

A Republic in Constituent Assembly process (1985-1988)

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RESUMO

Este artigo intenta apresentar alguns valores correlacionados à ideia de “República” presentes em um repertório de práticas políticas que tiveram lugar na sociedade brasileira, na segunda metade da década de 1980. Particularmente, são observados certos princípios que pareceram conferir uma identidade comum a diferentes movimentos organizados, nesse período, em torno da luta pró-participação da sociedade na definição dos rumos políticos do Brasil República. Palavras-chave: República; processo constituinte; participação.

ABSTRACT

This article aims to look at some values related to the idea of Republic present in the repertoire of political practices existing in Brazilian society in the second half of the 1980's. In particular certain principles will be observed which seemed to have conferred a common identity on the different organized movements during this period in relation to the struggle to attain widespread social participation in the definition of the political directions of the country. Keywords: Republic; constituent assembly process; participation.

The demands of the street echo in this room. The nation wants change, the Nation should change, the Nation will change.

Ulysses Guimarães ¹

THE WORD REPUBLIC

Speaking about a Republic invokes certain concepts from political philosophy that give this word meaning, but it also requires the observation of the dimensions of the practical life of societies that proclaim themselves republics.

The classical concepts of the Republic often reveal their limits when confronted with the concrete manner in which human relations are established

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in the daily experience in so-called Republican countries. Therefore, producing meaning for the expression 'Republic of Brazil' uncoupled from experience can lead to 'acritical glances,' idealizations that cloud rather than help historical reflection.

The 'socializations' of the idea of the Republic are multiple, in other words the forms taken by the collective practices and feelings related to this concept. Furthermore, in Brazil the Republican tradition has followed different paths and over the years diverse appropriations have been allowed.

The purpose of this article is to identify some of the parameters that governed the Brazilian Republic during the constituent assembly process between 1985 and 1988. In relation to this we highlight some of the values associated with efforts to re-constitutionalize Brazil that marked the daily life of the population during this period, when a series of movements concerned with political participation existed in the country.

Exhausting all the meanings of a republican tradition is a task that is unachievable in the short space of an article. However, it is possible to capture in a determined time and society the presence or absence of values that approximate certain perspectives belonging to the original domain of republican inspiration. Values linked to the sphere of shared interests, to political solidarity, and to the common good.

As a *principle*, in republican societies political regulation and social practices should engender the notion that consolidating the public good is the responsibility of all – notwithstanding any suspicions that can be raised indicating that this objective is a virtuality in a world where disputes between private interests prevail.²

Thus, the terrain of the Republic supposes some sort of renunciation of private logic in favor of the public arena. Private interests are relegated in the name of public interest, in such a way that everyone has to orientate their actions without losing sight of the supremacy of the common good.

It is from this perspective that it is intended in this article to examine some of the principles present in the practices and ideas affirmed between 1985 and 1988 as the directives for a new constitution for the Republic of Brazil. Certain types of behavior will be observed which competed for a determined understanding of the Brazilian Republic at a moment in which the question of the re-constitutionalization of Brazil was being raised. In addition, I also seek to identify the ideals which inspired, or were drawn on in defense of, the participation of society in the 1985-88 constituent assembly process when the question of the re-democratization of Republican Brazil was raised.

PRECEDENTS: THE REPUBLIC OF THE DICTATORSHIP

The proposal of a new constitution for Brazil, which gained increasing force at an almost dazzling rate during the 1970s and 1980s, was linked to the recognition by many social actors of the need to construct a new form of citizenship in the country, including a complete rupture with the dictatorship which took over the Brazilian government after the 1964 coup and remained in power for a time that was then unimaginable.

For 21 years the government created by the coup imposed itself with strong centralization, leading to repressive actions against social movements, promoting the suspension of political rights and restricting the exercise of citizenship.³

Following the 1964 coup the legislative functions of the National Congress were also swiftly undermined. The government enacted special laws. Institutional Acts and Complementary Acts, the 1967 Constitution and its transfiguration into authoritarian extremism through the 1969 Constitutional Amendment and also a new National Security Law, made the punishment of *political crimes* ever more severe. Regular and trivial use were made of coercive powers in order to confront social conflicts. Legislative activities were practically reduced to the prerogative of giving the final confirmation of the measures taken by an Executive Power authorized to govern by decree.

Under the pretext of ending a supposed subversive war, the state carried out intense political reaction, including numerous imprisonments and the purging of the parliamentary mandates of deputies opposed to the regime. In this troubled scenario, demonstrations by students, professors, intellectuals, artists, sectors of the Church and others played a central role, while the national and international press denounced the persecution and torture of political prisoners by the police.

The indirect election of Ernesto Geisel to the Brazilian Presidency in 1974 gave rise to the period known as one of “slow, gradual and secure opening.” Geisel stated that he was in favor of the reestablishment of a state based on the rule of law in the country and of political ‘opening’ or liberalization. This was followed by increased expectations of the reversal of the repressive scenario and the reorientation of relations between the state and society.

Geisel’s commitment in practice supposed the centrality and control of the Federal Executive in directing the political opening process and coexisted alongside recurrent offensives by official repressive bodies. The imprisonment

and disappearance of opposition activists continued, as did accusations of torture and political murders.

On the other hand, under the Geisel government new channels of communication were opened between the government and civil society, aimed at the organization of an agenda of political and institutional reforms. Some measures aimed at democratization were approved, notably the restoration of the right to *habeas-corpus* for political crimes and the ending of the death penalty and exile. The crowning of this promise of political liberalization was the revoking of AI-5 – for some the ‘exception to the exception’ – which was ordered for January 1, 1979.

Nevertheless, the repeal of AI-5 took place alongside ‘constitutional safeguards,’ considered by Geisel as essential to guaranteeing the security of the state. This instrument – the ‘constitutional safeguards’ –, amongst other points, authorized interventions by the federal government against subversive movements without the prior consultation of the National Congress.

In relation to the legislative sphere, while in 1974 the opposition managed to increase their representation in the Congress, in 1976 the government enacted the so-called Falcão Law, thereby drastically reducing the space for political propaganda in electronic communication. Debates in the media were forbidden – something which had been considered determinant in the victory of the opposition in the 1974 elections.

Similarly, in 1977 Geisel decreed a recess for the Legislature, and after Congress closed he implemented a series of political measures which became known as the April Package. Amongst other measures it was stipulated that the duration of presidential mandates, starting with the next government, would be six years; one third of the Senate would be indirectly elected (the so-called *bionic* senators); indirect elections would be maintained for the position of governor, and the parliamentary representation of the least developed federal states in the country was expanded, states in which the governing party had obtained political hegemony.

João Figueiredo assumed the presidency in 1979, affirming his intent of completing the political opening process started by his predecessor, “at a rate that would guarantee the security of the regime”. In an unforgettable statement he explained how he intended to act against anyone who opposed the opening: “I will arrest them and break them”.

In the context of the intense campaign for a “wide-ranging, general and unrestricted amnesty,” which became stronger in the second half of the 1970s, in August 1979 the Amnesty Law was decreed. However, this did not include

many of the proposals of those opposed to the regime.⁴ Also in 1979 a multi-party system was once again permitted in Brazil.

Dependent on the need to 'guarantee the security of the regime,' the continuity of the 'political opening' process resulted in the justification of measures such as using the National Security Law against opposition rallies and coexisted with, from 1980 onwards, a wave of rightwing terrorism intended to prevent the country from advancing in the direction of re-democratization, disseminating tragedies and deaths in bomb attacks.

Similarly, in November 1980 the National Congress approved a government project that extinguished the 'bionic' senators (senators who were elected indirectly) and restored direct elections for governors. After this the demand for direct elections for president also intensified. The *Diretas Já* campaign took over the streets, getting widespread coverage in the press and counting on growing mobilization in society. Despite this, the Dante de Oliveira Amendment – the *Diretas Já* Amendment – was rejected by the Chamber of Deputies (by 22 votes) in April 1984, in a vote that was held under a government decree of a 'state of emergency' in the country and with the entire repressive system being used to disperse civil rallies and to isolate members of congress from pro-*diretas* demonstrations.⁵

Following this a pact began to be drawn up between sectors of the opposition and parts of the official party discontent with the Figueiredo government, with the aim of launching a consensus candidate for the coming indirect elections for the Presidency. This resulted in the formation of the Democratic Alliance which proposed and elected the candidates Tancredo Neves for the Presidency and José Sarney for the Vice-Presidency.

The victory of the Democratic Alliance in January 1985, despite being achieved by indirect vote, was, and continues to be, seen by many as an important landmark in removing the dictatorship imposed by the 1964 coup, since it consolidated the basis for a transition to a democratic civilian regime.⁶

CONSTITUENT MEMORY

The installation of the 1987-1988 Constituent Assembly in Brazil, far from being a political measure 'offered' to Brazilian society by some parliamentarians committed to re-democratization, responded to broad social movements which brought together experiences and initiatives from all over Brazil, mobilizing various persons and entities.

The constituent process which preceded the promulgation of the 1988

Constitution involved political conflicts over the affirmation of rights and the expansion of the guarantees of citizenship, and also counted on the intense participation of various social movements. According to Emir Sader in 1985: “the Constituent Assembly is the newest national unanimity.”⁷

Although the idea of a ‘national unanimity’ regarding the Constituent Assembly needs to be questioned, due to evidence from the time which shows that a large part of Brazilian society neither perceived any essential changes in their daily routines, nor took an active part in constituent assembly process,⁸ there did occur at that time an enormous and unprecedented political mobilization of various Brazilian social institutions, trade unions, workers’ and residents’ associations, as well as social groups related to women’s rights, blacks, people with physical disabilities, the elderly, indigenous peoples, children and adolescents, prisoners and various others, covering a multiplicity of social segments, themes and demands.

Important records of this social mobilization are currently deposited in the Historical Archive of the Museum of the Republic in Rio de Janeiro. This is a vast archival collection called the ‘Constituent Memory Collection’ which was produced and built up during the Constituent Assembly process that led to the promulgation of the 1988 Constitution.⁹ The material consists of around 20,000 items, including a series of documents prepared during Congress discussions and decisions; photographs of the parliamentarian members of the assembly working and of the presence of society monitoring the discussions on the Floor or around the National Congress; panels and drawings by Rubens Gerchman, Aguillar, Millôr Fernandes, Carlos Scliar and Nássara, amongst others, who artistically expressed this moment of the democratic reconstruction of the country; a series of primers produced by social movements, explaining what the constituent assembly process was and how to participate in it; posters from civil society organizations; a vast amount of audiovisual material, with statements from members of the assembly, Brazilians with widely recognized public trajectories and also from unknown Brazilians, obtained at different moments of their daily lives. Also part of the Memorial Collection is a set of more than five thousand letters with requests and suggestions for the constitutional text that was intended to be enacted, sent by various entities from Brazilian society or signed individually by people without any institutional connections.

Finally, also part of the Memorial Collection is the documentation produced by the Provisional Commission for Constitutional Studies and by

the *Centro Pró-Memória da Constituinte* (The Constituent Pro-Memory Center), briefly described below.

The Provisional Commission for Constitutional Studies (*Comissão Provisória de Estudos Constitucionais* – CEC) was created by a decree of President José Sarney and commenced in Brasília in September 1985, though it also worked in Rio de Janeiro. It was composed of jurists and representatives of various social sectors, and was responsible for preparing a constitutional pre-project, based not only on the demands of the social sectors represented in the commission, but also on proposals sent to it by the general population in letters. Generally speaking these letters were produced and sent in response to pro-participation campaigns, carried out both by members of the Commission – who appeared on television programs asking for letters to be sent – and by movements who shortly after the formalization of the proposal to convene a new Constituent Assembly were organized with the specific purpose of stimulating social participation in the process.

Also called the Commission of Notables or the Afonso Arinos Commission, CEC was presided by Senator Afonso Arinos and formed by fifty Brazilians designated by José Sarney, including Barbosa Lima Sobrinho, Bolivar Lamounier, Cândido Mendes, Celso Furtado, Cristovam Buarque, Jorge Amado and José Afonso da Silva. Only two women were part of CEC: Floriza Verucci and Rosah Russomano.¹⁰

On 31 July 1986, CEC signed a term of agreement with the National Pro-Memory Foundation, an organization that was part of the Ministry of Culture, in which it committed itself to donate to the latter the documentary collection resulting from its archives. The Foundation thus became responsible for guarding, preserving and diffusing this archive. CEC completed its work on 18 September 1986.

The following year the National Pro-Memory Foundation created the Constituent Pro-Memory Center (*Centro Pró-Memória da Constituinte* – CPMC), based in Rio de Janeiro and with centers in Brasília, São Paulo, Belo Horizonte, Recife, Porto Alegre and Ouro Preto. The Center took responsibility for the documentary management of the collection produced by CEC and organized a database, used as a bridge between society and the National Constituent Assembly (ANC), with one of its computers being linked to Brasília and functioned uninterruptedly. Users consulted the CPMC by telephone, post or personally. The Center also received material produced by ANC, such as photographs, projects, amendments, resolutions and reports.

CPMC's principal task was to centralize, organize and make available

information about the Constituent Assembly and the discussions it created, aiming at providing information to the members of the assembly, the means of communication and society as a whole. Furthermore, the CPMC team also prepared studies, inquiries, suggestions and reports, with the aim of encouraging political debate and making it transparent. After the National Pro-Memory Foundation was closed down in 1990, the CPMC collection was accepted by the Museum of the Republic.

The Constituent Memory Collection is thus formed of documents produced and accumulated during the work of the Afonso Arinos Commission, the 1987-88 National Constituent Assembly and the Constituent Pro-Memory Center. Taken as a whole, it allows important aspects of the preparation of the Constitution to be discovered: the representation of specific interest groups; moments of popular participation which accompanied and influenced the process; the questions being debated; political party actions; the leaders and political and ideological groups present.

THE CONSTITUENT REPUBLIC

The appeal for a Constituent Assembly was launched in a documentary form for the first time in 1971 in the *Carta de Recife*, prepared in a meeting of the MDB, the opposition party which discussed its self-dissolution as a form of protest against the regime. After this the proposal for a national campaign to convene a Constituent Assembly developed rapidly, extrapolating the agenda of new parties created after the end of the dual political party system in Brazil and awakening the enthusiasm of various civil society groups.

It was in opposition to the illegitimacy of the 1967 Constitution that a new one was argued for. The new constitution was intended to replace the former one which represented the ideas and the values of the dictatorship:

The country needs a Constitution: if there is a peaceful point of agreement in the current Brazilian scenario, this is undoubtedly one of them ... The indirect presidential election of 15 January 1985, which broke the cycle of counter-revolutionary military governments, constituted a high point in the re-democratization process, which begun with the revoking of AI-5; but which could only achieve this to the extent that the anarchy imposed by the Armed Forces in the institutional sphere was ended, giving the country a legitimate constitutional text, through its preparation and procedures for approval.¹¹

In Brazil at the present, after years of the imposed will of the military regime which took power in 1964, the affirmation of a new political, social and economic reality of the country is becoming concrete, and it is necessary that this be institutionalized in law through a new Constitution.¹²

The initial milestone in the so-called 'constituent assembly process' which led to the 1988 Constitution is usually located two years before the creation of the ANC, more specifically with the indirect election in January 1985, of Tancredo Neves to the Brazilian Presidency.

In his first speech as president elect, Tancredo Neves reaffirmed the need for a new free and sovereign National Constituent Assembly:

I summon you to the great constitutional debate. In the coming months you must discuss in every auditorium, in the press and in the streets, in parties and in parliaments, in universities and in trade unions, the most important national problems and the legitimate interests of each social groups. In this wide discussion we will identify your delegates to the constituent power and give them the mandate to rewrite the basic law of the country. The Constitution is not a subject restricted to jurists, to the wise, or to politicians. It cannot be the act of some elites. It is the responsibility of all the people.¹³

After President Tancredo Neves made his commitment to the convening of a National Constituent Assembly, initiatives for the creation of social entities with the specific function of encouraging social participation in process erupted.¹⁴ In Rio de Janeiro a high point of this mobilization was the launching on 26 January 1985 of the *Movimento Nacional pela Participação Popular na Constituinte* (National Movement for Popular Participation in the Constituent Assembly), which brought together about 7,000 people in Duque de Caxias, with the presence of Bishop Dom Mauro Morelli, Hermann de Assis Baeta, then president of the OAB, and Herbert de Souza (better known as Betinho), at that time the executive secretary of Ibase, among so many other representatives of social organizations. The aim was to stimulate the creation of groups aimed at participation in the Constituent Assembly in various municipalities in the country.

In São Paulo on 6 February 1985 an important matrix for social participation in the Constituent Assembly was also created, the *Plenário Pró-Participação Popular* (Plenary for Popular Participation). Its greatest purpose was to consolidate the creation of instruments for popular participation in the

process of preparing a new Constitution, which would afterwards be included as a political rule in the constitutional text.

Following these initiatives, committees and plenaries multiplied all over the country. In 1985 the *Movimento Gaúcho Pró-Constituinte* was created in Rio Grande do Sul; the *Movimento Paranaense Pró-Participação Popular na Constituinte* in Curitiba; the *Comitê Pró-Participação Popular na Constituinte* in Minas Gerais; while in Espírito Santo an *Assembleia Municipal Pró-Constituinte* was formed. In 1986 the *Movimento Povo na Constituinte* would play an important role in Pernambuco. All of these are examples, amongst so many others, of actions carried out in the five administrative regions of Brazil:

The articulations created in Rio and São Paulo reinforced other existing initiatives. Primers and audio-visual material appeared everywhere, speakers moved from one state to another, organizing debates, monitors and organizers were trained. Out of this general awareness groups aimed at mobilization began to emerge. (Michiles et al., 1989, p.42-43)

It was believed that it was necessary to create parallel 'constituent structures' to demand that popular anxieties be contemplated by the constituent power and be set up in Congress, since only through a mobilized society could participatory democracy advance. Citizens were responsible for taking part in, demanding, assisting and controlling public authorities.¹⁵

Many civil organizations and universities¹⁶ became involved in this process. In common they recognized social participation as a key element in the affirmation of the political will of Brazilians. In this way an active and vigilant presence in the intended renegotiation of society was consolidated.

On 13 March 1985 a multi-party commission was formed in Congress with the purpose of carrying out reformulations considered as emergencies in the Brazilian electoral and administrative system, for the organization of the elections for the constituent assembly. This resulted in the 25th Amendment to the Constitution, which, among other determinations, extended the right to vote to illiterate persons and rehabilitated the legality of communist parties.

After the death of Tancredo Neves, José Sarney was sworn in as President on 15 March 1985. On 28 June Sarney sent to Congress the government's proposal to convene a new National Constituent Assembly in Brazil. The proposal presented by Sarney was concerned with the organization of a congressional Constituent Assembly, formed of the federal deputies and senators to be elected in the direct election to be held in 1986 and also by the

senators elected in 1982. This parliamentarians would thus accumulate legislative and constituent functions, which went against the idea of an exclusive Constituent Assembly, which was defended by a significant part of society.

According to Aspásia Camargo and Eli Diniz, the choice of a congressional Constituent Assembly was a strategy initiated by conservative forces from the coalition in power, formed around the idea of the ‘democratic transition’ and the government itself, to guarantee “not only lines of continuity with the previous regime, but also control over the Constituent Assembly itself.”¹⁷ At that time Dalmo Dallari warned that the election of members of the Constituent Assembly who would also be deputies or senators would make the proper performance of both functions unfeasible.¹⁸ A referential document at that time which marked opposition to the congressional Constituent Assembly was the *Carta dos Brasileiros ao Presidente da República e ao Congresso Nacional* (Letter of Brazilians to the President of the Republic and to the National Congress), written by the jurist Goffredo Telles Júnior, in the name of the Plenary for Popular Participation in the Constituent Assembly:

We start from the affirmation that the Constituent Power is not the Legislative Power ... In other words: the National Congress cannot be converted into a National Constituent Assembly. The act that does this is arbitrary and illegitimate ... No one denies that the National Congress has some constituent powers. But the constituent powers of Congress are only those which the Constituent Assembly delegates it through the Constitution ... Furthermore, we should note that in the Constituent, the actions of deputies in the House and senators cannot be released from the powerful incentives to favor, with adequate constitutional norms, the situation of the same parliamentarians, within the state organization.¹⁹

Despite the pressure of the social movements and after tense negotiations and impasses in Congress, on 27 November 1985 the formation of a *Congressional* Constituent Assembly was approved.

The National Constituent Assembly was opened on 1º February 1, 1987, with Ulysses Guimarães from the PMDB, being elected its president. According to Aspásia Camargo and Eli Diniz, the “heterogeneous nature of the coalition which presided the transition” resulted in the emergence of various – and even contradictory – proposals and in increasing conflicts and crises during the work of the assembly (Camargo; Diniz, 1989, p.12).

From the beginning of the National Constituent Assembly supra-political party entities from civil society sought to organize congresses and public debates involving parliamentarians. The perspective was to make commitments between the members of the Constituent Assembly, society and political parties in relation to the different social demands and at the same time to accompany the Assembly's discussions and decisions. Participation in the Constituent Assembly emerged as a greater value. Citizens were called the bulwarks of the democratic struggle through the ample production of primers and articles that offered reflection on how fundamental the exercise of citizenship in Constituent Assembly processes was.²⁰ These sought, above all, to clarify the importance of participation by citizens in the preparation of the new Constitution and in the definition of the directions that the country would start to follow after being enacted.

Intense mobilization involving different social sectors pressed for the creation of formal legal instruments that would guarantee the right to the *direct participation* of society as a while in the decisions of the Constituent Assembly. The central argument was that popular sectors, historically excluded from the benefits of Brazilian social and economic development, should now directly influence the preparation of the country's maximum law, playing a leading role in the political struggle of interests. Posters were put up on the streets with phrases such as "Constituent Assembly without the people creates nothing new", "Participate in the Constituent Assembly", "Speak for us now, or be silent forever", or also "Keep your eye on them!". Distinct groups and entities involved with a wide range of issues adopted common participatory discourses, intrinsically associating the idea of the participation of society in the Constituent Assembly with the possibility of the construction of a true citizen republic in Brazil. Slogans included: "Participate: demand from your candidate a program in defense of children"; "Environment in the Constituent Assembly: the right of all, the duty of each one. Participate!"; "Equal rights: in this Constituent Assembly we have to go together!"; or "We will make the rules of the game!"²¹

A value-idea present and widely disseminated was that the participation of society would allow the constituent assembly process to advance in the construction of citizenship for the Brazilian people on a more democratic basis.

It was in this context that the institution of direct forms of participation in the drafting of the Constitution was discussed and approved through the 'popular amendment' instrument. The possibility of any elector presenting amendments to the constitution project, once countersigned by 30,000

Brazilian citizens and also by three civil society organizations. Each individual could sign a maximum of three constitutional amendment proposals. During the constituent assembly process around 12 million signatures were collected proposing 122 popular amendments. These propositions involved a wide variety of themes, reflecting the plurality and the confrontations present in Brazilian society.²²

The institutionalization of the popular amendments had a great impact on the growth of the participation of society in the Constituent Assembly. A high level of mobilization to collect signatures involved universities, trade unions, public bodies, mothers' associations, indigenous villages, religious bodies, victims' organizations, students, elderly people, disabled persons and many others:

[For the collection of signatures] slogans, theatrical sketches, buttons, t-shirts, primers and videos were made ... Work places, homes, trade unions and associations, parishes, general assemblies, including those of important strikes, streets and squares were the various spaces used to pass around pages to collect signatures, the form in which this occurred varied a lot. There were extremely meticulous campaigns to collect signatures in a real instrument of political education. The force of a statement given by one of the principal leaders of the landless movement shows this well: "We did not adopt the form of leaving the petition in the trade union office, in the parish office or on the street for a passersby to sign. Our collection of signatures were accompanied by discussion and mobilization ... We understood that the greatest political victory would result in political learning, the process of raising awareness, education, all this mobilization, with all these resources that were being mobilized ... It was agreed that our position would be to prioritize the discussion process and not the formal question of the signature of just anybody." (Michiles et al., 1989, p.96-97)

Thus, despite the heterogeneity of the social movements present during the constituent assembly process, in a general form many of them saw the participation of society in the Constituent Assembly as the legal path and the duty of all Brazilians. After a long period in a dictatorship, important changes were introduced in the patterns of mobilization and participation in the country, allowing an expansion of pressure on the political system by social demands, while various social proposals and demands were often vocalized in defense of wide-ranging participation of Brazilians as a condition for full political citizenship.

In addition, a large volume of letters signed by individual citizens from all over Brazil were sent between 1985 and 1988. These letters contained suggestions for the future Constitution and various solicitations. Specifically in the Constituent Memory Collection more than five thousand letters have been identified, written by different individuals and groups from Brazilian society, with requests and suggestions for the constitutional text. Of these, more than three thousand are personal letters, written by people who sought to express their own ideas, without presenting themselves as spokespersons for a larger group. The possibility was raised for the population giving their opinion about and interfering in political decisions, and many citizens moved in this direction. Understanding that a channel of direct communication had been established between society and those in power, they took advantage of the opportunity and not rarely reproduced in their letters the *slogans* of the moment and ideas that were widely publicized in the street campaigns:

I always wanted to participate, but I never had the chance and now I am happy to be able to give my opinion since I was unable to for a long time and since I am a true Brazilian, I would like to talk about what I feel not just for me, but for everyone like me. I hope in my words to be able to achieve something for the new Brazilian Constitution...

Since I was invited to send ideas and demands to the members of the Constituent Assembly I have done so ...

Taking advantage of the encouragement which we, the long-suffering Brazilian people, have been given by the New Republic, through the press, I intend here to express my objective and simple ideas...

I was most contented when I found the address to participate in our mother Constituent Assembly. Well, I have various ideas that perhaps you will like...

Answering the appeal made through the newspaper in the capital I would like to give my suggestion in relation to the drafting of an article in the new Constitution...

We saw on television that President José Sarney has opened a channel of communication with various social sectors, in order to participate in the debates about the new Constituent Assembly...

I want to understand a little about the Constituent Assembly, and to participate by making an appeal on behalf of the disabled, of whom I am one...²³

Values present in the campaigns for popular participation in the Constituent Assembly, based on the expansion of the citizenship rights and

the engagement of everyone in the task of defining the direction of the country, *did not* thus remain circumscribed to the scope of the organized groups and institutions of society, and were also incorporated in personal discourses of citizens who were supposedly neither militants nor actively engaged in collective movements that were making demands.

The importance of the right to citizenship and to participation thus achieved a certain amount of dissemination among social strata without any tradition of political engagement and which began to share in their manner many of the slogans used in the campaigns that took over the streets. The belief increased that preparing a Constitution for Brazil was something to be realized in dialogue with citizens. Pro-participation ideas overflowed from their initial defenders and were assimilated by a new part of the population who then found in participatory ideals a form of defending rights. In this chapter of the history of Brazil, the value of the participation of everyone in deciding the direction of the country was consolidated far outside the universe of political activism. 'Participation' became a right and an opportunity to conquer rights and was an instrument strategically used by different sectors of society in the search to influence the government in favor of its interests.

Like a common identity, subjacent to the large part of the social demands, was the idea that all Brazilians, without any distinction, were active subjects and participants in the constituent assembly process. In the debates and in the media, in the campaigns and in the social movements, and in the personal letters sent to those in power, the recognition of the right of everyone to political participation achieved large-scale social 'dissemination.'

A REPUBLIC OF RIGHTS

Notions of *rights* are necessarily constructed on the basis of interactions between individuals and institutions which are part of a society. It was from the articulation between the social actors that the understanding of rights emerged. The existence of distinct conceptions about this is related to different ties of identity that mark the daily life of social groups. Each direction given to the notion of right implies the recognition of a determined agenda of rights by a determined sector of the population.²⁴

The inclusion of the legal instrument of the *popular amendment* in the internal regulations of the National Constituent Assembly was commemorated as a new political landmark in the relations between state and society. By permitting the direct involvement of citizens in the preparation of the

Constitution, the *popular amendment* not only motivated social mobilization, but also was recognized as an instrument of political education, by asserting the idea that the public space is a privileged place for the exercise of citizenship.

Something else that also gained a certain social strength was the feeling of trust in relation to political and governmental institutions. While at that moment the idea of the formation of a freely elected National Assembly was related to the opportunity to achieve the consolidation of the Brazilian democratic transition, through the preparation of a new Constitution, another feeling was also raised: that of having in the country effective institutional conditions for a democratic political project. Underlining the process of the participatory effusion in the Constituent Assembly, confidence was renewed in political actions circumscribed by the *legal organization* of the country.

During the 1985-88 constituent assembly process, despite the conflicts between ideologies and interests, the perception of political citizenship occupied a significant place in the Brazilian society. The idea of a New Republic opened and in this the engagement of the population was conceived by groups and individual as a fundamental point for the conquest of rights.

The 1988 Constitution was thus born with the symbolic value of having raised among many Brazilians a new impetus for change and participation. The process of drafting the Constitution represented for many of us a live experience of political citizenship.

The set of issues raised in the constituent assembly process involved a wide range of political, economic, social and cultural questions. The constitutional text enacted reflected these pressures to some extent. The new constitution gave certain social groups, which until then had been excluded, the constitutional means of recognizing their rights and created rights for the exercise and monitoring of these rights. It also reflected the confrontations and contradictions of the groups within the Constituent Assembly, who in fact were present in society as a whole.

Congress consisted of 487 federal deputies and 72 senators. Party identities and ideological matrices defined the tone of the debates. In the game of political strength, the groups did not always present unity of behavior, moving in accordance with the questions being discussed and the interests of the moment, as well as forming super-party groups, such as the conservative *Centrão*.

Despite the bitter disputes, the constitutional text contained important advances in the area of human rights. Amongst other points, instruments were created for the defense of rights, such as *habeas data*; racism was seen as an imprescriptible crime; explicit directives concerned with the protection of the

elderly, the disabled and children were established; the equality of rights between genders and respect for the preservation of indigenous culture was established. Established as the *objectives* of the Republic were the eradication of poverty and social inequalities and the promotion of the good of everyone, without prejudice in relation to origin, race, sex, age or color. Significant conquests were also included in the areas of health, social assistance, education and culture.²⁵

It is not the objective of this article to describe the details of each social advance present in the current Brazilian Constitution, but it is interesting – since it deals with a question that is emblematic of the republican idea that the *public space* should be conceived as the domain of everyone – to look a little more at the new connection which was made after the 1988 Constitution between the concepts of *city* and *citizenship*, or in other words between the idea of living in the city and exercising political citizenship.²⁶

In Brazil cities were constructed without all of their populations being able to enjoy the same benefits and access to the services of urbanization, in such a way that the rights of citizenship were traditionally ‘neglected.’ According to Maria Alice Rezende de Carvalho, in these conditions “the ‘city-value’ is scarce, it is not extended to all. After all, it involved a scarce city – an expression which synthesizes different processes of subtraction of the possibility of free life and autonomous action for the great masses” (Carvalho, 2009, p.226).

From the 1980s onwards there occurred an important change in the debate on the ordering of Brazilian urban space. Until then what had predominated was the belief that the disorganization of cities in Brazil was essentially the fruit of the increasing urbanization of the country, occurring on the basis of a large migratory flow from the countryside to the city, which ruptured any satisfactory possibility of economic and infrastructure planning.

In fact, the ‘dis-ruralization’ of Brazilian society in the second half of the twentieth century was a reality. According to Luiz César de Queiroz Ribeiro: “Between the 1940s and the 1970s there was an enormous acceleration and the country changed from a population in which 60%-70% lived in the countryside and to a situation in the 1970s which was the exact opposite – 70% of the population lived in the city” (Ribeiro, 2009, p.240). However, in the 1980s the diagnosis that the precariousness of life in Brazilian cities had occurred because of intense migration was contested, and the question of *bad distribution* came to be highlighted as the new root of the problem. The idea was introduced that the origin of urban disorder was primarily a distributional conflict and not

population growth in the cities. Furthermore, there also emerged an understanding that, at the cost of enormous economic harm to most of the population, to some the existence of problems related to the infrastructure of public transports, sanitation, etc, was advantageous from the economic point of view: advantageous to those sectors of Brazilian society who used the city as merchandise, identifying it as a source of private profit. Included in this group were property investors, the owners of private transport companies and all who obtained significant financial advantages through the provision of services or other 'individualized' forms of the appropriation of land, without any concern with collective welfare in a scenario of urban disorder. Also part of this group of beneficiaries were the owners of overvalued property, since this valuation only occurred on such an elevated scale in contexts of inequality.

This mercadological logic of the city was counterpoised by the idea of urban planning in which private gain had to be associated with the principles of justice and social democracy, or in other words the idea that the city had to be constructed for all and not for some, taking into account minimum levels of development with equity and greater integration between political and social actors.

The 1988 Constitution defined as the basic principle of Brazilian urban policy the purpose of "ordering the proper development of the social functions of the city and guaranteeing the welfare of its inhabitants" (Art. 182). According to this the logic of the market now had to take into account the collective interest. Private wealth had to be balanced by social wealth, which implied a egalitarian redistribution of the costs and benefits of urbanization for the population as a whole. On the one hand this signified establishing material compensation targets and on the other the universalization of citizenship goods.

Monitoring and implementation instruments needed to be organized for this socially redistributive planning. For this reason the Statute of the City and Ministry of Cities were established.

Nevertheless, there remain many challenges for the organization of Brazilian cities on an egalitarian basis, as well as uncertainties about the perspectives of effectiveness in relation to various other rights included in the 1988 Constitution, many of which still await regulations to be put into force.

More than twenty years after the enactment of the 1988 Federal Constitution, a series of constitutional amendments have been incorporated in it, but the debate about the present and the future of the judicial ordering

of the country has not ended. It never will be. New analyses and alternative proposals are necessary and healthy for democracy

NOTES

¹ Taken from a speech given by Ulysses Guimarães while acting as President of the National Constituent Assembly, 1987-1988.

² Reflections on the republican tradition can be found, for example, in CARDOSO, Sérgio (Org.). *Retorno ao republicanismo*. Belo Horizonte: Ed. UFMG, 2004; and BIGNOTTO, Newton (Org.). *Pensar a República*. Belo Horizonte: Ed. UFMG, 2000.

³ For reflection on the Brazilian dictatorship between 1964 and 1985, see REIS, Daniel Aarão. *Ditadura militar, esquerdas e sociedade*. 3.ed. Rio de Janeiro: Jorge Zahar, 2005; and FICO, Carlos; FERREIRA, Marieta de Moraes; ARAÚJO, Maria Paula Nascimento. *Ditadura e democracia na América Latina*. Rio de Janeiro: Ed. FGV, 2008.

⁴ A good analysis of the political amnesty in Brazil can be found in SUSSEKIND, Elizabeth (Org.). *Memória e justiça*. Rio de Janeiro: Jauá; Museu da República, 2009.

⁵ Various statements about the 'siege' of congress on the day of the vote of *Diretas Já* Amendment can be seen in the film *Memórias finais da República de Fardas*, by Gabriel F. Marinho and Catta Preta, which is on display in the long term exhibition of the Museum of the Republic in Rio de Janeiro called "A Res Publica Brasileira".

⁶ See, for example, FERREIRA, Marieta de Moraes; SARMENTO, Carlos Eduardo. *A República brasileira: pactos e rupturas*. In: GOMES, Angela de Castro; PANDOLFI, Dulce Chaves; ALBERTI, Verena (Org.). *A República no Brasil*. Rio de Janeiro: Nova Fronteira; CPDOC/FGV, 2002.

⁷ SADER, Emir. *Constituinte, democracia e poder*. In: SADER, Emir et al. *Constituinte e democracia no Brasil hoje*. São Paulo: Brasiliense, 1985, p.128.

⁸ The audiovisual material of the 'Constituent Memory Collection,' a collection held in the Historical Archive of the Museum of the Republic, includes interviews with various passersby in metropolitan area of Recife, which showed that there was also some indifference in relation to the Constituent Assembly process.

⁹ The 'Constituent Assembly Memorial Collection,' especially its letters, are at the moment a special source for my doctoral research, part of the Post-Graduate Program in History, Policy and Cultural Goods, CPDOC/FGV.

¹⁰ The decrees nominating the members of the Provisional Commission of Constitutional Studies were published in *Diário Oficial da União* on 20 August 1986 and 3 September 1985, respectively.

¹¹ MARINI, Ruy Mauro. *Possibilidades e limites da Assembleia Constituinte*. In: SADER, Emir et al., 1985, p.17.

¹² FEDERAÇÃO NACIONAL DOS ENGENHEIROS. *Cartilha da Constituinte*, 1985, p.11.

¹³ Available at the site 'Discursos', www.jlch2.com.br/discurso-ler.asp?id=13; accessed in Oct. 2009.

¹⁴ An important work on social participation in the 1985-88 constituent assembly process is MICHILES, Carlos et al. *Cidadão Constituinte: a saga das emendas populares*. Rio de Janeiro: Paz e Terra, 1989.

¹⁵ Some good texts about the question of participation and democratic representation include: CHARTIER, Roger. O mundo como representação. *Estudos Avançados*, São Paulo, v.5, n.11, p.1-9, jan.-abr. 1991; URBINATI, Nadia. O que torna a representação democrática? *Lua Nova – Revista de Cultura e Política*, São Paulo, n.67, 2006; LAVELLE, Adrián Gurza; HOUTZAGER, Peter P.; CASTELLO, Graziela. Democracia, pluralização da representação e civil society. *Lua Nova – Revista de Cultura e Política*, São Paulo, n.67, 2006.

¹⁶ By way of example the following can be mentioned: the Brazilian Bar Association (*Ordem dos Advogados do Brasil – OAB*), Instituto de Estudos da Religião (Iser); Instituto Brasileiro de Análises Sociais e Econômicas (Ibase); Centro de Ação Comunitária (Cedac); Serviço de Educação Popular (SEP); Centro Ecumênico de Documentação e Informação (Cedi); Comissão Pastoral Operária (CPO); Comissão Pastoral da Terra (CPT); Federação de Órgãos para a Assistência Social e Educacional (Fase), Universidade Federal do Rio Grande do Sul (UFRGS), Universidade Federal de Pernambuco (UFPE), Universidade Federal da Bahia (UFBA) and Universidade de Brasília (UnB), amongst many others.

¹⁷ CAMARGO, Aspásia; DINIZ, Eli. *Continuidade e mudança no Brasil da Nova República*. São Paulo: Vértice; Editora Revista dos Tribunais, 1989.

¹⁸ DALLARI, Dalmo de Abreu. Constituição para o Brasil novo. In: SADER, Emir et al., 1985, p.114.

¹⁹ Extracts from “Carta dos Brasileiros ao Presidente da República e ao Congresso Nacional”. The full document can be found in MICHILES, Carlos et al., 1989, p.26-29.

²⁰ Amongst various other examples see: *Curso Constituinte/ Constituição, Todos somos constituintes*, Brasília: Ed. UnB, 1987; CENTRO ECUMÊNICO DE DOCUMENTAÇÃO E INFORMAÇÃO. *Como utilizar a iniciativa popular constituinte*. Rio de Janeiro, n.d.; PADIN, Cândido. Quem tem medo do povo? *Folha de S. Paulo*, 22 jan. 1988.

²¹ All the citations refers to documents available in the Constituent Memory Collection.

²² A summary of the proposals submitted to the Constituent Assembly through the popular amendments can be found in LOPES, Júlio Aurélio Vianna. *A Carta da Democracia: o processo constituinte da ordem pública de 1988*. Rio de Janeiro: Topbooks, 2008.

²³ Citation of extracts from seven letters that are part of the Constituent Memory Collection: 1) letter from Jucelino Nobrega da Luz, Santo André (SP), 16 June 1986; 2) letter from Ronald dos Santos, São Paulo (SP), 10 June 1987; 3) letter from Darcy Xavier Gonçalves, do Rio de Janeiro (RJ), 23 January 1986; 4) letter from Maria Aurenita Vasconcelos, Car-

puia (PE), 25 March 1986; 5) letter from Regina Machado, Goiânia (GO), 22 Sept. 1985; 6) letter from Manoel Bezerra, place and date not given; 7) letter from Orlando José da Silva, de Jairos (PI), no date.

²⁴ For a discussion of the concept of *Rights*, see GOMES, Ângela de Castro et al. *Direitos e cidadania: memória, política e cultura*. Rio de Janeiro: Ed. FGV, 2007.

²⁵ Good articles about the different sections of the current Federal Constitution of Brazil can be found in: “Vinte anos da Constituição Cidadã”, *Cadernos Adenauer*, Rio de Janeiro: Fundação Konrad Adenauer, v.IX, n.1, 2008.

²⁶ In relation to the various forms of thinking about urban planning in Brazil, see, for example, CARVALHO, Maria Alice Rezende de. *Cidade, cidadania e o Rio de Janeiro*; e RIBEIRO, Luiz César de Queiroz. *Política urbana brasileira: avanços e desafios*. In: VERSIANI, Maria Helena; MACIEL, Ira; SANTOS, Núbia Melhem (Org.). *Citizenship em debate*. Rio de Janeiro: Jauá; Museu da República, 2009, pp.224-229 and 238-245, respectively.

Article received in October 2009. Approved in November 2010.