



**Public and Private in the LDB 4.024/1961:  
Historical landmarks for the financing of education<sup>1</sup>**

O público e o privado na LDB 4.024/1961:  
marcos históricos para o financiamento da educação

El público y el privado en la LDB 4.024/1961:  
marcos históricos para la financiación de la educación

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**Abstract**

This article reaches the Brazilian educational debate in the context of the 1950's, with the intention of establishing landmarks for the discussion of the financing for education in the country. It focuses the debate between the public and private in education, in the period of the elaboration of LDB 4.024/1961, as well as the interpretation of the advances of both positions in the text of the law when of its promulgation. Led by a reconstructive-analytical methodology, the study has consolidated itself from documental research, submitted to the procedure of theme analysis. It exposes the arguments used in the debate pre-LDB between the defenders of private and public schools; showing and dealing also with the conquests of both projects, incorporated to the body of the law. It concludes that: a) public as well as private were benefited with LDB 4.024/1961, however b) centering the debate on people and not on technical and/or intellectual positionings, took away from its main focus: the responsibility about financing for education.

**Keywords:** LDB 4.024/1961. Public vs Private. Financing for education.

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## Resumo

O artigo encaixa o debate educacional brasileiro no contexto dos anos 1950, na intenção de estabelecer marcos para a discussão do financiamento da educação no país. Focaliza o debate entre o público e o privado na educação, no período de elaboração da LDB 4.024/1961, bem como da interpretação dos avanços de ambas as posições no texto da lei quando de sua promulgação. Conduzido por uma metodologia analítico-reconstrutiva, o estudo consolidou-se a partir de pesquisa documental, submetida ao procedimento da análise temática. Expõe os argumentos utilizados no debate pré-LDB entre os privatistas e os defensores da escola pública; exibindo e tratando também as conquistas de ambos os projetos, incorporadas ao corpo da lei. Conclui que: a) tanto o público, quanto o privado foram beneficiados na LDB 4.024/1961, porém b) centrando o debate em pessoas e não em posicionamentos técnicos e/ou intelectuais, desviou-se o foco da questão primaz: a responsabilidade sobre o financiamento da educação.

**Palavras-Chave:** LDB 4.024/1961. Público *versus* Privado. Financiamento da educação.

## Resumen

El artículo persigue el debate educativo brasileño en el contexto de la década de 1950, con el propósito de establecer marcos para discutir el financiamiento de la educación en el país. El debate entre el sector público y el privado está centrado en la educación durante el período de elaboración de la LDB 4.024 / 1961, así como la interpretación de los avances de ambas posiciones en el texto de la ley cuando fue promulgada. Impulsado por una metodología analítico-reconstrutiva, el estudio se consolidó a partir de la investigación documental, sometida al procedimiento de análisis temático. Expone los argumentos utilizados en el debate pre-LDB entre profesionales privados y defensores de escuelas públicas; exhibiendo y experimentando también las conquistas de ambos proyectos, incorporados al cuerpo de la ley.

**Palabras-Claves:** LDB 4.024 / 1961. Público versus Privado. Financiamiento de la educación.

## Introducing the theme...

The texts has the intention of establishing landmarks for the discussion and historical recompositing around financing for education in Brazil, focusing on the debate between public and private in education, in the period of the elaboration of the LDB 4.024/1961, as well as of the interpretation about the advances of both positions in the text of the law when of its promulgation.

The genesis of the idea of a law which would organize the “guidelines and basis of national education goes back to the Federal Constitution of 1934, the first of our *Magna Carta* which fixated as a private competence of the State ‘to design guidelines for national education’ (Article 5th, subsection XIV)” (SAVIANI, 1998, p.09), being that the concept of the LDB went back to a “federal law *sui generis* [...] destined to regulate the action of the states, towns, the State and the private activity in the field of teaching [whose] implicit authority in the law subjected to all regarding its fulfillment, its interpretation, its execution” (TEIXEIRA, 1976, p. 227). Thus, any debate around a law with such reach would be associated to a debate about educational projects and, in a broad sense, about society in (historical) construction.

The fifth Brazilian Constitution (promulgated on September 18th 1946), conducted the fate of the country between 1946 and 1964. This Constitution informed, in its fifth article, to be competence of the State to legislate over the guidelines and basis of national education (paragraph XV, point ‘d’). As such, to begin the accomplishment of the legal device, in 1948, the Ministry of Education and Culture presented its proposal for the Law of Guidelines and Basis of National Education — the ante-project of Clemente Mariani (Salvador/BA, 1900 — Salvador/BA, 1981).

In this normative-legal context, the project of the Law of Guidelines and Basis of National Education moved for thirteen years, which, among comings and goings of National Congress, went through a mixed commission of study, made up of protagonists connected to the most diverse sectors and tendencies, from traditional Catholics, new-school intellectuals and even old collaborators of the New State.

Because of the inherently plural condition of the commission, it became the stage of — and brought to light — distinct discussions and positionings, including the disputes between the defenders of public schools, above all the *baiano* educator Anísio Spínola Teixeira (Caetité / Bahia, July 12, 1900 - Rio de Janeiro / Rio de Janeiro, March 11, 1971), and those contrary to a greater intervention of the State in the educational field, these under strong leadership from the Catholic Church.

The debates on the occasion of the elaboration of the one which would become the first LDB would leave their marks upon the text of the law itself, and, consequently, to set landmarks regarding the financing for Brazilian education, centered, at times by public interests, and at times by the political victories of the private initiative.

Because of the recomposition of historical facts, the text presents results of a research of documental basis, supported by bibliographical revision, and centered by reconstructive-analytical methodology, whose scope fell upon the discussion about the financing for education, promoted by the ideological debate on the occasion of the preparation of the first Law of Guidelines and Basis of National Education and which would leave marks upon the approved legal text. The texts were examined from the methodology of analysis of content, using the technique of theme analysis, where the “[...] theme is the unity of signification which frees itself naturally from an analyzed text, according to criteria pertaining to the theory which serves as a guideline to the reading” (BARDIN, 2007, p.105).

The financing for education is defined, in the intent of the research and of the consequent text, not only as “a means for the accomplishment of a sectorial public policy, the educational policy” (MARTINS, 2010, p. 498), but also “as a public policy, with also the potential of

inducing the adoption of other policies” (MARTINS, 2010, p. 498). Thus, the debate around the financing of education reproduced by the research does not pertain only to the mechanisms of financing and to its protocols of application, but, in the same way, to the projects in dispute when of the historical discussion related through text on screen, above all when what is in discussion is the democratization of public schooling and the material guarantee — financing — so that such democratization is pleaded.

Harvey (2005), credits to a regular historical and strengthened process in national internal disputes (which materialized as such at the end to the 1950's and beginning of the 1960's) the necessary structure for the consolidation and advancement of neoliberalism in a global scale. Following that logic, the debates which took place in Brazil, on the occasion of the future LDB, take part in such a movement, highlighting much more than just the financing of education, but the landmark of social projects in dispute.

Finally, it has to be said that the presented text is one part of the partial results of a research which aims to discuss the financing for Brazilian education, as a pressing theme in the composition of the educational agenda.

### **On the disputes and arguments**

The context of disputes and arguments around what would be guaranteed, through the LDB, to the national education presented, in the 1950's, two well delimited movements: on one side, it represented innovation, seeing as for the first time there was a normative-legal debate of singular scope and, on the other side, to guarantee space on the text of the future law would mean, in a certain way, to guarantee legitimacy to specific projects of society. In this direction, people favorable to the public investment directed namely towards public schooling and people favorable to indirect public financing — destining part of the amount to be invested in education also to the private initiative —, would grapple in debates and political positions.

Anísio Spínola Teixeira was an intellectual of politic action (and positioning). The interference of Teixeira in the debate in determining, as a counter position, the vehement explicitness of the position of the Catholic Church — which would identify him as an opposer to be beaten —, started when he presented a conference entitled “The public, universal and free School”, at the I State Congress of Primary Education, which happened in Ribeirão Preto, São Paulo, between the 16th and the 23rd September 1956. At this conference, Anísio defended the public school, considered by him as the only one to be truly democratic, underlining that only those who wished to do so should be the ones to look into private education (TEIXEIRA, 1956).

In the aforementioned conference, Anísio mentioned possible causes for the educational issues of that time. In his mention, he moves to attack, indirectly, the private school, seeing it as one among the causes for the then educational situation, Teixeira pointed out “... the relative absence of vigor of our current conception of public schooling, and the semi-indifferent acceptance of the private schooling were and are, in my point of view, one of the aspects of this generalized disfiguration of which suffers the Brazilian educational policy...” (TEIXEIRA, 1956, p. 4).

The reaction of the Catholic Church, invested in the authority of private schooling, started in November of that same year, when federal congressman Priest José Trindade da Fonseca e Silva (Jaraguá/GO, 1904 – Goiânia/GO, 1962) made a speech in the plenary of congress assembly, in an alerting tone to the Minister of Education (a position then occupied by Clóvis Salgado da Gama) positioning himself in a manner contrary to the influence of Anísio Teixeira on MEC, insinuating that the *baiano* educator was connected to communism and, therefore, was in opposition to the interests of confessional schools.

All the irritation of Fonseca e Silva against Anísio Teixeira was being used by the owners of private schools, confessional or not, who would rise up against attitudes and concrete acts of inhibiting nature to the private initiative while the latter dilapidated the public coffers. Anísio would express the clear and deliberated purpose, from his scope of action, to not privilege any initiative of this kind in the educational scope, let alone benefit discriminately a particular religion (NUNES, 2000, p. 117)

To this instance followed a response by the minister favorable to Anísio, and a new speech from congressman Fonseca e Silva, emphasizing, on December 14th 1956 that "... Professor Anísio Teixeira is an authentic Marxist intertextual, seeing as his adherence to the Marxist line of education was enunciated in the famous conference read in the present year in educational congress which took place in Ribeirão Preto" (ROCHA, 1989, p.49). The manifestations would feed the debates along 1957, with the involvement of other protagonists from both sides.

Amidst the strife, and making the situation even more tense, the ordinance 1509 from the Federal Commission of Supply and Prices — COFAP —, determined the keeping of school tuitions for 1958 as the same amounts charged in the previous year, openly messing with the "coffers" of the private institutions.

COFAP was the Commission for control of prices from the government, created in the ambit of the Law #1.522 from December 26th 1951, which authorized the government to intervene in the economic domains to assure free distribution of products necessary for consumption. Such Commission was revoked by the Law Delegated #04., from September 26<sup>th</sup>, 1962, with regimentation on the Decree #53.460, from January 21st 1964.

Thus, the potentially effervescent context made other members from the clergy come to public. However, the pronouncement which would indelibly sign the debate took place on March 29th 1958, when Don Vicente Scherer (Bom Princípio/RS, 5 de fevereiro de 1903 - Porto Alegre/RS, 8 de março de 1996) – then archbishop in Porto Alegre/RS — launched a memorial signed by all the bishops from the state of Rio Grande do Sul, entitled *Memorial of the 'Gaúcho' Bishops to the President of the Republic about the Only Public School*, directed to the then president Juscelino Kubitschek (Diamantina/MG, 12 de setembro de 1902 - Resende/RJ, 22 de agosto de 1976). The Memorial would be the precursor of other manifestations from the Church. In April, all bishops from the province of Belo Horizonte published the *Pastoral Letter* against the state monopoly and for the freedom of teaching and, in July of that same year, three cardinals and 83 bishops, gathered in Goiânia, would come to public through the *Declaration of Cardinals, Bishops and Archbishops of Brazil*.

The public pronouncements had ideological character, hiding in pastoral defenses what was in fact at stake: the materialization of educational projects to be guaranteed in the body of the future LDB and which intended for gains much beyond the right of the families to choose the education for their children. The speeches from the catholic representatives, for example, would guide themselves in the appeal of the figure of the bishop as the "... shepherd and father, who knows no worries and joys other than the spiritual and material well-being from the sheep of Christ, confined to his solicitude, to his vigilance, and to his government" (SCHERER, 1958b, p. 65).

In the described scene, the strife and the debate instigated by the Catholic Church seemed to bear fruit and weaken the position of the defenders of public school. Almost a year and a half before the publishing of the law, Anísio Teixeira was already writing to congressman San Tiago Dantas, complaining about being delayed in the Commission of Education and in the sub commission which studied the text of the future law. He didn't abstain, however, of telling

his views about the legal text, still obscure and mistaken by the “struggle of interests in which they are trying to involve school” (TEIXEIRA, 1959). He said...

I recognize that I've retracted from attending spontaneously to the Commission of Education, due to the campaign I've been subjected to from the group which judged the right moment for the conquest of school, so that it would be put in service of what has been called “social groups” and which is guessed to be, but, in a manner before more implicit than explicit. (TEIXEIRA, 1959)

Facing this ideological frame, the causes defended by the *baiano* educator sounded like arguments against the privatist idea of organizing itself under the mantle of indirect public financing, competing for the resources which, in Anívio's view, should be destined exclusively to public institutions.

The apparent inability on the part of the privatist defenders to understand the anisian arguments told more about the project of society they meant to defend than about the financing of education in and of itself, seeing as “el elemento democrático -y político- de la educación se sitúa en esa doble experiencia: en la experiencia del mundo como bien común y en la experiencia del ‘yo puedo’ (como opuesta a la experiencia del ‘yo debo’)”. (SIMONS; MASSCHELEIN, 2014, p.46).

The public debate — direct and namely — between the Catholic Church and Anísio Teixeira grew cold and left the pages of the newspapers at the end of 1958, when another protagonist in this story came into play, congressman Carlos Lacerda (União Democrática Nacional - UDN), with his frankly favorable to private schools substitute, presented to the Commission of Education and Culture of the Federal Assembly on November 26th 1958 (and published on the *Official Diary* on November 29th 1958), which contemplated the interests of the managers of private schools, being an ordinance of the conclusions from the III National Congress of Private Institutions of Teaching, which happened in 1948, ten months before the presentation of pre-project Clemente Mariani, the initial “kickoff” of the LDB.

Carlos Lacerda defended an orientation which came from the Church, which was that teaching should be private. Meaning, democratically, education could only be accomplished through private means, and not through public power, which would tend to put its administration at its services etc. What was intended was the system adopted by the Netherlands, in which the government gives money to private schools so they can accomplish the teaching, including the free one, to all population” (MONTEIRO, 2007, p. 148).

Carlos Lacerda's substitute opposed what was called the “old idea” of a “monopoly of schooling by the State, turning the family into its mere collaborator, instead of having the State as a supplier of resources so that the family may accomplish the educational work” (DIÁRIO, 1958, p. 7626)

In this direction, one of the parts of the substitute, exemplary, points out to be: “forbidden to the State to exert or in any way favor the monopoly in education, assuring the parental right of providing, with absolute priority, the education of their children and of the private institutions to communicate to others their knowledge” (DIÁRIO, 1958, p. 7622). Thus, the great flag of the substitute unfolded before the right of the family regarding the education of their children.

Facing the tone of the substitute, Anísio Teixeira also recognized the privatist advances and expressed his discomfort: “as you can see, my dear San Tiago Dantas, the law still remains, despite your efforts, marked by the spirit of the interests which presided over the elaboration of the absurd substitute — Lacerda” (TEIXEIRA, 1959).

With such emphasis in the privatist logic — counterpointing the interests of owners and managers of private schools to the project of public schools —, the announced substitute set off the *Manifest of Educators again Summoned*, in July 1959, and also the National Campaign for the Defense of Public School, characterized by a series of events (notedly the publishing of articles and editorials), from December 1958 until the approval of the final writing of the LDB, on January 22nd 1960. Apart from Anísio Teixeira himself, were also part of the Campaign: Carneiro Leão, Fernando de Azevedo, Fernando Henrique Cardoso, Júlio de Mesquita Filho, Cecília Meireles, Lourenço Filho, Roque Spencer Maciel de Barros, Darcy Ribeiro, Florestan Fernandes and Miguel Reale, among others.

The democratic scope of Anísio’s and all the other signatories of the Campaign would pair up with the most republican defenses of public schooling, recognizing that

muchos de los alegatos contra la escuela están motivados por un antiquísimo temor (e incluso por el odio) a una de sus características más radicales pero que la definen esencialmente: que la escuela ofrece «tiempo libre», que transforma los conocimientos y destrezas en «bienes comunes» y, por lo tanto, que tiene el potencial para proporcionar a cada cual, independientemente de sus antecedentes, de su aptitud o de su talento natural, el tiempo y el espacio para abandonar su entorno conocido, para alzarse sobre sí mismo y para renovar el mundo (para cambiarlo de un modo impredecible) (SIMONS; MASSCHELEIN, 2014, p.03).

After so many and such intense interests and movements, the clergy, at last, left the debate. It had left its contribution to the paths which would lead to the future Law of Guidelines and Basis of National Education and, consequently the financing for Brazilian education after such a law. Anísio was downtrodden, if not by the wear of his arguments, then by the excessive exposition to public opinion, and the message was given: there was a need to guarantee legal financial spaces and support for the private school so that the parents’ freedom to choose the school for their children would be guaranteed, which went hand in hand with the “... Christian tradition of the Brazilian people” (SCHERER, 1958a).

### **Half a victory... but a victory**

After ready and homologated the text of the LDB 4.024/61, it is possible to identify as uncontested the privatists interests in the educational field, at the expense of public education itself. However Anísio, in his “... incurable optimism, said that the LDB was half a victory... but a victory” (CUNHA; GÓES, 1996, p.14). This very expression became the title for an article which Anísio published the following year, on the *Brazilian Magazine of Pedagogical Studies*. In such article, the author talks about the recently-approved Law of Guidelines and Basis of National Education, admitting that the aforementioned law was much short of the social circumstances in which Brazil found itself, but, even still, granted certain benefits and line ups for schooling in the country.

On specific regards to the financing theme, it is possible to verify here the materialization of “an ambiguity or hybridism of public policies for financing in education: they are determined by the educational policies at the same time that they are determiners

themselves” (MARTINS, 2010, p.499) for, at the same time that the theme dictated the limited discussion to percentual, values and transfers, it also instigated a discussion of a broader social project, anchoring and broadening the apparently simplistic discussion of money destination, connecting such discussion to the debate about the legitimacy of different educational projects: the defense of public schools vs the privatist perspective.

Having as an analyses object the text of the LDB 4.024/1961, it is possible to verify how the quarrel was, ideologically, won by the privatist arguments supported by the catholic support and appeal. Already on TITLE II - On the Right to Education, Article 2nd, it is made clear that “The education is a right of all and will be given at home and at school” (BRASIL, 1961), condition reinforced by the single paragraph of the same article, which instituted: “to the family it is given the responsibility of choosing the genre of education which must be given to their children” (BRASIL, 1961).

Thus, it is highlighted the precedence of the family regarding education, which causes effects which are amply favorable to the privatist group, for if the family is a priority in the educational process, the presence of the State in this field, if marginal and subsidiary, making it impossible a national and systemic project of the national education (which would go through, mandatorily, by the public school) and favoring the strengthening of institutions connected to private initiative. The Article 3rd is even more emphatic in assuming that the right to education is assured:

I - by the obligation of the public power and by the freedom of the private initiative of teaching in all degrees, in the form of the current law

**II - by the obligation of the State to provide indispensable resources so that the family and, in lacking of such, the other members of society will be free of the burdens of education**, when the insufficiency of means is proven, in such a way that equal opportunity to all is assured (BRAZIL, 1961, notes in bold by the author).

It must be seen, to the State it befits to provide the indispensable resources so that the family is under no obligation of the educational burdens. Such item clearly encourages and increases the indirect public financing, in the moment when it opens the possibility for the family to call upon the state so that education is provided, however, not necessarily in public schools.

This article, still, covered up educational policies which favored the expansion of private schools under the pretense that such schools offered the schooling that the State could not assure, all of that at the expense of the public network itself, and backed, still, by the inalienable right of the family to choose education for their children, a catholic flag on the preparatory debate for the LDB and a guaranteed victory already on the second article of such law, in which it is made clear that “to the family it is given the right to choose the genre of education that it must provide for their children”.

There are still, on the body of the LDB 4.024, other privatist ‘victories’, such as on Article 5th, which textually mentioned: “It is assured to the legally authorized public and private educational institutions, adequate representation in the state education councils, and recognizing, by all means, of the studies in them accomplished.” (BRAZIL, 1961), a premise reaffirmed by Article 8th, in what regards to politic representation of private schools, being that “in the choosing of the members of the Council, the President of the Republic will take into account the necessity of in them there being due representation of the many regions of the Country, the many degrees of schooling, and the official and private teachings” (BRAZIL, 1961), as well as on Article 19th, which specifies the equivalence of studying in private and public institutions, in the measure which proclaimed: “there will be no distinction of rights,



between the studies accomplished in official establishments and the ones accomplished in recognized private establishments” (BRAZIL, 1961)

Such privatist victory still echoes (and mainly) in the ‘financing’ item in, at least, three articles in the body of the Law 4.024/1961, all of them in the TITLE XII - On Resources for Education. The first of the articles is Article 93, which textually mentions: “The resources to which the article 162 of the Federal Constitution refers to, will be applied preferably in the keeping and development of the public system of schooling” (Brazil, 1961, author’s highlight). Further on, still on Article 93, the § 1st inform that “Are considered as costs with schooling [...] the concession of scholarships”, clearly characterizing the indirect public financing of private initiative.

The second is the Article 94, which tells about scholarships with public resources, so that “students who show necessity and aptitude for studying” (Brazil, 1961). In the same line, the third article which signs the privatist advance is Article 95, which talks about financial cooperation. Textually, the aforementioned article indicates that:

Article 95. The State will dispense its financial cooperation to schooling under the circumstances:

A) grant, in according to the current special laws;

[...]

C) financing to establishments kept by the states, towns or private means, for the acquisition, construction or remodeling of school buildings and respective facilities and equipment in according to the current special laws (BRAZIL, 1961).

There is, however — and in specific terms regarding to financing for education — a palpable advance in the LDB of 1961, for such law ratifies and broadens the connection of resources for education, already foreseen in the Constitution of 1946. The *Magna Carta* of 1946 recovers the connection of resources instituted by the Constitution of 1934 — which was taken away in the Constitution of 1937 — establishing rates of connection of resources for education, in the following percentages and in the following spheres: 10% for the State; 20% for the states and federal district and 20% for the towns. The LDB 4.024/1961 reaffirms such connection (Title XII, Article 92) and broadens the rates for the State to 12% (PINTO; ADRIÃO, 2006).

In the same Article 92 we still find three singularities which materialize in advancements for the financing of national education: 1) the creation of specific funds of financing to each level of schooling, meaning: the National Fund of Primary Schooling, the National Fund of High School and the National Fund for Colleges; b) the participation of civil and educational society — through the Federal Council of Education — in the planning of investments of each one of these funds, and c) the provision of sanctions in case the minimum rate of investments in the keeping and development of education wasn’t reached:

Article 92. The State will apply yearly, in the keeping and development of teaching, 12% (twelve percent), at minimum, of its gains in taxes and the states, federal district and the towns, 20% (twenty percent), at minimum.

§ 1st With nine tenths of the federal resources destined to education, will be constituted, in equal shares, the National Fund for Primary Schooling, the National Fund for High Schooling, and the National Fund for Colleges.

§ 2nd The National Council of Education will prepare, for execution in a given timeframe, the Educational Plan referring to each Fund.

§ 3rd The states, federal district, and the towns, in failing to apply the percentage foreseen by the Federal Constitution for the maintenance and development of education, will not be able to ask for the State's help to this end (BRAZIL, 1961).

In the final tally, both sides gained, and both sides also lost. Saviani (1996), for example, when historicizing the LDB 4.024/1961, points out that the approved law was characterized as an intermediary solution — maybe deliberately conciliatory between the extremes in the debate: the original project and congressman Carlos Lacerda's (Vassouras / RJ, April 30, 1914 - Rio de Janeiro / RJ, May 21, 1977) substitute:

Therefore, the approved text does not answer completely to the expectations of either part involved in the process. It was, in truth, a compromising solution, a result of many mutual concessions winning out, therefore, the strategy of conciliation. That is why it did not stop some from considering the then approved by the National Congress law as innocuous, as innocuous as were the criticisms stirred in the strategy of the "liberalism" (SAVIANI, 1996, p.47).

In his optimism, Anísio mentioned that the recently promulgated LDB was a "... contradictory document, marked still by evident privatist spirit and without the deep unity which would make it easier the always delayed implantation of the modern and democratic State in our land [however] it constitutes, in spite of it all, the first basis reform in the legal structure of the country..." (TEIXEIRA, 1963, p 20). He goes on to state that "... many of its articles are new, and its spirit is of moderate de-centralization and the devices about financing of education open the doors for a synergetic plan of federal, state and town efforts in the matter of education" (TEIXEIRA, 1963, p 20).

Perhaps the title 'half a victory, but a victory' reflects part of Anísio's disappointment with the approved legal text, but it certainly reveals the paradox, the incongruency that it was for the defenders of public schools to discuss for the first time that which constituted a victory claimed by them for a long time: a law which would regulate schools in the country and, at the same time, would establish a discussion between groups permeated by clearly privatist interests, the financing for education, the role of the State and the place of the public school. And it was like this, counting victories and defeats, that was established the LDB 4.024 of 1961.

### **For a provisional synthesis ...**

Other recent moments and contexts have already served as stage and scene for the debate between public and private in education (HIRTT, 2003, VIÑAO FRAGO, 2014). Therefore, the theme is historical and remissive, above all when what is at stake is the financing for education (HIRTT, 2003) and the consequent weakening or even dismantling of the public school (VIÑAO FRAGO, 2014). Metaphorically, the private has always stalked the public, waiting for conjunctural opportunities to set itself up as a possibility of educational quality without, however, giving up state financing.

In Brazil, the decade of the 1950's was a historical and conjunctural moment primed for the debate of ideological positions connected to projects of national education. The discussions generated along the years around the final writing of the future Law of Guidelines and Basis of National Education, placed in limit-situations and opposing sides the defenders of the public schools and those who wished for a bigger part for private schools, delineating an ideologically rich moment for the debate about public financing and the role of the private sector in Brazilian

education. At such a time, in a law quite economical concerning ‘financing’, the backstage and the dispute between public and private became the protagonists of the major registers and reflections about the making of the law and the guarantees in the text of the same.

However, it was not appropriated for the church to discuss policies of financing for education, for dealing with such issue was to place the confessional schools as private schools. Thus, the focus of the debate was opportunely displaced from ideas to people. The focus left the merit of the question of financing for education and centered, on purpose, on the discussion of the people who worked in places of management in national education, such as Anísio Teixeira and his supposed involvement with the communist doctrine, fundamented in materialism, which would possibly oppose the doctrine about the Brazilian family, strongly defended by the Catholic Church. Meaning, the ones who were not dogmatically associated with the thinking of the Church would be (in theory) against it!

Anísio Teixeira — called into the debate through declarations of representatives from the catholic clergy since 1957 —, would take a position defending the right of the family to choose autonomously the school/education for their children, as long as they could make this choice based, also autonomously, on their own financial resources. Scherer’s arguments also denounced the supposed laicization of the public school, therefore the non-commitment to Christian values, a weighty argument in a country with a strong catholic tradition.

Anísio added that he didn’t have anything specifically against private schools, considering that it was important that they would coexist with public schools (he himself had been a student at a private school), as long as they kept themselves with their own resources. To Anísio, the matter resided in the source of resources: he believed that private schools should manage themselves with private resources, and not to look for the *status* of public, receiving money from the State.

While the Catholic Church — representing also the privatist thinking —, could move the country to nominally attack Anísio Teixeira, background matters were left out of the discussion. This way, Lacerda’s substitute came to the public opinion not as a grievance to the right to education, but as a ‘natural consequence’ of the ideological dispute on the screen, because in centering the debate on people and not on technical and/or intellectual positioning, the focus was taken from the main issue: the responsibility about financing for education.

What was left materially of such strife was a law that, to Anísio, took on the forms of ‘half-victory’ for in facing the little boldness of such law regarding matters such as financing for education, it couldn’t be said that the law consubstantiated itself in “a law equal to the circumstances in which the country found itself in, in an evolution to become the great modern nation we all hoped for” (TEIXEIRA, 1962, p.222).

However, if the LDB 4.024/1961 was not the plain legal guarantee of public financing for public education, it was not an uncontested victory of the privatist solutions for national education either. In any way, one the most relevant historical landmarks of education in our first LDB, in the field of financing, seems to have been the public exposition of the theme, before reserved to ministry rooms, to the congress and the pulpit (seeing as there was a strong presence of the Catholic Church in the debate which preceded the making of the LDB), but from this point on, it was broadened to a certain public debate.

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