with regard to privacy and personality rights. In a world where the permanent exhibition, as well as the sharing of personal and collective information, is the order of the day, the person finds himself vulnerable to unfair, unconscionable, and cruel use of his image.

Such violation of privacy and intimacy can be consolidated in very serious interference in the subject's rights. Take, as an example, the unauthorized disclosure of images and intimate character videos, which exposes the victims to public vexation at impossible levels to measure since the scope of information and communication technologies is of global character.

It is this new dynamic of fast, unrestricted, and immediate interaction that the right is inserted, regulating the use of technological tools and ensuring citizens the protection of their rights to "navigate" in this ocean of information.

Leonardi (2012, p. 28-29) asserts the importance that the internet has taken in the development of social relations:

> And, in fact, the use and dependence of the various services and facilities offered by the Internet radically changed human behavior. The original vision of the main creator of the World Wide Web was that of a mirror reflecting social relations. Not even he imagined that much of the human interaction would occur through the Internet. It would be naive to believe that this transformation of reality would have no consequences for the law.

In fact, it is impossible to admit that the law should not hold up the regulation of relations occurred through digital media, even if they are not physically present, as both participants in networks and social media remain citizens and holders of all rights inherent to their rights subject condition.

According to Pezzella and Bublitz (2014, p. 255-256), it is necessary that the law is continually reconfigured to produce consistent regulation in this new social conformation:

> [...] it is noted that the work has changed over time, as information and communication technologies, which form the Information Society, have become an inseparable element in the development of economic activity, and also an increasingly important factor in the organization and structuring of modern societies. The reality of everyday life does not ask for permission to break patterns and substantially change the way to create wealth. These new forms of interpersonal relationships claim the right to change and create new instruments to grant and protect legal relationships. Therefore, juridical standards anchored in the equality and dignity of the human person need also to be altered in order to give effect to rights in constant expansion.

The urgent need to legally regulate the new forms of social relations remains evident; however, the application of traditional models of legal analysis may lead to legal solutions that fall short of the ideal in solving conflicts and, also, ineffective to repair violations since there is change in the factual matter of social relations.

This is because of the simple transposition of traditional legal technique without updating and adjusting to the new environment. The lack of careful consideration of the case context can lead to a poor decision and the inability to produce an adequate solution to the case study.

Here, the great dilemma to be solved is consolidated in providing effective and appropriate judicial or legislative solutions to the practical problems encountered, taking into account the limitations of the legal and regulatory system (LEONARDI, 2012).

Lemos (2005, p. 13) undesrtands that:

> [...] it is not possible to insist on the model of traditional legal analysis, to seek in the legal order the legal norms applicable to this situation, without any historical precedent. What is important is to grasp all the angles of the question in the sense that, even if the applicable legal rules are identified, their effectiveness is severely compromised by the institutional impossibility of the judicial authority to enforce the application of such rules.

Thus, in relation to the protection and security of the global network user, it is stated that some constitutional principles, even if not specifically designed for this purpose, must be used for preparing the specific infra-constitutional legislation on the subject, as well as offering solutions to conflicts with non-existent legal standard.

In the sphere of the Federal Constitution of 1988, it can be taken, for example, these guarantees: protection of human dignity, the right to private life, the right to the inviolability of correspondence, the right to the image, the right to honor, and the right of protection of intellectual property, the image, and the human voice.

Noteworthy among the list above is the principle of human dignity, which is understood as the basis of Brazilian democracy and democratic state of law.

It is only the legal, social, and political recognition of the person as a subject of rights that will consolidate and realize the design of the individual as a holder of rights that deserves to have their freedom guaranteed to the state and other individuals or groups of people. The principle of human dignity is the corollary of this recognition of the rights of the subject status, a citizen.

Even in relationships resulting from new forms of interaction and integration of people in the current world economic order, which reflects the changes happening in the human relationship, human dignity should enforce the guarantees to citizens, preserve their status rights, and guide the creation of the regulatory standards of the use of technologies and reflexes that these will have on social, labour, and economic relations.

2 SOCIAL MEDIAS, SCHOOL, AND ETHICS

Manifestations full of prejudice, xenophobia, racism, hate, and incitement to crime cannot be protected by the freedom of expression enshrined in the Constitution of 1988. Such demonstrations served in the means of social interaction, like digital media or social networks, through public expressions within agglomerations of people should be restrained and treated with due rigor because they hurt the constitutional principle of the dignity of the human person.

Information and communication technologies provide a wide range of opportunities for personal and social development, and also, due to the anonymity that allow, can have serious violations of fundamental freedoms and guarantees.

There are countless examples of racist, xenophobic, prejudiced, and violent expressions conveyed through networks and social media. The criminal prosecution and punishment of those responsible becomes more difficult because of the obstacles that may arise in the investigation of the authorship.

This same anonymity that provides impunity for those who exacerbate their freedom of expression is creating repudiated social attitudes, and possibly, repudiation of criminal behaviors in networks and social media will start to be put in the legislation. In addition to the requirement of ethical use of social networks, Brazil is beginning to show signs that will it will criminally punish the use of social networks and media used in order to offend, humiliate, or expose to ridicule.

To express convictions, opinions, beliefs, or political and ethical choices must be an extended guaranty to all citizens, as is their right. However, the exaggerations in the enjoyment of this right and which result in violations of the same freedoms of others, must be restrained and punished, otherwise attacks on human dignity remain unpunished.

Hate speech, manifested through verbal attacks or in writing, in an identified way or under cover of anonymity, individuals or groups of people, color of skin, ethnic origin, sexual orientation, gender or religious beliefs and policies, should be understood as a violation of the inherent dignity of every human being, which is an attribute that can not be taken or given away, and is defined as such. This attack violates not only the person or class target of the attack, but also the very law and the realization of democracy, the foundation of the Brazilian Republic.

In the school environment, especially, the abuses of the right to freedom of expression can cause serious violations of human and fundamental rights. Cited as causes: emotional immaturity of those involved in the relationship between classmates in elementary and secondary education; the impact on the privacy of individuals in conflict situations before the advent of te-

chnological innovations did not go beyond the school walls; the possibilities of using new means of offense, such as the adulteration of digital files containing the image and/or voice of the victims.

It is this network of interaction that is expanded by information and communication technologies, which may multiply the violations of an individual's rights, especially with regard to privacy. In a world where continuous exposure and sharing of personal and group information are the order of the day, the individual remains exposed to undue and unconscionable use of their image. The violations of privacy and intimacy may be very serious, such as the unauthorized disclosure of intimate images and videos, which expose the victims of such acts to public vexation at impossibly measurable levels, since the scope of information technology and communication is of global character.

Children and adolescents do not have adequate maturity to understand the risks to which they are exposed when they allow others to take pictures or record videos of them, as these have the potential to be used for public humiliation.

It is in order to promote the proper use of information and communication technologies that the United Nations created the International Telecommunication Agency (ITU), which does not aim to control the use, but rather to establish an international agreement ensuring the peaceful use of the global network, with safety for all users.

With regard to the protection and security of the global network user, there have to be some constitutional principles, although not specifically designed for this purpose, that can serve as a basis both for the development of specific infra-constitutional legislation and for conflict resolution, for which there is still not a targeted and adequate legal standard.

Take the constitutional framework for an example of guarantees: the protection of human dignity, the right to private life, the right to inviolability of correspondence, the right to the image, the right to honor, and the right to intellectual property protection, like the image and the human voice.

The constitutional principles listed above merit establishing human dignity as the basis of Brazilian democracy and the democratic state of law in the republic. This is also true as it relates to the relationship between the students in the classroom and beyond.

It is the legal, social, and political recognition of the citizen as a subject of rights that underlies the understanding of the human being as a subject of rights, and this should guarantee their freedom to the state and other individuals or groups of people. The dignity of the human person is the corollary of this recognition of the rights of the subject status, the citizen.

Even in the new relations resulting from the interaction and integration of people in the new world economic order, reflecting the changes occurring in the human relationship means this principle should base the guarantees to citizens on preserving their *status* of the subject of rights, and on directing the creation of standards that will regulate the use of new technologies and the consequences that these will have in school, social, labour, and economic relations.

A final example of the importance of legal regulation in relations governed by the information society and its media and social networks is the enactment of Law 13,815 of 6 November 2015, published in the Official Gazette of the Republic on 9 November 2015, which entered into force ninety days after its publication in the official press.

The law referred to above, in its Article 1, establishes the Program to Combat Intimidation Systems (*Bullying*) nationwide, and in Article 2 specifies what should be considered bullying, as shown below:

> Article 2 - Bullying is characterized when there is physical or psychological violence in acts of intimidation, humiliation or discrimination, and also:
> I - physical attacks;
> II - personal insults;
> III - systematic comments and pejorative nicknames;
> IV - threats by any means;
> V - derogatory graffiti;
> VI - biased expressions;
> VII - conscious and premeditated social isolation;
> VIII - Piles.
> Sole paragraph. There is systematic intimidation on the world computer network (cyberbullying) when one uses its own instruments to demean, incite violence, to adulterate photos and/or personal data in order to create means of psychosocial embarrassment. (BRAZIL, 2015).

It is verified that there is a provision in the sole paragraph of Article 2 for protection against what is called *cyberbullying*, which occurs when the practice of intimidation or humiliation is used in ways of the worldwide network in computers and instruments of its own.

Clearly, the State's concern to ensure the safety of students and persons in the use of the Internet and to protect its citizens from the threats of misuse may arise.

Thus, information and communication technologies are present in our daily lives, especially with regard to learning relationships and in the interaction among our youth and adolescents in school. These technologies cannot serve to humiliate and insult the fundamental and human rights of people. The law should regulate such relationships and curb their misuse by commanding responsibility to those who abuse their rights and, thus, violate the rights of others. This should happen especially in school, where the parties do not have adequate maturity and cannot clearly discern what damage is caused by sharing "jokes" or "mockery" through networks and social media.

CONCLUSION

Uncertainty and instability are peculiar to human relations in contemporary times. The signs of distress and anxiety pervade worldly relationships in today's society. It is believed that the crisis of confidence precedes the other forms of crisis. In the moment when human relationships are affected, it becomes a foundational principle of human existence, consolidating what Polish sociologist Bauman calls "liquid times".

The crisis of confidence brings drastic consequences to mankind. The network life has consolidated this problem because while it is in contact with the world, it is isolated in it, also. The higher the contact via the network, the lower the intensity of direct human interface, but is it possible to say that virtual relationships are too destructive like this? In some moments yes, others no. Due to the provision of access to practically all virtual life, it is clear that this consolidates the dynamics of social diversity present in Brazil and allows everyone to interact freely with the use of social networks and media.

The contemporary society is marked by the massive use of information and communication technologies, especially social media. The possibility of instant access to information available to all via the Internet is the main idea of this society that became known as the information society.

Social relations are deeply marked by these mechanisms of interaction and integration, whereas the expression of opinions, beliefs, politics, and creed won more advertising and instant sharing conditions and global reach. This expands its reverberation in social and economic relations, producing fertile ground for the proliferation of violations of individuals' rights.

Anonymity allowed by networks and social media makes it difficult to identify the agents of social or criminal behavior, allowing violent demonstrations full of hatred, an incitement to crime, xenophobia, misogyny, prejudice, racism, the consecration of impunity, and the perpetuation of a culture of aggression and hate speech.

It is the dignity of the human person that must guide all legislative and legal measures to regulate the use of new information technologies and communication, in order to allow its use in the pursuit of social and personal development. This will ensure the safety of all and the avoidance of violations of that same dignity, which is unique and impossible to be removed from the subject of rights.

With regard to guarantees and human rights of citizenship in dealing with conflicts arising from the use and application of new information technologies and communication, whose reflection in human relations can produce rights violations, it is necessary to give priority to the constitutional principles, which are the true fundamental human rights, in guiding rules and regulations to be created in this new global context.

In classrooms and schoolyards, multiply the violations of human and fundamental rights of children and adolescents made by other children and adolescents who, without the clarity of the gravity of his actions, share humiliating and perverse content, use pejorative nicknames, discriminate on the basis of physical attributes, personality, and even in terms of sexual orientation, religion or ethnic origin.

The dignity of the human person should serve as a tool to measure violations and guide the legal production of judicial decisions and the enactment of laws aimed at ensuring the safety of citizens in this new relational and cybernetics era. Law 13,815 / 2015 is an example of this legal activity being used for the protection of citizens in the information society when determining what should be understood as cyberbullying and establishes a national program against this harmful practice that is commonplace in the halls and classrooms.

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Foreword

INTERCULTURAL STUDIES IN THE DEBATE OF FUNDAMENTAL RIGHTS. IDENTITY, MIGRATION AND LABOR WRITTEN BY RODRIGO ESPIÚCA DOS ANJOS SIQUEIRA AND THAÍS JANAINA WENCZENOVICZ

Paúl Córdova Vinueza[1]

An essential path for the development of fundamental rights is the discussion about its effectiveness for the problematization of its dimensions: vertical and horizontal. The work, that I have the honor to prologar, of the authors Rodrigo Espiúca dos Anjos Siqueira and Thais Janaina Wenczenovicz is a valuable contribution in that subject. They understand that the normative discussion of rights is always insufficient. For this reason, his study transcends and places as central pillars of the debate on human dignity, freedom and equality in relation to its factual and interpretative interconnections. In the first chapter the contributions in these themes are appreciated and they do it to find there the greater argumentative reasons on the bases of the horizontal effectiveness of the fundamental rights.

The second chapter discusses the controversial issues surrounding Haitian immigration in Southern Brazil. The success of this section lies in allowing us to observe the vulnerabilities of this reality and the different types of affectation visible there.

The third chapter addresses the human situation of migrant workers in the Rio Grande Do Sul territory and the disparities arising from the congenial manifestations related to integration and the cultural and intercultural expressions that emerge from the personality. Here it is worth noting that legal studies must be interdisciplinary in nature to understand those cultural reasons that are part of the state of rights.

The fourth chapter deals with issues related to the identity and intercultural interpretative issues of child labor in Brazil. All the case studies that relate to the reality of vulnerable groups are an advance to help them think of greater and better protections. This is evidence that is oriented in that sense.

The fifth chapter contains a very useful and current contribution: the disadvantages faced by children and adolescents from the links between social networks and cyberbullying in school settings. In it are warnings and essential referents to continue rethinking these contemporary problems.

This group of analyzes and studies deserve to be highlighted because the societies demand of greater contributions from the social sciences for the search of alternatives. Thinking about Latin American problems through the interpretations and voices of its actors is what can renew the ways of dealing with them. And that is precisely what is in this work that I have the honor to present it. The protagonists of our experiences around identity, migration and work, understand the relationship between community and university. Because social research can not be done without understanding that the feelings of those affected must be heard and incorporated in the development of the variables that support the object of study.

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One strength of the study is to innovate and intensify the intercultural approach to scientific research. When research reproduces legal monism as a method and source of knowledge of the state of the issue analyzed, what will be obtained as a result is to continue to think of problems with the same exhausted and limited schemas of interpretation.

Latin American societies are heterogeneous and plural communities that require scientific contributions with different meanings that are not restricted to thinking the probabilities comprehensively from categories that do not grant multidisciplinary and interdisciplinary contents.

The order and the conflict of each one of the subjects that are collected in the present study offer multiple perspectives for the construction of other postmodern projects in the relation of the individuals with their rights. That relationship can not be subjected to the exclusivity of the means of interpretation that arise from the legal norms. The functioning and legal structure that condition the rights are part of a project excluding the relationship between individuals and their rights.

Surely, the articles that are condensed in this volume will promote new discussions and other more informed debates for the development of rights. The conclusions are always provisional views to envision the roads that are still to be traveled. Hierarchical legal and political systems constantly require critical looks and insurgents to press for their failures. Therefore, any research work is a challenge fulfilled.

My recognition for the authors of the articles that are exposed in the work and for those who participated with their organizational support for the realization of this publication because the delivery of all of them constitutes an academic and cultural heritage that goes beyond the public discussion on the Rights and the 1988 Constitution.

The urgent protection of human rights is strengthened by the publication of this book by the identification of new commitments for its thematic agenda and its always perfectible road map.

Quito, May 29, 2017.

Apoio

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