

# Looking for leisure in the National Constituent Assembly: its inclusion as a right in Brazil's 1988 Constitution

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**Abstract:** This work summarizes the history of leisure in Brazil's National Constituent Assembly (1987-1988), identifying the political actors responsible for its inclusion as social right in the Constitution as well as the interests and the meanings of leisure involved in the process. Its sources are documents produced by the National Constituent Assembly. The indications we found allow us to perceive that although leisure was considered central to the lives of Brazilian citizens by all political actors in that process, there was no mobilization or organization around leisure to justify its definition as a social right in the Constitution.

**Keywords:** History. Leisure. Social right.

Brazil's 1988 Constitution, in its Article 6, defines the social rights of all Brazilians, including leisure (BRASIL, 2008). Thus leisure is a social right in the country with the same status as education, health, work, housing, safety and social security, for instance. Social rights are historically associated with participation in a country's social wealth. They are understood as minimum universal rights, i. e. goods and services essential to citizens. According to José Murilo de Carvalho (2007, p. 10), social rights allow societies to reduce the excess of inequalities produced by capitalism and ensure minimum well-being to all, and they are based on the idea of social justice. Social rights are seen as workers' achievements as a result of the political struggle between capital

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and labor, which occurs in a different way in every country. They are constructions resulting from multiple conflicts and interests.<sup>1</sup> Therefore, in the historical moment and political context of the construction of the 1988 Constitution, leisure was considered by the Brazilian State as a key asset to the citizens and their wellbeing, and access to it was seen as determinant to citizenship (MARSHALL, 1967).

How can that happen if leisure still used to be seen at that historic moment – more than today – as superfluous, secondary, unimportant in people’s lives, if there was no demand by social movements for leisure? (MELO; ALVES JUNIOR, 2003, MARCELLINO, 2006, REQUIXA, 1977, MAGNANI, 1996, BRUNHS, 2002, STIGGER, 1988). It was on the wake of these reflections that I developed the research that resulted in this text.<sup>2</sup> I reconstructed leisure’s history in the 1987-1988 National Constituent Assembly (NCA), identifying the political actors responsible for its inclusion as a social right in the Constitution as well as the interests and meanings of leisure involved in that process.

## 1 METHODOLOGY AND DOCUMENT CORPUS

This work stems from historical research whose sources were documents produced by the 1987-1988 National Constituent Assembly and those produced around it, which are under the custody of the Archives Fund of the National Constituent Assembly and the Brazilian Senate, whose location is indicated in footnotes throughout the text. The criterion for the choice of sources was the relation between the subject addressed by NCA thematic committees and subcommittees with leisure. That was necessary because leisure was not in the name of any thematic subcommittee or committee – that is, the subjects they would work with.

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<sup>1</sup>I am indebted to the works of LINHALES, (1988); MENICUCCI (2006); VERONEZ (2005); VIEIRA (1999). However, I am aware of other approaches and understandings about the nature and meaning of social rights. See ARRETICHE (1995); COIMBRA (1987); FARIA (1998).

<sup>2</sup>Research sponsored by CNPq.

Those documents are *sources of power*, because they were produced by the dominant groups in that historical moment in order to perpetuate the historical version that was in their best interest. Nevertheless, it was possible to see the power and interest games involved in the construction of the 1988 Constitution. Inconsistencies between what was said and what was actually done by organizations and by Assembly members themselves regarding incorporation of the public's suggestions into the Constitution are indications of those games. Furthermore, there are inconsistencies between what was publicized regarding the role played by the people and their demands in that process, and what actually happened. The documents reveal what they are probably intended to hide.

An oral source is also included in the study's document corpus. I sought the NCA member who proposed the most amendments on leisure, in order to interview him to find out and understand the motives and interests that led him to propose the inclusion of leisure in the Constitution as well as his view of the subject. Congressman Florestan Fernandes, a member of the Workers Party (PT) in São Paulo, presented the highest number of amendments and suggestions dealing with leisure during the NCA's works. However, since he had already passed away, I interviewed the member with the second highest number of amendments on leisure. Former Deputy José Maurício Linhares Barreto, a member of the Labor Democratic Party (PDT) in Rio de Janeiro, presented six amendments on the matter. When leisure was not the sole subject of his amendments, it was one of them. The interview was based on a previous script, and he authorized its use in publications for scientific purposes by signing a free and informed consent form.

The timeframe of this study is determined by the duration of NCA works, so it started on February 1, 1987 and ended on October 5, 1988, when the Constitution was promulgated and the Constituent Assembly was dissolved. Some documents preceding but related to the NCA's establishment were also studied.

These documents are my starting point and the substance of this work. They showed me the ways to go as well as studies and readings to be made. So I did not study a priori social movements or any political actor to infer that they would be present in the process and would be responsible for the inclusion of leisure as a social right in the Constitution. I identified the actors who should or should not be studied based on sources, despite having conducted studies on the historical moment of construction of the 1988 Constitution before having contact with the sources. I let them show me the path to the answers to my questions.

The analysis of documents was carried out as follows: in reports and drafts of rapporteurs of thematic subcommittees, I sought to understand the approach to the suggestions presented by different political actors, as well as the presence and absence of leisure. I compared the analyses of suggestions – conducted by rapporteurs and their aides – to rapporteurs’ drafts to know if the suggestions were considered and incorporated into the drafts. And I found differences between what was demanded in suggestions and rapporteurs’ texts. I analyzed the amendments presented by Assembly members to those drafts to find out if leisure was demanded or not. I compared those amendments to the drafts of the subcommittees to know whether or not they were incorporated into the texts. Finally, I compared the documents produced by each subcommittee with those produced by committees, which are, or should be, the summary of the work done by the three subcommittees that make up each committee, and should thus “reflect general coordinates of Brazilian society and nation” (BRASIL, 1988a, p. 2) on topics related to each committee. In the committee, I also analyzed amendments submitted and compared them with rapporteurs’ alternative proposals and the drafts of the commissions to find whether or not the former had been incorporated to the latter.

In the documents produced by the “Systematization Committee” and by the “Plenary Session”, the procedure was similar: analyzing documents produced at each stage of the work

and comparing them with those of later stages in order to trace leisure's trajectory in those works.

Given the nature of the concept of leisure, which is difficult to demarcate and on which there are different understandings, I chose not to start from a predetermined leisure concept, not to use a given concept as a reference to identify what would or would not be analyzed. The idea was precisely to capture what was regarded as leisure by those involved in the constituent process and the meanings attributed to it at that time in Brazil. My view of leisure does not matter; what matters is the view of the actors in the Constituent Assembly.

## **2 THE NATIONAL CONSTITUENT ASSEMBLY: ESTABLISHMENT, WORKING DYNAMICS AND INTERESTS INVOLVED**

Since at least the early 1970s there were pressures in Brazil for a new Constitution, because the 1967 Charter, in force at the time, had been written during and by the government of Marshal Castello Branco and represented the values and ideals of the civil-military dictatorship. Letters, manifestos, pamphlets and conferences were produced, as well as a petition with over 19,000 signatures for convening the Constituent Assembly. Different organizations of Brazilian society, intellectuals, artists and social movements demanded a National Constituent Assembly to write a new Constitution, which would be the legal framework for the end of the military dictatorship system (SALGADO, 2005; VERSIANI, 2008).

The so-called "political opening" began in the second half of the 1970s. The Institutional Act number 5 was revoked, previous censorship was abolished, restrictions on election campaign were reduced and habeas corpus for political crimes was reinstated. The economic growth rate began to decline and the effects of the so-called "economic miracle" disappeared.

These factors converged and contributed to the expansion of social movements since 1975. The labor movement emerged

among workers from new industries that had expanded during the “economic miracle”, such as metal workers from auto companies, steel companies, machinery and equipment. The presence and activities of rural unions became stronger, the Basic Ecclesial Communities (BECs) emerged within the Catholic Church, doing religious work linked to social conditions of the people and an effort to raise political awareness. Slum dwellers movements, middle-class neighborhood associations and middle-class professional associations expanded (CARVALHO, 2007). The Brazilian Bar Association (OAB), the Brazilian Press Association (ABI) and the Brazilian Society for the Advancement of Science (SBPC) also played important political roles in the 1970s and 1980s.

The peak of popular mobilization was the 1984 campaign for “Direct elections now!” to force Congress to approve a constitutional amendment that would allow direct elections for the President. That goal was not achieved,<sup>3</sup> but the Party of the Brazilian Democratic Movement (PMDB) launched a civil candidate to compete with the government’s presidential candidate, and popular pressure made Tancredo Neves the winner of the race, thus ending the cycle of military presidents in Brazil.<sup>4</sup> However, his deputy president was someone who would offer less, if any, resistance to plans for a “slow, gradual and safe transition”<sup>5</sup> proposed by Brazil’s military and economic elites, since he was an “old servant of the military” (CARVALHO, 2007, p. 177). José Sarney became president, “a president by circumstance” (FERNANDES, 2006, p. 36).

It was known to those in government and the country’s political and economic elite that popular classes accumulated

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<sup>3</sup>The amendment needed the votes in 2/3 of Congress members to pass; it came 22 votes short.

<sup>4</sup>The arrival of PMDB to the presidency, after years in the opposition, was the result of agreements between different political parties, including PDS (formerly known as Arena), the ruling party, which led to the Democratic Alliance. Thus, “that was not a categorical victory of the Left in that the triumph, in addition to forming an alliance with the “Liberal Front” that had broad support from PDS deputies” (FREITAS; MOURA; MEDEIROS, 2009, p. 7).

<sup>5</sup>Term used by military President Ernesto Geisel.

grievances and frustrations,<sup>6</sup> and “vast rustic populations were inclined to armed uprising” (FERNANDES, 2006, p. 97), that there was predisposition to break the existing order and establish another, actually democratic rather than a rhetoric one. Thus, liberalization of the system and promotion of a slow return to democracy initiated by President General Ernesto Geisel was a strategy to maintain a certain order, because otherwise the people who had long been suffocated in Brazilian history could promote a return to democracy by means that would not guarantee control of power by the ruling classes (FERNANDES, 2006 GASPARI, 2003). The political opening was a strategy by those in government, an attempt to keep bourgeois control over the state and avoid abrupt ruptures. What emerged was a “slow, gradual and safe transition” made for and by those who controlled the Brazilian State.

The NCA was convened by then President José Sarney on November 28, 1985 (BRASIL, 1985) as part of a strategy to assure State control by the bourgeois classes. It was set up on February 1, 1987, and on the next day Federal Deputy Ulysses Guimarães (PMDB-SP) was elected its president and the debates and works around the construction of a new constitution began. The works of the NCA were organized into eight Thematic Committees, and each of them was divided into three Subcommittees:

Art. 15: Committees and subcommittees are as follows:

I – Committee on Sovereignty and Rights and Guarantees of Men and Women:

- a) Subcommittee on nationality, sovereignty and foreign relations;
- b) Subcommittee on political rights, collective rights and guarantees;

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<sup>6</sup>In the early 1970s the violence of General Garrastazu Médici’s government combined with high rates of economic growth, which were known as the “economic miracle”. However, that economic growth benefited the population unevenly as inequalities increased rather than decreasing. The minimum wage in 1974 was worth almost half of what it had been in 1960. General Médici implemented the death penalty, which had been abolished after the proclamation of the Republic, introduced previous censorship on newspapers, books, television and radio programs. There was no freedom of speech or assembly, strikes were banned and trade unions and student organizations were subjected to repression and were under constant threat of intervention. Prohibitions were strongly enforced. What did not serve the ideals and purpose of the military government was curbed and combated.

c) Subcommittee on individual rights and guarantees;

II - Committee on State Organization:

a) Subcommittee on the Union, Federal District and Territories;

b) Subcommittee on States;

c) Subcommittee on Municipalities and Regions;

III - Committee on the Organization of Powers and Government System:

a) Subcommittee on the Legislative Branch;

b) Subcommittee on the Executive Branch;

c) Subcommittee on the Judiciary Branch and Public Attorney's Offices;

IV - Committee on Electoral and Partisan Organization and Guarantee of the Institutions:

a) Subcommittee on the Electoral System and Political Parties;

b) Subcommittee on the Defense of the State, Society and its Security;

c) Subcommittee on the Guarantee of the Constitution, Reforms and Amendments;

V - Committee on the Tax System, Budget and Finance:

a) Subcommittee on Taxes, Participation and Distribution of Revenues;

b) Subcommittee on Budget and Financial Control;

c) Subcommittee of the Financial System;

VI - Committee on the Economic Order:

a) Subcommittee on General Principles, State intervention, Property Regime of the Subsoil and Economic Activity;

b) Subcommittee on Urban Issues and Transportation:

c) Subcommittee on Agricultural and Land Policy and Agrarian Reform;

VII - Committee on Social Order:

a) Subcommittee on Rights of Workers and Public Servants;



- b) Subcommittee on Health, Security and the Environment;
  - c) Subcommittee on Black People, Indigenous People, People with Disabilities and Minorities;
- VIII - Commission on the Family, Education, Culture and Sports, Science and Technology, and Communication:
- a) Subcommittee on Education, Culture and Sports;
  - b) Subcommittee on Science and Technology and Communication;
  - c) Subcommittee on the Family, Minor and the Elderly. (BRASIL, 1987, p. 5)

There was also the “Systematization Committee” in charge of receiving, systematizing and reporting on amendments and the draft Constitution written and sent to it by each thematic committee. The dynamics of the NCA’s works can be summarized as follows:

Assembly members preferred to organize themselves initially in subcommittees that will prepare basic drafts. In a first step, these will be amended and voted within the very Subcommittees; as a second step, they will be consolidated and voted again in thematic committees; finally, they will be assembled into a complete text at the Systematization Committee. Only then will that text be appreciated, amended as necessary and voted by the plenary session of the National Constituent Assembly. (BRASIL, 1988b, p. 2)

While a new Charter for the nation was in popular classes’ best interest to replace the lawlessness prevailing in the country, establish democracy and respect the interests of the population as a whole, political and economic elites wanted to bind it to “slow, gradual and safe transition”. These were the interests at stake during NCA works, even though discourses used to say and still say the opposite, trying to present it “as a neutral institution in which ‘the people’s representatives’ are above classes and draft a

constitution that respects the interests of ‘the people as a whole’” (FERNANDES, 2006, p. 66). While the Party of the Brazilian Democratic Movement (PMDB) and the Liberal Front Party (PFL) – which were Rightist parties despite the lack of cohesion of the former, which sometimes allied itself to the Right, sometimes to the Left – had almost 80% seats, Leftist parties (Democratic Labor Party – PDT, the Workers Party – PT, the Communist Party of Brazil – PCdoB, the Brazilian Socialist Party – PSB, the Brazilian Communist Party – PCB) had only 9.8 % of the seats<sup>7</sup> (FREITAS; MOURA; MEDEIROS, 2009; LIMA, 2002), showing Brazilian elites’ higher representation at the NCA.

In addition to assembly members, two political actors took part in the constitutional process: civil society organizations and the population. Organizations could participate through three mechanisms: submitting suggestions, submitting amendments, and participating in hearings in thematic subcommittees. And the population could participate directly by submitting suggestions in a previously sealed form distributed by the Senate throughout Brazil.

Next, we will look at a synthesis of leisure’s trajectory in the 1987-1988 constitutional process.<sup>8</sup> We will see where leisure was present and where it was absent in the work of the Constituent Assembly. The idea is to reveal the times when it appeared and which actors spoke for it. I also looked into leisure absences, since they are significant to understand the place it occupied and the view on leisure present in the Constituent Assembly.

### **3 BETWEEN PRESENCES AND ABSENCES: LEISURE IN BRAZIL’S NATIONAL CONSTITUENT ASSEMBLY**

The population submitted suggestions on “underprivileged children’s” right to leisure to the “Subcommittee on the Family,

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<sup>7</sup>Political parties ideological stances were defined by the work of Freitas, Moura and Medeiros (2009, p. 10): the “Left” included the political group that emerged from the opposition party to the military regime, the Brazilian Democratic Movement (MDB); there were considered the “Right” block – then in a process of dispersion – that was more aligned with authoritarian forces during the re-democratization process.

<sup>8</sup>The full work can be found in SANTOS, 2014.

Minors and the Elderly”. The organizations that manifested themselves at that Subcommittee demanded leisure as a right of abandoned minors (BRASIL, 1988c, p. 6). Assembly members, in turn, suggested that leisure was considered a right of all children and not just of those abandoned or underprivileged. But those demands were not included in the subcommittee rapporteur’s draft and they reappeared in the amendments to that draft, but were not accepted either. In the committee’s draft, to which this subcommittee belongs, that demand was met and leisure was included as a right of minors.

Organizations demanded leisure as a right of the elderly. And Assembly members, when they referred to the elderly, suggested that the State “must allocate resources to ensure them decent living conditions – health, housing, leisure, work” (BRASIL, 1988c, p. 8). Therefore, leisure was considered one of the decent living conditions for the elderly. Such demands were met in the rapporteur’s draft and reappeared on three amendments submitted by Assembly members, which were not accepted. The right of the elderly to leisure is not present in the draft submitted by the “Committee on the Family, Education, Culture and Sports, Science and Technology, and Communication”.

Leisure appears only once in the draft of the rapporteur of the “Subcommittee on Family, Minors and the Elderly” and remained the same in the subcommittee’s draft: “Family planning programs will take into account housing, health, education, culture and leisure conditions to be granted to families” (BRASIL, 1988c, p. 13). Assembly members were the political actors responsible for such inclusion of leisure. They were the only ones to demand the presence of leisure among “State’s duties towards families” (BRASIL, 1988c, p. 7).

Culture was discussed by two subcommittees: “Subcommittee on Science and Technology and Communication” and “Subcommittee on Education, Culture and Sports”. The population, Assembly members and institutions spoke out about culture through suggestions, amendments and public hearings.

Culture was understood by the institutions as a right, and the State's duty to realize it was stressed. Those suggestions usually related culture to education. No relation was established by those entities between culture and leisure. Another example of the absence of leisure is representative. The Union of Employees in Cultural, Recreational, Social Assistance, Guidance and Vocational Training Entities in Brasilia (SENALBA) manifested itself about culture but said nothing about leisure (BRASIL, 1988d, p. 19). Because of historical relations between leisure and recreation in Brazil, the labor union could be expected to speak about leisure, but it did not. And none of the institutions that have culture as the object of their work or represent professionals who work with it in Brazil included leisure in their concerns. That can still be felt today as the cultural sector often does not recognize their actions as leisure possibilities, showing ignorance about the relationship between leisure and culture (MUNHOZ, 2006). That situation is representative of the place occupied by leisure and the development it achieved in the country's current historical moment.

Assembly members established a relationship between leisure and culture. Roberto Freire (PCB-PE), by proposing the creation of a "Brazilian cultural policy" (BRASIL, 1988e, p. 295), considered "extending opportunities for culture and leisure, combining recreation and education" as one of its imperatives (BRASIL, 1988e, p. 295). Florestan Fernandes (PT-SP) submitted a long 10-item suggestion focusing only on leisure. He spoke of cultural leisure contents, highlighting the intrinsic relations between leisure and culture.

- Art. – The State shall protect and foster popular and folkloric forms of entertainment and leisure, according to the law, trying to keep them alive where they are socially valued and to spread them across the country. Dance, music, circus, theater, visual arts and popular or folkloric crafts will be subject to programs for protection, exhibition and popular participation.

- Art. – Radio and television will be used, according to the law, to valorize, disseminate and

perpetuate popular and folkloric manifestations of leisure indicated in the previous article.

- Art. – The State will seek to encourage dissemination of high culture drama games, ballet [sic], music, visual arts and theater, movies and culture as forms of leisure, especially among young people and low-income populations, according to the law. (BRASIL, 1988d, p. 44)

The population also spoke about culture and established associations with leisure. They considered leisure as a cultural theme. Leisure appears next to sports and recreation as the third most often cited culture theme in popular suggestions. That is very significant because it shows that the population understood that leisure is culture, unlike the State itself that separates the cultural sector from the leisure sector, and which, when implementing policies aimed at culture, does not understand that it is implementing leisure possibilities, therefore excluding the intertwined relations between leisure and culture.

Leisure also appears linked to sport and tourism in suggestions submitted by the population, institutions and Assembly members. Sport and tourism appear as forms of leisure. The “Subcommittee on Education, Culture and Sports” heard twelve entities specialized in sport (BRASIL, 1988d, p. 22). Twenty institutions spoke about culture in that Subcommittee (BRASIL, 1988d, p. 17-19). In turn, no institution spoke specifically about leisure. It was always included in the suggestions they submitted, among other claims.

Relations between leisure and education were built into amendments. One of them suggests that the mandatory minimum content of basic education includes the importance of leisure (BRASIL, 1988d, p. 274). That amendment was accepted by the subcommittee, with changes only in the level of education, but it was not included in the committee’s draft.

In the “Sub-Committee on the Rights of Workers and Public Servants”, Assembly members demanded that the minimum wage

value included leisure expenses. They also demanded the presence of leisure in the title “On the social order” (BRASIL, 1988f, p. 287). And Assembly members Nelton Friedrich (PMDB-PR), a former MDB member and an advocate of democratic liberties and workers’ rights in the Constituent Assembly, proposed the inclusion of leisure as workers’ right.

At the “Subcommittee on Health, Safety and the Environment”, members indicated the inclusion of leisure as one of the basic needs resulting in health. Those demands were not accepted by the subcommittee and reappeared in the committee’s work, but were rejected again. Thus, leisure was understood as an important factor for health, but not strong to be included in the subcommittee’s and the committee’s drafts.

Leisure appears once in the draft of the rapporteur of the “Subcommittee on Political Rights, Collective Rights and Guarantees”: “Art. 23 – It is the right of all to have access to work through a full employment policy, with wages to afford housing, food, health, access to consumer goods, education, culture and leisure” (BRASIL, 1988f, p. 11). However, the author of that article was not identified. That was how leisure remained in subcommittee’s draft.

Leisure was demanded by Deputy Ismael Wanderley (PMDB-RN) in an amendment as a “fundamental need” and “incontestable right” at the “Subcommittee of Individual Rights and Guarantees”. He also considered leisure as “an activity that enables new learning”, and he understood theater, film, music and literature as possibilities for leisure. These cultural contents were present at other times of the NCA without any relation to leisure. However, that amendment was not accepted by the subcommittee and leisure is there only as follows:

Art. [...] Individual rights and guarantees include:

[...]

XIX – Creative use of time available at work or at play; (BRASIL, 1988f, p. 7:10)

When he accepted the draft of the “Subcommittee on Individual Rights and Guarantees”, the rapporteur of the “Committee on Sovereignty and the Rights and Guarantees of Men and Women”, Senator José Bisol (PMDB-RS), granted leisure the status of right, thus giving more importance to it. But Deputy Sandra Cavalcanti (PFL-RJ) suggested that leisure returned to the status it had in the rapporteur’s draft, not seen as a right (BRASIL, 1988g, pp. 82-83). However, her amendment was not accepted. We realize, therefore, that the view that leisure should be a right guaranteed by the Constitution was not consensual.

The “Systematization Committee” received the drafts of all the thematic committees and brought them together, adjusting them to each other so that there were no contradictions and irregularities. In the first Constitutional draft produced by the committee, leisure remained the same as in thematic committees.

The amendments to that draft of the “Systematization Committee” demanded that leisure be considered when “using urban land” (BRASIL, 1988h, p. 201), and that it be included in the article that deals with the “minimum necessary for the full exercise of the right to a dignified existence; and it is the State’s duty to guarantee it” (BRASIL, 1988h, p. 416), because according to its author, Deputy Agripino de Oliveira Lima (PFL-SP), “leisure is an inalienable good for the human condition, a repairer of efforts and energy expended in daily tasks. It conditions better purposes in life for people, being, as it were, the anti-labor”. Therefore, Deputy Lima, who had served as an ARENA city councilor in Presidente Prudente, SP, for two terms, understood that leisure had a specific function: to restore strength for work. That is a clear functionalist understanding that sees leisure as important and necessary for being helpful to work.

Leisure was also demanded in amendments, as a right of all (BRASIL, 1988i, pp. 368-369) and as one of the “conditions of decent urban life” to which all “citizens and their families are entitled” (BRASIL, 1988i, p. 502). None of these amendments was incorporated into the Constitutional draft. In the next phase,

not only Assembly members, but also the population could amend the draft, and 122 amendments were submitted by society's representative organizations, nine of which dealt with leisure, and the relationships built in them were the same of earlier stages of the Constituent Assembly. Leisure was related to "social justice", "health" and "minimum wage". It was understood as a right of children, adolescents and the elderly. The entities that sent those amendments were sectors of the Catholic Church, institutions representing several professional groups, the Movement of Landless Workers (MST), the Central Workers' Confederation (CUT), scientific organizations, several social movements. That does not indicate social organization or mobilization around leisure, since it emerged among other things and was nor central to any of the amendments; rather, it indicates that it was among the concerns of part of Brazilian society at that time, considered as one of the factors guaranteeing decent living conditions and social justice, and as a fundamental right. These notions are related to the nature of social rights, which are minimal and universal rights; they refer to goods and services essential to citizens; they allow societies to reduce excess of inequalities produced by capitalism and guarantee minimum wellbeing for all; and they are based on the idea of social justice (MARSHALL, 1967; CARVALHO, 2007).

The rapporteur wrote his first substitute draft after those amendments, in which leisure was present only once as one of minors' rights. All other presences of leisure which appeared in the previous draft constitution were suppressed, and demands on the subject presented in amendments submitted by the population and Assembly members were not accepted. Amendments to that substitute draft tried to re-include leisure where it had been excluded from, and an unprecedented demand emerged: the creation of leisure policies in rural areas. From those amendments, the rapporteur built his second substitute draft that would be sent to the Plenary Session. Leisure is present in it only once, as a right of children and adolescents. There was only one demand during the whole process to include the right of adolescents to leisure, presented by Deputy Florestan Fernandes. Thus, none of the amendments related to



leisure submitted at that stage was accepted by the “Systematization Committee”. Leisure was suppressed from drafts of subcommittees and thematic commissions, leaving only one instance, which originated in the “Committee on the Family, Education, Culture and Sports, Science and Technology and Communication”.

During Plenary phases, another attempt to re-include leisure where it had been deleted from took place. Assembly members re-submitted amendments demanding the inclusion of leisure as one of the “conditions of decent urban life” to which “everyone is entitled”; as one of the “basic needs” that the minimum wage should be able to meet; as “a form of social promotion”. For the first time in the work of the NCA, an amendment asked for the inclusion of leisure as a social right.

Art. 7 – Social rights include education, health, work, leisure, safety, social security, the protection of motherhood and childhood, and assistance to the underprivileged in the form of this Constitution. (BRASIL, 1988i, pp. 425)

The amendment was subscribed by 291 Assembly members from different political parties. They included Max Rosenmann, Iberê Ferreira, Ismael Wanderley, Stélio Dias, who had already demanded leisure in other stages of the Constituent Assembly, but Florestan Fernandes and José Maurício Linhares Barreto – the two members who had most demanded leisure during the Assembly’s procedures – did not subscribe it. It included 18 articles and referred to the whole “Section II – On fundamental rights and guarantees”, thus approaching several subjects rather than just leisure, which explains the large number of members interested. But an oral source – Deputy José Linhares Barreto (PDT-RJ), offers a different explanation:

You know what might also have happened? [...] The amendment’s author or someone interested in it would hire an employee to stay in the hallways and collect our signatures. In order not to be rude, we’d endorse the amendment, we wouldn’t even know what we were subscribing to, you know? We signed it more out of solidarity. These are the

so-called hallway amendments. Yes, you'd pass by and then he'd say: 'Deputy, this is for deputy so and so', and he'd ask you to subscribe it, to support it, then you'd give your support, right?

Those amendments were the basis for the draft Constitution (BRASIL, 1988j) submitted to the second round of discussion and voting at the Constituent Assembly's Plenary Session. In it, the presence of leisure underwent major changes compared to drafts produced until then. The amendment that included leisure as a social right was accepted without changes<sup>9</sup> and thus it acquired the status of social right in a draft constitution for the first time. Indications that leisure should be considered to calculate the minimum wage were also incorporated into the draft. The amendment that demanded leisure "as a form of social promotion" was also included in "Section III – On sports", indicating relationships built between leisure and sport.

#### 4 CONCLUSION

Given the nature of social rights, there was no mobilization and organization around leisure to justify its definition as a social right in the Constitution. That explicit demand was not made by any political actor; not even workers – to whom that responsibility is often ascribed in history – made that demand. Leisure first appeared as a social right in an amendment presented at the last moment in the work of the Constituent Assembly, in the Plenary Session, when the only political actors participating in the process were Assembly members. That amendment dealt with several issues related to individual rights and guarantees; it proposed the wording for the entire section of the Constitution that would address those issues. There is no other record of a demand for the definition of leisure as a social right at that time or anywhere else. That allows us to conclude that leisure was included in the article that defines

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<sup>9</sup>Only the number of the article changed; it is Article 7 in the amendment and Article 6 in the Constitutional Draft (B).

social rights by Assembly members; they were responsible for the definition of leisure as a social right in Brazil's 1988 Constitution.

Demands for leisure in the work of the NCA existed, as demonstrated in this work. But my argument is that since they did not come from a significant part of the population<sup>10</sup> and there was no popular organization and organized social movements or lobbying on the issue, such demands were not sufficient to confer the status of social right to leisure or include it in the Constitution as such. Thus, although there were demands for leisure in the NCA, they were not sufficient to justify the definition of leisure as a social right in Brazil's Constitution.

That inclusion cannot be attributed to any interest of commercial sectors because they were not present in the constitutional process around leisure. Ideological and partisan interests around leisure were not present either. It seems that individual views on leisure and the place it should occupy prevailed and accounted for its definition as a social right.

Leisure meanings were not homogeneous. It was possible to see them through the relationships built between leisure and health, sport, tourism, cultural activities and culture. Leisure was understood as a mere "activity" by some, as a "fundamental right" by many, as important to the "whole realization of human beings", as an "enabler of new learning" by others, and as one of the "basic needs" of citizens by many others. That points to simplistic views on leisure, which reduce it to a mere activity, alongside more complex understandings that relate it to education and culture, and considered it citizens' need.

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<sup>10</sup>Quantitatively speaking.

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