Chapter 9

Right to reasonable adaptations, democracy and pluralism: reflections on the limitations of a priori solutions in cases of inclusion of persons with disabilities and objection of belief

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Icarus Fellipe Alves Ferreira de Brito
Mestre by the Pontifical Catholic University of Minas Gerais. Professor at faculdade de Desenvolvimento do Norte - FADENORTE (R. Turíbio Mendonça, 550 - Jardim Graziela, São Francisco, MG, Brasil, CEP 39300-000)
E-mail: dir.icaro.brito@gmail.com

Maíra Gondim Almeida
Master's student at the Pontifical Catholic University of Minas Gerais (R. Dom José Gaspar, 500, Coração Eucarístico, Belo Horizonte, MG, Brasil, CEP 30535-901)
E-mail: gondimmaira@gmail.com

ABSTRACT
In 2020, the Supreme Court established theses based on the joint judgment of themes 386 and 1,021, involving the right to reasonable adaptations for objection to religious belief. With the judgment of the theme 386, the possibility of holding tender stages on dates and places different from those originally provided for in the notice was guaranteed. With the judgment of theme 1021, the duty of the public administrator to make an alternative obligation available to its servers was guaranteed. It is worth mentioning the theories of law and justice the way in which these rights were provided for in their theses, with a strong resemblance to the right to reasonable adaptation of persons with disabilities. As provided for in the text of the International Convention on the Rights of Persons with Disabilities, the Supreme Court introduces the elements reasonableness and proportionality, explaining the existence of limits to the search for security and predictability in the name of the pluralistic democratic ideal.

Keywords: Right to reasonable adaptations, democracy, pluralism, right to inclusion of people with disabilities,right to objection of belief.

Cada um sabe a dor e a delícia de ser o que é
(Music Dom de ludir, by Caetano Veloso)

1 INTRODUCTION

In 2020, the Brazilian Supreme Federal Court established two theses based on the joint judgment of themes 386 and 1,021, both of which involved the right to reasonable adaptations by objection of religious belief. With the judgment of the first theme, the possibility of holding public tender stages on dates and places different from those originally provided for in the notice was guaranteed, due to the candidate's religious belief. With the judgment of the second theme, the duty of the public administrator to make available an alternative obligation for its servers, also for reasons of religious belief, was guaranteed.

It is worth mentioning the theories of law and justice the way in which these rights were provided for in the theses of the Supreme Court, with a strong similarity to the right to reasonable adaptation that assists people with disabilities. As provided for in the text of the International Convention on the Rights of

Persons with Disabilities, the Supreme Court introduces the elements reasonableness and proportionality, explaining the existence of limits to the search for safety and predictability.

This is because the full and unrestricted application of the principles of security and predictability, so dear to the theoretical approaches to law and justice, proves inadequate to these new rights. Fruits of democratic pluralism, these new rights mark significantly the beginning of the 21st century.

As well punctuated by Thaís Maciel de Oliveira,

> [...] the theme of otherness,recinity and respect is the basis for a democratic society of law. [...] Faced with the pluralistic society that permeates 21st century society, social issues become increasingly evident and critical. That is, to the extent that these pluralities multiply new rights are claimed (OLIVEIRA, 2018, p. 49).

Inspired by the manifestation of the Supreme Court, regarding themes 386 and 1,021 and, from there, concerned to reflect on how the law deals with the impossibility of imposing solutions, a priori, to cases involving the inclusion of people with disabilities and conscientious objection, noddedly to the extent that both say of rights closely linked to the notions of reasonableness and proportionality, is that this article addresses the right to reasonable adaptation, under a pluralist democratic paradigm that seeks to be appropriate to this beginning of the 21st century.

In this bias, the new social demands seem to require from the law a human and dogmatic analyst less generalist and better prepared to meet pluralistic demands that arise as societies develop and become complex.

2 THE RIGHT TO OBJECTION OF BELIEF AND THE THESES OF THE THEMES 386 AND 1.021 OF THE SUPREME COURT

A good definition of conscientious objection is brought by Thiago Magalhães Pires, who defines it as

> [...] the invocation of an obligation or prohibition, based on the religious, political, ethical or moral conviction of the individual, as excuses so that he does not fulfill a duty imposed by law. The objector does not call into question the political order as a whole or an institution, but simply the viability of it, in particular, to fulfil a concrete obligation. Based on an imperative of conscience, an exception to a general duty is asked, whose validity, in the stake, is not discussed (PIRES, 2019. p. 597).

It is the conscientious objection and, in particular, the objection by religious belief, of guarantee with undeniable constitutional status of fundamental law. However, the problem is part of the uncertainties as to the practical application of such a guarantee. It is to say, what specific cases have the effective safeguarding of constitutionally guaranteed rights and guarantees. From this perspective,

> What to do when a legal duty goes against someone's religious belief? Or your ethical conviction? One can see here an attempt to subject the mandatory law to an individual opinion – which could erode the elementary idea of *the rule of law*. But it should also be recognized that people's religious, political and philosophical orientations are an expression of their personal self-determination and thus manifestations of their dignity [...] (PIRES, 2019. p. 597-578).

Done,

> Those who believe, following Kant, in the possibility of a "World Republic" with a homogeneous body of cosmopolitan citizens with the same rights and obligations, a composition that would coincide with "humanity", are denying the dimension of the politician who is the constitutive of human societies. They neglect the fact that power relations are constitutive of the social and that conflicts and antagonisms cannot be eradicated. That is why, if a World Republic were established, it could only mean the world hegemony of a dominant power that would have been able to erase all differences and impose its own conceptions of the world on the entire planet (MOUFFE, 2003, p. 24).

The aforementioned theme 386 of the Supreme Court originated from the extraordinary appeal 611,874 of the Federal District and was formally delimited for discussion in the light of Article 5, VIII, of the Federal Constitution, and the principle of equality, as to the possibility, or not, of a candidate to perform, for reasons of religious belief, stages of public tender on dates and times different from those provided for in the notice, fixing the following thesis:

> Pursuant to Article 5(VIII) of the Federal Constitution, it is possible to hold stages of public tender on dates and times other than those provided for in the notice, by a candidate who invokes a shady of conscience due to religious belief, provided that the reasonableness of the change, the preservation of equality between all candidates and that does not disproportionately burden the Public Administration, that should decide in a reasoned manner (BRASIL, 2020, extraordinary appeal 611.874, p. 3 of the pdf).

Given the similarity of the issues involved, the theme 1,021 of the Supreme Court was judged, which started from the extraordinary appeal with injury 1,099,099 from São Paulo. Thus, it was discussed whether the conscientious objection for religious reasons generates or not the duty of the administrator to provide an alternative obligation, so that servants, in probationary stage, fulfill their functional duties, and the thesis that:

> Pursuant to Article 5,VIII of the Federal Constitution, it is possible for the Public Administration, including during the evidential stage, to establish alternative criteria for the regular exercise of the functional duties inherent to public office, in the face of servants who invoke shady conscience for reasons of religious belief, provided that the reasonableness of the change is present, the misrepresentation of the exercise of their duties is not characterized and does not entail a disproportionate burden on the Administration public, which should decide in a reasoned manner (BRASIL, 2020, extraordinary appeal with injury 1.099.099, p. 2 of the pdf).

Roughly speaking, what both theses areintended to ensure is effective respect by the Public Administration for the invocation of obligation or prohibition based on religious belief. In this sense, it is the duty of the public administrator to demonstrate, reasoned, the impossibility of the election, when it does not accept the request and, therefore, to act without the so-called institutional hypocrisy.

Both cases, which gave rise to their theses, concerned the care of the special needs of Seventh-day Adventists, a religion that holds the Sabbath. In the case of theme 386, a tendering candidate asked the organisation of the competition to take one of two possibilities, both of which are quite reasonable. The first, related to the physical fitness test, which was not, for example, a written test in which everyone needs

to perform simultaneously; in fact, it was a physical fitness test, perfectly compatible with individual achievement, without breaking isonomy. The candidate alternatively requested one of two possibilities: the first, to take the physical fitness exam on Saturday, after 18 hours; or do it on Sunday, in another city/locality, where there was a test, and where he would move, at his own expense. Therefore, two reasonable alternatives offered by him. And both less burdensome to their religious freedom than the position adopted by the Administration, in which it simply did not allow it to take the test. It is notethat it was perfectly possible to adoption one of the two possibilities offered by the candidate, to do after 18:00 on Saturday or do on Sunday, in another place of proof, at his expense. In this sense, in none of the suggested situations was there an unreasonable burden or break age (BRASIL, 2020, Extraordinary Resource with injury 1,099,099, p. 65-66 of the pdf).

In the theme 1,021, the concrete case surrounded the teacher's plea, so that the distribution of 24-hour work day per week would not include Fridays after 6 p.m. Therefore, assuming there was class, as there is usually, every day of the week, that classes were taught in the morning and evening. There would be ten shifts to which classes could be taught: Monday morning and evening, Tuesday morning and evening, Wednesday morning and evening, Thursday morning and evening and Friday morning and evening. According to the religious confession followed by the public servant, it would be impossible only the night shift of Friday. Therefore, one tenth of the journey or available options (BRASIL, extraordinary feature with injury 1,099,099, p. 65-66 of the pdf).

It should also be noted that the theses outlined above, although welcomed, with the competent attendance of the election, faced resistance from some ministers, in plenary trial. In some of the votes cast, essentially generalist analyses are verified, which disregarded the accommodation of the objection in the specific cases.

Minister Dias Toffoli, at the conclusion of his vote on the subject 386, under his rapporteurship, spoke out by the formulation of thesis in order to declare the absence of subjective right, by reason of religious belief, to the remarking of date and time different from those previously determined in edict, but stressed the need, in the name of legal certainty, the effects of judicial decisions, even if on a precarious level, until the date of completion of that trial by the plenary of the Supreme Court (BRASIL, 2020, extraordinary appeal 611,874, p. 45 of the pdf).

It is important to highlight that, for this proposal of modulation of effects, Minister Dias Toffoli only considered legal certainty in the face of the lack of jurisprudential uniformity, until then. However, it is not insated, either from the written vote or from its oral manifestation in the plenary session, that, for the purposes of that proposal for modulation of effects, the particularities of the specific case as to the technical possibility of conducting evidence on a different day and place have been taken into account, since there was no burden on the administration or competitors.

At the time of his manifestation, at the time of the judgment of the theme 1021, of rapporteurship of Minister Edson Fachin, Minister Dias Toffoli briefly resumed the premises of his vote, on the subject of his rapporteurship, pondering in conclusion that

> The fact, however, that there is no constitutional obligation for the State to adapt administrative rules to the beliefs of religious groups does not prevent it from acting in order to obtain a harmonious solution and in accordance with the constitutional guarantee of protection of religious freedom, especially in the modality of freedom of worship, without underpantial the guiding principles of public administration, specifically provided for in art. 37, caput, of the CF. Using convenience and opportunity, the Administration can establish mechanisms in advance to reconcile guiding principles of the public interest, especially equality and efficiency, with freedom of belief (BRASIL, 2020, extraordinary resource with Agravo 1.099.099, p. 37 of the pdf).

It is worth noting that, in his oral manifestation in plenary, Minister Dias Toffoli refers to administrative discretion as "common sense", which he did not do in the written vote.[1]

In his vote on the case of theme 1021, Minister Dias Toffoli did not propose modulation of effects, so that the dismissal of the teacher would be left before the court. In this perspective, declaring that there is no duty of the public administrator to, in view of the right to freedom of conscience and belief, make available to the public servant an alternative form of compliance with their functional duties, he considered it possible only administrative evaluation regarding the reconciliation of the public interest with the attendance of the servant's claim (BRASIL, 2020, extraordinary appeal with injury 1,099,099, p. 38-39 of pdf).

Minister Nunes Marques voted in the same direction of the minister rapporteur Dias Toffoli, in the case of theme 1021, including raising the need for modulation of effect only to ensure legal certainty, that is, without taking into account the particularities of the concrete case regarding the technical possibility of meeting the demand of the Adventist candidate, in the event of absence of any burden on the administration or competitors (BRAZIL, extraordinary feature 611874, p. 97-98 of the pdf).

With regard to the case of theme 386, Minister Nunes Marques voted that, if there is no provision in law, it is not the duty of the public administrator to make an alternative obligation available to the objector public servant. In this case, the minister did not propose the modulation of effects (BRASIL, 2020, extraordinary feature with injury 1.099.099, p. 45-46 of the pdf).

Minister Gilmar Mendes, in turn, spoke together about the two cases, focusing a significant part of his argument in pointing out the impossibility of meeting particularities departing from the most diverse possibilities of objection by religious belief. However, Minister Gilmar Mendes had virtually nothing on the particularities of the specific case, in which there did not seem to be such a fática impossibility of accommodation of the objection. In the case of theme 386 the Minister voted according to the rapporteur Dias Toffoli, including on the modulation of effects, considering reasons only of legal certainty. In the case

[1] 13 minute video: https://youtu.be/Pu6WqSt2NtU?t=775

of the meth 1,021, he voted against the rapporteur Minister Edson Fachin, chancero the resignation of the teacher.

In the judgment of the case of theme 386 the minister Marco Aurelio, in his turn, pondered, in a completely opposite way to the Minister Gilmar Mendes who preceded him in the vote, saying Aurelio is a simple issue to be resolved for reason and common sense, since the peculiarities of the concrete case imposed the attendance of the election of adventist concursando, notified not for not implying a burden on the administration or competitors, but voted against the formulation of the thesis. In the words of Minister Marco Aurélio, the peculiarities of the case and even common sense and reasonableness led to a favorable solution to the candidate (BRASIL, 2020, extraordinary appeal 611874, p. 214-215 of the pdf).

As for the trial of the case of theme 1.021, Minister Marco Aurelio also considered the peculiarities of the concrete case, but in the sense of denying the request of the Adventist servant, even considering having had a desidious behavior of the servant. However, as pointed out, by intervention of the teacher's employer, during the plenary session and also, as a result of other passages of the judgment, in fact, there was no reported desidious conduct of the servant, who presented the competent administrative requirements, in order to accommodate her objection (BRASIL, 2020, extraordinary appeal with injury 1,099,099, p. 38 of the pdf). In fact, there is no fail to highlight the treatment of the minister, who treated the public servant's objection as a mere whim. From this perspective, it is the departure from the analysis based on individual fundamental rights, which are essential in pluralistic democratic societies.

With the scope of assessing the points of contact between the right to reasonable adaptation in the event of objection of religious belief and the right to reasonable adaptation in cases of meeting the needs of people with disabilities, it is intended to analyze below the right to inclusion from the perspective of people with disabilities.

2 THE RIGHT TO INCLUSION OF PERSONS WITH DISABILITIES

Brazil is a signatory to the Inter-American Convention for the Elimination of All Forms of Discrimination against Persons with Disabilities, celebrated in Guatemala in 1999, received by the National Congress, through Legislative Decree 198 of 2001 and promulgated by Decree 3,956 of 2001.
According to Article II, the Inter-American Convention aims to prevent and eliminate all forms of discrimination against persons with disabilities and to promote their full integration into society. As provided for in Article I, item 1,

> The term "disability" means a physical, mental or sensory restriction, of a permanent or transitory nature, which limits the ability to perform one or more essential activities of daily life, caused or aggravated by the economic and social environment.

This notion of disability, however, came to be overcome by the International Convention on the Rights of Persons with Disabilities, signed in New York in 2007, approved through Legislative Decree 186

of 2008, in accordance with the procedure of § 3 of Article 5~~o~~f the Federal Constitution, and then promulgated by Decree 6,949 of 2009.

In accordance with Art. 1 of the International Convention:

> People with disabilities are those who have long-term impediments of a physical, mental, intellectual or sensory nature, which, in interaction with various barriers, can obstruct their full and effective participation in society on equalities of conditions with other people.

This broad definition of persons with disabilities is fully in line with the text of the preamble to the International Convention, in which it is conceived that "[...] disability is an evolving concept and disability results from the interaction between people with disabilities and barriers due to attitudes and the environment."

It is especially important for the scope of this article to identify, in the Convention, the right to reasonable adaptation, and in article 2 it was careful to record that:

> "Reasonable adaptation" means the necessary and appropriate modifications and adjustments that do not carry a disproportionate or undue burden, when required in each case, in order to ensure that persons with disabilities can enjoy or exercise, on equal opportunities with other persons, all human rights and fundamental freedoms.

And it should be recorded that the text translated by Portugal is only slightly different:

> 'reasonable adaptation' means the necessary and appropriate modification and adjustments which do not impose a disproportionate or undue burden, where necessary in a given case, to ensure that persons with disabilities enjoy or exercise, on an equal basis with others, all human rights and fundamental freedoms.

Since it is a law consisting of the terms of "reasonableness", "proportionality" and "particular solutions to the case" the definition of the right to reasonable adaptation seem to contrast with the generalist views typical of the legal discourse especially of the nineteenth and twentieth centuries, which still reverberate in this early 21st century, as can be inssured from the votes contrary to the solutions proposed by the theses of the themes 386 and 1.021 of the Supreme Court, treated at the end of the previous chapter.

It is common to the right to seek to order, systematize and control legal and social relations, with a view to security and predictability, in a positivist avidity that

> [...] does not perceive or become aware of numerous conflicting issues, refrained from being resolved or simply disqualifiedfrom the condition of legal problems, although they are painfulfor the world of life (GONTIJO, 2020, p. 34).

Indeed, this generalist excess, regrettably, still exposes today "[...] the raw facet of a right that brings the sin of a human and dogmatic anatomy unprepared to listen to the other, to understand their intimacies, their effective struggle for rights, their ontological ossatura [...]" (FERRAZ JUNIOR; BORGES, 2020, p. 11), that is, a right that denies assuming that the complexity of the world of life makes it impossible to propose legal solutions a priori to everything.

3 THE LAW AND LIMITS OF LEGAL SOLUTIONS A PRIORI

The example of the right to inclusion of persons with disabilities, as well as the right to object to religious belief well illustrate the limitations of legal solutions a priori, weighing against the essentially strong character that certain theoretical reflections of the law confer on the qualities generality and equality (strict sense).

The extremely open notions, which, for example, involve the inclusion of people with disabilities and the protection of conscientious objection, reinforce the impression that contemporaneity seems to increasingly require a less egocentric right, which is truly useful, to the extent that contextual and particular. Indeed,

> [...] the great achievement of modernity operated by the constitutionalism-democracy binomial was the abandonment of the old forms of rule and justice individualized by the submission of all and equally to the same order. The norm enunciated by *the idea of lex*, and just the reduction of *complexity of the ius* to its expression, was based on "*rules*" and "parameters" (*standards*). While they specifically direct behavior, telling you which path to follow (prohibited, allowed, or required), they create parameters and limits for the action. This is, for example, a legal rule establishes that a child or adolescent under 16 years of age cannot perform acts of civil life without representation by means of a rule (art. 3º CC), but can also create it by a pattern of behavior, when it imposes a limit on the duty of redress for any act performed if the amount of compensation deprives it of resources for its basic needs. In both situations, from which today *the right* as a norm is granted, there is a prescription that is addressed indiscriminately to any child and to any situation of deprivation of resources and on them there is no possibility of unilateral amendment or circumstantial derogation, because they are broad and rigid. This way of coeging expected behaviors through norms (which are staggered in validation series, as seen above or even by unique internal rules in Hartian reading) generic and equal to all built the mark of modern law, and therefore a right whose image of questioning is summarized in its content (in the *report*, because a *dubium* and not in *committing*, because a *certum*), since the legal discourse is intrinsically *sui generis* (monological and dialogical) (FERRAZ JUNIOR, BORGES, 2020, p. 181-182).

In this sense, both the inclusion of people with disabilities and the conscientious objection, according to the approaches addressed in this study, seem little affect to the safety sought by common notions of law, which reduces it to rules and parameters.

The challenge of inclusion, if taken seriously, imposes the breaking of traditional paradigms. For example, in the educational area an expanded view of what comes to be inclusion still faces serious resistance. Mantoan, a broadly inclusive education advocate, supports the re-creation of the educational model to serve everyone indistinctly:

> Inclusion is an innovation that involves an effort to modernize and restructure the current nature of most of our schools. This happens as educational institutions assume that the difficulties of some students are not only theirs, but largely result from the way teaching is taught and how learning is conceived and evaluated [...]. A young teacher took the floor [at the end of the lecture] and told me, "Isn't the school you're referring to utopian?" [...] I answered more or less what follows. I think it's exactly the opposite [...]. I speak of a student who exists, concretely, who is called Peter, Ana, André... I work with the peculiarities of each one and considering the uniqueness of all its intellectual, social, cultural, physical manifestations. I work with flesh and blood students. I have no ideal students; I simply have students and Do not look for an ideal school, but the school, as it presents itself, in its infinite ways of being. I am not surprised by the child, the young and the adult in their differences, because I do not count on patterns and models of "normal" students that we learn to define in the theories we study (MANTOAN, 2015. p. 62).

Therefore, in a non-excessively complex approach, when thinking about a particular specific case involving the inclusion of a disabled person, it is necessary to answer, according to the peculiarities of the case: What is disability? What is inclusion? Why inclusion? How to make inclusion?

This is obviously not a simple task and will require accurate investigation of the specific case, so as to make it possible to understand the elements of the questions, as well as the careful analysis of the formulation of the answers.

Roughly speaking, knowing what is disability and what is inclusion and, consequently, what the appropriate reasonable adaptation is, it is only possible on a case-by-case basis, requiring the creation of a method from and on the fact.

In this sense, Lucas Alvarenga Gontijo maintains that

> The law has sought, in any case, solutions in the system itself, in the name of a certain ideological attachment that is presented by the terminological composition called *legal certainty*. But this attitude that works with concepts that, in turn,should necessarily be pre-established, seems insufficient or even, in some cases, inapplicable. The theory of the completeness of the legal system or any presumpold methodological theory that establishes principles or canons for decidibility seem, to the bias of this book, problematizable. Would the methods, in fact, constitute an issue that should be presupposed to the facts? Should methods behave like the traditional understanding of principles? Come before, first (from Latin: *principe/primus*)? The methods would not be built from and on the fact? In the gap of reasoning opened by Karl Popper, all theories that claim to be infallible or complete are nothing more than tautological elaborations, protected from refutation by their circularity. From this point of view, the systematic theory of positive law has already been born dead. The positive right is pretentious to assert an internal dynamism for its aporias, autopoetic, self-referential. And this is the problem of all logical reasoning: he does not realize that it is necessary to leave himself and verify in the world of life the correction of his claim [...]. The method should not be *a priori*, nor even can be totally *a posteriori*. He must dialogue with his own research, form a body with it [...] (GONTIJO, 2020, p. 35-36)

Likea, knowing what protection is due in the event of an objection and which religious belief is worthy of guardianship, require a sufficiently open methodology from the right.

It is to be acknowledged that the theme of conscientious objection

> [...] it is delicate, but it is far from insurmountable. Undoubtedly, once the inevitable character of pluralism is recognized, there is no way to demand that the right correspond to the ethical understanding of each one. However, as personal self-determination is an immediate result of the equal dignity of all, it is necessary to make room, as much as possible, for people to follow the conceptions of good life they consider appropriate. The State cannot assume the role of dictating, affirming or refuting ethical truths; but even measures that, in the sins, are (or appear to be) "neutral" can have disproportionate impacts on some groups or people – and isonomy requires that these effects be taken seriously. All this leads to the affirmation of the conscientious objection: by recognizing that abstractly valid acts can generate specific harm to certain individuals only because of their convictions, the State must act to avoid or minimize them, to the extent that this is feasible, thus restoring equality (PIRES, 2019. p. 597-578).

It is not by chance that Pires is helped by relativistic terms to talk about the application of the right to objection of belief. It seems impossible to discuss the application of the right to objection of religious belief without considering the limits of this right to deal with the construction of solutions a priori, so that the alternative Supreme Court was not to be helped by relativistic terms, when asked to establish the thesis

on the issue, although, paradoxically, a thesis fixation is intended to bring greater security and predictability to the legal system.

In fact, topics such as inclusion of people with disabilities and objection stowerses of religious belief are delicate but not insurmountable and insurmountable themes of appreciation within the scope of law, requiring greater proximity to the law with open methodologies, and, before that, the sensitivity to note such a need.

It is noted, for example, in the votes against the formulation of the aforementioned theses of the Supreme Court, a certain insensitivity of some of the ministers. It is perceived, from the manifestations, a certain hypocrisy in exalting the right to religious freedom and objection, but denying them the production of concrete effects, based on an insensitivity to the life perspectives of the objectors, who were so deceitable to them that they put their professional careers at risk. However, seen from the eyes of the judges as mere whim.

Therefore, what is exposed and defended is that the legal environment seeks to humanize itself, considering, the interaction between law and art, a good strategy. In this sense, it is

> The search for the humanization of law is an important hermeneutic perspective of the 21st century. The production of knowledge requires the overcoming of colonial expectations, because the reproduction of crystallized truths, rooted in prejudices does not involve the extensive multicultural society of contemporaneity. Therefore, one of today's challenges is to foster a different thinking of cultural stereotypes. The approximation of law with literature, in this sense, allows the contextualization of central issues such as: gender, identity diversity and reform of social thought, in a more empathic way to the reader. Therefore, this way of looking at the right from a humanistic and pluralistic conception differs from the common sense view of public rationality (OLIVEIRA, 2018, p. 38).

Literature, "[...] in its deeply intersubjective and at the same time non-institutional configuration, it can offer the right, as an institutionalized reality, critical parameters and paths to transformation" (RIBEIRO, 2019, p. 486).

4 CONCLUSION

The new rights, linked to the right to reasonable adaptations, are known only on a case-by-case basis and require a view of the right beyond the blind search for security and predictability. In this bias, such rights highlight "the other" and, therefore, are insubmissive to the generalist views common to the legal sphere. Thus, the analysis should always be case by case, considering the particularities of individuality.

The two rightsrecognized by the Supreme Court in 2020, treated in this work, seem nothing more, although taken as new, than one of the forms of extension of the right to reasonable adaptation, long guaranteed to people with disabilities.

It was in order to reflect on the inclusive paradigms, transported to the legal system of the International Convention on the Rights of Persons with Disabilities, that it was intended to make some reflections on the right to reasonable adaptations.

Thus, having as cut out the cases involving conscientious objections by religious belief, recently judged by the Brazilian Supreme Court, it was aimed to argue that the complexity of today's life demands investigations on a case-by-case basis, with the importance of promoting solutions that aim to ensure the maximum effectiveness of the dignity of the human person.

In this regard, the objective was to demonstrate that the full development of democratic ideals, inserted in a complex, dynamic and plural society, must ensure and safeguard respect for differences. In view of the above, democracy, as a system that guarantees popular sovereignty, must adapt to social demands, being a true instrument for the realization of pluralism, in its most varied facets.

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