

## THE LAW OF TAX INCENTIVE AND THE (ABSENCE OF THE) RIGHT TO SPORT IN BRAZIL

*A LEI DE INCENTIVO FISCAL E O (NÃO) DIREITO AO ESPORTE NO BRASIL*

*LA LEY DE INCENTIVO TRIBUTARIO Y EL DERECHO (NO) A LOS DEPORTES EN BRASIL*

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### Keywords

State.  
Financing,  
Government.  
Sports.  
Legislation.

**Abstract:** This study addresses the budgetary enforcement of the Sports Incentive Law (Law 11.438 of 2006). Under a quantitative-qualitative approach, this research is supported by document survey. The theoretical debate was based on the following categories: State; public fund; social rights; sports policy. Empirical research was conducted in official documents published by the Ministry of Sports. Data analysis focused on the following aspects: configuration and scope of rights; configuration of funding and spending. Incompatibility was found between the Law and ensuring access to the sport as a social right.

### Palavras-chave

Financiamento  
governamental.  
Esportes.  
Legislação.

**Resumo:** O presente estudo aborda a aplicação orçamentária da Lei de Incentivo ao Esporte (Lei nº. 11.438/2006). De cunho quantitativo-qualitativo, a investigação tem suporte em levantamento documental. O debate teórico foi realizado a partir das seguintes categorias: Estado; fundo público; direitos sociais; políticas esportivas. Fez-se uma pesquisa empírica nos documentos oficiais publicados pelo Ministério do Esporte. Para a análise dos dados, foram privilegiados os aspectos apontados a seguir: configuração e abrangência dos direitos; configuração do financiamento e gasto. Identificou-se a incompatibilidade da referida Lei e a garantia do acesso ao esporte como direito social.

### Palabras clave

Estado.  
Financiación  
gubernamental.  
Deportes.  
Legislación.

**Resumen:** El presente estudio aborda la aplicación presupuestaria de la Ley de Incentivo al Deporte (Ley nº. 11.438/2006). Con carácter cuantitativo-cualitativo, la investigación tiene el soporte un levantamiento documental. El debate teórico se realizó desde las siguientes categorías: Estado; fondo público; derechos sociales; políticas deportivas. Se realizó una investigación empírica en los documentos oficiales publicados por el Ministerio del Deporte. Para el análisis de los datos, se privilegiaron los aspectos señalados a continuación: configuración y amplitud de los derechos; configuración de la financiación y gastos. Se identificó la incompatibilidad entre la referida Ley y la garantía del acceso al deporte como derecho social.

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## 1 INTRODUCTION

One of the arguments used by the Lula administration to justify the creation of the Ministry of Sports (MS) in Brazil was restricted funding for sports. According to the government's view, such budget limitation was due, among other factors, to the lack of a funding policy that ensured diversification of resources, including those resulting from tax exemption. However, although it had appeared in the MS's agenda since 2003<sup>1</sup> and had been discussed in the 1<sup>st</sup> and the 2<sup>nd</sup> National Conferences of Sports (BRASIL, 2004; 2006), the Sports Incentive Law (SIL) (Law 11438) was sanctioned on December 29, 2006 and regulated on August 3, 2007 by Decree 6180.

The Law authorizes amounts spent by individuals (up to 6%) and legal entities (up to 1%) to be deducted from their income tax (IR) from 2007 to 2015 as sponsorship or donations to sports and parasports projects.

The 3<sup>rd</sup> National Sports Conference (BRASIL, 2010) suggested extending the SIL until 2025. However, bill 5036/2013, which is still under discussion in Congress, extends it to 2020 and increases the percentage of the deduction by legal entities from 1% to 4% their income tax.

The LSE follows the same tax incentive measures implemented for the culture sector – the so-called Rouanet Law (Law 8313/1991) and Audiovisual Law (Law 8685/1993.). And both in sport and culture, such laws are part of the process where the State relinquishes its responsibility for financing and implementing social policies that ensure citizenship rights.

It begs the question: What happens to the right to sport under that funding mechanism? What is the direction of the proceeds resulting from the SIL? Who are the main sponsors and/or donors and beneficiaries? This research examined the application of SIL-related budget and its relationship with the (absence of the) right to sport in Brazil.

## 2 STUDY DESIGN

Research on sports funding in Brazil is incipient and there are still few studies on the LSE. Bastidas and Bastos (2011), Cavazzoni, Bastos and Kurle (2010), and França Junior and Frasson (2010) are some research efforts on the topic.

This is a social exploratory research, since scientific literature reveals that the theme still requires further studies. The approach chosen was quantitative-qualitative, which relies on documentary survey.

The theoretical debate was based on the following categories: State; public funds; social rights; sports policies. Empirical research, in turn, was based on official documents published by the MS.

The study covers the period from August 3, 2007 (when the Law was regulated) to August 3, 2013 (exactly six years after that). Data analysis and discussion focused on configuration and scope of the rights and benefits and configuration of financing and spending, specifically on the “magnitude and direction of spending” according to Boschetti (2009).

<sup>1</sup> Agnelo Queiroz, then Minister of Sports, said in a hearing at the Chamber of Deputies on September 19, 2003: “The President has already announced his interest in the approval of this bill, which will be the second major revolution in Brazilian sport. We are already studying its format - an incentive with deduction in individual and corporate income tax”. “Agnelo pede na Câmara a aprovação da lei de incentivo fiscal para o esporte”, September 19, 2003.

For data presentation, discussion and conclusion, this article articulates the following points: the context of incentive laws; sports policy (with regard to sports funding in the country); and the SIL.

### 3 STATE, PUBLIC FUNDS AND SOCIAL RIGHTS

Poulantzas (2000, p. 130) understands the State as “[...] a relationship of forces, or more precisely the material condensation of such a relationship among classes and class fractions”. In his opinion, the State is not monolithic and it is a field of disputes where certain actions are determined by the correlation of forces.

Throughout the twentieth century, State action reflected the existing correlation of forces in different nations. From post-World War II until the mid-70s, as a result of workers’ pressure and given the fall of capital accumulation, a State with a certain social characteristic was observed in several nations: the Welfare State, characterized by “[...] intervention in the market economy, unlike the liberal model that preceded it. It strengthened and expanded the public sector and implemented and managed social protection systems” (PEREIRA, 2011, p. 23).

With the Welfare State, for the first time it was observed, according to the balance of forces between social classes within countries, that members of the bourgeoisie began to pay taxes, especially with the progressive mechanism of income and property taxation; workers and the very poor benefited from public services and income transfer programs (SALVADOR, 2010).

However, from the 1970s on, there was growing criticism from liberals and neoliberals to the pattern of funding of the Welfare State and, facing yet another crisis of the capitalist mode of production, the bourgeoisie began to “[...] destroy the relationship of public funds with the wage structure, with correction of inequalities and poverty pockets” (OLIVEIRA, 1998, p. 46), leaving the low-income population relegated to public charity or to evasive and occasional State action.

Therefore, at such a historic moment the power of the bourgeoisie expanded while workers’ power retracted. In effect, public funds to guarantee social rights decreased while State presence in serving the needs of capital increased.<sup>2</sup>

Brazil, with a Welfare State that primarily benefited urban workers through residual spending based on a regressive tax system, and a distributive, income-concentrating system (KORNIS, 1994 cited by FIORI, 2001) was a latecomer to the pro-market agenda.

In fact, neoliberal ideas of free capital movement, floating exchange, social spending restriction, privatization and transfer of public services to the private sector or to entities known as the “Third Sector” only gained importance after Fernando Collor’s inauguration in 1989 and were consolidated during Fernando Henrique Cardoso’s administration.

Incentive laws proliferated in this scenario of decrease in the State’s role in the social sphere and its maximization for capital. In Brazil, according to Piva (2013, p. 297):

The funding system focused on tax relief was based on a view of the need to create a private sponsorship culture, derived from an ideological discourse on the State’s ability to manage investments in culture. This was the result of two contiguous ele-

<sup>2</sup> Capital’s basic need is profit. For its production, its *intermediary needs* must be met – legal and monetary systems, collective transport infrastructures, and transformation of the population into wage earners and consumers (JUNIOR; PEREIRA, 2013, p. 8, **emphasis by the authors**).

ments: anti-State neoliberalism in the early 1990s; and the memory of the authoritarian State's abuses in the 1970s and 1980s, thus giving the market the decision on where and how to invest.

The first tax relief experience in the country was the Sarney Law (7502/1986), which aimed to encourage private investment in the arts and created the Cultural Promotion Fund. During the Collor administration in 1991, the Sarney Law was replaced with the Rouanet Law (8313/1991), regulated in 1995 during the Cardoso administration. In 1993, during the Franco administration, a specific law on tax relief for the audiovisual sector (Law 8685/1993) was sanctioned. According to Augustin (2010, p 47), a difference between the Audiovisual Law and the Rouanet Law is that:

Investment through the audiovisual investment law, besides having a 100% tax benefit, can still be considered as operating expense. Thus, the grant ends up being 125%. That is, while the Rouanet Law allows companies to advertise for free, the Audiovisual Law also allows them to receive government money in return. In addition to receiving this extra incentive of 25%, the investing company has rights over the film's profits in proportion to the amount invested. In case of loss, the company does not lose anything.

President Lula sanctioned the Sports Incentive Law (SIL) (11438/2006) in 2006, and the Research Incentive Law (11487/2007) in 2007. Such legal provisions, along with those already existing, increased resources for sport, research and culture, respectively. However, the notion of increased access of citizens to constitutional rights is false, since private companies do not pay taxes and use the resources according to their interests, thus strengthening the focus of social policies and their brands before the public.

The fact is that the SIL, the subject of this investigation, is part of the set of measures aimed at counter-reforming the Brazilian State started in the 1990s by fractions of the bourgeoisie in order to appropriate public funds and end the State's leading role in social policies.

#### 4 SPORT POLICIES IN BRAZIL

Sport becomes a social right after the enactment of the 1988 Federal Constitution, but its relations with the State come from the so-called New State, with Decree 3199/1941.

At that time, the State played the role of disciplining and overseeing the organization and the practice of sports in the country (MANHÃES, 2002). Until 1969, sport used to be funded through regular and special concessions, grants and tax relief. However, the military regime implemented a more robust and regular funding pattern. Decree 594/1969 established the Federal Sports Lottery, allocating 30% of its net revenues to programs of Physical Education and sports activities (BUENO, 2010).

In 1975, a new law (Law 6251) is passed for the sports sector, which was regulated in 1977 by Decree. 80228. According to Manhães (2002), there was no substantial change over the previous Decree, only peripheral changes. Castelanni Filho (2008, p. 135) points out that the changes reproduced "[...] the 1941 parameters, modernizing them only in what was needed to meet the interests of the marketing field and classist sport field".

With the end of military dictatorship in 1985, a new republic begins to bloom in the country. The 1988 Constitution enacted during the Sarney administration includes some gains for workers, but they come as the world discusses and implements a model of social regulation that is quite different from the Welfare State.

In sports, the 1988 Constitution, while establishing sport as a citizen's right and a duty of the State, grants autonomy to sports entities, bowing to pressure exerted by them and the market for more freedom of action, given that, at the time, the National Sports Council (NSC) still had full intervention powers. Therefore, the State is no longer the protagonist, abandoning the political "interventionism" characteristic of the previous legislations. Public administration continued to fund high performance sport, but federations, confederations and the Brazilian Olympic Committee (BOC) were in charge of management and resources distribution criteria (CASTELLANI FILHO, 2008).

Liberalization of sports to the market, especially football, occurs with the enactment of the Zico Law (8672/1993) and later with the Pelé Law (9615/1998), following the European trend of disciplining and normalizing professional sports. Such laws marked changes in the commercial treatment of sport, pointing to the incorporation of business-oriented parameters in the administration of clubs and sports associations, as well as in the trading of athletes.

The Zico and the Pelé Laws did not change the pattern of sport funding in the country, but they allowed exploitation of bingo by football clubs.<sup>3</sup> The changes produced by those legal frameworks did not contribute to ensuring sport as a right; they rather legitimized the hegemony of economic and corporate interests in sports.

After Brazil's failure at the Olympic Games in Sydney in 2000, the Cardoso government signed Law 10,264 in 2001. It was proposed by Congressman Agnelo Queiroz and Senator Pedro Piva and became known as the Agnelo Piva-Law.

The law changed part of article 56 of the Pelé Law, which deals with resources for sports. Specifically, it changed the wording of subparagraph VI on "other sources" to "two percent of gross revenues from lotteries and federal lotteries that are subject to federal approval; that value shall be abated from the amount allocated to prizes". Of these resources, 85% are allocated to the BOC and 15% to the Brazilian Paralympic Committee (BPC). However, 10% of that amount transferred to the two entities should be invested in school sports and 5% in university sports.

The Cardoso administration ended in 2002 and Lula took over the presidency in the following year. The Lula administration created a ministry dedicated to sport. The Ministry of Sports (MS) comes with the mission to "formulate and implement public policies that are inclusive and affirmative of sport and leisure as citizens' social rights, contributing to national and human development (BRASIL, 2003, p. 1).

However, despite signaling towards implementation of sports policies in the early years of government, based on the principle of the universal right to sport, this fact did not materialize in the legal and financing framework (MATIAS, 2013). Rather, ties between the Federal Government, sports organizations and the private sector were strengthened and consolidated through the sanction of the Fan Protection Statute (Law 10671/2003), the creation of the Athlete Grant program (Law 10,891/2004), the creation of lottery Timemania (Law 11345/2006) and the Sports Incentive Law (Law 11,438/2006). Those ties were deepened after Brazil entered the circuit of mega sporting events.

Even in terms of sports funding, as a result of mega-events, direct government transfers to sporting entities increased as well as sponsorship by state-owned enterprises (MATIAS, 2013).

While in the 1930s Brazilian athletes did not compete in the Olympics for lack of resources, this problem no longer exists. Undoubtedly, there was a significant increase in sport funding sources, especially for high performance. And one of the mechanisms contributing to this increase was the SIL.

<sup>3</sup> President Lula, by Provisional Measure (MP) 168/2004, after the "bingo scandal", decreed a ban on bingo halls in the country.

## 5 SPORTS INCENTIVE LAW: HEGEMONY OF HIGH-PERFORMANCE SPORT

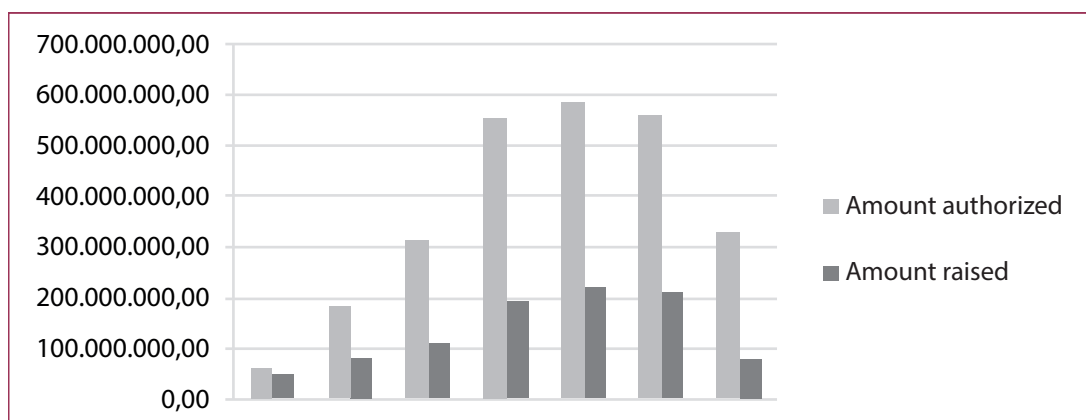
The Sports Incentive Law (Law 11,438/2006) is a simplified form of using public funds, since they do not follow the “established budgetary procedures and controls, being applied directly by non-governmental organizations or government entities outside the federal sphere. Moreover, those resources are not subject to expense control by the executive branch” (TRIBUNAL DE CONTAS DA UNIÃO, 2013, p. 2).

Current legislation allows individuals to discount up to 6% of their taxes, and legal entities subjects to taxation over revenues may abate up to 1%. In the period studied here, the contributions were made almost exclusively by companies. In 2012, for example – the only year in which the number of individual contributions (1,090) was higher than the number of companies who donated (1,077) – individuals invested R\$ 4.3 million and companies used R\$ 207.3 million.<sup>4</sup> Figure 1 shows the total value approved and that effectively raised for that aim during the period studied.

When analyzing the number of companies who donated through the SIL, the financial, oil and mining industries are hegemonic. The three main donor corporations are respectively Bradesco (R\$ 88.8 million), Petrobrás (R\$ 87.5 million), and Vale (R\$ 74.7 million).

In the period studied here, the MS’s technical committee approved exactly two thousand<sup>5</sup> projects and the amount allocated for funding was R\$ 2.5 billion. However, applicants actually raised only R\$ 950.4 million, i. e. 36.6% of the amount authorized.

**Figure 1:** Authorized value x raised amount from 2007 to 2013, in millions R\$.



Source: Ministry of Sports. Prepared by the authors (2014).

The approval of a project in its technical analysis stage does not guarantee that candidates will receive the funds. Although it is called public, companies will decide whether or not it is worth applying. In addition to market return, other aspects might contribute to the low value raised such as: lack of technical capacity by candidates; lack of analysis of the financial viability by the LSI Technical Committee; and companies’ abatement ceiling.

In any case, resources increased both in terms of projects approved and the amount raised. Only in 2012 there was a slight decrease compared to previous years.<sup>6</sup>

Note that on the whole of sports policies, the LSI enlarges resources for the sector, but such a mechanism gives a mercantile character to sports when it allows the market (usually

<sup>4</sup> “Pela primeira vez, apoio individual ao esporte supera o de empresas.” Available at: [www.esporte.gov.br](http://www.esporte.gov.br). Accessed on: October 3, 2013.

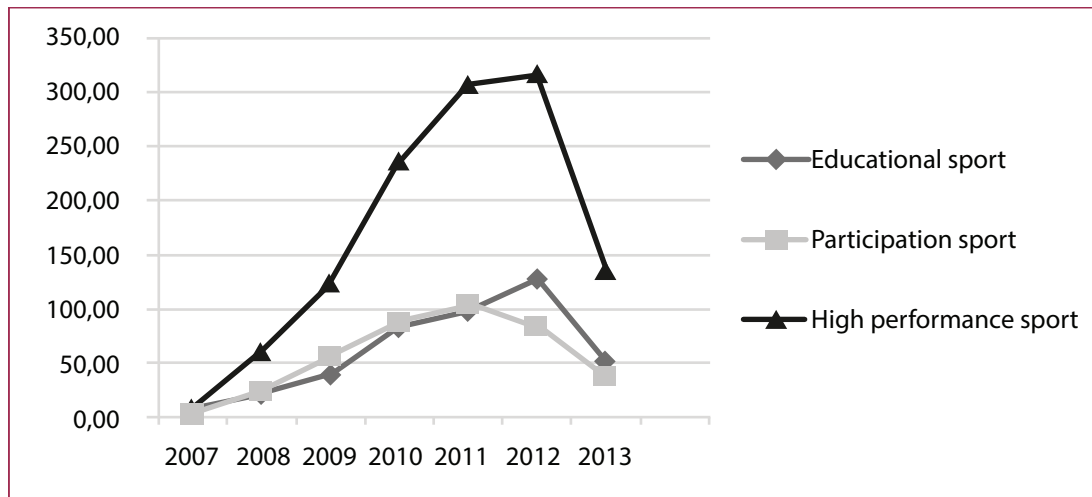
<sup>5</sup> Data available at: [www.esporte.gov.br](http://www.esporte.gov.br). Accessed on: October 1, 2013.

<sup>6</sup> In 2013, in turn, this study used only data available by August 8, 2013; therefore, it is not possible to point to a decrease in values.

companies' marketing department) to define which projects should receive funding.

Growth in resources took place together with increase in the number of projects approved. In 2007-2013, there were 442 proposals for the development of “educational sports” (ES), 391 proposals for “participation sports” (PS), and 1,187 proposals for “high performance sport (HPS).<sup>7</sup>

Figure 2: Number of proposals approved by sport type

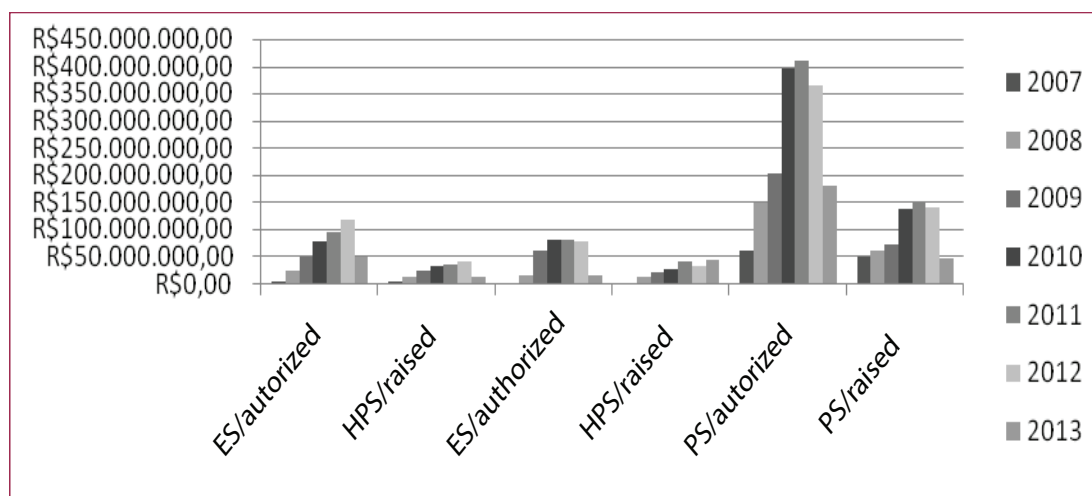


Source: Ministry of Sports. Prepared by the authors (2014).

PS proposals prevail, which can also be seen in the volume of funds approved and raised. While ES and HPS projects raised R\$ 320.8 million, PS projects totaled R\$ 647.5 million (Figure 3). In other words, over 50% of the funds raised through the LSI were for the sports types that are more visibility to the public.

The LSI increases allocation of funds to HPS, which serves a small portion of the population and benefits conservative sectors in sports and major sports and entertainment industry. Therefore, the funding priority is HPS projects that enable higher media return and consequently market return.

Figure 3: Value authorized and raised x sport type, in million R\$



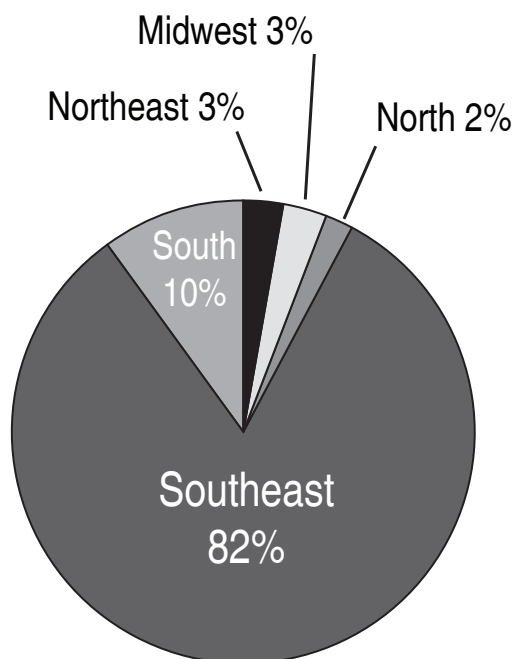
Source: Ministry of Sports. Prepared by the authors (2014).

<sup>7</sup> The LIE prohibits the presentation of more than six projects per candidate. However, in 2010, for example, the Brazilian Aquatic Sports Confederation (CBDA) and Instituto Brasil had nine proposals approved.

According to §1 of Art. 21 of the Decree. 6180/2007, which regulated the LSI, the Technical Commission of the MS, when analyzing proposals, must not allow concentration of resources “by candidate, sport or parasport, for sport or parasport type or national geographies”. Therefore, that is a violation of the law.

Another contradiction between the implementation of LSI and the legislation lies on the distribution of resources across geographical regions. As shown in Figure 4, Southeastern Brazil has raised over 80% of the total.

**Figure 4:** Distribution of funds raised via LSI by regions



Source: Ministry of Sports. Prepared by the authors (2014).

Centralization of resources in the Southeast is a result of economic concentration in that part of the country and the fact that the main sports organizations have their headquarters there. The other sport funding sources also concentrate resources in that part of Brazil (MATIAS, 2013).

The unequal distribution of the share of public funds dedicated to sport increases inequality of access to that human heritage. Allocation of higher resources to more developed regions, including via LSI, results in fewer projects and infrastructure in places that historically suffer from low State presence such as the North and Northeast regions.

Another fact that draws attention in implementation of the LSI is concentration of resources by candidates – the main raisers are major social clubs, professional football clubs, associations and former athletes’ institutes, the Brazilian Olympic Committee (BOC) and confederations (particularly those with good structures, for example, judo and water sports). The three entities who benefited the most were: a) Esporte Clube Pinheiros; b) Instituto Passe de Mágica; c) Círculo Militar.<sup>8</sup> They received almost 15% of the amount raised during the period

<sup>8</sup> São Paulo-based Esporte Clube Pinheiros was created in 1900 and is the largest multi-sport club of Latin America. Instituto Passe de Mágica is a non-governmental organization (NGO) conceived by former basketball player Paula Gonçalves. The Institute was created in 2004 to develop



examined. The first one received donations from several companies, especially banks. The total value was almost R\$ 60 million. The second one received almost R\$ 37.5 million only from Petrobrás; Círculo Militar received over R\$ 30.2 million, and its main partner was mining company Vale.

Still on distribution of resources, the BOC came fourth, with over R\$ 30 million, nearly all of it from Petrobrás. Mentioning the BOC is important because it is the main body in Brazilian sport and has other sources of funding, mainly public ones, and, like the other three entities, it has extensive visibility on the national scene. Therefore, it is necessary to question whether they would be unable to attract sponsorship independent of the LSI. If they were, it is in contradiction with provisions of § 2 of art. 24 of Decree 6180/2007. In other words, granting incentives to sports projects “where there is proven ability to attract investment” is prohibited. Therefore, those proponents and many others should not compete for LSI resources.

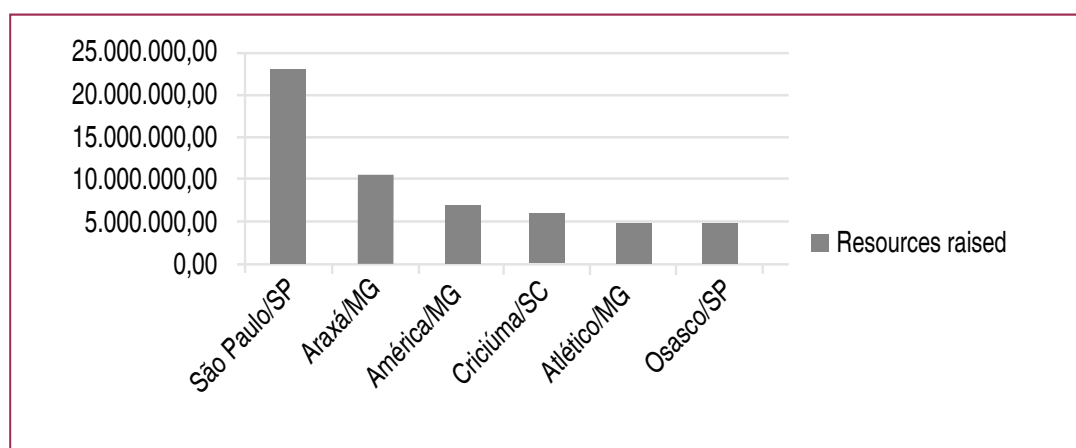
Through other means, public authorities, through municipal governments, state departments and universities raised only 1.3% of the total. Private and non-governmental entities obtained 98.7% of the total tax relief amount.

Therefore, while public institutions have not yet “discovered” the LSI to fund their projects, institutes, associations, federations and so many other sports entities which have multiplied in recent decades are precisely those who most benefit from fundraising via LSI.

Thus, it is clear that the Law benefits entities/actors that are historically served by the State and that only rhetorically – that is, in order to raise more public resources – consider sport as a right; sports entities are in fact aligned with the logic of sport as a non-right (CASTELLANI FILHO, 2013).

In addition to concentration of resources by sport type, by geographic region and by candidate, resources are also centralized in some sports. Professional football clubs alone hold 8% of all resources raised. Figure 5 shows the six football clubs that most benefited during the period.

Figure 5: Football Club vs. funds in R\$ million.

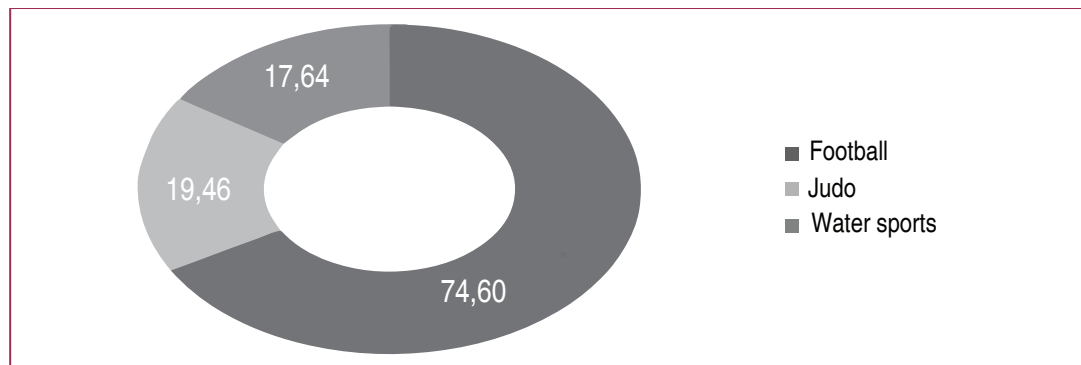


Source: Ministry of Sports. Prepared by the authors (2014).

sports activities; however, since 2010, it manages Petrobrás's resources via LSI to HPS. Rio de Janeiro-based Círculo Militar da Vila Militar (CMVM), in turn, was created by a group of military in 1939; it offers several cultural activities to members and their families. The partnership with Vale via LSI allows the institution to conduct development and training of young athletes.

That amount should probably increase since Sport Club Corinthians Paulista alone raised R\$ 2.1 million out of the R\$ 41.16 million approved for sponsorship of their youth training projects. The sports that most benefited from the period were football, judo and water sports. It is observed that 12.8% of the LSI tax relief went to those sports.<sup>9</sup>

**Figure 6:** Main sports that benefited from the LSI in million R\$



Source: Ministry of Sports. Prepared by the authors (2014).

Considering Brazil's continental dimensions, its large population and cultural diversity, the LSI should promote decentralization of investment both regionally and in support of several sports types. Guaranteeing access to sport should be based on diversification of human experience across different sports. However, instead of contributing to the plurality of the sporting experience, the SIL reinforces the funding of sports that are most popular, most consumed and/or most often practiced by Brazilians.

Data presented here confirm that the SIL contributes little to democratize access to sport in Brazil. Business interests overcome social needs. That is consistent with the logic of capital, since, after all, its basic need is to ensure visibility and expansion of sponsors' profits, rather than guaranteeing access to social rights (MATIAS, 2013).

While the SIL appears to be a source of funds for democratization of sport, in practice it is essentially a mechanism that meets the interests of the private sector, exempting the State of responsibility in implementing of sports policies.

As for monitoring the implementation of projects, findings in the Court of Audit Report (TCU, 2013, p. 20) are worrisome, especially with regard to the weakness of monitoring and overseeing systems:

The incipient action of the Ministry of Sport in overseeing and monitoring the implementation of projects, besides violating the provisions of the Law of Sports Incentive and the decree that regulates it, opens room for deviations in the execution of expenditure, given the low expectations of control by candidates.

Therefore, the facilities to raise resources to implement projects contrast with the MS's difficult to monitor and supervise partnership terms. In addition, there is no mechanism for democratic control and social participation, whether in the decision to approve proposals or in monitoring their implementation.

<sup>9</sup> Note that only the funds raised by professional football clubs and federations of judo and water sports (swimming, water polo, diving, synchronized swimming and marathon swimming) are being considered.

## 6 FINAL REMARKS

One reason for the creation of the SIL was the expansion of resources for sports policies. In this sense, there is no doubt that the law has been fulfilling its mission, even increasing the value raised in all years but 2012. But that hardly contributes to democratize this social practice. After all, data show the concentration of resources in high performance sports (HPS), centralizing it in some entities, regions and sports.

There is a clear privilege to HPS among projects approved, with most funds allocated to sport management (private) nationwide entities. Therefore, some actors/entities that benefited by the LSI are the same ones that have appropriated several forms of public funds to develop their projects since the 1940s (CASTELLANI FILHO, 2013).

For companies, priority investment in HPS means media return and increased passive consumption of sports, which ends up favoring some entities that are historically benefited by the State. As for companies' decision to support "participation sport" and "educational sport" projects, their aim is more related to acquiring the image of socially responsible companies than guaranteeing rights. So, for the residents of poor communities, companies' attitude could mean "[...] an act of heroism; while for donors, besides material gain, it is the exercise of hegemony" (SOUSA, 2011, p. 113).

Companies' and individuals' choices are guided by individual rather than collective interest. They are concerned about the expansion of economic capital and not with meeting the needs of the population in access to sports. That is consistent with the logic of incentive laws, after all, the State does not define priorities, because resources are public but decisions and choices are up to companies.

We conclude that tax relief for sports is not the "second revolution" for the sector mentioned by former Minister of Sport Agnelo Queiroz. In fact, it is a "counter-revolution" because it essentially reduces the State's presence in the development of public policies and their implementation extends funds for actors that are historically privileged by the State.

## REFERENCES

AGNELO pede na Câmara aprovação da lei de incentivo fiscal para o esporte. Brasília, DF: Ministério do Esporte, 2003. Disponível em: <<http://www.esporte.gov.br/index.php/institucional/futebol-e-direitos-do-torcedor/torcida-legal/consegue/119-noticias-lie/42582-agnelo-pede-na-camara-aprovacao-da-lei-de-incentivo-fiscal-para-o-esporte>>. Acesso em: 3 mar. 2013.

AUGUSTIN, André Coutinho. **A farsa das leis de incentivo**: o neoliberalismo e o impacto na política cultural brasileira. Porto Alegre, 2010. 83f. Monografia (Graduação)- Faculdade de Ciências Econômicas da UFRGS. Porto Alegre, 2010.

BASTIDAS, Marina Gallego; BASTOS, Flávia da Cunha. A Lei de Incentivo Fiscal para o desporto e a formação de atletas no Brasil. **Revista Intercontinental de Gestão Desportiva**, Porto, v.1, n.2, p. 111–121, jul/dez. 2011.

BOSCHETTI, Ivanete. Avaliação de políticas, programas e projetos sociais. In: **Serviço Social: Direitos Sociais e Competências Profissionais**. Brasília, Conselho Federal de Serviço Social, 2009, p. 1-16.

BRASIL. **Lei nº 3.199 de 14 de abril de 1941**, Estabelece as bases de organização dos desportos em todo o país. Rio de Janeiro, RJ, 14 abr. 1941. Disponível em: < [http://www.planalto.gov.br/ccivil\\_03/decreto-lei/1937-1946/Del3199.htm](http://www.planalto.gov.br/ccivil_03/decreto-lei/1937-1946/Del3199.htm)>. Acesso em: 11 nov. 2013.

BRASIL. **Decreto nº 594 de 27 de maio de 1969**, Institui a Loteria Esportiva Federal e dá outras providências. Brasília, DF, 27 maio 1969. Disponível em: < [https://www.planalto.gov.br/ccivil\\_03/decreto-lei/1965-1988/Del0594.htm](https://www.planalto.gov.br/ccivil_03/decreto-lei/1965-1988/Del0594.htm)>. Acesso em: 11 nov.2013.

BRASIL. **Decreto nº 66.118 de 26 de janeiro de 1970**, Regulamenta o disposto no Decreto nº 594 de 27 de maio de 1969, Institui a Loteria Esportiva Federal. Brasília, DF, 26 jan. 1970. Disponível em: <[https://www.planalto.gov.br/ccivil\\_03/decreto/1970-1979/D66715.htm](https://www.planalto.gov.br/ccivil_03/decreto/1970-1979/D66715.htm)>. Acesso em: 11 nov.2013.

BRASIL. **Lei nº 6.251 de 8 de outubro de 1975**, Institui normas gerais sobre desportos, e dá outras providências. Brasília, DF, 08 out. 1975. Disponível em: <<http://www6.senado.gov.br/legislacao/ListaPublicacoes.action?id=205630>>. Acesso em: 8 nov. 2012.

BRASIL. **Decreto nº 80.228 de 25 de agosto de 1977**, Regulamenta a Lei nº 6.251 de 08 de outubro de 1975, Institui normas sobre o desporto e dá outras providências. Brasília, DF, 8 out. 1977. Disponível em:<[https://www.planalto.gov.br/ccivil\\_03/decreto/1970-1979/d80228.htm](https://www.planalto.gov.br/ccivil_03/decreto/1970-1979/d80228.htm)>. Acesso em: 11 nov.2013.

BRASIL. **Lei nº 8.313 de 23 de dezembro de 1991**, Restabelece princípios da Lei n. 7.505, de 2 de julho de 1986, institui o Programa Nacional de Apoio à Cultura (Pronac) e dá outras providências. Brasília, DF, 23 dez. 1991. Disponível em: <[http://www.planalto.gov.br/ccivil\\_03/leis/l8313cons.htm](http://www.planalto.gov.br/ccivil_03/leis/l8313cons.htm)>. Acesso em: 15 nov. 2013.

BRASIL. **Lei nº 8.672 de 6 de julho de 1993**, Institui normas gerais sobre desportos e dá outras providências. Brasília, DF, 06 jul. 1993. Disponível em: < <http://www3.dataprev.gov.br/sislex/paginas/42/1993/8672.htm>>. Acesso em: 10 nov. 2012.

BRASIL. **Lei nº 8.685 de 20 de julho de 1993**, Cria mecanismos de fomento à atividade audiovisual e dá outras providências. Brasília, DF, 20 jul. 1993. Disponível em: <[http://www.planalto.gov.br/ccivil\\_03/leis/l8685.htm](http://www.planalto.gov.br/ccivil_03/leis/l8685.htm)>. Acesso em: 11 nov. 2013.

BRASIL. **Lei nº 9.615 de 24 de março de 1998**, Institui normas gerais sobre desporto e dá outras providências. Brasília, DF, 24 mar. 1998. Disponível em: <[http://www.planalto.gov.br/ccivil\\_03/Leis/L9615consol.htm](http://www.planalto.gov.br/ccivil_03/Leis/L9615consol.htm)>. Acesso em: 13 nov. 2012.

BRASIL. **Lei nº 10.264 de 16 de julho de 2001**, Acrescenta inciso e parágrafos ao art. 56 da Lei nº 9.615, de 24 de março de 1998, Institui normas gerais sobre desporto. Brasília, DF, 16 jun. 2001. Disponível em: <[http://www.planalto.gov.br/ccivil\\_03/leis/leis\\_2001/L10264.htm](http://www.planalto.gov.br/ccivil_03/leis/leis_2001/L10264.htm)>. Acesso em: 13 nov.2012.

BRASIL. **Lei nº 10.671 de 15 de maio de 2003**, Dispõe sobre o Estatuto de Defesa do Torcedor e dá outras providências. Brasília, DF, 15 maio 2003. Disponível em: < [http://www.planalto.gov.br/ccivil\\_03/Leis/L9615consol.htm](http://www.planalto.gov.br/ccivil_03/Leis/L9615consol.htm)>. Acesso em: 13 nov. 2012.

BRASIL. **Lei nº 10.891 de 09 de julho de 2004**, Institui a Bolsa-Atleta. Brasília, DF, 9 jul. 2004. Disponível em:< [www.planalto.gov.br/ccivil\\_03/\\_ato2004-2006/2004/lei/l10.891.htm](http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2004/lei/l10.891.htm)>. Acesso em:11 nov.2013.

BRASIL. CONFERÊNCIA NACIONAL DO ESPORTE, 1., 2004. Brasília, DF. **Documento final da I CNE: Esporte, lazer e desenvolvimento humano**. Brasília, DF: Ministério do Esporte, 2006. 28p. Disponível em: < <http://www2.esporte.gov.br/conferencianacional/arquivos/teseFinal.pdf>>. Acesso em: 13 nov. 2013.

BRASIL. **Lei nº 11.345 de 14 de setembro de 2006**, Dispõe sobre a instituição de concurso de prognóstico destinado ao desenvolvimento da prática desportiva, a participação de entidades desportivas da modalidade futebol nesse concurso e o parcelamento de débitos tributários e para com o Fundo de

Garantia do Tempo de Serviço - FGTS; altera as Leis nºs 8.212, de 24 de julho de 1991, e 10.522, de 19 de julho de 2002; e dá outras providências. Brasília, DF, 14 set. 2006. Disponível em: <[https://www.planalto.gov.br/ccivil\\_03/\\_Ato2004-2006/2006/Lei/L11345.htm](https://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2006/Lei/L11345.htm)>. Acesso em: 13 nov. 2012.

BRASIL. **Lei nº 11.438 de 29 de dezembro de 2006**, Dispõe sobre incentivos e benefícios para fomentar as atividades de caráter desportivo e dá outras providências. Brasília, DF, 29 dez. 2006. Disponível em: <[http://www.planalto.gov.br/ccivil\\_03/\\_ato2004-2006/2006/lei/l11438](http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/lei/l11438)>. Acesso em: 13 nov. 2012.

BRASIL. CONFERÊNCIA NACIONAL DO ESPORTE, 2., 2006. Brasília, DF. **Documento final da II CNE: Construindo o Sistema Nacional do Esporte**. Brasília, DF: Ministério do Esporte, 2006. 26p. Disponível em: <<http://www2.esporte.gov.br/conferencianacional/conferencia2/documentoFinal.jsp>>. Acesso em: 12 nov. 2013.

BRASIL. **Lei nº 11.487 de 15 de junho de 2007**, Altera a Lei nº 11.196, de 21 de novembro de 2005, para incluir novo incentivo à inovação tecnológica e modificar as regras relativas à amortização acelerada para investimentos vinculados a pesquisa e ao desenvolvimento. Brasília, DF, 15 jun. 2007. Disponível em: <[http://www.planalto.gov.br/ccivil\\_03/\\_ato2007-2010/2007/lei/l11487.htm](http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/lei/l11487.htm)>. Acesso em: 11 nov. 2013.

BRASIL. **Decreto n 6.180 de 03 de agosto de 2007**, Regulamenta a Lei nº 11.438, de 29 de dezembro de 2006, que trata dos incentivos e benefícios para fomentar as atividades de caráter desportivo. Brasília, DF, 3 ago. 2007. Disponível em: <[http://www.planalto.gov.br/ccivil\\_03/\\_Ato2007-2010/2007/Decreto/D6180.htm](http://www.planalto.gov.br/ccivil_03/_Ato2007-2010/2007/Decreto/D6180.htm)>. Acesso em: 11 nov. 2013.

BRASIL. CONFERÊNCIA NACIONAL DO ESPORTE, 3., 2010, Brasília, DF. Documento final da III CNE: Por um time chamado Brasil. Brasília, DF: Ministério do Esporte, 2010. 86 p. Disponível em: <<http://portal.esporte.gov.br/conferencianacional/conferencia3.jsp>>. Acesso em: 12 nov. 2013.

BRASIL. **Projeto de Lei nº 5.036-A, de 29 de agosto 2013**, Altera a Lei nº 11.438, de 29 de dezembro de 2006 para dispor sobre o período e os limites para a dedução do imposto de renda devido, dos valores despendidos a título de patrocínio ou doação, no apoio direto a projetos desportivos e paradesportivos. Brasília, DF, 29 ago. 2013. Disponível em: <[http://www.camara.gov.br/proposicoesWeb/prop\\_mostrarintegra;jsessionid=28B3C722C0C](http://www.camara.gov.br/proposicoesWeb/prop_mostrarintegra;jsessionid=28B3C722C0C)>. Acesso em: 10 nov. 2013.

BRASIL. Tribunal de Contas da União. **Relatório de auditoria**. Renúncia fiscal na área cultural. Auditoria decorrente do acórdão 1.481/2010-plenário. Deficiência na análise de projetos, na concessão, no acompanhamento da execução, na prestação de contas e na gestão de renúncia fiscal. Determinações. Recomendação. Comunicações. Brasília, DF, 30 jan. 2013. Disponível em: <<http://sistemas.cgu.gov.br/relats/uploads/RA244754>>. Acesso em: 15 jun. 2013.

BUENO, Luciano. **Políticas públicas do esporte no Brasil: razões para o predomínio do alto rendimento**. São Paulo, 2008. 200f. Tese (doutorado)- Escola de Administração de Empresas de São Paulo. Fundação Getúlio Vargas, São Paulo, 2008.

CASTELLANI FILHO, Lino. **Educação Física, Esporte e Lazer: Reflexões nada aleatórias**. Campinas, SP: Autores Associados, 2013.

CASTELLANI FILHO, LINO. O Estado brasileiro e os direitos sociais: o esporte. In: GARCIA, Carla Cristina; HÚNGARO, Edson Marcelo; DAMASCENO, Luciano Galvão (Orgs.). **Estado, política e emancipação humana: lazer, educação, esporte e saúde como direitos sociais**. Santo André: Alpharrabio, 2008, p.129-144.

CAVAZZONI, Pedro Bataglioli; BASTOS, Flávia da Cunha; KURLE, Giovani. Lei de Incentivo ao Esporte: aplicação nas manifestações do esporte e captação de recursos. **Efdeportes.com**, Buenos Aires, n.15, n. 146, julho de 2010. Disponível em: <<http://www.efdeportes.com/efd146/lei-de-incentivo-ao-esporte-captacao-de-recursos.htm>>. Acesso em: 15 jun. 2013.

FIORI, José Luis. **Estado do Bem Estar Social: padrões e crises**. São Paulo: Instituto de Estudos Avançados da Universidade de São Paulo, 1991.

FRANÇA JUNIOR, Nelson da Rocha; FRASSON, Antônio Carlos. Lei de incentivo ao esporte: uma forma de inovação tecnológica na captação de recursos financeiros para o esporte no município de Ponta Grossa- Panorama 2000-2009. **Revista gestão industrial**, Ponta Grossa, v. 6, n. 3, p. 203-217, 2010.

JUNIOR, Newton N. Gomes; PEREIRA, Potyara A. P. Necessidades do capital x versus Necessidades Humanas no capitalismo contemporâneo: uma competição desigual. **Argumentum**, Vitória, v. 5, n.1, p.50- 65, jan./jun. 2013.

MANHÃES, Eduardo Dias. **Política de esportes no Brasil**. 2. ed.. Rio de Janeiro: Graal, 2002.

MATIAS, Wagner Barbosa Matias. **O enigma olímpico: o controvertido percurso da política esportiva no governo Lula**. Brasília, 2013. 199f. Dissertação (Mestrado), Faculdade de Educação Física. Universidade de Brasília, Brasília, 2013.

OLIVEIRA, Francisco de. **Os Direitos do antivalor: a economia política da hegemonia imperfeita**. São Paulo: Vozes, 1998.

PEREIRA, Potyara A. P. **Política social: temas e questões**. 3.ed. São Paulo: Cortez, 2011.

PIVA, Glauber. Cultura: políticas públicas e novas visibilidades. *In: SADER, Emir. 10 anos de governos pós-neoliberais no Brasil: Lula e Dilma*. São Paulo: Flacso, 2013, p.285-303.

POULANTZAS, Nicos. **O Estado, o poder, o socialismo**. 4. ed. São Paulo: Paz e Terra, 2000.

SALVADOR, Evilásio. Crise do Capital e Socorro do Fundo Público. *In: BOSCHETTI, I.; BEHRING, E.; SANTOS, S.; MIOTO, R.. (Org.). Capitalismo em crise, política social e direitos*. São Paulo: Cortez, 2010. v. 1, p. 35-63.

SOUSA, Carlos Eduardo de. **A política nacional de esporte no Brasil contemporâneo como estratégia para educar o consenso**. Juiz de Fora, 2011. 144f. Dissertação (Dissertação de Mestrado em Educação), Faculdade de Educação, UFJF. Rio de Janeiro, 2011.