

EDUCATION COUNCILS IN BRAZIL



<https://doi.org/10.56238/arev7n2-259>

Submitted on: 01/22/2025

Publication date: 02/22/2025

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ABSTRACT

This article seeks to understand the historical process that gave rise to the Management Councils and in particular the Education Councils in Brazil, what are their competencies and mechanisms of operation as an organ that makes up the structure of Brazilian education at the national, state and municipal levels. In this sense, the main objective of this article is to understand the history of education councils, since their legislative creation, with regard to their creation, attributions and normative competences as an organ of social control focused on educational matters. Our corpus of analysis is based mainly on Dallari (2013), Gohn (2011, 2019), Teixeira (2001) Bordignon (2009 and 2020), the Federal Constitution of 1988, the Law of Guidelines and Bases of National Education – 1996. The methodological path adopted will be through bibliographic research on the management councils and in particular the education councils at the national, state and municipal levels. Based on this bibliographic research, we seek to understand how the Councils of Education were created and what their competencies are in the Brazilian educational scenario.

Keywords: Management Councils. Education Councils. Law 9394/96.

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INTRODUCTION

Studying a Municipal Council of Education can involve a series of problems that help to understand the organization of Brazilian education, its functioning and the impacts that these can promote in the educational scenario.

In this sense, the proposed article asks: the origin of management councils and how were the national, state and municipal councils created and what is their relevance to education?

For a better understanding, the article is divided into 02 (two) parts that we believe bring a better understanding of the theme involved.

In the first part, we will start with a brief historical analysis of the Management Councils that were created in Brazil in certain periods, having the competence to collaborate in the improvement of the management of companies and public agencies created by the federated entities³. In the second part, we move on to a brief historical account of the Education Councils that were created in Brazil, from the imperial period, through the republican period to the present moment, with the promulgation of the 1988 Constitution and the Law of Guidelines and Bases of Brazilian Education – 9394/96.

This article does not limit the studies on the Councils, nor does it present itself as the only guide to be applied under the theme, it is only a simple initial contribution to understand the creation process and the competencies inherent to this body of the Educational System.

MANAGEMENT COUNCILS AND POLITICAL PARTICIPATION

POLITICS AND PARTICIPATION

In the search to understand the origin of management councils⁴ in Brazil, it is necessary to clarify the meaning of the terms "politics" and "participation" and how they were constructed, modified and interpreted throughout the history of humanity.

Thus, by appropriating the understanding of these meanings, we will be able to understand how social actors have been interfering in the existing power structures and

³ Article 18. The political-administrative organization of the Federative Republic of Brazil comprises the Union, the States, the Federal District and the Municipalities, all autonomous, under the terms of this Constitution. (Brazilian Constitution of 1988)

⁴ These are channels of participation that articulate representatives of the population and members of the state public power in practices that concern the management of public goods. They constitute, at the beginning of the new millennium, the main novelty in terms of public policies. (GOHN, 2011, p. 07)

following these steps, we can understand how management councils emerged, their role in the organization of state power or as a representative entity of organized civil society.

In the words of the renowned writer and jurist Dalmo de Abreu Dallari:

To establish a basic concept of politics, a convenient way is to look for the origin of the word, that is, where it came from and in what sense it was used in the beginning. Such verification demonstrates that this word has Greek origin and was used by several philosophers and writers of ancient Greece, and the work called "politics", written by Aristotle, a philosopher who lived in Athens in the fourth century before the Christian era, is especially important for understanding its primitive meaning. (DALLARI, 2013, p.08)

Therefore, as the author emphasizes, the concept of the term politics dates back to Greek origins, the cradle of Western civilizations and where the first human efforts to build a more rational view of the world originated through the first philosophical reflections, where a small privileged portion of the population began to reflect on the best way for the population to organize itself as a society in the polis (Greek city-states) and what was the most appropriate way for the participation of all those considered citizens at the time (a minority portion of the city's residents).

In this sense, the conception of the term "politics" in that historical context was understood as a way for the citizen (or small elite) to behave and act in front of their peers, always seeking the common good for society and participating in all important decisions of the *polis*, the term politics being understood as the art of good government for all free citizens.

Dallari goes further to explain that the term has other meanings that will change according to the historical period of human life, because even in ancient Greece the practical meaning of the word "politics" made sense only to a small portion of the population that was considered truly free. He emphasizes the need to define a more specific concept for the term and proposes that: *"politics is the combination of the actions of individuals and human groups, directing them to a common end."*⁵

Therefore, according to him, since the human being is someone who needs to live collectively from the moment he is born until his death, it is understood that all human actions that aim at the common good of the whole society are configured as political action in its strict sense, as it requires community, participatory and decision-making life.

⁵ DALLARI, 2013, p.10

Despite this understanding that living in a communitarian, participatory and egalitarian way is the result of a whole historical trajectory that led to a civilized life, this in practice did not materialize in a pacified way in human societies because human autonomy to live together on an equal footing generates a series of conflicting situations.

Although all human beings are born equal as human beings, each one has their individuality and when this individuality overlaps with a minimum of collective vision, conflicts begin to arise that can lead to great confrontations between human groups and civilizations, although human differences are a fact, such a statement should be seen as natural in a universe of free human beings.

Thus, throughout human history, the term political participation, as a practical action in the organization of society, was restricted to small groups that held power at certain historical moments and exercised this right to participate, while the other layers of the population were suppressed by the power emanating from them.

In this way, we can observe in the Middle Ages the center of power emanating from the clergy, kings and nobles. With the advent of the Enlightenment in the seventeenth and eighteenth centuries, the center of power migrated to the bourgeoisie and only later in the industrial period with the emergence of the proletariat did the central power begin to be claimed by the factory workers who began to organize and fight for various rights, including the right to choose their representatives.

In Brazilian history, unfortunately, the form of centralized organization adopted since its colonization has evolved little, reaching the nineteenth century still as an eminently rural country that did not allow the participation of the population in government decisions.

Although the right of participation is being adopted in most Western countries, in the case of Brazil, the form of centralized organization adopted since its colonization has evolved little, reaching the nineteenth century still as an eminently rural country that did not allow the participation of the population in government decisions.

In this line, Brazil, unfortunately, adopted an antagonistic position by creating mechanisms to impose limits on political participation and access to the electoral process, such as giving permission to the right to vote and be voted for only to those who held a certain economic value or who were literate, two highly excluding mechanisms at the time because they denied this right to a large part of the Brazilian people. (Dallari, 2013)

As already noted:

In Brazil, the Constitution itself said that the illiterate had no political rights, and as a result a large part of the population could not participate in decisions, despite working, paying taxes and being obliged to respect the laws made in their name (DALLARI, 2013, p.31)

Thus, in Brazil there was an immense delay in recognizing the importance of the right to political participation by the majority of society, and this right was recognized very late.

It is important to remember that the conceptual change, the appropriation of the meaning of the term and the experience of individuals with regard to political participation were fundamental factors to redefine the meaning of political participation as the right of all citizens to be involved in state decisions that would influence everyone's lives:

Thus, from the nineteenth century onwards, the Constitutions were modified, affirming equal rights and enshrining the system called "universal suffrage", which means the system in which everyone has the right to vote. (DALLARI, 2013, p.29)

It is worth remembering that this right was not a state concession, this only occurred due to incessant struggles for the right to participate (including involving wars, revolts and a lot of blood spilled), so that the people had their right legally guaranteed and yet to materialize in fact to all Brazilian citizens.

MANAGEMENT COUNCILS IN BRAZIL

With the improvement of the meaning of the term participation as a political action where all citizens have the right to influence the course of society, several representative bodies of society emerged, including the Management Councils, whose origins are linked to the active participation of civil society and the process of redemocratization in Brazil.

Maria da Glória Gohn explains the differences between the councils:

Basically, we can differentiate three types of councils in the Brazilian scenario of the twentieth century, in the period under consideration: those created by the Executive government itself, to mediate its relations with popular movements and organizations; the popular ones, built by popular movements or organized sectors of civil society in their negotiation relations with the public power; and those institutionalized with the possibility of participating in the management of public affairs created by laws originating from the Legislative Branch, which arose after pressures and demands from civil society. (GOHN, 2019, p. 73)

As Gohn points out, the councils created by the executive branch aim to facilitate communication and mediation between the government and popular movements and civil society organizations. They were usually composed of government representatives and

selected members of these movements and organizations. Its primary function was to provide a space for dialogue and negotiation of public policy and issues of mutual interest.

Popular councils, on the other hand, come from popular movements. They were formed from the bottom up, by the very base of civil society, as a result of a demand for more direct participation in government decisions. They represented the specific interests of these movements and organized sectors, and often focused on social, economic, and political issues that directly affected the communities involved. Its function was to serve as a collective voice for these groups, influencing public policies and promoting citizen participation.

Councils institutionalized by public management were established by laws originating from the Legislative Branch in response to pressures and demands from civil society for a more formal and institutionalized participation in the management of public affairs. They had a defined legal status and specific powers, often including the ability to propose policies, monitor the implementation of government programs, and even participate in decision-making in certain situations. They were usually composed of representatives of the government, civil society and sometimes other relevant sectors, and operated within structures and procedures established by law.

In fact, the first organizations in the form of councils emerged within the numerous Brazilian social movements, as entities claiming rights. In this sense:

For us, from the outset, it is necessary to demarcate our understanding of what social movements are: we see them as collective social actions of a sociopolitical and cultural nature that enable different ways for the population to organize and express its demands. (GOHN, 2019, p. 13)

In this context, it should be noted that for more than two decades, Brazil was under a military dictatorship (1964-1985) that restricted the spaces for civil society to participate. With the redemocratization, which began in the late 1970s, the country became involved in struggles for freedom, direct elections and the return to democracy.

In this scenario in the 1970s and 1980s, organized civil society played a fundamental role in the organization of Social Movements and Popular Councils, which emerged linked to various organized sectors of civil society and represented the wishes of the population.

Although timidly, these organizations provided the return of civil society participation in discussions on the public agenda that gradually allowed the redemocratization of the country and greater insertion in participatory spaces.

In this mishap, the management councils emerged as part of this search for active participation in the management and formulation of public policies, although, in their origin, they did not have the power to deliberate or supervise state actions, they acted as important channels to give voice to the various social segments that were banned by the military regime, opening space for the broad participation of society in discussions about the direction of the nation.

According to Gohn:

It should also be noted that, from the 1990s onwards, some movements articulated with the new institutionalized forms of social participation present in the numerous councils, especially the Management Councils, the Councils of Municipal representatives, the Participatory Budget Councils, etc. (GOHN, 2019, p. 07-08)

It is important to note that the Management Councils gained prominence from the participatory experience of the popular councils, which timidly provided the return of the participation of civil society in the processes of discussion on public policies.

These councils were directly linked to the various organized sectors of society, representing the desires of the population that, although they did not have the power to deliberate or supervise state actions, were important channels of vindication and pressure on the dictatorial government that exercised power.

This organization, in the form of councils, contributed to the advancement of redemocratization, opening new channels and participatory and democratic spaces that enabled the insertion and continuity of public policy management councils as spaces instituted from the Federal Constitution of 1988, as we observed:

The legislation in force in Brazil has recommended, since 1996, that in order to receive resources destined to social areas, municipalities must create their management councils. This explains why most municipal councils emerged after that date (in 1988, of the 1,167 existing councils in the areas of education, social assistance and health, 488 of them had been created after 1997; 305 between 1994-1996; and only 73 before 1991). (GOHN, 2019, p. 92)

Thus, the existence of councils became a legal requirement, with the main objective of bringing society closer to the state and influencing its actions according to social demands, functioning as places of participation, exchange of experiences and inspection, allowing society to cover and collaborate with programs, projects and actions related to the implementation and effectiveness of public policies.

Most management councils are made up of legitimate people representing different interest groups that may be related to areas such as the environment, education, health, sports, culture and other topics.

Given the diversity of subjects, there are several councils in different spheres of government, such as the National Council for the Environment (Conama), the State Council for the Environment (Consema), the Health Councils, the Education Councils (at the national, state and municipal levels, etc.

With regard to their functions and roles, the management councils have deliberative, advisory and normative functions, they opine and advise the executive branch (federal, state or municipal) on issues related to their specific area of activity and serve as forums for decision-making, being essential for the formulation, control and evaluation of public policies.

Thus, in a republican society such as the Brazilian one, management councils are fundamental pieces for a more democratic and effective public management, allowing society to actively participate in the construction and monitoring of public policies.

THE MANAGEMENT COUNCILS AS A MANIFESTATION OF LOCAL GOVERNMENT

For much of the history of social organizations, the concept of power has been central to understanding the dynamics of a society's organization, however, the understanding of this power has evolved over time, especially with regard to its distribution and exercise.

In this context, the Management Councils emerge as a significant expression of the representation of local power, establishing new forms of participation and governance, related to public policies.

Thus, to fully understand the role of the Management Councils as local authorities, it is crucial to situate them within a broader historical and conceptual context:

In the 1990s, local power began to be seen, on the one hand, as the political-administrative headquarters of the municipal government, more specifically of its urban headquarters (see Barbosa, 2000, p. 56), and on the other, due to the new forms of popular participation and organization, as a driver of social changes. (GOHN, 2019, p. 38)

In this scenario, from the final decades of the twentieth century, social movements and academics began to question traditional power structures, calling for greater citizen participation in public management processes. Thus, the Management Councils emerge,

as an institutionalized response to these demands for participatory democracy. In this sense, the rise of these councils is intrinsically linked to the democratization of public space and the search for more inclusive forms of decision-making in the territorial location in which they operated.

In this way, the origin, creation and structuring of the councils have an intrinsic relationship with the concept of modern democracy, where citizens can express themselves and be present in matters that concern the decisions that will affect the life of society.

In this context of changes, the Management Councils emerge, then, as institutional mechanisms aimed at enabling this participation, representing an attempt to overcome the traditional model of political representation based on another perspective of public governance.

In the words of Teixeira (2001) in "The Local and the Global, limits and challenges of citizen participation", the management councils emerge as an organ of dialogue between civil society and the public power in this way:

In the search for a new institutionality, citizens from voluntary associations are assigned some roles proper to agents of administrative power. This is the case of the "management councils" – created in all spheres of government, as instances of dialogue and proposition and also, formally, deliberative and management instances – even if, due to little experience, the difficulty of articulation between the components and the lack of resources and technical training, they still do not effectively assume their functions. (2001. p. 138)

This view highlights the relevance of these councils as instruments for the empowerment of local communities, which are placed in a central sphere of participatory decision-making, despite their inexperience in this form of collective participation.

According to Gonh (2011, p. 88), in Management Councils and Sociopolitical Participation, "*Management councils are important because they are the result of popular struggles and demands and pressures from civil society for the redemocratization of the country*". This perspective highlights the importance of these councils as mechanisms for empowering citizens.

One of the most striking characteristics of the Management Councils is their ability to promote the active participation of citizens in the management of local affairs, because by bringing together representatives of the community, civil society organizations and public authorities, these councils become privileged spaces for deliberation and policy formulation. This deliberative dynamic is fundamental for the legitimacy of the decisions

made and for the construction of consensus that represents the interests of the community as a whole.

In fact, management councils have been the great novelty in public policies over the years. With an interinstitutional character, they have the role of mediating instrument in the relationship between society and the State and are inscribed in the 1988 Constitution, and in other laws of the country, as instruments of expression, representation and participation of the population. (GOHN, 2019, p. 88)

In this period of expanded participation of civil society, the management councils occupy a privileged space in the sense of involving and influencing the local community in the construction of an alternative for public management, with broad participation of the community in the search for solutions to its problems. Thus, according to Elenaldo Teixeira:

Thus, in the 70s and 80s, in many countries of Europe and Latin America, a civil society was formed formed by a network of associations, movements, groups and institutions, which, articulated with liberal sectors and business leaders, actively participated in the process of redemocratization of these countries (2001. p. 24)

This historical approach emphasizes the importance of effective citizen participation in defining the direction of local public policies. *"Therefore, the role of the councils focuses on the discussion on public management strategies in general and on the character of public policies themselves in particular (see Caccia-Bava and Borja, 2000)"*⁶

In Brazil, the emergence of management councils reflects a movement to seek greater citizen participation in public management, especially after the redemocratization of the country in the 1980s. Inspired by international experiences and driven by demands for democratization and decentralization of power, the Management Councils have become an important tool to expand the participation of civil society in decisions that affect their communities.

An emblematic example of this movement is the National Health Council (CNS), created in 1937 and reformulated in 1990 by the Organic Health Law (Law 8.142/90). The CNS is a space for social participation in the formulation of health policies, with representation of users, workers and managers of the Unified Health System (SUS). Through the CNS, citizens have the opportunity to actively contribute to the definition of the guidelines and priorities of the Brazilian health system.

⁶ GOHN, 2011, p. 94

In this sense, the deliberative dynamics of the Management Councils plays a crucial role in building consensus and in the search for solutions that meet collective needs, through dialogue and negotiation, the members of these councils seek to overcome divergences and build public policies that are more legitimized by society as a whole.

However, the management councils are born from the claims for rights and in order to establish themselves as legitimate representatives of local power they must work towards overcoming the very composition of the representativeness of their members, and must be constituted by as many social segments as possible, and must respond to the desires of their represented in the geographical space in which they operate. This implies not only ensuring the diversity of representation in the councils, but also promoting mechanisms that allow the effective inclusion of the different social groups that operate in the locality, aiming to strengthen the distribution of power.

In this sense, according to Gohn, *"The management councils are important because they are the result of popular struggles and demands, of pressures from civil society for the redemocratization of the country."* (GOHN, 2011, p. 88). This suggests the importance of considering not only the characteristics of the internal organization of the councils, but also the historical conditions that influence their performance, as well as the importance of the quality of the deliberative process in the councils to ensure the legitimacy of the decisions made.

The perspectives for the Management Councils as local power are closely linked to the political and social contexts in which they are inserted. In times of institutional instability or disenchantment with traditional forms of government, these councils can emerge as important spaces of resistance and popular articulation.

In addition, the Management Councils are present in several areas, such as social assistance, environment, culture and urban development, contributing to the expansion of democratic participation and the construction of more inclusive and effective policies. An example is the Municipal Council for Urban Development (CMDU), which works to define guidelines for the planning and management of urban space, involving civil society in decision-making on issues such as housing, mobility and land use.

Another relevant example is the Municipal Councils of Education, established in several Brazilian municipalities to ensure the participation of the community in the elaboration and supervision of local educational policies. These councils are composed of representatives of parents, teachers, students, school managers and other segments of

civil society, enabling the discussion and monitoring of educational issues at the municipal level.

These examples demonstrate how the Management Councils have been an important tool to strengthen local power in Brazil, promoting citizen participation and the collective construction of more democratic and effective public policies.

However, despite the progress achieved, it is important to recognize that there are still significant challenges to be faced, so that they can effectively exercise their role as local authorities and ensure the effective implementation of the decisions made by the collegiate. Issues such as the representativeness of participants, transparency in decisions and the ability to implement deliberated policies continue to be the subject of debate and reflection.

In view of the search for answers to these questions and the need for their constant improvement, the Management Councils represent a concrete manifestation of local power, capable of transforming the relations between State and society and promoting greater democratization of public management. However, its full potential will only be reached through a continuous process of improvement and consolidation of participatory and deliberative practices, as highlighted by several authors who have focused on the subject.

THE EDUCATION COUNCILS IN BRAZIL

EDUCATION COUNCILS

In this second part of the article, we will address the Brazilian educational system in a generic way, with a main focus on the education councils, from their origins, through their competencies acquired throughout the history of Brazilian education.

Thus we begin our approach with Bordignon's famous thought, when he states that:

Currently, the councils are present, as forms of collective deliberation, in all areas of government and in large companies, assuming different nature and composition according to the area in which they operate and the function they perform. It can be said that we live in the era of councils in the management of public organizations and, to a large extent, also in the private sector. (BORDIGNON, 2020, p. 29)

Based on the words of this renowned author, we situate this study on the origins and competencies of the education councils based on the premise that they are bodies that guide and regulate the Brazilian educational system, being a great challenge for scholars who focus on this theme, because the history of education and the "pedagogical doing"

constitute a path in constant construction, consolidation and restructuring in an eternal journey in search of the so-called educational quality.

In this sense, when it comes to education, regardless of whether it is the responsibility of the national, state or municipal entity, we need to reflect on whether it moves in the appropriate direction of offering an education that really meets the needs of the Brazilian population and understands their desires, because we live in a moment of construction of new social paradigms and education is not inert in the face of this fact.

To give meaning and collaborate in the construction of national education, the Brazilian State creates institutions that can bring civil society to the discussion in this arduous and difficult task of educating society, seeking to influence and instill in the social environment a level of civility in terms of educational development for all citizens.

Thus, one of the collaborative bodies that works with the education systems are the so-called Education Councils, which are an integral part of the composition of the Brazilian educational structure. Thus, according to CURY, *Apud* BORDIGNON (2020, p.22):

In general, created by law or by Decree, with established functions, the council was and is a public body, because it belongs to a public entity or person with a legal framework.

Thus, in order to understand the organization of Brazilian education, there is an urgent need to understand the historical path taken by the education councils, as well as to investigate and understand their attributions and competencies in the organization of national education.

In this sense, it is essential to build a historical retrospective of the origin of the Education Councils in the country, justifying the importance and relevance of this theme in a context that only happens with the participation of organized civil society in the claim for rights and access to decision-making spaces only allowed in a democratic perspective.

In this way, the fact of the manifestation of a desire for citizen participation stands out, acting in the sense of increasingly demanding from the state that the people also participate in decision-making that will influence the lives of Brazilians.

In this context, many movements have been fighting for the conquest of participation rights and in the educational area, they also aim to guarantee access and the right to education for all. That said, observing the setbacks that followed the actions of the pioneers in the 1930s, we identified in the 1950s and 1960s, the performance of the education and popular culture movements as resistance to attempts to exclude the population in the democratization of access to culture and education. (Map of Municipal Councils of Education in Brazil, 2013, p. 56)

It should be noted that the struggles waged by organized civil society resulted in the opening for social participation in state institutions, among them, the education councils that were being formed in Brazil as advisory bodies of the state, focused on educational matters.

It is precisely in this historical moment of participatory euphoria⁷, coming from the publication of the Manifesto of the Pioneers of New Education of 1932,⁸ that the Brazilian state begins to open spaces for popular participation to give its opinion on certain issues of interest to the entire Brazilian nation.

In this scenario of openness to participation, the Councils of Education originate, and the first Municipal Councils of Education were created in the State of Bahia, as representatives of the municipalities in the consultation on matters of an educational nature.

It is imperative to note that the idea of an education council was still present in colonial Brazil, but it emerged without popular participation, since it did not originate from the participation of the population, nor was it the result of a claim by civil society, something practically non-existent at the time (at that historical moment only a small number of Brazilians had the reading competence). This emerged more as a state action that felt the need to have an advisory body.

Historically, the formulation of an Education Council within the Brazilian public administration goes back, curiously, to the same state of Bahia, in 1842, still in the imperial period. Subsequently, in 1846, the Chamber of Deputies proposed the creation of a general council responsible for public instruction, however, it was only in 1911 that a Superior Council of Education was actually created (Decree No. 8,659/1911). Later, the National Council of Education was created, through Decree No. 16.782-A/1925) and, in 1931, the National Council of Education. Then, Law 4.024/1961 created the Federal Council of Education and the State Councils of Education. The Municipal Councils of Education were only created in 1971 by Law No. 5692.

⁷ A state that is characterized by the appearance of joy, optimism, cheerfulness, etc., but which does not correspond to the reality of the life of the person who claims to experience them. Excessive and momentary joy; exaltation. (Online Portuguese Dictionary)

⁸ A movement promoted by a group of Brazilian intellectuals during the period of the Getúlio Vargas government that they understood education as one of the main instruments for the organization of Brazilian society, criticized the absence of a national policy for the promotion of public, secular and free education. (Map of Municipal Councils of Education in Brazil, 2013, p. 42)

Based on this report, we identified that in 1995, the Federal Council of Education was again renamed as the National Council of Education (CNE) by Law No. 9,131/95, which is a collegiate body that to date is part of the structure of the Ministry of Education, with the competence to collaborate with the Ministry in the formulation of the National Education Policy, as well as exercising normative, deliberative and advisory duties to the Ministry.

As the winds of redemocratization blew again after two decades of military rule, the Constitution of the Republic of 1988 (Citizen Constitution) was promulgated and, after long internal struggles, spaces began to emerge for a wide range of participation of organized civil society in the nation's decision-making process, with the present action of all social strata.

Like so:

As we enter the twenty-first century, when the social transformations driven in the last century, from the struggles of organized civil society movements for the redemocratization of the Brazilian State, after a long period of dictatorships (Dictatorship of the Estado Novo of 1937 and the Military Coup of 1964); the councils (especially the education councils) began to play a leading role in greater political action, considering that society began to occupy different spaces of representation and participation with the State, intending it to build agendas that incorporated its propositions. (Map of Municipal Councils of Education in Brazil, 2013, p. 40)

In this new scenario, the Education Councils emerged in a participatory way in the period of redemocratization of the Brazilian state, in which civil society expanded its space for political participation in state decisions related to education.

In this perspective, the creation of a council that would meet the needs of democratic coexistence became necessary, as long as its construction occurs in a participatory way involving the maximum number of social actors, entities and institutions, whether public or private, where the form of choosing its representatives must occur in a republican and democratic vision, pillars of the democratic rule of law enshrined in the heart of the Magna Carta of the Republic.

THE MUNICIPAL COUNCILS OF EDUCATION

Historically, the Municipal Councils of Education were legally mentioned in law 5692/71, however, for didactic purposes, it is worth mentioning that:

[...] it is worth remembering that the concern with the Municipal Councils of Education (CMEs) dates back to the beginning of the twentieth century, when the

renovating proposals that led to the Manifesto of the Pioneers of 1932 emerged. Anísio Teixeira, when director of Public Instruction in Bahia in 1924-1928, carried out an educational reform that maintained the autonomy of the CMEs, according to article 71 of the Education Law of the State of Bahia [...] (Map of Municipal Councils of Education in Brazil, 2013, p. 96)

As mentioned, in fact the legal emergence of the Municipal Councils of Education in Brazil occurred with the publication of the aforementioned law 5692 of 1971 (revoked by law 9394/96), which in its article 71, provided as follows:

Article 71. The State Councils of Education may delegate part of their attributions to Councils of Education that are organized in the Municipalities where there are conditions for doing so.

According to this legal provision, the municipal councils to be created by the municipalities needed the states of the federation, through their Councils of Education, to delegate this power to the municipalities, transferring part of their attributions to this body that should be created by the federated entity, provided that it undertook to provide the necessary conditions for its operation by providing human resources, material and financial and pay for their maintenance.

Following the facts presented, it is worth mentioning that on the date of publication of the law in 1971, the creation of Municipal Councils of Education was authorized (even if by delegation of competence), however, there was a period of Brazilian political turbulence because the nation was under the aegis of the military dictatorship that limited the political participation of civil society, imposing limits on their own creation.

What was seen in practice was a small number of municipalities creating their councils, particularly in the southern region of the Brazilian state, while in most of the municipalities that make up the federation it was expressed only in the letter of the law, without effective organization or interest of the municipalities in its creation, due in part to the fact that the country lives under an authoritarian regime.

As already mentioned, paradoxically, the municipal councils were legally born in a historical moment of impossibility of democratic participation, because with the coup of 1964, the military took power and began to reorganize the Brazilian educational system in

a technician⁹ and technocratic perspective¹⁰, in which the technicians of the Ministry of Education organized the educational packages to be applied, without consulting civil society that was silenced and prevented from any participation in the higher spheres of decisions regarding education. Only after the political reopening and the departure of the military governments from power did civil society begin to rebuild a participatory life with decision-making power. From this perspective, the Constitution of the Republic of 1988, in its article 211, § 1 to 6, defines the organization of the Brazilian educational system:

Article 211. The Union, the States, the Federal District and the Municipalities shall organize their education systems in collaboration.

Paragraph 1 - The Union shall organize the federal education system and that of the Territories, shall finance the federal public educational institutions and shall exercise, in educational matters, a redistributive and supplementary function, in order to ensure equalization of educational opportunities and a minimum standard of quality of education through technical and financial assistance to the States, the Federal District and the Municipalities; (Text given by Constitutional Amendment No. 14, of 1996)

Paragraph 2 - The Municipalities shall act primarily in elementary education and early childhood education. (Text given by Constitutional Amendment No. 14, of 1996)

Paragraph 3 - The States and the Federal District shall act primarily in elementary and secondary education. (Included by Constitutional Amendment No. 14, of 1996)

Paragraph 4 - In the organization of their education systems, the Union, the States, the Federal District and the Municipalities shall define forms of collaboration, in order to ensure the universalization, quality and equity of compulsory education. (Text given by Constitutional Amendment No. 108, of 2020)

Paragraph 5 - Public basic education shall give priority to regular education. (Included by Constitutional Amendment No. 53, of 2006)

Paragraph 6 - The Union, the States, the Federal District and the Municipalities shall exercise redistributive action in relation to their schools. (Included by Constitutional Amendment No. 108, of 2020)

In this context, constitutional legislators already advised that municipal federated entities should follow the path of building autonomous education systems, providing municipal citizens with the education under their responsibility. The obligation of the municipalities is so strong in the Magna Carta that this is reinforced by article 30, item VI, when it states that among the competences of the municipalities is the duty to: *"maintain,*

⁹ Technical education was a model implemented after the military coup of 1964, with law 5692/71 that transformed the current high school (former 2nd degree) into technical courses, thus: "At the 2nd degree level, terminality refers to the professional qualification of the secondary degree, which provides the essential conditions of technical training capable of ensuring the exercise of a profession, even if the student intends to continue his studies at a higher level." ROMANELLI, 1986. p. 239.

¹⁰ The term technocrat comes from technicism: "Thus, we can say that it was after 1964, with the implementation of the military dictatorship, that technocracy began to take shape within the scope of the Brazilian State. In other words, the military regime excelled in establishing a government of technicians, based on the centralizing strengthening of the Executive Branch and guiding administrative actions by the primacy of the economic over political and social aspects.

with the technical and financial cooperation of the Union and the State, early childhood education and elementary education programs;" (Text of EC 53/2006)

The thesis of the autonomy of the municipalities, with regard to education, enshrined in the 1988 Constitution, is expanded with the approval of the 1996 Law of Guidelines and Bases of National Education:

To this end, in addition to article 211 ("The Union, the States and the Municipalities shall organize their education systems in a collaborative regime "), the LDB will have sought support in items I and II of article 30 of the Federal Constitution, which affirm, respectively, the competence of the municipalities to "legislate on a matter of local interest" and "supplement federal and state legislation, as appropriate". Thus, item III of article 11 of the LDB stipulates that it is up to municipalities to "issue complementary standards for their education system." (SAVIANI, 2017, p. 18)

In this sense, the approved regulatory frameworks for education sought to restructure the Brazilian educational system, with regulations that aimed to decentralize the responsibility for education and give greater participatory autonomy to municipal entities, enabling the creation of their own education systems, since the Magna Carta of Education, Law 9394/96, made clear in its article 11 the competences of the municipalities, *in verbis*:

Article 11. The Municipalities shall be responsible for:

- I – organize, maintain and develop the official bodies and institutions of its education systems, integrating them with the educational policies and plans of the Union and the States;
- II – to exercise redistributive action in relation to their schools;
- III – to issue complementary standards for their education system;
- IV – authorize, accredit and supervise the establishments of its education system;
- V – offer early childhood education in daycare centers and preschools, and, with priority, elementary education, allowing them to work at other levels of education only when the needs of their area of competence are fully met and with resources above the minimum percentages linked by the Federal Constitution to the maintenance and development of education.

Sole Paragraph. The Municipalities may also choose to integrate into the state education system or compose a basic education system with it.

Once the legal framework present in the LDB is established, with the country experiencing a scenario of democratic coexistence, the municipal education councils are created as state bodies through municipal legislation with the fulcrum in article 11, item I and competencies defined in item III of the LDB, and must be consulted on matters of an educational nature.

In the words of Moaci Alves Carneiro:

III – By constituting its own system (cf. Art. 8), each Municipality enjoys autonomy to organize, put into operation, monitor and evaluate its education bodies and its network of schools. It is imagined that, from now on, each Brazilian Municipality will

be able to constitute its Municipal Council of Education with the responsibility of legislating within the scope of its jurisdiction, preserving the limits of federal and state legislation. This is what the legislator means when it talks about *lowering complementary rules*. (CARNEIRO, 2012, p. 146)

The Councils become bodies belonging to the municipal education system, being composed of various sectors of organized civil society and the public power, having as a principle this diversity of composition, following a democratic and participatory perspective of society.

In this line, after the publication of the above-mentioned law, the Ministry of Education¹¹ and the State Councils of Education began to encourage the creation of municipal education systems and their respective councils, including, before the entry into force of Law 9394/96, the National Union of Municipal Councils of Education – UNCME¹², an entity representing the municipal councils of education, developing actions with the objective of fostering the articulation and training of councilors such as the Pro-Council¹³, for example.

Thus, although BORDIGNON, (2013, p. 85) tells us that: "*initially, it is necessary to remember that there is no federal legislation determining the creation of municipal education councils*", most Brazilian municipalities created their education councils following the necessary legal procedure.

Thus, a Council of Education (in this case the Municipal Council of Education) to be created requires a Municipal Law of initiative of the executive power, approved by the City Council, sanctioned by the Municipal Mayor and published by the official press of the municipality or state, indicating the moment of its entry into force.

¹¹ The Ministry of Education is a federal government agency that deals with the national education policy with regard to basic education (kindergarten, elementary and secondary education), higher education, youth and adult education, special education, professional and distance learning, educational research and university extension. <https://www.gov.br/mec/pt-br>.

¹² The National Union of Municipal Councils of Education – UNCME, an entity representing the Municipal Councils of Education, created in 1992 and organized in all Brazilian states with the purpose of encouraging and guiding the creation and functioning of these collegiate bodies, bases its actions on the principles of universalization of the right to education, democratic management of educational policy and social inclusion.

¹³ Program that encourages the creation of new municipal education councils, the strengthening of existing ones and the participation of civil society in the evaluation, definition and inspection of educational policies, among other actions. The main objective of the Pro-Council is to qualify managers and technicians of the municipal departments of education and representatives of civil society so that they act in relation to school pedagogical action, legislation and mechanisms for financing, transfer and control of the use of education funds. The municipal councils of education play the role of articulators and mediators of educational demands with municipal managers and perform normative, consultative, mobilizing and supervisory functions.
SOURCE: Ministry of Education.

After these initial steps, with the law already approved and sanctioned by the municipal executive power, elections are held as determined by law.

Thus, the creation of a truly participatory Education Council is initially permeated by the principle of democratic experience that will support its performance in the education system that has shelter provided for in Article 211 of the Constitution of the Republic of 1988, when it indicates that: *"Union, the States, the Federal District and the municipalities shall organize, in a collaborative regime, their education systems"*.

In this sense, almost thirty-five years after the approval of the 1988 Magna Carta, it already guided the federated entities towards the construction and structuring of education systems in a collaborative format, but with autonomy among themselves.

Subsequently, the 1996 Law of Guidelines and Bases of National Education brought regulations to the municipal education systems, but indicating the need for harmonious coexistence with the state education systems according to its article 18 *in verbis*:

Article 18. The municipal education systems comprise:
I - the institutions of elementary, secondary and early childhood education maintained by the municipal government;
II - early childhood education institutions created and maintained by the private sector;
III – the municipal education bodies.

In this sense, the law of Guidelines and Bases of National Education, brings the scope of the municipal education system, as well as defines in article 11, V, already mentioned in this article, combined with article 18, its competence to act in early childhood education and elementary education, being able to act in other segments of education only when this responsibility is fully met.

We highlight that Law 9394/96, in its articles 11, item I, combined with article 8, paragraph 2, provide for the freedom for municipal entities to create their education bodies, one of which is the education council.

Art. 8 - The Union, the States, the Federal District and the Municipalities shall organize, in collaboration, the respective education systems.
Paragraph 2 - The education systems shall have freedom of organization under the terms of this Law.

In view of the legal provision, we understand that article 11, item III is consistent with article 8, paragraph 2 of the Law of Guidelines and Bases of National Education and, following the indication of the Magna Carta of the Republic of 1988, advances towards

establishing a body with advisory, normative, deliberative, mobilizing and social control powers in the structure of municipal education.

Bordignon explains the nature of these powers:

The **consultative nature** places the councils in the function of advising the government's actions in the area of education. In its original conception, the councils were considered "higher advisory bodies", called upon to collaborate in the formulation of educational policies. In the exercise of this function, the councils propose actions, give their opinion on relevant topics and respond to consultations through opinions. BORDIGNON, (2013, p. 69)

In general, of a **deliberative nature**, it attributes to the council the competence to regulate the functioning of the education system. Normative **competence** is always emphasized as the most relevant, but it is not always made explicit whether it is deliberative or consultative in nature, which, in a way, defines the nature of a council. BORDIGNON, (2013, p. 71)

The **deliberative character**, as the term implies, gives the council the power of final decision in specific matters defined in the proper normative instruments. In matters within the competence of the council, on a deliberative basis, the decision-making body on that topic will be of the council. BORDIGNON, (2013, p. 68 and 69)

The **mobilizing function situates** the councils as unifying spaces for the common efforts of governments and society to improve the quality of education. The social control function places the council in the surveillance of good public management and in the defense of the right of all to quality education. BORDIGNON, (2013, p. 69 and 70)

In this sense, when created, a Municipal Council of Education must have a participatory and representative root in the conduct of education management, contributing to decentralize actions and responsibilities, having powers and duties before local society, and must act in a collegiate and autonomous way, but in sync with the States and the Federal Government in the conduct of national education.

The functions inherent to the very existence of municipal education councils attribute a high importance to these bodies, since they exercise several attributions that contribute to the construction of municipal education, having as a priority a model of society with a view to social and educational quality, in which popular participation becomes fundamental.

Currently, there are about 5,400 councils affiliated to UNCME in Brazil, being present in most Brazilian municipalities as bodies belonging to the education systems, with the main attributions of developing work related to democratic management with the participation of society and having normative, deliberative inspection and advisory functions to the municipal education systems.

FINAL CONSIDERATIONS

Considering that the true construction of knowledge happens, when we define an object of study and an investigative line that allows us to apprehend the unknown and taking possession of this information present the facts and evidence to society.

In this sense, studying the emergence of education councils in Brazil, seeking to understand the historical process that led to their creation, is of paramount importance to understand the history of Brazilian education itself, as both are connected and are part of the same historical process. In this way, we understand that they are bodies belonging to the normative structure of Brazilian education present at the national, state and municipal levels with various attributions.

We can say that the creation of the Municipal Councils of Education is still recent, but that they are already present in most of the federated entities that make up the Brazilian nation, although they need greater attention from the public power with regard to the necessary conditions for the development of their work.

We understand that despite all the obstacles that may arise in the creation of a council, it is important to highlight that we live in a democratic republic that is only consolidated with popular participation in the nation's decision-making process and this includes participation in the organs of social control.

Despite all the difficulties, we must understand that an education council is an institution belonging to the structure of the state and has the primary function of acting as a mediator between civil society and the rulers, I understand education as a right of all, aiming to contribute to the construction of democratic management and collaborate in the improvement of educational policy.

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