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DUMBLEDORE’S ARMY: CIVIL DISOBEDIENCE IN *HARRY POTTER AND THE ORDER OF THE PHOENIX*

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ABSTRACT: This paper explores the connection between law and literature, considering the concept of civil disobedience as developed in the plot of the novel *Harry Potter and the Order of the Phoenix*. To do so, this research uses the approach of law *in* literature, by linking the actions of Dumbledore’s Army to the theory of civil disobedience by Dworkin. Also, the narrative is compared to the concept of civil disobedience as a fundamental right, based on the conflict between facticity and validity, as described by Habermas. Thus, the analysis identifies, in the novel, two categories of civil disobedience proposed by Dworkin, and discusses, in real life, the overlapping of disobedience based on justice and on politics, in order to identify the conditions that justify actions of civil disobedience. Besides that, this paper analyzes the tension between legality and legitimacy, considering the decisions of the Ministry of Magic and its educational decrees, which sets the school community apart from the official political power. In conclusion, the research examines the use of persuasive and non-persuasive strategies and the reach of civil disobedience’s purposes based on the actions of Harry Potter and of Dumbledore’s Army.

KEYWORDS: civil disobedience; fundamental rights; law and literature; Harry Potter

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1 INTRODUCTION

Civil disobedience is a strategy that has been used for many years and proven effective in changing several policies and promoting regulatory changes. In general lines, it is any form of disobedience to the law, due to beliefs that it is unfair, immoral, illegitimate, or even dangerous. Understanding the countless motivations and circumstances that may develop civil disobedience demands thorough studies.

In this article, we attempt to find traits of civil disobedience in the novel *Harry Potter and the Order of the Phoenix*, written by J.K. Rowling (2003). Although journalists (Hirata, 2017) and movie critics (Freire, 2007) have identified civil disobedience in the novel, there are no scientific researches on that matter. No papers have been found relating a thorough theoretical background on civil disobedience to the novel, in the law and literature field. Thus, we present, firstly, considerations on the interface between law and literature, in order to identify to what extent literature can contribute to the studies of law.

Following to that, we summarize the narrative of *Harry Potter and the Order of the Phoenix*, showing how the group called Dumbledore's Army consists of a civil disobedience manifestation. In this sense, we relate their convictions and strategies to the theoretical foundations of civil disobedience.

Hence, this paper focuses on the conceptual construction of civil disobedience, from Thoreau (2005), through the operational theory of civil disobedience of Dworkin (1985), until arriving at the proposition of civil disobedience as evidence of the legality and legitimacy tension in law. Also, we distinguish the types of civil disobedience and the strategies used by them, in order to identify the conditions that justify their existence. Then, we analyze civil disobedience as a fundamental right, capable of bringing society closer to the official power, with the objective of restoring the decision legitimacy in it.

To develop this article, we used the approach *law in literature*, because we believe that "literature helps to existentialize law" (Streck; Karam, 2018, p. 617, translated) and, thus, we investigate how the study of

Dumbledore's Army, as portrayed in the book *Harry Potter and the Order of the Phoenix*, can contribute to the theoretical understanding of civil disobedience.

2 INTERFACES BETWEEN LAW AND LITERATURE

The link between law and literature has been explored for a few decades now, and has acquired attention and interest of several researchers. This paper is an example of that kind of transdisciplinarity, in attempt to avoid the fragmentation of disciplines with a more complex and integrated approach. Due to that, it is important to understand the articulation of these two areas.

Nelson Camatta Moreira and Juliana Ferrari de Oliveira (2015, p. 17, translated) consider: "to what extent can literary works, especially fiction, be useful for a cognitive system like the Law"? Thus, the authors find contributions of Literature to legal education:

In this sense, Literature is essential. For the infinite possibilities of interpretation, for the non-fragmentation of man, for the valorization of emotion, for the openness to think differently, Literature shows us the urgency to reintegrate man. The experience of reading a short story or a poem is not analyzed in parts, first rationally and then emotionally. Mind, soul, body and heart are impacted at the same time, together and it is from there that its beauty is extracted, that pleasure is experienced. This is precisely what the law teaching and learning process lacks, because by inhibiting feeling, it ends up excluding pleasure (Moreira; Oliveira, 2015, p. 19, translated).

Similarly to that, Lenio Streck (Streck; Karam, 2018, p. 621, translate) states: "Literature contributes to education, period. As for legal education, it is only one further step". Surely literature allows new points of view to manifest, and this also leads to a different view on the training and education in the legal field. Thus, students become able to gain autonomy in the educational process in a similar experience to that of reading the plot of a novel, for instance.

It is important to point that the union of Law and Literature happens in three different approaches: law *of* literature; law *as*

literature; and law *in* literature (Trindade; Gubert, 2008, p. 48-49, translated).

Law *of* literature consists of:

specific questions with eminently normative characteristics – that is, the legal regulation given to literature is investigated, encompassing the disciplines of private law, with regard to intellectual property, copyrights, etc.; of criminal law, in view of press crimes and other crimes committed by the media, crimes against honor, etc.; and of constitutional law, which is linked to freedom of expression, censorship, etc.; and of administrative law, in what concerns the regulations of the exercise of the literary professional activity, the guidelines of education programs, the regulations of public libraries, etc. (Trindade; Gubert, 2008, p. 49, translated).

This approach is the least important concerning this paper, as we see it as a merely transversal link between the areas, i. e., the manifestation of the law via legal institutions over literature and its regulation.

As for the approach named law *as* literature, it explores the connection of these fields by analyzing to what extent the Law has similar characteristics with Literature. In that, Dworkin (1985, p. 151) proposes that “we can improve our understanding of law by comparing legal interpretation with interpretation in other fields of knowledge, particularly literature”.

Thus, according to that approach,

the texts and legal discourses are examined from literary analyzes, that is, the extension of the analysis and interpretation methods and their application as developed by literary criticism, to the analysis of the rationale constructed within the scope of judicial decisions (Trindade; Gubert, 2008, p. 49, translated).

According to that view, the development of the Law may be seen as that of a novel, with chapter succession, but each one written by a different novelist. “Now every novelist but the first has the dual responsibilities of interpreting and creating because each must read all that has gone before in order to establish, in the interpretivist sense, what the novel so far created is” (Dworkin, 1985, p. 236).

The same happens to the creation of jurisprudence: the link between previous decisions to the present one, as in a chain novel. The interpretative practice is creator of the following steps, and this rationale bonds the Law to Literature:

Deciding hard cases at law is rather like this strange literary exercise. [...] Each judge is then like a novelist in the chain. He or she must read through what other judges in the past have written, not only to discover what these judges have said, or their state of mind when they said it, but to reach an opinion about what these judges have collectively done [...] (Dworkin, 1985, p. 159).

Regarding this, Tribe and Dorf (2007, p. 108) highlight that “the most important lesson one must learn here is the obvious fact that a story might have a different ending as long as it is consistently linked to everything that happened before in it”. Thus, the precedents are responsible for establishing limits to the future chapters of jurisprudence, but they do not define it; there is a discretionary margin for those who are writing the rest of the story.

Last but not least, there is the approach named law *in* literature. According to André Karam Trindade and Roberta Magalhães Gubert (2008, p. 49, translated), this interface “analyzes the law from the viewpoint of literature, based on the idea that certain legal themes are better formulated and more clearly developed in literary works than in treaties, manuals, and compiled legislation”. Hence, legal concepts are examined as they are represented in novels and books.

Lenio Streck (2018, p. 621, translated) also points out the possibility of “analyzing works of literature that do not even deal, directly, with the subject of ‘law’”. Therein lies this present paper. The idea is to approach, legally, the concept of civil disobedience, from the way it is developed in a fictional, fantasy, magic piece of literature, whose concern is not to introduce a theory of civil disobedience, but that, by representing it in narrative form, may reveal more than doctrines on the types and motivations of civil disobedience.

Based on that, this article analyzes the fifth volume of the *Harry Potter* series. It identifies in the organization named “Dumbledore’s Army” a form of civil disobedience, facing the Ministry of Magic and its

educational decrees. In doing so, we study the theory of civil disobedience, especially from the writings of Thoreau, Dworkin, and Habermas.

3 HARRY POTTER AND THE ORDER OF THE PHOENIX: DUMBLEDORE’S ARMY AND CIVIL DISOBEDIENCE

The *Harry Potter* series tells the story of a wizard boy, whose parents were killed by an evil sorcerer – the Dark Lord – when Harry was less than a year old. Then, the villain attempted to murder the child as well, but some kind of magic protection saved the boy, leaving him with a lightning-shaped scar on his forehead. The killing spell rebounded and hit the Dark Lord himself, who lost his human form and his powers. For that, the boy was raised by his non-wizard (or “muggle”) uncle and aunt, unaware of his own history and magical powers, until he was 11 years old (Rowling, 2000).

In his birthday, he got to know the existence of a magic world, when he was summoned by Hogwarts, the School of Witchcraft and Wizardry. The wizard community coexists with the non-magic people, in the material plane, but hiding their special characteristics. Besides that, their organization is similar to the non-wizard society, with laws, institutes and institutions, such as school, banks, stores, and even government units, such as the Ministry of Magic.

From the first book of the series, Potter enters the Hogwarts School of Witchcraft and Wizardry and starts living in the wizard community. As years go by, more than once does the boy face the killer of his parents, who still wants to kill him, so fights and duels happen between them.

In the fifth volume of the series, *Harry Potter and the Order of the Phoenix* (Rowling, 2003), Voldemort, the Dark Lord, had just recovered his human form, and started reuniting his followers, the Death Eaters. Potter had seen the moment of Voldemort’s return but not everybody believed his word on it. Together with the Hogwarts headmaster, Albus Dumbledore, Potter informed to the Minister for Magic, Cornelius Fudge, about the “rebirth” of Voldemort, but the minister was incredulous: “See here, Dumbledore’, said Fudge, and Harry was astonished to see a slight

smile dawning on his face, ‘you – you can’t seriously believe that. You-Know-Who – back? Come now, come now...’” (Rowling, 2019, p. 434).

Instead of believing Potter’s report, backed by Dumbledore, the minister chose to close his eyes, stating that was nonsense from the boy. More than that, he started to believe there was a conspiracy going on against the Ministry: “It seems to me that you are all determined to start a panic that will destabilise everything we have worked for these last thirteen years!” (Rowling, 2019, p. 435).

From then on, there was a parting of the wizard community, including within the official power: on one side, the Ministry of Magic, refusing to officially acknowledge the return of the Dark Lord; on another side, the headmaster of Hogwarts, who supported the version told by Harry Potter, in attempt to defeat the evil wizard. Because of that conflict, the Ministry of Magic starts interfering in Hogwarts.

This is not the first time in recent weeks Fudge has used new laws to effect improvements at the Wizarding school. As recently as August 30th Educational Decree Twenty-two was passed, to ensure that, in the event of the current headmaster being unable to provide a candidate for a teaching post, the Ministry should select an appropriate person (Rowling, 2003, p. 307).

Then, the Ministry forces the hiring of Dolores Umbridge as Defense Against the Dark Arts Teacher, who reproduces the behavior of doubting Potter regarding the return of Voldemort. Thus, that subject, which should teach ways of defending against dark wizardry, is restricted to theory, since the Ministry states there is nothing to fear.

Using defensive spells? Professor Umbridge repeated with a little laugh. “Why, I can’t imagine any situation arising in my classroom that would require you to *use* a defensive spell, Miss Granger. You surely aren’t expecting to be attacked during class?” (Rowling, 2003, p. 242).

Even when confronted by students about the demands of the real world, which required the practical knowledge of young wizards, in order to be able to defend themselves, the teacher deliberately refused to recognize the danger.

“So we’re not supposed to be prepared for what’s waiting out there?”

“There is nothing waiting out there, Mr. Potter. [...] Who do you imagine wants to attack children like yourselves?” inquired Professor Umbridge in a horribly honeyed voice.

“Hmm, let’s think . . .” said Harry in a mock thoughtful voice, “maybe Lord Voldemort?” (Rowling, 2003, p. 244).

Potter is immediately reprehended with a disciplinary sanction. Professor Umbridge then reproduces the official discourse that the information about the return of the dark wizard is a lie. Harry disagrees, so the teacher puts him in detention. His task is to write the sentence “I must not tell lies” with a magic pen that used the blood of the bearer as ink and engraved what was being written on their skin (Rowling, 2003, p. 232-233).

Facing the refusal of the teacher to actually teach Defense Against the Dark Arts techniques, together with the imminence of being attacked by Voldemort and his Death Eaters, a group of students then gets organized in order to learn defensive practice by themselves. For that, they would be tutored by Harry Potter himself, who had faced the dark arts several times before. However, “For all that Hermione had said about study and homework groups being allowed, he had the distinct feeling this one might be considered a lot more rebellious” (Rowling, 2003, p. 356).

Potter was right, for the Ministry of Magic quickly gets to know of their plans and edits Educational Decree Number Twenty-Four, which states:

BY ORDER OF THE HIGH INQUISITOR OF HOGWARTS

All Student Organizations, Societies, Teams, Groups, and Clubs are henceforth disbanded.

An Organization, Society, Team, Group, or Club is hereby defined as a regular meeting of three or more students.

Permission to re-form may be sought from the High Inquisitor (Professor Umbridge).

No Student Organization, Society, Team, Group, or Club may exist without the knowledge and approval of the High Inquisitor.

Any student found to have formed, or to belong to, an Organization, Society, Team, Group, or Club that has not been approved by the High Inquisitor will be expelled.

The above is in accordance with Educational Decree Number Twenty-four.

Signed: Dolores Jane Umbridge
High Inquisitor
(Rowling, 2003, p. 351-352)

Hence, Educational Decree Number Twenty-Four restricts the rights to gathering and associating of the students in Hogwarts, with the sole purpose of maintaining the Ministry's plan and denying the information that the Dark Lord had returned.

Despite that, twenty-eight students decide on uniting and practicing Defense Against the Dark Arts. They call themselves "Dumbledore's Army, because that's the Ministry's worst fear" (Rowling, 2003, p. 392).

Thus, a form of civil disobedience is verified, as this association was illegal, for violating the norms of the witch community, in particular Education Decree Number Twenty-Four. As a manifestation of civil disobedience, this act, "although illegal, is not anti-legal, that is, although it does not preserve the legality of the Law, it raises a claim of its legitimacy, which differentiates it from a crime" (Repolês, 2003, p. 19, translated).

As Maria Fernanda Salcedo Repolês (2003, p. 138, translated) states:

The role of Civil Disobedience in the Democratic Rule of Law is the extreme measure used to highlight a situation of crisis, that is, a deficit of legitimacy, resulting from the closure of the central decision-making process in relation to the periphery of the public sphere.

So, civil disobedience is recognized as a fundamental right, inherent to democracy, which serves to "update the normative contents of the Democratic Rule of Law, and to counteract the systemic inertia of institutional policy" (Habermas, 2011, p. 118, translated). Thus, the voice of society re-enters the circle of power, forcing it to participate in decision-making processes.

In this context, it is important to acknowledge the concept of civil disobedience as developed by Maria Garcia (2004, p.293, translated):

Civil disobedience can be conceptualized, therefore, as the particular form of resistance or opposition, actively or passively performed, by the citizen, to the law or act of authority, when they are offensive to the constitutional order or fundamental rights and guarantees, aiming at the protection of the inherent

citizenship prerogatives, for its revocation or annulment.

Bringing this definition to the context of Harry Potter, it is possible to say that Dumbledore's Army was the resistance form the students could perform in Hogwarts when facing two types of attitude imposed by the Ministry. Firstly, the refusal to acknowledge imminent danger and capacitate the students to deal with it; Secondly, the suppression of the fundamental right to gathering and freely associating. Thus, the group's organization aimed at protecting fundamental rights and prerogatives of the wizard citizen's citizenship.

It should be highlighted that civil disobedience as manifested hereby was against Educational Decree Number Twenty-Four, that is, a specific authority act. Even if Professor Umbridge was hated by the students, no-one was questioning her legitimacy, nor that of the Minister. So this case is not a manifestation of the right to resistance, since "civil disobedience is based on constitutional bases and, therefore, as a specific phenomenon, it is not to be confused with the right to resistance, which, on the contrary, questions the government's very authority as a legitimately instituted government" (Repolês, 2003, p. 19-20, translated).

Similarly, Walzer (1977, p. 16-17, translated) stresses the distinction between resistance, which seeks the total abolition of the current order, and civil disobedience, which turns against specific legal provisions and acts of authority:

Some groups accomplish total claims. Its members are obliged to [...] challenge the established legal system, to overthrow and replace one government with another and to attack the very existence of the larger established society. These are revolutionary groups. There are others, however, that make only partial claims. They demand their members to disobey at certain times, and not at all times, and to refuse to comply with certain legal orders, and not all legal orders.

Thus, contrary to what the Minister of Magic thought, the right to resistance was not being exercised by those students: "He thinks Dumbledore wants to be Minister of Magic" (Rowling, 2003, p. 93). Due to that, fudge attempts to exclude him of official power:

“Didn’t you see the Daily Prophet last week? They reported that he’d been voted out of the Chairmanship of the International Confederation of Wizards because he’s getting old and losing his grip, but it’s not true, he was voted out by Ministry wizards after he made a speech announcing Voldemort’s return. They’ve demoted him from Chief Warlock on the Wizengamot – that’s the Wizard High Court – and they’re talking about taking away his Order of Merlin, First Class, too.” (Rowling, 2003, p. 95).

With Dumbledore removed from the spaces of power circulation, the Hogwarts student body –in the margin – was further removed from the decision-making center. It happens that “this distance creates a crisis of legitimacy, because it also means distancing from the potential of communicative power” (Repolês, 2003, p. 137, translated). Far from the official power and without the presence of Dumbledore, who articulated the margins with the center, civil disobedience to certain rules of the Ministry of Magic becomes unavoidable.

After that, the High Inquisitor of Hogwarts, Dolores Umbridge, ends up accumulating in herself all the political power within the school, answering only to the Minister of Magic and his subordinates. Such concentration of power hinders even further the margin to have a voice, which this time includes both the students and the professors of the institution, since the High Inquisitor received “powers to inspect her fellow educators” (Rowling, 2003, p. 307), additionally to the previously mentioned control over student societies. Furthermore, by order of the High Inquisitor, all teachers are “banned from giving students any information that is not strictly related to the subjects they are paid to teach” (Rowling, 2003, p. 551).

Thus, the development of a totalitarian regime is seen, with the isolation and concentration of power in the hands of Umbridge. It is evident, therefore, the displacement of power and the removal of the margin. Therefore, what happens is:

civil disobedience as an alternative to escape from an exclusive and repressive model, which tends towards totalitarianism. This means that passive, apathetic submission to an existing model might mean permissiveness and legitimacy that this system seeks in order to restrain the freedom of individuals for its own benefit of maintaining power (Costa; Fabriz, 2017, p. 156, translated).

Hence, civil disobedience seems to be justified in itself. However, it is advisable to resort to the operational theory of civil disobedience in order to avoid hasty judgments regarding “the merits of the underlying political controversy” (Dworkin, 1985, p. 106).

4 HARRY POTTER AND THE OPERATIONAL THEORY OF CIVIL DISOBEDIENCE

At first, it is necessary to understand what civil disobedience is. However, this task is not a simple one, since:

The background circumstances to develop a concept of Civil Disobedience, from Thoreau, through Gandhi, Martin Luther King Jr., to the ‘conscientious objectors’, and the protestors against nuclear tests of the late eighties, even in Brazil, with the oil tankers and the Landless Movement, are the most diverse (Repolês, 2003, p. 21-22, translated).

Events considered actions of civil disobedience throughout history have happened in specific circumstances, which makes it difficult to come up with a single definition for civil disobedience.

Dealing with the unviability of the traditional concept-introduction method, regarding privacy, Marcel Leonardi (2012, p. 78, translated) states that “the search for a common core to all facts and situations makes it difficult to understand what is and is not included within their perimeters”. Thus, searching for elements that are common to all the possible situations seen as civil disobedience may be counter-productive.

So, instead of proposing a single concept, it should be wise to constitute a theory of civil disobedience, based on what has been proposed as conceptualization for that expression. After all, as Dworkin states (2005, p. 154, emphasis added):

The political philosophers have devoted much attention to defining civil disobedience, and how different it is from other types of politically motivated criminal activities. However, *only superficially do these attempts seem like terminological studies*. Their point is to find differences in the moral quality of different types of actions, in different types of situations.

In order to trace an overview on how civil disobedience has been understood, let us start with the ideas of Henry David Thoreau, who build the theoretical bases of this resistance modality. For him, the discussion begins when a fact is acknowledged, followed by reflections on possible reactions: “Unjust laws exist; shall we be content to obey them? Or shall we endeavor to amend them, and obey them until we have succeeded? Or shall we transgress them at once?” (Thoreau, 2005, p. 21).

Thoreau’s discourse is about situations in that, because of the law, citizens are taken by the injustice – as the cases of slavery perpetuation or soldier convocation and imposition of taxes to pay for wars, against their will.

If the injustice is part of the necessary friction of the machine of government, let it go, let it go: perchance it will wear smooth – certainly the machine will wear out. [...] But if it is of such a nature that it requires you to be the agent of injustice to another, *then I say, break the law* (Thoreau, 2005, p. 24, emphasis added).

This way, “Thoreau focuses his efforts on explaining civil disobedience by means of conscientious objection” (Costa; Fabríz, 2018, p. 317). In this hypothesis, what motivates an individual to practice civil disobedience is the disagreement to reproduce, him/herself, what the law says, due to his/her personal beliefs.

However, we can see other circumstances that may set to motion actions of law disobedience. Let us, then, analyze the *operational* theory of civil disobedience, as proposed by Dworkin (1985, p. 105-106), considering that:

Civil disobedience is a feature of our political experience, not because some people are virtuous and other wicked, or because some have a monopoly of wisdom and others of ignorance. But because we disagree, sometimes profoundly, [...] about very serious issues of political morality and strategy.

Hence, Dworkin’s proposal is “to develop a theory of civil disobedience that can command agreement about what people should actually do, even in the face of substantive disagreement about the wisdom or justice of the law being disobeyed” (1985, p. 106). Thus, the

intention is not to indicate cases when the right thing to do is supposedly disobey the law. Unlike that, the idea is to find the conditions that make civil disobedience justifiable.

In order to operationalize his theory, Dworkin (1985, p. 106) proposes two different, independent questions:

The first is this: What is the right thing for people to do given their convictions, that is, the right thing for people who believe that a political decision is wrong or immoral in a certain way? The second is: How should the government react if people do break the law when that is, given their convictions, the right thing to do, but the majority the government represents still thinks the law is sound?

Then, what is at stake is not whether to agree or disagree with the conviction of the disobedient protesters, but to understand their attitudes, considering their positions. In this sense, the young witch Hermione Granger reflects: “I was just wondering,’ she said, her voice stronger now, ‘whether we’re doing the right thing, starting this Defense Against the Dark Arts group” (Rowling, 2003, p. 377).

The answer seems to be an affirmative one, since, aware of the return of the Dark Lord, forsaken by the teacher who was supposed to be responsible for preparing them, and certain that it would soon be necessary to defend themselves from the attacks of Voldemort and the Death Eaters, it is sensible and reasonable that those students should violate the decrees prohibiting them from uniting and gathering, as well as the prohibition to use defensive spells, with the intention to protect their fundamental rights, in that case, their lives and physical integrity.

However, it is wise to analyze the matter under the perspective of the types of civil disobedience according to Dworkin. Depending on the motivation for the action, the author categorizes three types of civil disobedience: “integrity-based”, “justice-based”, and “policy-based”.

The first one is similar to the writings of Thoreau, that is, it happens when the individual disobeys the law because “His personal integrity, his conscience, forbids him to obey” (Dworkin, 1985, p. 107). Besides the examples previously mentioned – such as contributing to a war or a slavery regime –, there are also religious fundamentals, that lead certain individuals to refuse the fulfillment of a certain law.

In some cases, the very legal order acknowledges personal integrity as a justification for not obeying the law, as in article 142, § 1º, of the Brazilian Federal Constitution, which states:

It is the responsibility of the Armed Forces, in the form of the law, to assign alternative service to those who, in peacetime, after enlisted, claim an *imperative of conscience*, being understood as such the result of religious belief and philosophical or political conviction, to exempt themselves from essentially military activities (Brasil, 1988, translated, emphasis added).

However, when the non-obedience to the law for personal reasons is not acknowledged in legal terms, there is civil disobedience, integrity-based. Those are even the disobedience actions that open way for exceptions in legal norms.

Dworkin differs “integrity-based” disobedience from the “justice-based” one, in reference to movements for civil rights. In these cases, people disobeyed the law not because their conscience stopped them to do what was told them to do, but “to oppose and reverse a program they believed unjust, a program of oppression by the majority of a minority (Dworkin, 1985, p. 107). In this sense, civil disobedience can be understood as:

an authentic implicit constitutional guarantee, having as scope the protection of the rule of respect for the minority, revealing itself as an action directed against a valid norm and imposed by legitimate authority – hence its character of illegal *prima facie* action –, but which presents itself as just and legitimate, since it is based on the rule of respect for the minority (legitimacy) and aiming at the protection and the final guarantee of fundamental rights (justice) (Ribeiro, 2019, p. 42, translated).

To finish, the third type of civil disobedience identified by Dworkin. According to his operational theory, “People sometimes break the law not because they believe the program they oppose is immoral or unjust, in the ways described, but because they believe it very unwise, stupid, and dangerous for the majority as well as any minority” (1985, p. 108). In these cases, policy-based civil disobedience occurs.

It should be added that:

There is an obvious danger in any analytic distinction that rests, as this one does, on differences between states of mind. Any political movement or group will include people of very different beliefs and convictions.

Nor will any one person's convictions necessarily fall neatly into a prearranged category (Dworkin, 1985, p. 109).

With Dumbledore's Army (DA) and its members, it is no different. Thus, one can identify the actions of DA as justice-based civil disobedience, and as policy-based civil disobedience, at the same time. This is due to the double character of the rules created by the Ministry of Magic and the High Inquisitor of Hogwarts: on the one hand, injustice against a minority was being performed – Potter, Dumbledore, and those who announced the return of the Dark Lord; on the other hand, they put the community at risk, through foolish, unwise policies that hindered the education of young wizards to defend themselves from the imminent attacks.

In face of that, to justify civil disobedience, “people must exhaust the normal political process, seeking to have the program they dislike reversed by constitutional means” (Dworkin, 1985, p. 109-110). In the case analyzed, the fight in the wizard community and the uncontrollable wish of the Minister of Magic to interfere in the school of Hogwarts made it impossible to dialogue. There was, hence, no space to revert the ministerial policy.

The second condition imposed by Dworkin (1985, p. 109-110) for civil disobedience based on justice is the consequentialist analysis, so that the probable consequences of the conducts do not worsen the situation. Regarding Dumbledore's Army, obeying the law would mean becoming vulnerable to the villains. On the other hand, possible negative consequences of their actions would be disciplinary penalties, probably with physical punishment. The possible outcomes were not comparable to being susceptible to die from enemies' attacks.

At this point it is necessary to analyze the importance of sigil in the case of Dumbledore's Army. While some authors identify publicity for the act as an essential feature of civil disobedience, we are affiliated with Dworkin's understanding (1985, p. 115), considering that, for example, for a certain protester, sometimes an act of disobedience may serve “his purpose best when his act is covert and is never discovered”.

Dumbledore's Army, specifically, fulfilled its purpose better while it was not discovered, because it prepared students who, given their convictions, believed that the danger caused by Voldemort was imminent, without causing inconvenience to other students and teachers.

On the other hand, there were manifestations of civil disobedience endowed with publicity, mainly through persuasive strategies. In this sense, we highlight the interview given by Harry Potter to the magazine *The Quibbler* (Rowling, 2003, p. 568). Despite the detentions ordered by Umbridge, reinforcing the position of the Ministry that Potter's version was a lie, the young boy reported his point of view to a large circulation magazine.

Persuasive strategies, whether they figure in justice-based or policy-based disobedience, have a considerable advantage here. For someone whose goal is to persuade the majority to change its mind, by accepting arguments he believes are sound arguments, plainly does not challenge the principle of majority rule in any fundamental way (Dworkin, 2005, p. 111).

Based on that interview, Potter accomplished to change the opinion of colleagues, teachers, and of the wizarding community in general. Thus, the objectives of civil disobedience are reached:

first, sensitizing public opinion around issues that until then were not presented as priority or critical; and, second, reaching the official circle of political power (the legislature, political parties, public administration and the judiciary), trying to bring about change in the direction of legislative production, government policies or the interpretation of laws and policies (Repolés, 2003, p. 19, translated).

It is true that the official circle of power was not convinced, but at least it was reached. Thus, even officials of the Ministry of Magic then came to believe Potter's version or, at least, distrust the negative campaign waged by the Ministry against him and Dumbledore.

Finally, it is essential to talk about the punishment related to Dumbledore's Army. At their inaugural meeting, it was decided that Harry would be the leader (Rowling, 2003, p. 391). However, when the group

was found by professor Umbridge, headmaster Albus Dumbledore took responsibility for the organization (Rowling, 2003, p. 518).

According to Dworkin (1985, p. 115):

Punishment may of course be part of the strategy when disobedience is justice- or policy-based. Someone may wish to be punished, for example, [...] forcing the community to realize that it will have to jail people like him if it is to pursue the policy he believes wrong.

In that case, holding the Hogwarts Headmaster accountable would have a greater impact than accusing a student, who could reasonably be punished with expulsion. In the case of the headmaster, more incisive measures would be necessary, which also requires an analysis of the costs that one is willing to bear to maintain the current policy.

When extracting from Dumbledore the false confession that he was organizing an Army against the Ministry of Magic, the minister ordered the director's arrest: "Fudge turned back to Dumbledore. "You will now be escorted back to the Ministry, where you will be formally charged and then sent to Azkaban to await trial!" (Rowling, 2003, p. 519).

This outcome seems in line with Thoreau's writings (2005, p. 22):

Under a government which imprisons unjustly, the true place for a just man is also a prison. [...] If any think that their influence would be lost there, and their voices no longer afflict the ear of the State, that they would not be as an enemy within its walls, they do not know by how much truth is stronger than error, nor how much more eloquently and effectively he can combat injustice who has experienced a little in his own person.

However, being imprisoned was not part of Dumbledore's plans, although, from then on, he adopted a non-persuasive strategy:

"Well – it's just that you seem to be laboring under the delusion that I am going to – what is the phrase? 'Come quietly' I am afraid I am not going to come quietly at all, Cornelius. I have absolutely no intention of being sent to Azkaban. I could break out, of course – but what a waste of time, and frankly, I can think of a whole host of things I would rather be doing." (Rowling, 2003, p. 520).

After a brief discussion with the Minister of Magic and his staff, Dumbledore clung to the tail of his phoenix and, in a flare, the two disappeared (Rowling, 2003, p. 522). With the discovery of Dumbledore's Army, its activities were suspended. In turn, Dolores Umbridge took over Hogwarts until the end of the school year. Henceforth, more than civil disobedience, she began to face real resistance (Rowling, 2003, p. 560), as she was not recognized by the community as legitimized and suitable to substitute professor Dumbledore.

5 FINAL THOUGHTS

As shown in this paper, Dumbledore's Army is a remarkable example of civil disobedience, portrayed in a fictional novel. In this way, the potential contribution of the study of Law through Literature is evidenced – in this case, specifically, of Law *in* Literature.

This transdisciplinary approach allows to identify, in a concrete way (and also in a fun way), legal institutes in narratives. As opposed to reality, which in addition to being complex is permanently open, literary narratives have certain mechanisms that make it possible to analyze relationships in a more controlled manner. First, the author's ideas, which articulate the entire narrative, which may include the elements he/she wishes; in the background, the narrator, who reveals the complexities of the characters to the reader, by revealing their thoughts, feelings and convictions. Hence, in literature, it is possible to see the complete picture more clearly than in the real world.

In *Harry Potter and the Order of the Phoenix*, Dumbledore's Army, since its establishment, showed itself as a civil disobedience manifestation. After all, with the fundamental rights of gathering and free association restricted, students defy the law and create a secret society in order to protect their fundamental rights. Considering also the program adopted by the Ministry of Magic, which refused to recognize the imminent danger caused by the return of the Dark Lord, DA reaffirms its disobedient character, by confronting government acts.

Using Dworkin's operational theory, we identified fundamental assets of justice and politics in the disobedience practiced by the Army. After all, on the one hand, ministerial policy was unfair to certain groups, persecuted by the Minister who felt threatened, constituting, in a sense, a minority. In this way, the suppression of fundamental rights to gathering and associating was directed at this minority, causing injustice.

On the other hand, the policy implemented by the High Inquisitor of Hogwarts, in agreement with the Minister of Magic, was "dangerously reckless" for everyone, by preventing practical training in Defense Against the Dark Arts, while the greatest dark wizard gathered forces and reorganized his followers.

Once the types of civil disobedience at stake are recognized, it becomes possible to assess the presence of conditions that justify civil disobedience. In literature, knowing the thoughts, motivations and goals of the characters simplifies this analysis process, because more than presupposing their convictions, they can be trusted.

In view of this, the unfeasibility of negotiation through the normal political process and the high probability that the consequences of not acting could be worse than those of civil disobedience allow us to conclude that the actions of Dumbledore's Army can be justified in the light of a theory of civil disobedience. The predominance of persuasive strategies, seeking to convince public opinion to change sides, reinforces this argument.

The use of non-persuasive strategies, in turn, is admitted, mainly because it manifests itself in a mild degree: the inconvenience caused by Dumbledore's near arrest did not cause high costs to society. Instead, it served to make other people refuse to "come quietly" in face of injustice, to use the character's own words.

In the end, we understand that the actions of Harry Potter and Dumbledore's Army could achieve the primary objectives of civil disobedience: to sensitize public opinion and to reach (or at least disturb) the official circle of power. It is clear, therefore, that the analysis of the novel *Harry Potter and the Order of the Phoenix* allows us to advance towards a theory of civil disobedience as a fundamental right.

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