

# **“We want food, fun and art”: authoritarianism, redemocratization and consolidation of cultural rights in the National Constituent Assembly of 1987–1988**

## **Jefferson Ricardo Ferreira Chaves**

Legislative consultant in the area of education, culture and sports, at the Chamber of Deputies, since 2015; Bachelor's degree in Business Administration, Public Administration and Law from the University of Brasília; Master's degree in Law from the University of Brasília.

## **Leonardo de Vargas Marques**

Legislative consultant in the area of culture and sports for the Federal Senate since 2024; Bachelor's degree in International Relations from the Pontifical Catholic University of Minas Gerais and in Law from the Brazilian Institute of Teaching, Development and Research; Master's degree in Political Science from the Federal University of Minas Gerais; Doctoral candidate in Law at the University of Brasília.

## **Mamede Said Maia Filho**

Associate Professor at the Faculty of Law, University of Brasília; PhD in Law, State and Constitution from UnB, with postdoctoral studies in Global Inequalities and Social Justice at the Latin American College of World Studies, a program of the Latin American Faculty of Social Sciences (FLACSO/Brazil).

**TABLE OF CONTENTS:** 1. Introduction; 2. The constitutional engineering of the military dictatorship (1964-1985); 3. The emergence of the democratic constitutional project (1977-1988); 4. The NCA and the movement for the consolidation of cultural rights; 5. The “Cultural Constitution” of 1988; 6. Final considerations; References.

**ABSTRACT:** This article analyzes the constitutionalization of cultural rights during the National Constituent Assembly (NCA) of 1987-1988, demonstrating how social mobilization and popular participation resulted in the first incorporation of cultural rights as fundamental rights in Brazilian constitutional history. Based on the analysis of authoritarian constitutional engineering (1964-1985), the democratic constituent process and the cultural sector’s action in the NCA, the work shows that the Constitution of the Federative Republic of Brazil of 1988 (CF/1988) established an unprecedented paradigm by recognizing culture as a fundamental right and by creating the normative basis for democratic cultural policies, configuring a “Cultural Constitution”. The work is divided into four parts: the first addresses constitutional engineering during the military dictatorship; the second highlights the emergence of the democratic constitutional project; the third discusses the movement for consolidation of cultural rights in the context of the NCA; and the fourth addresses the constitutionalization of cultural rights in the so-called “Cultural Constitution”. As a result, it is possible to understand how these dynamics shaped the unprecedented conception of cultural rights in the CF/1988 and the challenges that continue to be faced in consolidating the fundamental right to culture.

**KEYWORDS:** Federal Constitution of 1988; military dictatorship (1964-1985); National Constituent Assembly (1987-1988); cultural rights.

---

## 1. Introduction

The constitutional history of Brazil, especially between 1964 and 1988, is inscribed within a context of profound political and social transformations. The military regime established in 1964 consolidated itself through a constitutional engineering that sought to legitimize the suppression of civil liberties and authoritarian control. The process of redemocratization, which culminated in the promulgation of the 1988 Constitution, brought new hopes and challenges for the construction of a democratic rule of law based on fundamental rights, among which are cultural rights. This article aims to analyze the transition between the authoritarianism initiated with the 1964 military coup and the subsequent redemocratization, emphasizing the role of the

1987-1988 National Constituent Assembly and the unprecedented inclusion of cultural rights as fundamental in the new constitutional order.

## 2. The constitutional engineering of the military dictatorship (1964-1985)

The Brazilian military regime, installed after the 1964 military coup, consolidated itself through the manipulation of the constitutional order, with the Institutional Acts (AIs) becoming fundamental instruments for repression. AI-5, promulgated in 1968, intensified this repression by allowing the suspension of civil and political rights, the dissolution of Congress, and the persecution of political opponents (Ferreira; Gomes, 2014). It can be said that, during this period, Brazil experienced a form of governance that delegitimized democratic norms, creating an environment where state violence was a daily practice.

Constitutional manipulation was a deliberate strategy of the military regime to ensure its continued hold on power. The “April Package” of 1977, as discussed by Barbosa (2019), introduced amendments that increased the number of seats in the Legislature and restricted political participation, demonstrating the regime’s strategy of maintaining a facade of legitimacy while consolidating its control and arbitrary actions. This manipulation sought to guarantee the continuity of the military regime through a disguised legality that, paradoxically, presented itself as an alternative to political instability (Paixão, 2020).

From this same perspective, Paixão (2020) states that the military regime skillfully legitimized acts of force through legal structures, creating a facade of legality that masked its true authoritarian nature. Consequently, the coexistence of constitutional norms with exceptional acts, such as the Institutional Acts, allowed the regime to manipulate the laws to remain in power, establishing a pattern of ambiguity that favored the Executive Branch at the expense of the Legislative Branch.

Paixão (2020) also emphasizes the ambiguous nature of the relationship between the 1946 Constitution and the subsequent Institutional Acts, highlighting how the military regime, while promoting changes that ostensibly maintained legality, in fact undermined democratic foundations. The regime’s use of the concept of “constituent power,” derived from its self-proclaimed “revolutionary” *status*, was instrumentalized to justify unilateral changes and the manipulation of the legal framework.

The theory of the state of exception developed by Agamben (2004) offers an interpretative key to understanding the legal-political strategy of the Brazilian military regime. According to the author, the state of exception constitutes a threshold of indeterminacy between democracy and authoritarianism, in which the suspension of the normal legal order is presented as necessary for the preservation of order itself. In the Brazilian case, this dynamic is clearly manifested in the application of the Institutional Acts. The AI-5, for example, suspended fundamental constitutional rights under the argument of protecting “national security” and combating “subversion,” creating a zone of legal anomie in which the Executive Branch operated without effective controls. The formal coexistence between the 1946 Constitution and the Institutional Acts exemplifies what Agamben (2004) calls “force-of-law without law,” an order that maintains the appearance of legality while emptying the law of its normative content, transforming the exception into a permanent rule of governance.

The 1974 and 1976 elections, although held under an authoritarian regime, were marked by growing popular mobilization that challenged the regime’s “pseudo-legitimacy.” This phenomenon, analyzed by Skidmore (1988), reveals that civil resistance and student struggle were fundamental in creating the conditions that would culminate in the democratic transition. The struggle for democratization, therefore, did not only take place in formal institutions, but also in the streets, the stage for social and political movements that began to organize in pursuit of freedom and justice.

The importance of the social movements that emerged in response to repression is evident, emphasizing that popular mobilization questioned the legitimacy of the regime, in addition to laying the groundwork for a new democratic order. Civil resistance, including strikes, demonstrations, and the formation of opposition parties, became a central element in the struggle for democracy, as a consequence of Brazilian society’s determination to reverse the authoritarian logic imposed by the military regime.

Starting in the second half of the 1970s, a coordination of forces began which, a decade later, culminated in the promulgation of the new Political Charter: the Constitution of the Federative Republic of Brazil of 1988.

Considering that the 1987-1988 National Constituent Assembly established a new paradigm for constitutional drafting in Brazilian history, the next section will address the democratic project that culminated in the current constitutional text.

### 3. The emergence of the democratic constitutional project (1977-1988)

The National Constituent Assembly (ANC), which took place between its installation on February 1, 1987, and the promulgation of the current Federal Constitution on October 5, 1988, is marked by a change in the paradigm of constitutional drafting. Unlike other constitutions, the legislative process envisioned the participation of a group of deputies and senators associated with a marked involvement of public opinion, with decentralized dynamics and various mechanisms of popular participation (Pilatti, 2008; Lacerda *et al.*, 2018). Barbosa (2019, p. 147) notes that the constitutional drafting was marked by an “authentic polyphony” that attributes an unprecedented and revolutionary character to the process of drafting the 1988 Constitution.

Although the Brazilian constituent process was marked by impasses, crises, pressures from sectoral interests, corporations, and popular participation, Guran (1988, p. 15) points out that, between 1987 and 1988, this process proved to be intense and creative. In summary, the author notes that “the result is a Constitution that brings together a significant range of subjects and themes, details and controversies, in addition to incorporating profound debates on the most recent fundamental issues in the law of other countries.”

The construction of a normative framework with foundational characteristics for a new State in 1988 originated in organized sectors of society opposed to the military regime installed in 1964 (Coelho, 2009; Silva, 2013; Barbosa, 2019). Social mobilization, supported by popular movements, unions, the Catholic Church, and civil society organizations such as the Brazilian Bar Association (OAB) and the Brazilian Press Association (ABI), was fundamental to the drafting of the new Constitution (Gomes, 2013). Furthermore, the aggregation of interests from diverse sectors demonstrated society’s desire for a new social pact that would guarantee the rights and freedoms that had been suppressed during the dictatorship.

Barbosa (2019) argues that between 1977 and 1985, the movement in favor of holding a new constituent assembly progressively escaped political-party circles and reached important institutions and popular movements. In a 1977 manifesto, Goffredo Teles Júnior and other academics from the Faculty of Law at the University of São Paulo published a document entitled “Letter to Brazilians,” in which they called upon “the Nation to seek the only legislative

path to restore the shattered democratic institutions – the convocation of a National Constituent Assembly” (Bonavides and Andrade, 1991, p. 452).

According to Buarque (1988), a free, democratic, and sovereign constituent process would not have been possible without the concatenation of two forces. The first was the exhaustion of the economic model, mainly due to external reasons – interest rates, oil prices, pressure from the International Monetary Fund – and the second was the internal political articulation for democracy – electoral growth of the opposition, the “Diretas Já” movement, and the strengthening of civil society organizations in favor of redemocratization.

Wachowicz (2000) also recalls the geopolitical context favorable to the Brazilian democratic transition. In Europe, throughout the 1970s, a consolidation of new democracies occurred. In 1974, the “Carnation Revolution” marked the end of the Salazarist dictatorship in Portugal. In Greece, in the same year, the “dictatorship of the colonels” established in 1967 failed. The Francoist regime in Spain succumbed in 1976. In Latin America, between the late 1970s and the mid-1980s, processes of alteration of the then-current political systems began. In Ecuador (1979), Peru (1980), Bolivia (1982), Argentina (1983), and Uruguay (1985), dictatorial experiences were superseded by democratic regimes.

According to Silva (2013), Tancredo Neves’ candidacy in 1985, then governor of Minas Gerais, for the Presidency of the Republic through the Electoral College, highlights a unique moment in the foundations of the New Republic, as Tancredo called it. The drafting of a Constitution was part of the pact signed by the Democratic Alliance, a party coalition between the PMDB and PFL, which indirectly elected Tancredo to the Presidency, the first civilian to hold the office after a succession of five Army generals. Also joining the PMDB, José Sarney, who until a few months before the election was the national president of the PDS, a party supporting the military government, joined the ticket as vice-president (Oliveira, 2018).

In this sense, in his farewell speech to the Senate in March 1983, before being sworn in as governor of Minas Gerais, Tancredo Neves stated that “a nation without a Constitution originating from the heart of its people is a nation mutilated in its civic dignity, violated in its culture, and humiliated in the face of its democratic conscience” (Barbosa, 2019, p. 184).

It should also be noted that popular demonstrations, such as those that occurred during the “Diretas Já” movement, constituted instruments of pressure for a democratic process that culminated in the convocation of a new National Constituent Assembly. The struggle for amnesty and the recovery

of civil and political rights was one of the main mobilizing banners of society (Galvão, 2013). In short, as observed by Fico (2014), the role of civil society was important for the construction of a new social pact that reflected the plurality of the Brazilian population, which directly impacted the recognition of new social rights, among which was the right to culture.

By discussing the elements that contributed to the emergence of the democratic constitutional project, the next section will address a facet of the Constituent Assembly with innovative repercussions in Brazilian constitutional history: cultural rights.

#### 4. The NCA and the movement for the consolidation of cultural rights

The process of drafting the new constitutional text was regulated in the Internal Regulations of the National Constituent Assembly (ANC). An organization was established in which the text was constructed in parts. First, there were deliberations in 8 thematic committees, each divided into 3 subcommittees, totaling 24 subcommittees. These subcommittees held public hearings, received proposals from their members, and conceived sectoral drafts for their respective areas of activity. Subsequently, the Systematization Committee aggregated the drafts from the committees and the popular amendments into a single draft Constitution, sent for deliberation in first and second rounds in the Plenary session of the NCA (Brazil, 1987).

Although it is not the purpose of this article to detail the complex process of drafting the 1988 Constitution, a unique characteristic of the 1987-1988 National Constituent Assembly was the enthusiastic popular participation. This participation was notable during the public hearings held in the thematic subcommittees and through popular amendments. The first draft of the Constitution, prepared by the Systematization Committee, received 122 popular amendments with more than 12 million signatures (Lacerda *et al.*, 2018).

Within the scope of the Education, Culture and Sports Subcommittee<sup>1</sup>, 22 of the most representative entities in the cultural sector were present, either through speeches by their representatives or in documents submitted to that Subcommittee. Among the topics debated by the representatives of the

---

1 Member of the Committee on Family, Education, Culture and Sports, Science and Technology, and Communication, pursuant to Article 15 of the Internal Regulations of the National Constituent Assembly 1987-1988 (Brazil, 1987).

cultural sector<sup>2</sup>, according to Barros and Andrés (2009, pp. 565 and 566), the following stand out:

- Access to culture as a citizen's right;
- The end of censorship and freedom of creation and cultural and artistic expression;
- Respect for cultural identity/diversity and the democratization of culture;
- A critique of the domination, monopolization, and subjugation of culture to the market and foreign influence;
- The relationship between economic development and the preservation of heritage, cultural expressions, and assets;
- The expansion of the public budget and private investment in culture;
- The need for public policies for heritage, museums, books and reading, theater, dance, visual arts, folklore, music, cinema, and photography;
- The exemption from import and export taxes on inputs and cultural goods;
- The promotion and protection of authors, artists, and teachers;
- Culture taking center stage in the new Constitution.

It is noted that the constitutional text promulgated on October 5, 1988, largely contemplated the demands for what is called the “constitutional ordering of culture” (Oriá, 2018; Silva, Araújo and Midlej, 2021) and, in an unprecedented way in Brazilian constitutional history, cultural rights were incorporated into the list of fundamental rights (Rabelo, 2023; Cunha Filho, 2000, 2018).

When commenting on the role of the cultural sector during the National Constituent Assembly, Cunha Filho (2004) argues that the normative product – that is, the current Federal Constitution – has elements that seek to guarantee the representation of the cultural segment in accordance with the repercussions of cultural rights and policies and the discussions held in the Constituent Assembly.

To better understand the impact of cultural rights within the current constitutional paradigm, it is important to provide a brief historical overview.

---

2 On May 5th, 6th, and 7th, 1987, the constituent members of the Subcommittee on Education, Culture, and Sports addressed cultural issues in public hearings held during the 19th, 20th, and 22nd meetings. Stenographic notes are available on the Citizen Constitution Portal: [https://www2.camara.leg.br/atividade-legislativa/legislacao/Constituicoes\\_Brasileiras/constituicao-cidada](https://www2.camara.leg.br/atividade-legislativa/legislacao/Constituicoes_Brasileiras/constituicao-cidada). Accessed February 12, 2025.

In retrospect, according to Silva, Araújo, and Midlej (2021), cultural policies can be framed within four phases, as shown in Table 1 below.

**Table 1 – Historical periods of cultural policies**

Period	Features	Totalization principle
Iberianist period (1530-1822)	Construction of the idea of Nation based on the influence of the three "races"; demonstration of the continuity of Portuguese colonization and its heroic role as the elite that built the national State.	Portuguese civilization
Racialist period (1808-1930)	Discussion of the viability of a mixed-race nation; ideology of cultural democracy; construction of a white society in the tropics.	Racialism and "culturalism"
Period of fragmented expansion (1930-1988)	The creation of a national imaginary based on the idea of modernization and the valorization of work; symbolic integration of society through the action of the State. Institutional engineering construction in the federal area.	The creation of the new Brazilian man - modernism The idea of integrating and modernizing Brazilian culture.
Cultural rights (post-1988 Constitution)	Building a public financing system and political agreement: financing through patronage – tax incentives; and constitutionalization of cultural public policies.	Fundamental rights

Source: Silva, Araújo and Midlej (2021, p. 29).

According to Table 1, the first three periods (Iberianist, racialist, and fragmented expansion) are characterized by the invention of a Brazilian tradition. Over time, there is a hierarchization of inclusion and exclusion criteria for the various lines of action in terms of public policy and cultural action. The Jesuit missions and the legal conception of the *status* of indigenous people and slaves, with the prevalence of the colonizer, are an integral part of the colonial policies of the Iberianist period. In turn, the arrival of the Portuguese royal family bringing the collection that would become the National Library and the concern with the invention of a Brazilian iconography – in the European mold, as exemplified by the French Mission – integrated a set of actions designed to have an impact on national culture (Silva, Araújo and Midlej, 2021).

More systematically, culture has been a concern on the political agenda and an object of public action since the 1930s. The development of a national identity was a constant in the political and social imagination of this period, marked by the new political regime, with the construction of the centralized national state. With the creation of the Ministry of Education and Public Health in 1930, led by Gustavo Capanema, several state artistic and cultural institutions became subordinate to the ministry, “such as the National School of Fine Arts,

the National Institute of Music and the Normal School of Arts” (Maia Filho, 2022, p. 110). From the 1930s to the 1988 Federal Constitution, museums were created and official bodies dedicated to cultural management were structured (Silva, Araújo and Midlej, 2021; Gilioli, 2018).

From the 1934 Constitution to that of 1967/1969, the constitutions followed the same pattern regarding cultural matters: included under the title “culture, education and family,” the themes were treated and interpreted together, without the presupposition of sectoral autonomy for culture. The concept encompassed literature, arts, sciences, monuments, and documents with historical and artistic value. As Silva, Araújo and Midlej (2021, p. 34) point out, “in none of the previous texts is there any reference to specific institutional mechanisms for cultural policies, a fact that would be inaugurated in 1988.”

The unprecedented nature of cultural rights enshrined in the 1988 Constitution, elevating them to the status of fundamental rights, resonates with the lyrics of the song mentioned in the title of this article: “Comida” (Food), composed by Arnaldo Antunes, Marcelo Fromer, and Sérgio Brito, released precisely in 1987, a period coinciding with the NCA (National Constituent Assembly) (Vasconcelos F.; Vasconcelos M.; Vasconcelos I., 2015). Recalling the context of the struggle for redemocratization that the country was experiencing, hunger takes on a broader dimension, not restricted to its denotative meaning (hunger for food), but reflecting new connotations that mirrored that conjuncture – hunger for democracy, for entertainment, for art, for happiness, for free expression of thought, in short, for elements that translate the consolidation of the cultural rights discussed in this section, as per the following excerpt:

[...]

We don't just want food.

We want food, fun, and art.

We don't just want food.

We want a way out, anywhere.

We don't just want food.

We want drinks, fun, ballet.

We don't just want food.

We want life the way life wants it.<sup>3</sup>

[...]

---

3 Excerpt from the song titled "Comida", written by Arnaldo Antunes, Marcelo Fromer and Sérgio Brito (1987), our translation.

The consolidation of cultural rights as fundamental in the 1988 Brazilian Constitution is part of the scenario addressed by the song composed in 1987, which elevates culture as a basic social concept. Based on this context, the next section will address the cultural constructs created by the drafters of the Constitution in the text promulgated as a result of the 1987-1988 National Constituent Assembly.

## 5. The “Cultural Constitution” of 1988

The constitutionalization of cultural public policies and the rights inherent to them have characterized the current text as a “cultural Constitution” (Silva, Araújo and Midlej, 2021; Oriá, 2018; Nascimento and Morais, 2007). For Silva (2001), the expression “cultural rights” encompasses a state obligation to act, in the sense that people have access to culture, and an individual right to demand effective state actions to access cultural goods and services.

There are various provisions regarding culture throughout the 1988 Brazilian Constitution. The Union, states, and the Federal District legislate concurrently on the protection of heritage and culture (Article 24, VII and IX); citizens are entitled to bring popular actions to annul acts that harm historical and cultural heritage (Article 5, LXXIII); the domestic market should be encouraged to enable cultural and socioeconomic development (Article 219, *main paragraph*); the teaching of history should consider the contributions of different cultures and ethnicities to the formation of the Brazilian people (Article 242, § 1); and the protection of indigenous lands and cultures (Article 231, § 1) and of quilombo remnants (Article 68 of the Transitional Constitutional Provisions) are some examples. Specifically, at the time of promulgation, Section II (On Culture) of Chapter III of Title VIII of the 1988 Constitution had two articles: 215 and 216.

Article 215 establishes the state’s duty to guarantee to all the full exercise of cultural rights and access to the sources of national culture. The provision enshrines support and encouragement for the appreciation and dissemination of cultural expressions. Paragraph 1 highlights the protection of expressions of popular, indigenous, and Afro-Brazilian cultures, with the 1988 Constitution being the first of the country’s constitutions to refer to indigenous and Afro-Brazilian groups that helped shape the nation. Unlike a colonial understanding, such as the term “fine arts,” the 1988 Constitution aims to safeguard the groups participating in the national civilizing process, based on their own references (Rabelo, 2023). This provision advocates for

the understanding that culture is a formative element of national identity and contributes to the construction of a more just and equitable society.

Furthermore, the Constitution defines cultural diversity as a heritage to be protected, promoting an inclusive approach that respects the specificities of different social groups, including indigenous peoples, Afro-descendants, and traditional communities (Santos, 1981).

In Article 216, the 1988 Brazilian Constitution significantly broadened the concept of cultural heritage, going beyond the “stone and mortar” dimension, by incorporating tangible and intangible assets that “bear reference to the identity, action, and memory of the different groups that make up Brazilian society.” The pluralistic vision of the previous provision (Article 215) is reaffirmed in Article 216, which considers cultural manifestations as part of Brazilian cultural heritage, essential for social cohesion and the strengthening of national identity (Oriá, 2018; Silva, Araújo and Midlej, 2021).

Beyond the original provisions, the power of constitutional reform has also reverberated in the cultural sphere on four occasions since 1988. The first amendment took fifteen years to be registered, through the promulgation of Constitutional Amendment 42 of 2003, which added paragraph 6 to article 216, allowing states and the Federal District to allocate up to 0.5% of their net tax revenue to a state fund for the promotion of culture for the financing of cultural programs and projects. Subsequently, Constitutional Amendment 48 of 2005 added paragraph 3 to article 215, providing for the elaboration of the National Culture Plan (PNC) through federal law. Among other actions, the 1988 Constitution stipulates that the public authorities must democratize access to cultural goods (article 215, paragraph 3, IV).

In 2012, Constitutional Amendment 71 added Article 216-A to the 1988 Federal Constitution, establishing the National Culture System (SNC), defined as “a process of joint management and promotion of democratic and permanent public cultural policies, agreed upon between the entities of the Federation and society, with the objective of promoting human, social and economic development with the full exercise of cultural rights.”

The most recent change occurred through Constitutional Amendment 96 of 2017, by inserting paragraph 7 into article 225, which declares that sporting practices that use animals and that are cultural manifestations registered as intangible cultural heritage of Brazil are not considered cruel.

The 1988 Brazilian Constitution seeks to regulate cultural matters from a subjective point of view, as a fundamental right, and from an objective point of view, as a cultural state, through the development of actions that guarantee political, economic, and cultural conditions that promote cultural democracy (Silva, Araújo and Midlej, 2021). It is a complex social construct that reflected the social demands and those of organized sectors during the National Constituent Assembly and continues to resonate today.

The initiatives to systematize and broaden the scope of cultural policies are a result of the constituent process that took place between 1987 and 1988 and subsequent reforms, which ratifies the concept found in the literature of a “cultural Constitution.” The resulting public policies are not without criticism, because, despite the aforementioned constitutional vanguard, there are still disjointed institutional structures and insufficient financial and human resources. This does not invalidate the progress made, but requires increased attention to consolidate the cultural rights enshrined in the current constitutional text.

## 6. Final considerations

Throughout this work, we address the transition period between the military regime established in 1964, the redemocratization process that culminated in the dynamics of the National Constituent Assembly and its product: the Federal Constitution of 1988. Among the various dimensions embraced by the new constitutional text, we highlight cultural rights, enshrined in an unprecedented way in the CF/1988, at which time we contextualize the “hunger” for new rights present in the song “Comida” (Antunes, Fromer, Brito, 1987).

However, the realization of cultural rights faces significant challenges. The implementation of effective public policies and the allocation of resources for culture have been frequently debated in the post-1988 Constitution period. The re-establishment of bodies such as the Ministry of Culture in 2023, which consolidated an institutional space for the promotion and defense of cultural rights, was an important step in this direction. However, its realization continues to be threatened by policies that seek to reduce investments in culture and by resistance to initiatives that guarantee cultural diversity in a globalized context.

Despite the achievements and the conception of a “cultural Constitution,” institutional weaknesses in cultural matters are still evident. The change undertaken by Constitutional Amendment 42, since 2003, allowed states and

the Federal District to allocate up to 0.5% of their net tax revenue to their respective cultural development funds, with the aim of financing cultural programs and projects. It seems that there was not enough political vigor to establish a mandatory allocation of revenue to the cultural sector, as is the case with health and education. To date, none of the federative units has implemented this allocation through their respective constitutions or organic laws, and there is no way to legally obligate them, since the 1988 Constitution only granted them this possibility (Rabelo, 2023).

The development of a National Culture Plan (PNC) through legislation, as stipulated in Constitutional Amendment 48 of 2005, faces challenges from the perspective of public policy governance. The 53 goals whose development was delegated to the Ministry of Culture by Law 12,343 of 2010 have not proven effective or consistent. According to Cunha Filho (2022), less than 10% of the goals are assertive, that is, measurable and achievable, while more than 90% have a low probability of fulfillment, either due to the impossibility of measurement or dependence on factors external to cultural policy.

Resistance to policies aimed at reducing investments in culture and the need to guarantee cultural diversity in a context of forced cultural homogenization are challenges that must be faced. The struggle for cultural rights is not limited to the institutional sphere, as it involves elements of social mobilization. The mobilization of artists, cultural collectives, and social movements, for example, can corroborate the guarantee that cultural rights, ensured by the 1988 Constitution, are effectively respected and promoted.

These challenges are particularly evident in a scenario where culture is frequently relegated to the background in government priorities. The decline in investments in cultural and educational areas, in a context of economic crisis, can result in the progressive erosion of the cultural identities that the Constitution set out to protect. The struggle for a robust cultural policy is inseparable from the struggle for democracy, since culture is one of the pillars that sustain the diversity and vitality of the democratic rule of law.

As a positive example, due to the damaging effects of the Covid-19 pandemic, pressure from the cultural sector, and support from the National Congress, new laws to promote the sector were enacted: the Aldir Blanc Law (14,017 of 2020), the Paulo Gustavo Law (Complementary Law 195 of 2022), and the Aldir Blanc National Policy Law (14,399 of 2022), allocating billions of reais to promote culture. Also noteworthy is the recent Law 14,835 of 2024, which established the regulatory framework for the National Culture System (SNC),

organized in a collaborative regime between federative entities for the joint management of cultural public policies.

An analysis of constitutional changes in Brazil between 1964 and 1988 reveals a complex interaction between authoritarianism and democratization. The structuring of the 1988 Constitution was an important milestone in the country's political history, especially regarding the promotion and protection of cultural rights. The struggle for the realization of these rights, although it has progressed, still faces significant challenges that demand the continued mobilization of civil society. The study of these dynamics, therefore, can contribute to understanding the Brazilian political trajectory and to strengthening democratic and cultural principles in a context of increasing social diversity and complexity.

Furthermore, analyzing the power dynamics and social struggles that emerged during the period studied allows for an understanding of contemporary politics and the challenges that Brazilian democracy currently faces. The lessons of the past should serve as a guide for building a more just and egalitarian future, in which cultural rights and diversity are recognized and celebrated as an integral part of national identity.

In this sense, it is imperative that civil society, together with government bodies, promote a continuous dialogue on cultural rights and their implementation, ensuring that the voices of all segments of the population are heard and respected. Culture, as an expression of national diversity and identity, must be recognized not only as a right, but also as a duty of the State and society, promoting an environment in which plurality, in addition to being tolerated, is celebrated as a collective heritage.

## References

AGAMBEN, G. *Estado de exceção*. São Paulo: Boitempo, 2004.

ANTUNES, A.; FROMER, M.; BRITO, S. Comida. Intérprete: Titãs. *In: Jesus não tem dentes no país dos bangueiros*. Rio de Janeiro: WEA. 1 disco sonoro (LP). Lado A, faixa 2, 1987.

BARBOSA, L. A. A. *História constitucional brasileira: mudança constitucional, autoritarismo e democracia no Brasil pós-1964*. 4. reimpr. Brasília: Edições Câmara, 2019.

BARROS, H. H. D.; ANDRÉS, A. VIII-A – Subcomissão da Educação, Cultura e Esportes. *In: BACKES, A. L.; AZEVEDO, D. B.; ARAÚJO, J. C. (orgs.). Audiências*

*públicas na Assembleia Nacional Constituinte: a sociedade na tribuna*. Brasília: Edições Câmara, 2009.

BONAVIDES, P.; ANDRADE, P. *História constitucional do Brasil*. Rio de Janeiro: Paz e Terra, 1991.

BRASIL. Assembleia Nacional Constituinte. Resolução n. 2, de 24 de março de 1987. Dispõe sobre o Regimento Interno da Assembleia Nacional Constituinte. *Diário da Assembleia Nacional Constituinte*, Brasília, 25 mar. 1987.

BUARQUE, C. A perfeição inacabada. In: GURAN, M. *O processo constituinte 1987-1988*. Brasília: Ágil, 1988.

COELHO, J. G. L. Processo constituinte, audiências públicas e o nascimento de uma nova ordem. In: BACKES, A. L.; AZEVEDO, D. B.; ARAÚJO, J. C. (orgs.). *Audiências públicas na Assembleia Nacional Constituinte: a sociedade na tribuna*. Brasília: Edições Câmara, 2009.

CUNHA FILHO, F. H. *Direitos culturais como direitos fundamentais no ordenamento jurídico brasileiro*. Brasília: Brasília Jurídica, 2000.

CUNHA FILHO, F. H. *Cultura e democracia na Constituição Federal de 1988: a representação de interesses e sua aplicação ao Programa Nacional de Apoio à Cultura*. Rio de Janeiro: Letra Legal, 2004.

CUNHA FILHO, F. H. *Teoria dos direitos culturais: fundamentos e finalidades*. São Paulo: Edições Sesc, 2018.

CUNHA FILHO, F. H. Plano Nacional de Cultura: análise jurídica da concepção, tramitação e potencialidades. *Educação e Pesquisa*, [S. l.], v. 48, n. contínuo, p. e244555, 2022. Available at: <https://www.revistas.usp.br/ep/article/view/205251>. Accessed on: 14 Feb. 2025.

FERREIRA, J.; GOMES, A. C. 1964: o golpe que derrubou um presidente, pôs fim ao regime democrático e instituiu a ditadura no Brasil. Rio de Janeiro: Civilização Brasileira, 2014.

FICO, C. *O Golpe de 1964: momentos decisivos*. Rio de Janeiro: Editora FGV, 2014.

GALVÃO, L. M. *História constitucional brasileira na Primeira República: um estudo da intervenção federal no estado do Rio de Janeiro em 1923*. 2013. Dissertação (mestrado em direito) – Universidade Federal de Santa Catarina, Programa de Pós-Graduação em Direito, Florianópolis, 2013.

- GILIOLI, R. S. P. Financiamento à cultura: dinâmicas, transformações e perspectivas. In: SILVA, R. S. (org.). *30 anos da Constituição: evolução, desafios e perspectivas para o futuro*. Brasília: Senado Federal, 2018.
- GOMES, A. C. (org.). *Olhando para dentro: 1930-1964*. Rio de Janeiro: Objetiva, 2013.
- GURAN, M. (coord.). *Processo constituinte, 1987-1988: documentação fotográfica*. Brasília: Ágil; Ceac/UnB, 1988.
- LACERDA, A. B. C. C. et al. *A voz do cidadão na Constituinte*. Brasília: Edições Câmara, 2018.
- MAIA FILHO, M. S. Era Vargas: Estado e direito administrativo no Governo Provisório. *Revista História do Direito: RHD*, v. 3, n. 5, p. 100-125, Curitiba, jul.-dez./2022.
- NASCIMENTO, V. R.; MORAIS, J. L. B. A cidadania e a Constituição: uma necessária relação simbólica. *Revista de Informação Legislativa*, a. 44, n. 175, Brasília, jul.-set./2007.
- OLIVEIRA, G. 30 anos da Constituição Cidadã: a Constituinte iniciada em 1987 foi a primeira a contar com propostas e a presença física do povo. In: SASSE, C. *30 anos, Constituição da Cidadania*. Reportagens de Cintia Sasse e Guilherme Oliveira. Brasília: Senado Federal, 2018.
- ORÍÁ, R. Direito à memória: a preservação do patrimônio cultural na Constituição de 1988. In: SILVA, R. S. (org.). *30 anos da Constituição: evolução, desafios e perspectivas para o futuro*. Brasília: Senado Federal, 2018.
- PAIXÃO, C. Entre regra e exceção: normas constitucionais e atos institucionais na ditadura militar brasileira (1964-1985). *História do Direito*, v. 1, n. 1, p. 227-241, 2020. Available at: <https://revistas.ufpr.br/historiadodireito/article/view/78728>. Accessed on: 22 Sept. 2024.
- PILATTI, A. *A Constituinte de 1987-1988: progressistas, conservadores, ordem econômica e regras do jogo*. Rio de Janeiro: Lumen Juris, 2008.
- RABELO, C. A cultura nos 35 anos da Constituição Federal: decorrências e desafios. *Revista Observatório Itaú Cultural*, n. 36, São Paulo, 2023. Available at: <https://www.itaucultural.org.br/secoes/observatorio-itaucultural/direitos-culturais-perspectivas-brasil-atual-contemporaneo?type=parent>. Accessed on: 22 Sept. 2024.

SANTOS, A. M. A. *O Estado de emergência*. São Paulo: Sugestões Literárias, 1981.

SILVA, F. A. B.; ARAÚJO, H. E; MIDDLEJ, S. A Constituição e a democracia cultural. In: SILVA, F. A. B. (org.). *Direito e políticas culturais*. Rio de Janeiro: Ipea, 2021.

SILVA, J. A. *Ordenação constitucional da cultura*. São Paulo: Malheiros, 2001.

SILVA, J. A. O processo de formação da Constituição de 1988. In: LIMA, J. A. O.; PASSOS, E.; NICOLA, J. R. *A gênese do texto da Constituição de 1988*. Brasília: Senado Federal, 2013.

SKIDMORE, T. *Brasil: de Castelo a Tancredo*. 8. ed., Rio de Janeiro: Paz e Terra, 1988.

VASCONCELOS, F. A. G; VASCONCELOS, M. P.; VASCONCELOS, I. H. G. Fome, comida e bebida na música popular brasileira: um breve ensaio. *História, Ciências, Saúde – Manguinhos*, v. 22, n.3, p. 723-741, Rio de Janeiro, jul.-set./2015.

WACHOWICZ, M. *Poder Constituinte e transição constitucional*. Curitiba: Juruá, 2000.