

## Preface

The functions of official national and international institutions may contribute to the communication and dissemination of the Fundamental Laws and, consequently, to an effective exercise of the sovereignty of the people, one characterized by being informed and clarified. The relation of this book is that of knowledgeable citizens are, just so, sovereign citizens.

However, access to information is not always synonymous with literacy. That is, free access to all the legislation, all the documentation and explanation of it, but if there is no competence for its reading and even interest in the demand, this has an empty result.

Thus, the communication and dissemination of the Constitutions are important factors for the exercise of sovereignty by the people, but they cannot be considered the only ones. Such communication should be carried out through the relevant mechanisms, but also through the media (television, radio, Internet, among others).

But prior to this communication, strategies for the literacy of the Constitutions (and other legislation) should be devised, since only then does access to information translate into true knowledge of it. This literacy is included in the precepts advocated in the Charter on Education for Democratic Citizenship and Human Rights Education, that is, the idea of an Education for Democratic Citizenship is only understood with the comprehension of what are the Constitutions, which include Fundamental Rights and Human Rights.

Moreover, Luísa Neto had already defended a similar position when, in citing Malala Yousafzai, stated that “the deepening of knowledge is inseparable from the development of (transverse and specific) competences that generate knowledge”, and there is therefore “a clear interpenetration between the process of transmitting scientific knowledge and the basic dimension of deepening the democratic culture” (Neto, 2016).

Communication and dissemination will take place through education, with the aim of developing true popular sovereignty and, consequently, a democratic culture. Nonetheless, it is argued, like the author did, that it is not through the definition of a closed and imperceptible programmatic content that this education for citizenship

and the informed exercise of popular sovereignty will be done, but rather through permanent dialogue between government, educational institutions, research and development centers, etc. And also between private organizations and citizens, whether private associations, companies, which resort to their civil responsibility and contribute to the exercise of that sovereignty.

Communication is therefore closely related to education, since it is not sufficient to have access to the means, resources and mechanisms if it is not schooled for its use, if it does not detain the necessary literacy for a critical usage.

It is believed that these communication, education and dissemination contribute to the formation of constitutional norms throughout its duration, since they fulfill their constitutional role. By fulfilling this constitutional role, it is thus ensured that constitutional norms accompany societal evolution and adapt to new demands.

## **THE CHALLENGES**

With the importance of the national Constitutions to the exercise of a full citizenship, knowledge of these laws has been urgent for some years now. This widespread knowledge would allow for the exercise of a more enlightened national citizenship. What knowledge do the citizens of the Constitutions of their countries have? What importance does this knowledge have for the effective development of national citizenship? What role is expected to be played by national and worldwide institutions? In the Network Society what are the best strategy to make the Constitution known? Which citizens participate through the Internet know the Constitution? Citizens use their knowledge of the Constitution to substantiate their participation?

Citizenship exercise is a broader concept which include the concepts of Constitutional awareness, Treaties on Human Rights and participation awareness, digital access to the institutions and documents and many others. The goal was to analyze how this awareness occurs in the different countries and how the citizenship participation is made (if existing). It was of greater importance to analyze the role of digital tools in the dissemination of the Constitutional documents as well as in enhancing citizen participation. The publication aims to reflect on the several formats, goals, actors and tools Constitutional awareness takes into account, including its effectiveness on Information Society. This publication will contribute to the knowledge on the concept of Citizenship exercise.

## **SEARCHING FOR A SOLUTION**

Generally, it is incumbent upon the official internal bodies, including the Constitutional Court, when it exists, to review (in)constitutionality of legislation, norms, court decisions, international agreements, decisions on electoral acts, organization of political parties, referendums, and other functions.

But who should assume a role of communicator and disseminator of the Constitutions? Is it the competence of the Constitutional Court to contribute to the development of an informed citizenship and, consequently, to the exercise of the sovereignty of the people? This role of the Constitutional Court is questioned considering that it is the maximum body of guarantor of the constitutionality, which means that it is the guarantor of the sovereignty of the people present in the Constitution (among other aspects).

The national official bodies do not only have the powers to supervise, determine (in)constitutionality and the judgment of appeals, they go even further when they are present in discussions on specific issues, when they assume the role of contributing to critical reflection. And this is precisely what is intended for the exercise of sovereignty of the people, to do it critically, for citizens to inform themselves, clarify, seek to know more, seek education for the Constitution, for rights and duties and for the participation of economic and political organization.

But, in order to guarantee that the sovereignty of the people is exercised through the knowledge of the Fundamental Law, it is also suggested that the document of the Constitutions be elaborated and made available digitally and in print, with annotations that allow its comprehension distributed by schools, by the training entities, by all bodies responsible for the education of citizens and by other public entities.

It is not considered that it is only the role of internal institutions to ensure the communication and dissemination of the Constitution, but it is considered that these have a fundamental role, and they are the guarantee of their effective application.

## **ORGANIZATION OF THE BOOK**

The book is organized into 14 chapters. A brief description of each of the chapters follows:

Chapter 1 discusses the protection of fundamental rights as one of the essential elements of European identity. It claims that knowing the law must be the first of the fundamental rights that assist us. The authors present a review on the legal structure of this novel space in which we move: a common space without borders, a space of democracy, an area of freedom, security and multiculturalism.

Chapter 2 analyses the concept of citizenship and its historical roots, the Greek polis and the Roman civitas; the revival of cities in the Late Middle Ages and their consolidation in the Modern Age. It analyzes the citizenship construct with the affirmation of each inhabitant as a citizen involved in improving the several plans of the quality of urban life. It also evaluates the characteristics of knowledge societies as promoting factors to a citizenship based on socio-political indicators that build trust between the citizen. And, finally, deals with transparency and trust as active disseminators of timely and relevant information to the public and its impact on corruption, as a barrier against a broad citizenship.

Chapter 3 addresses the right of access to information, reinforced as a fundamental rule for citizens in the Brazilian constitutional norm of 1988, now regulated, more closely, from the enactment of the law on access to information in 2011. It represents an important legislative instrument of reinforcement of the principle of publicity, as well as the main infraconstitutional standard guaranteeing access to information. The requirement of a clear and transparent accountability environment by the public manager is a Republican assumption of massive participation by society.

Chapter 4 starts focusing on the first amendment to the United States Constitution which protects the freedom of speech. While the Supreme Court held in 1969 that students “do not shed their constitutional rights at the schoolhouse gate,” since then the Court has limited students’ freedom of speech, stopping short of considering the boundaries of off-campus, online speech. Lower court holdings vary, meaning that a student engaging in certain online speech may not be punished at all in one state but would face harsh criminal punishments in another. The lack of a uniform standard leads to dangerously inconsistent punishments and poses the ultimate threat to constitutional knowledge and citizenship exercise: chilling of speech.

Chapter 5 focuses on the peoples’ access and presence in social networks, and how essential it is to follow this form of access and sharing information, especially when it comes to publicizing the rights and duties of citizens. In this sense, the present study focused on the analysis of the profile of Portuguese citizens that uses social networks to support the different themes that make up the concept of citizenship.

Chapter 6 seeks to assess the trends in rights-based development (RBD) and citizenship in Zimbabwe based on constitutional knowledge to proffer options on how the public can become constitutionally knowledgeable towards developing the nation. The chapter is informed by constitutional knowledge gathered through qualitative data from document analysis and literature on this discourse. The chapter first discusses the provisions of RBD and citizenship in Zimbabwe in light of the constitution. It assesses the trends in RBD and citizenship in Zimbabwe, past present and the future, to analyze the trends in the changes in the development of the nation, based on constitutional knowledge. Lastly, it proffers policy options on ways to nurture constitutionally knowledgeable citizenry.

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Chapter 7 analyses how Turkey experiences many problems in exercising the right to information, which was enacted in 2003, arising from the administration's attitudes and behaviors and also from the legislation. Foremost among these are the fact that citizens have not been made sufficiently aware of this right and that the administration is reluctant to share information.

Chapter 8 presents a study based on the understanding that the citizens' lack of awareness of the rights inherent to the very guarantee of human dignity, as well as of the whole historical process that gave rise to the guarantee of such rights, is one of the reflexes that the absence of a citizenship education and for citizenship provoke, even affecting the high rate of dissemination of false news in Brazil. There is a recurrent need to deal with this type of problem, especially aggravated by the presidential race of 2018, where there is an increase in the reproduction of news whose reliability of the source is not verified, although they are evidently false, exaggerated and sensationalist. While analyzing this problem, the study seeks to examine the harm of this practice to the exercise of citizenship.

Chapter 9 discusses transparency as a quality that transcends many areas of law and which is based on a fundamental principle that transcends the entire legal system and whose scope extends to all public and private actions to which legal relevance can be recognized. In the specific field of taxation in international trade, the importance of transparency has become proportional to the growing complexity of the terms in which cross-border trade in goods takes place. Indeed, the more complex the exchanges are, the greater the level of control over them, and the greater the degree of transparency required, both as regards the form of control and the specific terms in which transactions are performed.

Chapter 10 analyses corruption as a human phenomenon that covers the whole world. It is a fact that public corruption gains more prominence than private corruption, because the state has the duty of accountability in a transparent way to taxpayers. As a result of this, we focus in the present work on the analysis of public corruption, which involves agents and public resources of the State. Therefore, this study has the main objective to verify if there is a relationship between IPC corruption (Corruption Perception Index) and HDI (Human Development Index), which posits the hypothesis that the greater the corruption, the lower the HDI parents, it is also intended to analyze in the case of Brazil in the global scenario.

Chapter 11 discusses the notion of privacy arising from the use and exchange of messages through the use of mobile phones and whether police officers in charge of patrolling and public security may have access to the messages contained therein without proper judicial authorization. The authors focused on the position of the Brazilian Superior Court of Justice (STJ) on the subject, based on the decision rendered in the Appeal in Habeas Corpus (RHC) n. 51.531/RO.

Chapter 12 focuses on the issues surrounding the LGBTI + population (lesbians, gays, bisexuals, transsexuals, intersexuals and new genders that are being recognized). Within this group it is also highlighted the importance of biological children, even amongst those who cannot naturally reproduce. Firstly, we will point out the laws that determine the child's protection. We then compare them to real life examples of actual situations of homophobia. Including physical and psychological abuse. Understanding that children are also subject to the same abuse, not only due to sexual orientation discrimination and gender identity but also from having to grow up in a so called unusual family structure.

Chapter 13 deals with the dignity of the human person and moral harassment, bringing some specific considerations about Brazilian reality. The scientific objective is to demonstrate the concrete existence of an impact on the principle of human dignity when harassment occurs in the environment work. It is a theme that is in the discussion guide mainly from the beginning of this century, although abuse and humiliation have always been practiced in labor relations, with the same current scope, which is a tool to achieve generally derogatory ends of the human condition and intensified by the action of globalization in the contemporary world.

Chapter 14 discusses the municipality as the basic territorial organization for almost the Member States of the European Union and has approximately the same attributions in all these. Even so, the territorial structure of municipalities differs in each of the Member States, and it is possible to group them into two large groups: those that have implemented reforms with a consequent reduction in the number of these entities, and those with a high number of municipalities. Although Spain and France are very close to Portugal, in fact the territorial organization of municipalities corresponds to very different realities.

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