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LITERATURE AS A HUMAN RIGHT

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ABSTRACT: The purpose of this paper is to approach literature as a human right, by analyzing its capability of humanizing the individual and emancipating the subjects, which allows the human being to fully exist. To do so, the analysis is made from both literature's scientific and artistic production, especially based on the research by Antonio Candido, in order to assess to what extent can literature influence the individuals. Firstly, we approach the personal aspect, due to literature's humanizing character; Secondly, the psychological aspect, analyzing the role literature plays in the sublimation of drives, and, lastly, the social aspect, seen in its emancipatory potentiality. Finally, we develop the relation between the right to literature, the right to education and the right to culture. Thus, we seek to emphasize the importance of literature for people to live worthily and completely, precisely because it grants to the human being some of their humanity, which makes undeniable that literature is a human right.

KEYWORDS: law; literature; humanization; human rights; right to literature.

1 INTRODUCTION

This paper³ has the purpose of stating literature is a human right. With the aim of proving this hypothesis, we turn to literary works, literary

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theory, and legal documents, both national and international. Thus, the method used for the making of this article was documental analysis with bibliographic and legal review.

Fábio Konder Comparato (1997) writes, in reference to Bobbio, about the difficulty of conceptualizing human rights. He suggests this set of rights should be defined by their goals. Following to that, he states that, if the law is a human creation, its value derives, precisely, from the one who created it, the human being. Thus, the law has to grant the substantial dignity of the person, to which individual and group specifications are always secondary.

However, to think about human rights, it is fundamental to reflect on a statement by Antonio Candido⁴, in the chapter *Direito à literatura (Right to Law)*⁵ of his work *Vários escritos (Several Writings)* (1995, p. 254, translated), which is: “recognizing that what we consider indispensable for ourselves is also indispensable for the other people”. For him, we often think that everyone is entitled to certain fundamental rights, such as housing, education, and food, but rarely do we extend all our granted rights to others.

Thus, many believe that all individuals have the right to education and food, but not necessarily the right to read Dostoevsky, for example – although they themselves may enjoy such right. This is explained by the fact that the fight for human rights is considered a battle for the possible, not the desirable, since protection of those rights is not always possible where it is most needed, and where such a possibility of protection exists, it may not be so necessary (Fachin, 2017, p. 160).

Hence the question: is literature a human right? To answer, it is necessary to understand its importance in the lives of human beings. Is literature an inherent right in our human condition? Something essential for one to have a fully dignified life? These questions lead this paper, aiming at showing how literature indeed plays a role in the building of social subjects and their character, since it has an educational and transforming

³ We especially thank the reviewers for their valuable suggestions. All their comments were fundamental for the development of this article.

⁴ Antonio Candido was a literary critic, sociologist, essayist and Brazilian teacher. His extensive critical work is respected by leading universities in the country.

⁵ It is noteworthy that such chapter was a starting point for this paper, and, therefore, we find support in its ideas. We suggest it to anyone who wants to go deeper into the discussion.

potential for the subjects' personalities and emancipation. This, because, as we shall see, the literary text acts directly on the individual reader, affecting his/her personal, psychological and social aspects.

As known, despite the fact that human rights have horizontal effectiveness, that is, they also apply in private relations, the historical process of affirmation of these rights originated from the need to build protective circles of human dignity against state action and majorities⁶. That is, human rights are usually intended to protect the multiple dimensions of the human being against unjustified state interference in their individual or collective spheres. Thinking about the human right to literature, therefore, requires us to clarify which human dimension this right protects and, also, to what extent the state has negatively affected this sphere.

In this paper, we see literature as a means of access to art, in a perspective of access to education and culture. Also, it should be emphasized that literature, besides allowing educational and cultural experiences⁷, also works as a tool for refining sensitivity and, due to that, of humanization, an important ally for making humans subjects. This process, it is worth noting, occurs not only in formal education, but also in non-formal education. For instance, the *Plano Nacional de Educação em Direitos Humanos (National Plan of Education in Human Rights)*⁸ explains that non-formal education in human rights is guided by the principles of emancipation and autonomy, and its implementation constitutes a permanent process of awareness and formation of critical awareness, directed to the development of claims and the formulation of proposals for public policies.

⁶ More concretely, the constitutional idea of fundamental rights has been affirmed for the protection of citizens, not only against the monarchical power (for that, administrative legality would be enough), but against the parliamentary majorities themselves, who should respect values as important as the fundamental statute of the individual citizens in political society (Andrade, 2001, p. 199).

⁷ The Brazilian *Lei de Diretrizes e Bases da Educação Nacional (Law of Guidelines and Bases of National Education)* determines that Arts study is mandatory (article 26, paragraph 1, and 35-A, paragraph 2).

⁸ Federal Constitution, *Plano Nacional de Educação em Direitos Humanos* (Brasil, 2007).

Therefore, reinforcing that we propose a reflection on literature as a means of access to culture, education and as an experience of sensitivity, we believe it is important to record, to better delimit our proposal, that the fact that we are not working with other cultural, educational and artistic experiences, such as theater and even physics, it does not mean that we neglect the relevance of these expressions in the critical development of subjectivity.

In Brazil, the current state of policy-makers in education and culture seem to have an ideology that views artistic sensibility and critical thinking as a problem that should be avoided⁹. So, seeing literature as a human right and, therefore, as a protective circle of the human dimensions that constitute the dignity that can only emerge from emancipation, justifies the present paper and clarifies the effort we have made to develop our object and validate our hypothesis.

We start this article by seeking to set a parameter of what we mean by *literature*. After that, we analyze the aspects of literature action onto individuals. We also analyze literature as an instrument of sublimation of drives. Finally, we deal with literature and its transforming role of society from social representations, showing its relevance also for the humanization of legal practitioners. Finally, the relations between the right to literature, the right to education and the right to culture will be developed, based on an analysis of international and national law documents.

This way, we seek to explain the essentiality of literature for the transformation of the human beings in their entirety and its importance for living with dignity, thus being a human right and, therefore, a right for all. Since at bottom, “just as there can be no psychic balance during sleep

⁹ In this regard we can mention the extinction of the Ministry of Culture by the government of President Jair Messias Bolsonaro and the proposal to censor Paulo Freire’s work in public education (Saldaña, 2019). In addition, there are numerous ongoing actions that have not yet been materialized, but which point to a scenario of intensifying the emptying of the cultural agenda in the Brazilian State (Nunomura, 2019). This scenario not only takes the federal government, but it is worth noting that Rio de Janeiro Governor Wilson Witzel also closed a day earlier than planned and banned a performance that would refer to torture in the military dictatorship at Casa França-Brasil.

without dreams, perhaps there is no social balance without literature” (Candido, 1995, p. 256, translated).

2 WHAT LITERATURE IS AND HOW IT AFFECTS SOCIETY

First, it is essential to restrict what we mean by literature. We emphasize that the attempt to define literature is a very old discussion within the literary theory, after all, it is not something objective, but subjective, which carries a value meaning at the moment of its construction and interpretation. We also emphasize that our goal is not to exhaust the discussion about the concept of literature, but to bring enough elements to minimally delimit the object to be discussed as a human right.

At first, it is noteworthy that literature is not just what is written. The raw material of literature is not only written language, but also oral language. In fact, it was through oral tradition that literature began, either because writing was not as commonly used or because writing did not exist at all. To illustrate, we can mention Homer as an example, since his stories are pointed by scholars as a compilation of traditional oral tales, in addition to the cultural manifestations of native peoples who continue to transmit their literary stories through orality nowadays.

Besides that, another common defining element is that literature is nothing more than an artistic expression that organizes the world and human feelings, using linguistic structures to do so. However, many of the structures and much of the content of a literary work can only be understood from the moment we see its historical context of production, for what might once seem rude and meaningless ends up being axiologically re-signified, gaining its place. This is the case, for example, of the Brazilian poet Manuel Bandeira and his modernist poems, which, in a shallow reading, might appear simple and without literary value.

Because of this, one can try to make various definitions to literature, based on form, circularity, symmetry, form economy, lack of form economy, and repetition. Or based on the psychological complexity of the human, psychological balance and harmony, as well as psychological imbalance and disharmony.

Finally, it is worth mentioning the definitions based on the epistemological difference between literature and other forms of expression, such as scientific knowledge. After all, literature has no obligation to tell the truth of what happens in the world, because there is enough room to deal with fiction in its pure form, to deal with social frameworks, and to deal with referential fiction (Fry, 2012), embracing both sanity and madness, beyond the conventions that normally criminalize or stigmatize the latter.

Thus, we understand that the correct question to ask should not be “what is literature?”, but “who defines what literature is?”. And that makes perfect sense for the goal of including literature in the list of human rights.

For a long time, literature represented the worldview of the people who had access to books (which had long been exclusive to the elites) because, through their own subjectivity, they defined which texts were in fact literary. Of course, if a professor who specializes in literature says that a particular work is literary and another not because of his/her intellectual and social prestige within society, that will probably be more accepted as true, because his/her voice will have more authority – it is an instance of legitimation.

In his publication *Literary Theory – an introduction*, Terry Eagleton accepts the challenge of attempting to define what literature is, and highlights:

but literature is usually judged to contain much besides poetry - to include, for example, realist or naturalistic writing which is not *linguistically self-conscious* or self-exhibiting in any striking way [...] “literature” may be at least as much a question of what people do to writing as of what writing does to them (2003, p. 5-6, highlighted for the purpose of this paper).

Hence, defining literature is an extremely complex job, actually an impossible one in universal scale, because a people’s literature is everything their cultural references and their community say it is. Therefore, understanding literature is seeing what causes literature and what are its consequences. These latter are, mainly, the creation of an author who feels and communicates, and of a reader who communicates and feels. Thus, literature only exists based on the value judgments of its historical context

of production, as well as of its context of interpretation/appreciation, but such judgments are extremely variable.

So, the objective definition of literature is not possible; However, we are able to delimitate at least what aspects of it people should have access to, since it is a human right. We are, therefore, not only attained to canonical works, classics and erudite novels, but also to marginal literature, to the best-sellers, to regional literature, to oral literature, together with so many other artistic manifestations that, either included in the conventions or not, are able to express infinite possibilities of being human, based on worldviews of culturally different individuals and social groups. After all, what really matters may not be the origin of the writing, but how people consider it for themselves: “if they decide that you are literature then it seems that you are, irrespective of what you thought you were” (Eagleton, 2003, p. 8).

A recent example of this phenomenon happened at *Universidade Estadual de Campinas* (UNICAMP), which included for their entrance exam of 2020 the album “*Sobrevivendo no inferno*” by the Brazilian rap group Racionais MCs. The candidates must read works of different genres – poetry, short story, novel, theater, article, and sermon – and, among them, the lyrics for the 12 songs of the album, inserted in the “poetry” category of the list. After all, the access to literature must be total; It is not because a given individual lives marginalized that they will not be able to universalize the peripheral literature or access the literature produced in the centers of hegemony. Literature must be accessed by everyone unrestrictedly because it is a human right that expands the possibilities of subject formation.

Everyone should have the right to the education and tools to access literature, because, more than availability, it is important to ensure the conditions of access. In this way, cultural literary exchange between different social perspectives can lead us to understand better the shades of differences that mark humankind.

3 LITERATURE AS A HUMANIZATION FACTOR

The encouragement to read literary writings results in a plural aesthetic education for humanity, since literature ends up acting in the

conscious and unconscious aspects of the reader, provoking impulses, harmonizing their nature and their culture and thus contributing to arouse experiences about the totality of being human.

Literature brings with it a humanizing factor that goes far beyond pure artistic expression, because, besides being very present in its enunciator, it also awakens in the receiver the perception of a broader worldview, overflowing in visions of different worlds. But what do we really mean by *humanization*? To answer that, we rely on the definition by Antonio Candido (1995, p. 254, translated):

I understand here by humanization (since I have spoken so much about it) as the process that confirms in man those traits that we consider essential, such as the exercise of reflection, the acquisition of knowledge, the good disposition towards others, the regulation of emotions, the ability to penetrate the problems of life, the sense of beauty, the perception of the complexity of the world and beings, the cultivation of humor. Literature develops in us the share of humanity as it makes us more understanding and open to nature, society, and the other people.

Contact with literary texts, therefore, has the potential to awaken in readers new worldviews and new perceptions about themselves. Getting in touch with other worldviews leads us to question, resignify, and reflect on our own views, our values, and our beliefs. Literature allows cultural, generational and social exchange that awakens the multiplicity of each being. It never hurts to remember the revolutionary power of Carolina Maria de Jesus' novel *Quarto de despejo*.

However, today we have been witnessing the expulsion of art from the life of the human being, because “cultural industry imposes entertainment aimed at distraction rather than the formation of the individual, and diverts the human being from the danger that literature would pose as a stimulus to reflection” (Moraes, 2010, p. 4, translated). Art – which is capable of informing, entertaining, revolutionizing, disturbing and distracting – has been dissipated as an element of pure distraction. In other words, the cultural industry imposes some forms of entertainment that, instead of informing and arousing reflection, end up providing only alienated distraction, aimed solely at consumption, and not at the formation of the individual, whether through leisure or critical reflection. Therefore, mass

culture ends up stimulating masked consumption of entertainment, which can be proved by the existence of digital influencers¹⁰.

Theodor Adorno, in *The Culture Industry: Enlightenment as Mass Deception*, introduces the term “culture industry”, and differs it from “mass culture”, the latter being of the people, of their regionalizations and customs, with no intention of being commercial or becoming marketing; The former, on the other hand, is made from patterns that are repeated in order to create a common aesthetics that is necessarily aimed at consumerism and body control, and not people’s emancipation – understanding something without the need of orientation by other people (Kant, 1985).

For Adorno (2002), the feeling of happiness and satisfaction promoted by the cultural industry dismantles any critical mobilization and does not allow the formation of conscious autonomy. In Brazil, for example, it is more common for a person to devote their free time to social networks, stand-up comedy shows and television programs than to read literary writings, either for lack of encouragement, lack of access, or even for considering this a tedious activity compared to the dynamics of the other activities one is used to.

So, reading literature is daring to know, *Sapere aude!* (Kant, 1985). And more, it is to produce meanings from historical-social contexts delimited by its enunciator, and the contact with such context allows the exchange of cultures, beliefs, values, customs and paradigms. The shock of these realities allows us to recognize the similarities and identify the differences between the subjects (author, reader and characters), allowing a reflection on the new or the old. This means that from this exercise we enter the territory of the ethics of otherness, which helps us “to see in the other person a being worthy of equal consideration and deep respect, guided by the universal affirmation of dignity and the prevention of human suffering” (Fachin, 2017, p. 161, translated). Through the concreteness of the other,

¹⁰ Digital influencers are people who become popular in social networks, such as Instagram, Youtube, Facebook, Twitter, among others, generating content for a massive audience that follows and consumes their publications, guiding consumer decisions and trends.

manifested in literature, the reader understands his/her own story, and more so, by performing the exercise of otherness, he/she becomes a character and better understands the other person.

In this respect, literature as a humanizing factor is of utmost importance in the education of human beings, since childhood, so that we grow up used to establishing such reflection. In other words, besides being a human right, in promoting the ethics of otherness literature is a right of and for humanity itself.

By reading literature and writing based on it, the student will learn to read and write human existence, giving it meaning, recognizing its content and individual form. It manifests, through each writer, in each work or act of reading, multiple meanings and diverse orders of meanings, but above all it has a super-signification, which remakes itself with each reading. And it is not static; Is in permanent development in time and/or space (Filipouski, 2005, p. 225, translated).

We emphasize, however, that it is not enough just to have access to the literary text by itself, because if the subject has not had access to a literacy process, literature will not be able to develop its role on its own. Therefore, it is essential that there is also unrestricted access to literacy, as established by the Brazilian Federal Constitution in its article 214 (translated):

The law will establish the ten-year national education plan to articulate the collaborative national education system and define implementation guidelines, objectives, goals and strategies to ensure the maintenance and development of education at its various levels, stages and modalities through integrated actions of the public authorities of the different federative spheres that lead to:
I - eradication of illiteracy; [...].

In addition, we underline the commitment made by the Brazilian State to facilitate access to published works for those who need some adaptation due to some disability by promulgating, by Decree 9,522 of 2018, the *Marrakesh Treaty to facilitate access to published works by blind, visually impaired or otherwise disabled people to access printed text*. After all, literature is made by humans, for humans. According to Mario Vargas Llosa (*apud* Moraes, 2010, p. 5, translated):

The best contribution of literature to human progress [would be] to remember (involuntarily, in most cases) that the world is unfinished, that those who hold the

opposite idea may be lying - for example, the powers that govern it - and that it could be a better place, closer to the worlds than our imagination and words can create.

Our conclusion, for the moment, is that literature is a human necessity, precisely because it allows reflection about oneself, the other people and society as a whole. Here lies the importance of seeing it as a human right, as it allows human beings to live a more dignified and complete life.

4 THE PSYCHOLOGICAL ASPECT AND THE SOCIAL ASPECT

Besides being an instrument of humanization by the ethics of otherness and self-understanding in the world, art is also relevant to psychoanalysis as a way of sublimating drives. To better understand it, we need to define what psychoanalysis means by *drive*, with no intention of exhausting this topic, considering the limits of our object of study and our own education.

For Sigmund Freud, a drive is something that moves the human being, preventing them from remaining still, and causing them to act uninterruptedly, thus being an internal force of the human psyche that constantly seeks satisfaction. All people carry within themselves drives of life and death, the former being identified with the ability to create, that is, the ability to project the subjective and singular form of being in the world, and the latter concerning the inherent destructive possibility to man (Figueiredo; Feitoza; Carvalho, 2012).

One way of dealing with these drives is through sublimation, which is nothing more than one of the drive's destinies by generating a process of deviation from the drive forces. Sublimation activities include artistic, intellectual and sporting activities; After all, the idea of sublimation refers to the idea of ascension, verticality and transcendence and, for this, it is essential that there is an external escape valve for such drives (Mendes, 2011).

It is important to point out that sublimation may happen with two different purposes, either the aspect of creation or the defense against sexual drives. In the first case, it is energy directed to cultural deeds, and

sublimation makes creation possible, as an analytical work, that is, art can encourage the sublimation of an individual drive, making it visible, comprehensible and transcendable. Hence, the sublimation of certain drives makes the individual know (or recognize) more about him/herself, and such drives are not manifested in harmful ways for one's psyche.

It is important to address that civilizing processes end up repressing, restricting the drives and causing various psychic sufferings, but, on the other hand, sublimation emerges as a space of healing and primordial factor in cultural processes. Because sublimation and eroticization aim at dominating the death drive in the life drives, making life possible for the subject (Figueiredo; Feitoza; Carvalho, 2012, p. 55, translated).

In literature, sublimation may happen during artistic creation, for the person of the author, but also during art fruition, for the reader. From this, the real distance mixed with the proximity promoted by art enables the tolerance of coexistence with others, and it is extremely relevant for living with differences and raising awareness and respect for otherness – a theme that is developed below.

Every art form, especially literature, carries with it ideas and images of collective and/or individual representations. The author of a literary writing says a lot about him/herself and their social context with words or even the absence of words. Thus, the reader is able to grasp the message that the author wants to convey and even the one he/she did not intend to, because what is read becomes an idea concretized in the reader's reality as well. Besides that, there never is only one way of reading a work of art, but rather several different views due to different readings by different readers, or even by the same reader in different times, which makes it clear that one reading is only one view amongst many others (Fachin, 2017, p. 155). By doing this exercise of interpretation and exchange of meanings, the readers come to their own conclusions, which may build identity, after all, "identity is not constructed rationally and objectively, but is the result of a historical process or many social practices that translate into representations" (Pesavento, 1995. p. 121).

The setting of identity patterns happens due to social representations, since these repeat historic, cultural, and social patterns. This way, by having contact to such representations – which may happen through art –, the person may be led to tension or conflict, which creates opportunities to

question family, social or political imposed patterns from the context he/she is in. These opportunities can also lead to the questioning of dominant representative patterns, and even to the breaking from established power relations.

But what are these social representations, really? Of course, they are variable and directly linked to the culture and society of the moment of their creation. They may be universal, but not necessarily, and may extend over time. As a definition, we can say that:

Social representations are systems of values, ideas and practices which enable communication to take place among the members of a community by providing them with a code for social exchange and a code for naming and classifying unambiguously the various aspects of their world and their individual and group history (Moscovici *apud* Howarth, 2006, p. 80).

Thus, a subject can build a representation based on their own life and individual expression, besides the identification with other subjects, and such representation may be a means of expression. of the same subject.

In the Brazilian literature, this phenomenon is observable in the novel by Manuel Antônio de Almeida, *Memórias de um sargento de milícias* (*Memoirs of a Militia Sergeant*), since the author uses his character Leonardinho to deal with the representation of an urban rascal, a characteristic stereotype of carioca your men in 1853. The Brazilian identity of the trickster, the “Brazilian way”, came from a delimited social group (the carioca tricksters) and was represented in the character of Leonardinho. Then it surpassed the literary text and became an expression of the national social representation. (Pesavento, 1995, p. 119).

It is noteworthy that not only does literature create identity patterns, but it also creates stigma patterns. Mentioning the same literary example, by Almeida, the “Brazilian way” is sometimes seen by us Brazilians as something positive, something to be proud of, depending on the context and situation in which it is employed; Other times, it is regarded with shame, as derogatory of our own society. The “Brazilian way” and its habit

of “just getting things done” carries stigmatizing characteristics, it is like an infamous and immoral stain on the reputation of the Brazilian.

To exemplify that, it is possible to analyze the novel by Mário de Andrade, *Macunaíma*, which is defined as a “rhapsody” about the formation of Brazil, uniting multiple national characteristics to create a single Brazilian identity, in the character Macunaíma, a lazy native-Brazilian, who until six years of age did not speak for sheer laziness, and whose sexuality is almost animalistic, for having the urge and desire to “play” with characters in various parts of the story.

Moreover, by coming into contact with literature and the infinite possibilities of literary works (either fictional or not), the reader, starting from the clash of worlds, ideas and paradigms, has the possibility to perform a self-investigation about his/her place in the world. This may lead them to think and even to act differently. This contact with differences can generate an awareness of otherness, as we mentioned earlier.

As for universal literature, we can see, through Victor Hugo’s *Les Misérables*, the deconstruction of the social representation of the poor, the miserable ones, precisely by approaching it in a way never before seen in literature, giving it a new identity. Victor Hugo creates a novel whose central characters are poor, which sheds light on the prejudice and unfairness they suffer, together with their passions, pain, fight, pride, hope, hunger, unemployment, among other matters, which makes it a portrait of the nineteenth-century French society, with the misery and poorness of its population. This way, the author unbuilds the stigma these real-life social characters used to have, for example of being dangerous, which creates new social possibilities for them.

The contact made by the reader of the literary work with representations of him/herself or the other people impels his/her personal growth, which becomes visible in his/her role within society. In addition, contact with representation through literature brings the possibility that paradigms are challenged, denied and transformed; And through the recognition of representations, we can assume our roles within society, claim denied identities, and defend ourselves against stigmas and

marginalizing practices (Howarth, 2006). This because, as Pesavento (1995, p. 116, translated) says: “Let us assume that representation involves an ambiguous relation between absence and presence. In this case, representation is the presentification of an absent person, who is shown by a mental or visual image that, in turn, supports the discursive image”.

Therefore, the reading of literary writings allows the approach with new worldviews and different subjects, providing a new look at the marginalization of certain social representations. However, when we come into contact with the different, we may end up shocked by what may cause us strangeness. For Freud (1917), what is stranger can be briefly defined as something that arouses fear in general; So the stranger is that which is alien to our sphere of meaning, that is, alien to our special core of sensibility.

According to Freud, “the stranger is always something one does not know how to approach” (1917, p. 139, translated). As for literature, the Austrian psychoanalyst states that the author of a literary work can approach the representations of the other in ways that are or are not stranger to the reader. This can come from different genres, including fantasy, so that the reader has his or her sphere of what is common and acceptable to them, by having a glimpse of such strangeness.

Imaginative writers have, among many other perks, the freedom to choose their own world of representation so that it can either coincide with the familiar realities or move away from them as much as they wish. We accept their rules in either case. In fairy tales, for example, the world of reality is set aside from the beginning, and the animistic belief system is frankly adopted. [...] Thus, we find that the fairy stories, which provided us with most of the contradictions to our hypothesis on the strangeness, confirm the first part of our proposal – that in the realm of fiction, many of the things that are not strange would be so if they happened in real life. (Freud, 1917, p. 158, translated)

This is how literature becomes able to transcend reality, through its social representations and fantastic or fanciful allegories, and create situations that provide the reader with strangeness and cause contact with the different. Thus, what happens is the concretization of the absent, with the consequent strangeness and possible sensitization to otherness.

We can say that the external world of the reader is not really external, since this external world is a constitutive element of the interior universe of the reader, culminating in the construction of his/her immediate external world. Thus, the experience of otherness, resulting from the phenomenon of strangeness, allows the contact with the external world of the other person, allowing not only its recognition, but also the recognition and/or resignification of one's own self.

That is why art is so important, especially literature, not only for projecting positive images of reality, “but, on the contrary, denying it from within, highlighting its cracks – creating holes, casting shadows, constructing other perspectives in which the permanent, the non-contradictory and harmonious give way to conflict, vertigo, non-identicalness.” (Nunes, 2013, p. 8, translated).

Literary art carries with it a human transforming force capable of freely modifying the internal relations of its readers, as well as their relations with the world and with their peers. It is no coincidence that the Latin etymological root of both words, literature and liberty, is *liber*. Therefore, literature is capable of stimulating an unreachable freedom with the mere daily human experience. Such freedom to build one's own self, and consequently one's own society, makes us believe literature is a right of all human beings in the psychological and social aspects.

5 THE RIGHT TO LAW AND ITS RELATION TO THE RIGHT TO EDUCATION AND THE RIGHT TO CULTURE

The right to literature is strictly related to other human rights, since they are all universal and interdependent. Among them, we can mention the right to education and the right to culture.

We know that education is a fundamental part of the full development of the human personality, as well as an indispensable requirement for the exercise of citizenship. “With it, the individuals understand the scope of their freedoms, the form of exercise of their rights and the importance of their duties, allowing their integration into effectively participatory democracy.” (Cavalcante, 2014, p. 252, translated). Thus, both education

and literature can be considered inseparable portions of a dignified existence, integrating the so-called existential minimum.

Literature has been a powerful instrument of instruction and education, entering the curriculum, proposed to each citizen as intellectual and affective equipment. The values that society advocates or considers harmful are present in the various manifestations of fiction, poetry and dramatic action. Literature confirms and denies, proposes and denounces, supports and fights, providing the possibility of dialectically facing the problems (Candido, 1995, s.p., translated).

The right to education is in article 6 of the Brazilian Constitution, integrating the list of social rights. “However, education, although considered a social right, is essential to safeguarding another right that, from a logical-evolutionary perspective, precedes it in the formation of the rule of law: freedom” (Cavalcante, 2014, p. 258, translated). This freedom, deriving from the emancipation that results from reading and education, is associated with the dignified form of living of the individual, that is, directly linked to the right to life and the right to freedom, both fundamental rights guaranteed in Article 5 of the Brazilian constitutional text.

Hence the need of a constitutional treatment given to literature, since, as we have argued so far, it is a powerful instrument for the development of fundamental sensitivity for the constitution of citizen subjects. If, under the terms of paragraph 2 of article 5 of the Constitution, it is announced that the fundamental rights and guarantees affirmed do not exclude others deriving from the democratic regime and international treaties, and the interdependence between literature and education for the full development of democracy is evident for the exercise of citizenship and development, there is no denying that literature has all the characteristics of a human right.

In education, literature influences the formation of professionals from the most diverse areas of practice, especially the lawyer, highlighted here as a result of the development of the present paper, and the relations of literature with the law that is created, interpreted and applied by and for concrete people. In this line, we claim literature to be an instrument that demolishes the rigid barriers of law abstracted from the world of life.

The expansion of a legal methodology to become less technical, less rationalist and less positivist is based on the recovery and discovery of the lawyer's humanity through literature, precisely because it leads the subjects to reflections on the essential values of humanity. Besides that, literature is relevant in the formation of the jurist and in the course of his/her professional performance due to the fact the law is also a human science, focused on human problems, which aims and deals directly with the human being, and thus needs a more realistic understanding of its central object.

Literature can serve as a bridge between the theoretical sphere and the practice of legal discourse, and even more than that: as a pedagogical instrument capable of making society aware of the feasible existence of fundamental rights. (Santos; Treméa, 2018, p. 162, translated).

It is through dialogues between literature and the law, between the concreteness of characters and literary stories with the representation of legal institutes and practices, that the emancipation of the lawyer becomes possible. Literature has the power to humanize the individual reader, but more than that, it has the power to humanize the law, as a result of its ability to transcend language and transform it into metaphorical, artistic, sensitive and beautiful meanings.

As an example of the positive relationship between law and literature, we can mention the Spanish novel *Don Quixote* and how its readings contribute to this emancipation of the jurist¹¹. On the latter, Fachin (2017) states that the dialogue with *Don Quixote* possibly grants concreteness to the human rights, unveiling a utopia capable of transforming them into a palpable dimension of reality, since:

The literary discourse is more diverse, complex, heterodox and imaginative – which grants it with more flexibility, sensitivity and attention to reality; ingredients that are needed for the law to help those it should. Literature offers to the law a vast repertoire of observation of social human relations, as well as it brings freedom to the law by constantly deconstructing the

¹¹ To thoroughly understand this theme, we suggest reading the papers *Utopia quixotesca dos direitos humanos (Quixotic Utopia of Human Rights)*, by Melina Girardi Fachin (2017), and *Interdisciplinaridade na formação da sensibilidade humanística do jurista e a estereotipação do positivismo e do jusnaturalismo na obra “Os miseráveis” (Interdisciplinarity in the education of the humanistic sensibility of the jurist and the stereotyping of positivism and juridical naturalism in the novel “Les Misérables”)*, by France Ferrari Camargo dos Santos and Elizângela Treméa (2018).

formalisms of the juridical structure (2017, p. 154, translated).

These links, only made possible by reading literary writings, may awaken within the reader-lawyer reflections on humaneness (or lack thereof) in the legal science. That is, along with its personal humanizing, psychological and social role, literature also acts in the legal-critical formation of legal professionals, humanizing them in order to make them aware of the complexity of human life and its social conflicts.

The same conclusion can be drawn from the analysis of the relations between literature and culture. As stated above, cultural rights are an integral part of human rights, but today cultural rights are severely constrained by ineffective or non-existent public policies. Taking the literary text, the central object of literature, as a cultural good, precisely because of its identity-forming and artistic character, the right to literature dialogues directly with cultural rights and, therefore, with human rights.

The Brazilian Federal Constitution, in article 215, guarantees access to culture in the following terms (translated):

Art. 215. The State shall guarantee to all the full exercise of cultural rights and access to the sources of national culture, and shall support and encourage the appreciation and diffusion of cultural manifestations. Paragraph 1. The State shall protect the manifestations of popular, indigenous and African-Brazilian cultures, and those of other groups participating in the national civilizing process. Paragraph 2. The law shall provide for the setting of commemorative dates of high significance for the different national ethnic segments. Paragraph 3. The law shall establish the National Plan of Culture, of multiannual duration, with the purpose to develop the Country and the integration of the actions of the public power that lead to: I - defense and valorization of the Brazilian cultural heritage; II - production, promotion and diffusion of cultural goods; III - formation of qualified personnel for the management of culture in its multiple dimensions; IV - democratization of access to cultural goods; V - appreciation of ethnic and regional diversity.

As literature is a source of culture, measures are necessary to ensure the State's support for it, both within and outside the communities that produce it. In this direction, it is still worth mentioning the *Plano Nacional de Cultura (National Plan of Culture)*, instituted by Law 12.343 / 10, with the objective to plan and implement long-term public policies (up to 2020)

aimed at protecting and promoting Brazilian cultural diversity. Among different strategies and acts, there is the following (translated):

1.5.4 Establish specific programs for cultural sectors, especially visual arts, music, performing arts, literature, audiovisual productions, cultural heritage, museums and cultural diversity, ensuring balanced percentages of resource allocation in each of the sectoral policies (Brasil, 2007, s.p.).

Internationally, cultural rights are found in various sources, such as the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966) and the International Covenant on Civil and Political Rights (1966), among many other international documents, such as the Universal Declaration on Cultural Diversity. This Declaration brings in Article 1 the idea that cultural diversity is as necessary for humankind as biological diversity is for nature, and further states in Article 3 that such diversity “is one of the roots of development, understood not simply in terms of economic growth, but also as a means to achieve a more satisfactory intellectual, emotional, moral and spiritual existence” (UNESCO, 2001, s.p.), and its defense is an ethical imperative, inseparable from respect for human dignity.

The *Main Lines of an Action Plan for the Implementation of the UNESCO Universal Declaration on Cultural Diversity* establish that Member States agree to take all appropriate measures to disseminate the Declaration, with a view to implementing it and achieving some of the objectives they agreed upon. Regarding them, we highlight item 4, which states that it to make “further headway in understanding and clarifying the content of cultural rights as an integral part of human rights” (UNESCO, 2001, s.p.). As literature is inseparable from culture, since the former integrates the latter, the right to literature also must be seen as integrated in the human rights.

Also in the field of international law, it is relevant to mention the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, promulgated in Brazil in 2007 by Decret N. 6.177. It has many purposes, but we choose to focus on two of them: protecting and promoting

the diversity of cultural expressions, and creating conditions for cultures to flourish and interact freely for mutual benefit.

In order to achieve the first objective listed above, the Convention determines in its Article 7 that the parties should endeavor to create in their territory environment that encourages individuals and social groups “to create, produce, disseminate, distribute and have access to their own cultural expressions, paying due attention to the special circumstances and needs of women as well as various social groups, including persons belonging to minorities and indigenous peoples” (UNESCO, 2005, s.p.). Brazil, as a party to this treaty, is committed to this determination. Moreover, by bringing in its Article 4 the definition of cultural diversity as a multiplicity of ways in which the cultures of groups and societies find their expression – which manifests itself through different manners of creation, production, distribution and enjoyment of cultural expressions –, the Brazilian State accepts to enforce such words and, being the creation and enjoyment of literature a cultural expression of a people, literature is once again affirmed as a human right guaranteed in the current legal system.

In fact, supporting what was said before about the relations between the right to literature, the right to education and the right to culture, Article 10 of the Convention in question states that the signatory parties should promote and encourage “understanding of the importance of the protection and promotion of the diversity of cultural expressions, inter alia, through educational and greater public awareness programmes” (UNESCO, 2005, s.p.). Therefore, we see the inseparability of such rights, considering that education is a means by which culture is built and propagated, besides being responsible for the literacy of individuals and their insertion in the world of language and literature, therefore of authors and readers, active and passive subjects in the literary life.

6 FINAL THOUGHTS

Literature has several functions and is capable of affecting the reader in social, political, ideological, liberating and cathartic matters. As seen, precisely because of its humanizing character, it is a human right and must be ensured as such. Be it in the personal sphere – the reader’s self-perception –, in the psychological aspect – the relief of one’s drives – or in

the social ambit – as the reader comes to see the other people in society and in their profession –, literature directly influences the construction, discovery and evolution of the being. Thus, access to literature is directly associated with the right to a dignified life, freedom, education, art and culture, among many other rights that guarantee the dignity of the human person.

Due to that, literature, as vital cultural good, ensures the dignified survival and spiritual integrity of the human being, and must therefore be seen as a human right. Finally, seeking to exemplify and provide the reader of this paper with some of the transformations provided by literature as hereby mentioned, we transcribe an excerpt from *Les Misérables*:

So long as there shall exist, by virtue of law and custom, decrees of damnation pronounced by society, artificially creating hells amid the civilization of earth, and adding the element of human fate to divine destiny; so long as the three great problems of the century – the degradation of man through pauperism, the corruption of woman through hunger, the crippling of children through lack of light—are unsolved; so long as social asphyxia is possible in any part of the world;—in other words, and with a still wider significance, so long as ignorance and poverty exist on earth, books of the nature of *Les Misérables* cannot fail to be of use (2020, p. 12).

Indeed, the difficulties faced by nineteenth-century Parisian society are still present in present-day Brazilian society, although in different ways and intensity; Which shows that human beings still have a lot to evolve about their own condition as such and their view of others. As timeless as literature is, the diverse views of it and its readings and rereadings contribute to the individual and social emancipation and evolution, even if slowly. At last, literature must be valued and seen as it is: a human right. For it is only through the emancipatory lenses of literature that human beings will reach their essence: their own humaneness.

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