

MAKING THE “CITIZEN CONSTITUTION”: *Popular Participation in the Brazilian Transition to Democracy, 1985–1988*

ABSTRACT: This article examines popular participation in the making of Brazil’s 1988 post-authoritarian “Citizen Constitution.” In 1987, Brazilians submitted 122 popular amendments (*emendas populares*) supported by over 12 million signatures to the National Constituent Assembly (1987–88). As this article contends, this extraordinary experiment in popular constitution-making problematizes notions of Brazil’s transition from authoritarian to democratic rule as the most conservative of those that swept Latin America at the end of the Cold War. The popular amendments emerged amid a nationwide campaign for popular participation that saw millions of Brazilians participate in letter-writing campaigns, protests, and debates over the constitution that carried over into the halls of the Constituent Assembly itself. I argue that the popular amendments countered the arbitrary authoritarianism of the Brazilian civil-military dictatorship (1964–85) with a constitutionalism in which everyday Brazilians would safeguard democracy through popular participation in government. While only partially consolidated, this vision offered diverse marginalized groups an opportunity to claim full citizenship in Brazil’s nascent democracy, especially in ways that more overtly addressed issues of race, ethnicity, gender, and disability. This article thus shows that far from being the exclusive province of political elites, everyday people meaningfully shaped the constitutional restorations in late twentieth-century Latin America.

KEYWORDS: democratic transitions, social movements, constitutions, citizenship, popular participation, Brazil, military dictatorship

On September 1, 1987, José Gomes Pimenta addressed the National Constituent Assembly (Assembleia Nacional Constituinte, ANC; 1987–88) charged with writing a new democratic constitution for Brazil. Pimenta was not an elected member of the assembly. Rather, he was a former construction worker from an industrial suburb of Belo Horizonte in Minas Gerais state, a labor leader and state congressman who had been imprisoned and had his political rights taken away during Brazil’s 21-year

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civil-military dictatorship (1964–85).¹ Pimenta identified himself as “a simple worker” who on behalf of working people had come “to defend effective popular participation of the people” in the making of Brazil’s post-dictatorship constitution. He emphasized that the new constitution would have an enormous impact on the material lives of working-class Brazilians like the miners in his home state, who suffered from dangerous working conditions and poor pay.

Far from symbolic, Pimenta’s evocation of popular participation underscored the stakes of his presence that day. He made the case for an *emenda popular* or popular amendment, signed by 35,000 Brazilian citizens and sponsored by grassroots movements, labor unions, and professional groups. By virtue of clearing a 30,000-signature threshold, the sponsoring organizations behind the amendment had won the right to defend it in front of the assembly. In total, the 122 popular amendments presented would receive around 12 million signatures. In his defense of popular amendment PE-56, Pimenta stressed that everyday Brazilians “wanted to contribute with their work, with their intelligence, with their organizations to the strengthening of democratic institutions” in the nascent New Republic.² Indeed, his amendment was one of three that sought to install permanent mechanisms for direct democracy in Brazil’s new constitution, later baptized as the “Citizen Constitution” (Constituição Cidadã).

Emphasizing popular participation represented a strategic choice for the broad, diverse coalition that had pushed for democratization during the dictatorship years. That emphasis helped energize grassroots movements to exert maximum pressure on a constituent assembly largely controlled by former civilian allies of the dictatorship and conservative politicians. Popular participation, moreover, united a heterodox coalition whose component groups often disagreed about strategy and aims. Consciousness of these limitations extended to their hopes for the new constitution itself. As educator Tomaz Womphon put it in his

1. Scholars have increasingly termed the authoritarian regime as a “civil-military” dictatorship to reflect the prominent role of civilians in its operations, including the 1964 coup. See Carlos Fico, *O Golpe de 1964: Momentos decisivos* (Rio de Janeiro: Editora FGV, 2014). Several recent articles have debated the nature of the regime, including Marcelo Ridenti, “The Debate over Military (or Civilian-Military?) Dictatorship in Brazil in Historiographical Context,” *Bulletin of Latin American Research* 37:1 (January 2018): 33–42; Andre Pagliarini, “De Onde? Para Onde? The Continuity Question and the Debate over Brazil’s ‘Civil’-Military Dictatorship,” *Latin American Research Review* 52:5 (December 2017): 760–774; and Demian Bezerra de Melo, “Ditadura ‘civil-militar’? Controvérsias historiográficas sobre o processo político brasileiro no pós-1964 e os desafios do tempo presente,” *Espaço Plural* 13:27 (July–December 2012): 39–53.

2. Câmara dos Deputados da República Federativa do Brasil, *Diário da Assembleia Nacional Constituinte* [hereafter *Diário da Assembleia*] (*Suplemento “B”*), August 28, 1988, 445–457. This article uses a shortened version of the official nomenclature for clarity when referring to individual popular amendments in the text. PE-56, for example, is a simplified rendering of the official designation “PE0056-3” in which the operative number “56” refers to the order in which the popular amendments were received and cataloged by the ANC.

defense of popular amendment PE-49, for a right to public education, “We do not believe that it is possible to make, by way of the Constitution, a social revolution in this country. However, the National Constituent Assembly is a privileged space to create mechanisms that permit social advancement.”³ As a means and an end, the push for popular participation reflected a choice to concentrate limited energy and resources on making Brazil a more equitable democracy.

The popular amendments offer a look at the underexplored history of popular participation in the Brazilian transition to democracy after the end of authoritarian rule in 1985. Indeed, the popular amendments were an extraordinary experiment, virtually unheard of in the global history of constitution-making up to that point. By way of the popular amendments, citizens could directly participate in the constitution-making process, ostensibly on equal grounds with elected members of the Constituent Assembly.

Yet, their very existence seems a contradiction. In contrast to their counterparts elsewhere in the Southern Cone, Brazil’s military presidents took extensive measures to maintain a veneer of constitutional legality so as to legitimize their rule. The military pushed a constitution through a Congress purged of much of the political opposition in 1967, only to unilaterally overhaul it in 1969 and rule through a series of arbitrary Institutional Acts (*Atos Institucionais*). This constitutional framework remained largely in place even after the formal return to democratic rule in 1985. While social scientists examined with great interest the broad awakening of civil society during the 1970s and 1980s, the persistence of this framework is among the factors that have led an influential literature to characterize Brazil’s as the epitome of a “conservative” transition amid the wave of transitions from authoritarian to democratic rule that swept Latin America at the end of the twentieth century.⁴ Conversely, scholars acknowledge that while conservative politicians exerted significant control over

3. Câmara dos Deputados da República Federativa do Brasil, *Diário da Assembleia (Suplemento “B”)*, September 1, 1987, 489–492.

4. This article examines the Brazilian democratic transition (1985), principally in the context of other countries in the Southern Cone, including Argentina (1983), Uruguay (1985), Paraguay (1989), and Chile (1990). On Brazil as a “conservative transition to democracy” or “military-controlled,” see especially Timothy J. Power, *The Political Right in Postauthoritarian Brazil: Elites, Institutions, and Democratization* (University Park: Pennsylvania State University Press, 2000), 4, 9–16. A more recent example of this characterization is in Mert Arslanalp and Wendy Pearlman, “Mobilization in Military-Controlled Transitions: Lessons from Turkey, Brazil, and Egypt,” *Comparative Sociology* 16:3 (June 2017): 311–339. Works representative of the broader literature on Latin American transitions to democracy include Juan J. Linz and Alfred C. Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Baltimore: Johns Hopkins University Press, 1996); and Alfred C. Stepan, ed. *Democratizing Brazil: Problems of Transition and Consolidation* (New York: Oxford University Press, 1989). While too extensive to list here, works on civil society during democratization include Maria Helena Moreira Alves, *State and Opposition in Military Brazil* (Austin: University of Texas Press, 1985); Eder Sader, *Quando novos personagens entraram em cena: Experiências, falas e lutas dos trabalhadores da Grande São Paulo (1970–80)* (Rio de Janeiro: Paz e Terra, 1988); and Sonia E. Alvarez, *Engendering Democracy in Brazil: Women’s Movements in Transition Politics* (Princeton: Princeton University Press, 1990).

the political dimensions of the Citizen Constitution, its social provisions and expansion of rights give it a fundamentally social democratic character as well.⁵

As this article argues, the popular amendments evidence that the civic awakening during democratization in the 1970s and 1980s countered the authoritarian constitutionalism of the dictatorship with a constitutionalism grounded in popular participation. Scholars have generally characterized constitutionalism as a doctrine in which constitutions pose limits to state authority, prohibit arbitrary acts by the government, and protect fundamental rights.⁶ By insisting on popular participation as a founding principle of Brazil's democratic constitution, the former dictatorship-era opposition imagined a constitutionalism in which Brazilian citizens would check state overreach and prevent arbitrary rule—one that would not simply protect rights but expand them. Popular participation became both the means and end of contesting the lingering legacies of authoritarianism, without which a truly democratic Brazil could not emerge. Thus, this article shows that beneath the surface of even the most “conservative” of the democratic transitions in Latin America swirled undercurrents of radical possibility.

A key contention of this article, moreover, is that popular participation became the focus of this anti-authoritarian constitutionalism precisely because of the diversity of the dictatorship-era opposition. With the end of formal military rule in 1985, it was an open question whether the already fractious dictatorship-era coalition of labor unions, progressive sectors of the Catholic Church, professional organizations, leftist and communist political groups, urban and rural grassroots movements, student movements, and social movements representing Afro-Brazilians, Indigenous people, women, disabled people, and LGBTQ+ people, among others, would hold together. Alongside a wide array of social rights and mechanisms for direct democracy, this diverse coalition used the popular amendments to articulate a constitutionalism more cognizant of race, ethnicity, gender, disability, place, and other differences. As such, this article ties what

5. As political scientist Cicero Araujo writes, the relatively progressive political program of the 1988 Constitution reflected the purposeful concentration of progressive deputies serving on thematic commissions in the ANC on rights and social welfare issues, despite the moderating influence of the far larger bloc of center-right deputies, the “Centrão.” The result was a political regime that was “indisputably democratic, but *moderate* in its propositions,” yet whose “adhesion to a project of confronting social inequality is evident.” The Constitution of 1988 thus “consecrated, in its material dimensions, a program of social democratic character” at a time when the post World War II welfare state model was in retreat. See Cicero Araujo, “Trinta anos depois: a crise da Constituição de 1988,” *Locus—Revista de História* 24:2 (February 2019): 303–305.

6. This minimal definition reflects that used by constitutional scholar Leonardo Augusto de Andrade Barbosa. As Barbosa notes, while constitutionalism and constitutions are often conflated, there have been a great many constitutions that have not met this standard. See Barbosa, *História constitucional brasileira: Mudança constitucional, autoritarismo e democracia no Brasil pós-1964*, Colóquios de Excelência, no. 2 (Brasília: Centro de Documentação e Informação, Edições Câmara, 2012), 17.

scholars have alternately termed the inclusive, inclusionary, or multicultural turn in late twentieth-century Latin America to the struggle against the legacies of authoritarianism.⁷ To be sure, marginalized groups had long mobilized identity to make such claims.⁸ But by situating such claims within the broader fight for popular participation through the popular amendments, these movements heralded a shift in which struggles over the contours of democracy increasingly came to revolve more overtly around issues of race, gender, sexuality, and disability as the country moved into the twenty-first century.

What measures did the popular amendments propose? Who composed them? And what is the significance of this exercise in popular constitution-making? The measures proposed in the popular amendments ranged as widely as the groups who submitted them. Broadly, a progressive coalition of groups backed amendments that protected labor rights and instituted new social rights, welfare programs, and mechanisms for direct democracy. Moreover, Indigenous, Afro-Brazilian, disabled, and women’s groups demanded measures that addressed racialized, gendered, and ableist exclusions from full citizenship. Other groups proposed measures on the role of the state in the economy, against nuclear power, for and against the creation of new states, on the rights of children and the elderly, and on religious education, to name a few.⁹ Ultimately, the popular amendments meaningfully contributed to the expansion of rights, welfare programs, and mechanisms for direct democracy, not least through making citizen-initiated laws (*leis de iniciativa popular*) a permanent part of Brazil’s new democracy. But this narrower view of the

7. Diana Kapiszewski, Steven Levitsky, and Deborah J. Yashar, eds., *The Inclusionary Turn in Latin American Democracies* (New York: Cambridge University Press, 2021), 21–24. The authors argue that the “inclusionary turn” in Latin American politics stemmed from the persistence of both inequality and democracy from the 1990s onward, resulting in a situation in which relatively consolidated democracies allowed for more inclusionary policies without triggering the conservative backlashes that resulted in dictatorships across the twentieth century. On the “multicultural turn” and multicultural constitutionalism in late twentieth-century Latin America, see Donna Lee Van Cott, “Latin America: Constitutional Reform and Ethnic Rights,” *Parliamentary Affairs* 53:1 (2000): 41–54; Tianna S. Paschel, *Becoming Black Political Subjects: Movements and Ethno-Racial Rights in Colombia and Brazil* (Princeton: Princeton University Press, 2016), 4–6; and Jean Muteba Rahier, *Black Social Movements in Latin America: From Monocultural Mestizaje to Multiculturalism* (New York: Palgrave Macmillan, 2012).

8. To cite one example, recent literature has highlighted the overlooked role of Afro-Brazilians in the shaping of Brazilian political citizenship. See Isadora Moura Mota, “Other Geographies of Struggle: Afro-Brazilians and the American Civil War,” *Hispanic American Historical Review* 100:1 (February 2020): 35–62; and Celso Thomas Castilho, *Slave Emancipation and Transformations in Brazilian Political Citizenship*, Pitt Latin American Series (Pittsburgh: University of Pittsburgh Press, 2016).

9. This coalition would become known colloquially as the “BBB” caucus, after the Portuguese words for Bible, bullets, and beef. See Benjamin Cowan, “A Hemispheric Moral Majority: Brazil and the Transnational Construction of the New Right,” *Revista Brasileira de Política Internacional* 61:2 (November 2018): 1–25; and Antônio Flávio de Oliveira Pierucci, “Representantes de Deus em Brasília: A bancada evangélica na Constituinte,” in *A realidade social das religiões no Brasil: Religião, sociedade e política*, Antônio Flávio de Oliveira Pierucci and Reginaldo Prandi, eds. (São Paulo: Editora Hucitec, 1996), 163–191.

popular amendments, common in literature on the 1988 Constitution, elides their broader significance as conduits for the hopes and desires of large swaths of Brazilian society.¹⁰

Recently, scholars have revealed that a wider array of actors contested the terms of democratization during Brazil's slow-motion return to democracy than an older literature focused on political elites had previously supposed, a turn reflected in other countries of the Southern Cone. Students, medical professionals, foreign academics, LGBTQ+ groups, sectors of the progressive Catholic Church, movements based in *favelas* and other informal settlements, and others found ways to push for democratization. However, within this rapidly expanding literature, few historical accounts have focused on how this heterogenous civic awakening shaped post-dictatorship Brazilian constitutionalism and democracy.¹¹ The popular amendments and the post-dictatorship constitutionalism grounded in popular participation show that grassroots struggles for democratization crossed into the formal political realm, and in doing so imbued the transition with diverse, overlapping meanings. By tracing the popular amendments from their origins in the dictatorship-era opposition to the Constituent Assembly, this article offers a look at the cumulative impact of those mobilizations on that transition itself.

At the same time, this article uses the popular amendments to broaden our conception of the democratic transitions that swept Latin America—to see them as not simply affairs conducted primarily within the confines of formal political institutions. Rather, this article reframes the transitions as moments of potential rupture in which grassroots forms of democracy and citizenship

10. The best account of the popular amendments remains the analysis compiled shortly after the 1988 constitution by some of the chief architects of the popular amendments. See Carlos Michiles et al., *Cidadão constituinte: A saga das emendas populares* (Rio de Janeiro: Paz e Terra, 1989). On the resonance of popular amendments among urban activists, see James Holston, "Insurgent Citizenship in an Era of Global Urban Peripheries," *City & Society* 21:2 (December 2009): 258–259. On popular participation in the Constituent Assembly, including mobilizations as well as letter-writing and suggestions sent to the assembly, see Pérsio Henrique Barroso, *Constituinte e Constituição: Participação popular e eficácia constitucional (1987–1997)* (Curitiba: Juruá, 2003); Rodrigo Mendes Cardoso, *A participação popular na Constituinte de 1987–1988* (Rio de Janeiro: Editora Lumen Juris, 2017); Ozias Paese Neves, "A trajetória dos primeiros embates do Movimento Pró-Participação Popular na Constituinte—MPPC (1985–1988): Afetos e temores na transição política," *Diálogos* 23:3 (October 2019): 176–195; and Maria Helena Versiani, *Correio político: Os Brasileiros escrevem a democracia (1985–1988)* (Rio de Janeiro: Contra Capa/FAPERJ, 2014).

11. On Brazil, see Victoria Langland, *Speaking of Flowers: Student Movements and the Making and Remembering of 1968 in Military Brazil* (Durham: Duke University Press, 2013); Colin M. Snider, "'Deficient Education,' 'Academic Questions,' and Student Movements: Universities and the Politics of the Everyday in Brazil's Military Dictatorship, 1969–1979," *The Americas* 75:4 (October 2018): 699–732; Eyal Weinberg, "'With Colleagues Like That, Who Needs Enemies?': Doctors and Repression under Military and Post-Authoritarian Brazil," *The Americas* 76:3 (July 2019): 467–505; James N. Green, "'Who Is the Macho Who Wants to Kill Me?' Male Homosexuality, Revolutionary Masculinity, and the Brazilian Armed Struggle of the 1960s and 1970s," *Hispanic American Historical Review* 92:3 (August 2012): 437–469; Bryan McCann, *Hard Times in the Marvelous City: From Dictatorship to Democracy in the Favelas of Rio de Janeiro* (Durham: Duke University Press, 2014); and Thiago Nunes Monteiro, *Como pode um povo vivo viver nesta carestia: O Movimento do Custo de Vida em São Paulo (1973–1982)* (São Paulo: Humanitas, 2017).

contested the legacies of authoritarian rule. Recent work has looked at the ways in which everyday people in Latin America shaped the democratic transitions through their daily lives. In her analysis of letters written to Argentina’s post-dictatorship president Raúl Alfonsín (1983–89), historian Jennifer Adair complicates the very notion of democratic transitions in Latin America, arguing that they “constituted a new phase in the ongoing struggle to define the contours of democracy and citizenship, one that dominated the course of the twentieth century.”¹² The popular amendments evidence not only the continuation of various social struggles through the democratic transition in late twentieth-century Brazil, but also that from those conflicts came extraordinary experimentation with new forms of democracy.

Building on this intervention, this article analyzes the popular amendments as a mechanism for constitutionalism grounded in popular participation and as part of the discursive struggle over the meaning of Brazil’s democratic transition. A rich social science literature engages with the many innovative mechanisms for participatory democracy that flourished in Brazil and across Latin America in the late twentieth century.¹³ In Brazil, progressive sectors of the Catholic Church, social movements, labor unions, and leftist political parties, especially the Workers’ Party (Partido dos Trabalhadores, PT), experimented with participatory budgeting and planning processes, citizen oversight councils, participatory social welfare programs, and mechanisms for direct democracy like referendums, beginning in the 1980s. The popular amendments brought the same ideology of participatory democracy to bear on constitutional issues; the organization behind them, the Plenary for Popular Participation in the Constituent Assembly (Plenário Pró-Participação Popular na Constituinte, PPPC) emerged from the same networks and ideological ferment.

This article begins by examining the origins and significance of the popular amendments within the push for more profound democratization around the formal return to democratic rule in 1985. It then explores the campaign for popular participation in the making of Brazil’s post-authoritarian constitution and the signature-gathering campaigns for the amendments. The following section surveys the diverse measures proposed by the popular amendments and

12. Jennifer Adair, “Democratic Utopias: The Argentine Transition to Democracy through Letters, 1983–1989,” *The Americas* 72:2 (April 2015): 223.

13. From the 1980s to the present, the proliferation of diverse forms of participatory and direct democracy across Latin America has attracted significant scholarly attention, especially from social scientists. See for example Donna Lee Van Cott, *Radical Democracy in the Andes* (New York: Cambridge University Press, 2009); Margaret E. Keck, *The Workers’ Party and Democratization in Brazil* (New Haven: Yale University Press, 1992); Teresa Caldeira and James Holston, “Participatory Urban Planning in Brazil,” *Urban Studies* 52:11 (August 2015): 2001–2017; and Françoise Montambeault, *The Politics of Local Participatory Democracy in Latin America: Institutions, Actors, and Interactions* (Stanford: Stanford University Press, 2020).

the even more varied civil society groups that sponsored them. The article concludes with an examination of the impact of the popular amendments on the 1988 constitution, drawing on the oral defenses of popular amendments supported by movements for popular participation, Indigenous land rights, disability rights, and the democratization of Brazil's cities.

POPULAR PARTICIPATION AND THE CONSERVATIVE TRANSITION

Constitution-making is an integral part of Brazilian politics. Since independence from Portugal in 1822, Brazil has had seven constitutions and five constitutional assemblies. Three constitutions were decreed by non-democratic means.¹⁴ Indeed, every political transition in the struggle between dictatorship and democracy that has dominated modern Brazilian history has presaged a rewriting of the country's highest law. Until recently, however, the focus on political elites, structural questions, and outcomes has belied the importance of constitution-making as a key inflection point in political transitions, especially from the perspective of non-elite actors.

This article builds on recent works pointing to popular mobilizations around constitutions to assert a more central role for constitution-making in political transitions. Rather than a staid affair, constitution-making set a field of battle in which competing forces marshaled not only votes, but also historical narratives that made sense of the political transition in question. The popular amendments presented in the 1987–88 Constituent Assembly evolved out of the civic awakening that contested control of democratization by the military and its civilian allies during the dictatorship. For a diverse coalition of groups, insisting on popular participation parlayed that recent history of resistance into a practical way to challenge control of the political transition by conservatives and civilian politicians formerly allied to the dictatorship. More powerfully, it allowed them to contest the constitutional foundations of the authoritarian regime that persisted even after the formal return to democratic rule in 1985.

This interpretation differs in some key respects from much previous scholarship on constitution-making and political transitions in Brazil. That literature tends to frame constitution-making as a *fait accompli* of the elite-driven pacts that have dominated political transitions throughout Brazilian history. Indicative of this view, journalist Barbosa Lima Sobrinho, who would later speak on behalf of a popular amendment, wrote that the historical role of constituent

14. Elected assemblies wrote the 1891, 1934, 1946, and 1988 constitutions. Authoritarian governments issued constitutions in 1937 and 1967. Emperor Dom Pedro I decreed Brazil's post-independence 1824 constitution after he disbanded the Constituent Assembly of 1823.

assemblies was “just to make contemporary (*contemporizar*)” Brazil’s legal framework, without modernizing it. According to historian José Honório Rodrigues, the post-independence 1823 constitutional assembly, for example, “negated the colonial pact, but accepted colonial conditions,” above all the persistence of slavery.¹⁵

After the Brazilian Empire (1822–89) fell to a coup, the constitutional assembly of 1890 instituted a limited democracy.¹⁶ As recent works have highlighted, however, diverse groups mobilized around the making of Brazil’s constitutions, especially in the twentieth century. The First Republic ended with the so-called Revolution of 1930 and the installation of Getúlio Vargas, whose presidency (1930–45) would be punctuated by three constitutions. The 1934 Constitution, written by a constituent assembly, saw lobbying by activists for women’s rights and organized labor, among others. In contrast, Getúlio Vargas imposed the 1937 Constitution by fiat to establish the fascist Estado Novo (1937–45). The 1946 constitutional assembly restored democracy and featured even greater popular participation as Brazil’s Communist party (PCB) elected constituent deputies and rallied its grassroots affiliates during a brief window in which the party could operate legally. Constitution-making became even more salient to political transitions in Brazil after the 1964 military coup put an end to its mid-century experiment in democracy.¹⁷

From the moment it took power on April 1, 1964, the Brazilian military displayed an unusual preoccupation with constitutional matters that would legitimize and operationalize its rule relative to its South American counterparts. On April 9, 1964, the commanders of the army, air force, and navy issued the first of 17 Institutional Acts, which declared that the “Supreme Command of the Revolution” had “committed itself to the exercise of Constituent Power.” While the act stated that “the People” were the sole possessors of the authority to create a new constitutional order, the military “represented the People and in its

15. José Honório Rodrigues, *A Assembléia Constituinte de 1823* (Petrópolis: Editora Vozes, 1974), 16. On constitution-making in Latin America, see Gabriel L. Negretto, *Making Constitutions: Presidents, Parties, and Institutional Choice in Latin America* (New York: Cambridge University Press, 2013).

16. Even as many of the coup leaders and its supporters were influenced by positivism, the constitutional assembly and republic that it created were dominated by regional political elites, especially from the states of São Paulo and Minas Gerais. Their power-sharing arrangement became known as “the politics of coffee and milk” (*a política do café com leite*).

17. On women’s mobilizations around the 1933–34 constitutional assembly, see Rita de Cássia Barbosa de Araújo, “O voto de saias: A Constituinte de 1934 e a participação das mulheres na política,” *Estudos Avançados* 17:49 (December 2003): 133–150. On the participation of the PCB in the 1946 constitutional assembly, see Evaristo Giovannetti Netto, *A bancada do PCB na Assembléia Constituinte de 1946* (São Paulo: Editora Novos Rumos, 1986). On the 1946 assembly, see also Octaciano Nogueira, *A Constituinte de 1946: Getúlio, o sujeito oculto*, Coleção Temas Brasileiros (São Paulo: Martins Fontes, 2005). On the 1964 coup, see especially Carlos Fico, *Além do Golpe: Versões e controvérsias sobre 1964 e a ditadura militar* (Rio de Janeiro: Editora Record, 2004); and Daniel Aarão Reis Filho, *Ditadura militar, esquerdas e sociedade* (Rio de Janeiro: Zahar, 2000).

name exercises Constituent Power.” In this way, “the victorious revolution, as the Constituent Power, legitimates itself.”¹⁸ By “constituent power,” the act referred to the military’s authority to constitutionally form a new government to replace the one it had just overthrown. The first Institutional Act was the first in a long line of measures that would stretch the idea of constitutional rule to its limits.

As constitutional scholar Leonardo Augusto de Andrade Barbosa argues, this insistence went beyond maintaining a mere façade of constitutionalism by the military regime. Rather, “the coexistence between formal mechanisms for altering the Constitution (frequently used) and exceptional acts (the so-called Institutional Acts) opened up space for a situation in which politics looked to instrumentalize the law, making it amenable to the ‘revolutionary will’” of Brazil’s military rulers.¹⁹ In 1967, the military subsequently used Institutional Act No. 4 to craft a new constitution, which it passed through a compliant Congress. In total, the regime issued 17 Institutional Acts that functioned as constitutional amendments between 1964 and 1969, and heavily revised the 1967 constitution with Constitutional Amendment No. 1 in 1969. Perhaps the most impactful was Institutional Act No. 5 (AI-5), decreed in December 1968. AI-5 allowed the president to unilaterally disband Congress, intervene in state and municipal governments, remove any elected official from office, and suspended habeas corpus for anyone suspected of subversion.²⁰ In effect, inasmuch as the Brazilian military left the Congress and judiciary operational, it developed an authoritarian constitutionalism whereby constitutional measures paradoxically enhanced its ability to carry out arbitrary acts and stifle opposition.

Opposition forces contested the constitutional foundations of the dictatorship from an early date. In 1971, members of the formal opposition party, the Brazilian Democratic Movement (Movimento Democrático Brasileiro, MBD), met in the northeastern state of Pernambuco, where they issued a declaration known as the “Carta de Recife.” In the wake of the repression following AI-5, the document asserted that a “free and democratic elaboration of a new juridical order for the country will only be possible with a constituent assembly, convoked in the moment in which the instruments of force currently in force” were eliminated. While the call for a constituent assembly and the revocation of

18. Presidência da República, Casa Civil, Subchefia para Assuntos Jurídicos, Ato Institucional No. 1, April 9, 1964, http://www.planalto.gov.br/ccivil_03/ait/ait-01-64.htm. Capitalization reflects original text.

19. Barbosa, *História constitucional brasileira*, 45.

20. Thomas E. Skidmore, *The Politics of Military Rule in Brazil, 1964–85* (New York: Oxford University Press, 1988), 56–57, 100. Constitutional Amendment No. 1 of 1969 has sometimes been referred to as a new constitution entirely, since it so heavily revised the 1967 constitution.

AI-5 made headlines, much of the document focused on social and economic concerns such as wage devaluation, public housing, and education.²¹

While ultimately unsuccessful in its demands for a constituent assembly, the Carta de Recife prefigured an emerging opposition coalition that combined calls for constitutional restoration with calls for social justice. This coalition included more traditional movements that adopted new ideologies during the push for democratization, like the “new unionism” (*novo sindicalismo*) of industrial labor unions in São Paulo and student movements in the wake of regime repression. It also saw the rise of new constituencies such as grassroots movements in expanding urban peripheries influenced by progressive sectors of the Catholic Church.²²

Calls for a new constitution, moreover, were buoyed by the rising tide of movements centered on issues of race, gender, sexuality, and disability. Pamphlets seized by political police from the national assembly of the Movimento Negro Unificado in Salvador in 1979, for example, demanded amnesty for political prisoners and a “freely elected National Constituent Assembly,” even as they denounced the existence of racial discrimination in Brazil—a direct repudiation of the dictatorship’s insistence that Brazil was a “racial democracy.”²³ In October 1980, disparate disability groups came together in the capital to form Brazil’s first national federation for the disabled with the express purpose of pushing for rights to work, transportation,

21. The full text of the declaration was reprinted in “A ‘Carta de Recife,’” *Folha de São Paulo*, July 5, 1971, 7. The document was composed by a committee of MBD members led by Ulysses Guimarães as part of the II Seminário de Estudos e Debates da Realidade Brasileira. On rural laborers and conflict in Brazil’s Northeast after 1964, see Thomas Rogers, *The Deepest Wounds: A Labor and Environmental History of Sugar in Northeast Brazil* (Chapel Hill: University of North Carolina Press, 2010), 157–201. The open letter included demands for agrarian reform, especially “in the many centers of rural tension,” a reference to the persistent conflict over land by peasant groups and rural labor unions in the Northeast and elsewhere in rural Brazil.

22. An initial strike in the Saab-Scania factory in São Bernardo do Campo in the industrial ABC suburbs of São Paulo in May 1978 led to a series of escalating strikes that lasted into 1980. The general strikes of 1979 and 1980 marked the peak of a new ideology of labor activism, *novo sindicalismo*. A surge in neighborhood activism in the urban peripheries of São Paulo where many strikers lived, and in other growing cities in Brazil, reflected the new energy in the labor movement. In São Paulo, progressive sectors of the Catholic Church organized lay people into base communities and mothers’ clubs (*clubes de mães*), which as part of the Cost of Living Movement launched a petition that received 1.2 million signatures and demanded action to lower food prices. On labor, see Ricardo Antunes, *A rebeldia do trabalho: O confronto operário no ABC Paulista: as greves de 1978/80* (Campinas: Editora da Universidade Estadual de Campinas, 1988); and Gay Seidman, *Manufacturing Militance: Workers’ Movements in Brazil and South Africa, 1970–1985* (Berkeley: University of California Press, 1994). On urban grassroots movements and the Catholic Church, see Ana Maria Doimo, *A vez e a voz do popular: Movimentos sociais e participação política no Brasil pós-70* (Rio de Janeiro: ANPOCS/Relume Dumará, 1995) and Sader, *Quando novos personagens entraram em cena*.

23. A comunidade negra e o 15 de novembro, Movimento Negro Unificado Contra a Discriminação Racial, in Movimento Negro Unificado, III Assembléia Nacional, Salvador/BA, November 14, 1985, Arquivo Nacional [hereafter AN], Fundo Serviço Nacional de Informações [hereafter FSNI], AC ACE 073/78. On the Movimento Negro Unificado, see Michael George Hanchard, *Orpheus and Power: The Movimento Negro of Rio de Janeiro and São Paulo, Brazil, 1945–1988* (Princeton: Princeton University Press, 1998).

education, and medical treatment.²⁴ Amid a flourishing feminist movement, women created the Feminist Movement for Amnesty (Movimento Feminista pela Anistia) in 1975 to demand amnesty for political exiles and prisoners, an essential element of a return to constitutional rule.²⁵

The surge of protests in the late 1970s and early 1980s put real pressure on the dictatorship to democratize. In particular, three events during the twilight years of the dictatorship set the stage for the battle over the post-dictatorship constitution. The first was the 1977 “Carta aos Brasileiros,” written by jurist Goffredo Telles Jr. and signed by Brazil’s leading constitutional scholars and lawyers. Read from the steps of the University of São Paulo’s law school, the letter stated that the only legitimate constitution was either one called by a constituent assembly or one enacted by a true revolution with participation by the people. The constitutional order imposed by the dictatorship lacked either legitimating event.²⁶ Moreover, in 1979, President João Figueiredo (1979–85) passed an amnesty law that allowed political exiles to return to Brazil and also revoked the hated Institutional Act No. 5. The years 1983–84 saw the largest nationwide mass protests in Brazilian history (*Diretas Já!*; Direct elections now!), in favor of direct election of the first civilian president, end in defeat. Instead, an electoral college selected the moderate opposition politician Tancredo Neves and regime ally José Sarney as president and vice president, respectively. The sudden illness and death of Neves before he could take office, however, catapulted Sarney into the presidency, to the consternation of the coalition behind *Diretas Já*.²⁷ With the issue of the presidency temporarily resolved, replacing the military constitution still in force dominated political life during the first few years of Brazil’s democratic transition.

After its defeat, the coalition behind *Diretas Já* turned to pressuring the Sarney government over the issue of the constitution. In São Paulo, the Catholic Church, professional organizations, and grassroots movements launched the Plenary for Popular Participation in the Constituent Assembly (PPPC), in January 1985.²⁸

24. Mário Cléber Martins Lanna Júnior, ed., *História do movimento político das pessoas com deficiência no Brasil* (Brasília: Secretaria de Direitos Humanos; Secretaria Nacional de Promoção dos Direitos das Pessoas com Deficiência, 2010), 48–54. On the history of the disabled movement in São Paulo during the dictatorship and democratic transition, see Cody Williams, “The Embodiment of Struggle in Greater São Paulo: Organized Labor, Human Rights, and Disability, 1964–2010” (unpublished manuscript, April 23, 2021).

25. On women’s movements during the dictatorship and the democratic transition, see Alvarez, *Engendering Democracy in Brazil*.

26. The “Carta aos Brasileiros” was reprinted in “‘Só o povo pode elaborar uma Constituição,’” *Folha de São Paulo*, August 9, 1977, 6.

27. On the Brazilian Institute of Social and Economic Analysis (IBASE), see Carlos Fico, *Ibase: Usina de idéias e cidadania* (Rio de Janeiro: Garamond, 1999).

28. See Michiles, *Cidadão constituinte*, 41. On January 17, 1985, diverse entities of the opposition to the dictatorship met at the Instituto Sedes Sapientiae at the Pontifícia Universidade Católica de São Paulo. While most groups were from São Paulo, delegations from Rio Grande do Sul, Santa Catarina, Paraná, Rio de Janeiro, Espírito

The group selected Francisco Whitaker Ferreira, a progressive Catholic activist who had worked on João Goulart’s agrarian reform and had returned from exile just prior to the 1979 amnesty as its coordinator. As an advisor to the progressive Cardinal Dom Paulo Evaristo Arns, Whitaker worked on diverse projects in conjunction with layperson groups and on public policy issues.²⁹ In Rio de Janeiro, the bishop Dom Mauro Morelli and sociologist Herbert de Souza founded the Movimento Nacional pela Constituinte. Independent of these two national entities, organizations sprung up across the entirety of Brazil with the common aim of steering the constitution in a progressive direction.³⁰

Pressure from this coalition attempted to cast the constitutional restoration after 1985 as illegitimate if it did not include popular participation. In part, the issue was whether the new constitution would be written by Congress or an assembly elected specifically for that purpose. Echoing the 1977 “Carta aos Brasileiros,” the PPPC issued an open letter in July 1985 that argued that any constitution written by a constituent assembly elected under the military constitution would be “arbitrary and illegitimate.”³¹ Notably, the letter also argued for popular participation in constitution-writing, resting the argument on historical rather than constitutional grounds. Brazilian society, it argued, had become far more “organized” since the last transition from authoritarian to democratic rule after the fall of the authoritarian Estado Novo in 1945 and the writing of the 1946 constitution. In this light, according to the PPPC letter, popular participation had become both the means and end of creating a functioning constitutionalism out of the authoritarian imbroglio of the previous two decades.

The PPPC helped orchestrate a national signature campaign and numerous caravans of protesters to Brasília to pressure Congress and the Sarney government, which opposed both a sovereign constitutional assembly and popular participation. Nonetheless, after a series of furious political maneuvers, Sarney signed a constitutional amendment to the dictatorship-era constitution that called for a constitutional assembly composed of the Congress to be elected in the upcoming November 1986 legislative elections.³² Although this

Santo, and Rondônia attended. While a motion to create a national committee for popular participation stalled, the Plenário of São Paulo was created after a subsequent meeting on January 28, 1985.

29. Francisco Whitaker Ferreira, interview with author, February 22, 2018.

30. Márcio Thomaz Bastos, “Constituinte, quando, como, por quem,” *Folha de São Paulo*, January 30, 1985, 3. See also Michiles, *Cidadão constituinte*, 41–44. The authors cite the Movimento Gaúcho Pró-Constituinte in Rio Grande do Sul and the Comitê Pró-Participação in Minas Gerais as early examples.

31. “Carta pede Constituinte desvinculada do Congresso,” *Folha de São Paulo*, July 18, 1985, 5.

32. “Plenário leva propostas a Brasília,” *Folha de São Paulo*, August 20, 1985, 4. See also, “Ato do Plenário reúne 700 pessoas no centro,” *Folha de São Paulo*, August 23, 1985, 5. Between August 17 and November 22, a congressional commission (*comissão mista*) convened to discuss the Sarney government’s request that a constitutional assembly be

disappointed groups like the PPPC, they wasted little time, using the setback in their campaign for popular participation. As one PPPC pamphlet declared, the move was a way for Sarney to “remove the people from the discussion” of what would be in the new constitution.³³

With legislative elections approaching, the two national pro-participation organizations called a rally in Rio de Janeiro in May 1986 and elaborated a minimum platform for candidates to receive their endorsement.³⁴ The stakes in securing this mechanism were only heightened when the left-leaning parties most likely to support popular participation had a disappointing showing in the November 1986 elections, resulting in the Constituent Assembly being dominated by the so-called “Centrão,” a bloc of mostly right-of-center deputies.³⁵ Nonetheless, after a sustained lobbying campaign, pro-participation groups finally won a mechanism for direct participation in the assembly. On February 1, 1987, the National Constituent Assembly was gavelled into session by its president, Ulysses Guimarães. In the day’s first session, the PPPC presented Guimarães and party leaders with their platform.³⁶ Likewise, the PPPC targeted Fernando Henrique Cardoso, the senator overseeing the writing of the internal rules of the Constituent Assembly, with a telegram and letter-writing campaign. Ultimately, the pressure campaign was successful. Cardoso largely adopted the PPPC’s proposals for popular participation.³⁷

called by way of a constitutional amendment. On August 20, 1985, the PPPC organized a series of caravans to the capital and coordinated a letter-writing campaign to the commission’s chairman, Flávio Bierrenbach (PMDB). Bierrenbach, a member of the former opposition party MDB and supporter of Diretas Já, advanced a proposal calling for a plebiscite to decide whether the constitutional assembly would be elected for that purpose (*constituente exclusiva*) or be composed of Congress. In response, Sarney and party leaders in PMDB stripped Bierrenbach of his chairmanship in October 1985.

33. Centro de Documentação e Memória, Universidade Estadual de São Paulo [hereafter CEDEM], Fundo Clube de Mães da Zona Sul [hereafter CMZS], box 10, folder 37, doc. 1.

34. Michiles, *Cidadão constituinte*, 56–57. See also “Plenário quer ter bancada no Congresso constituinte,” *Folha de São Paulo*, September 20, 1986, 8. National and local groups met in Rio in May 1986 and declared September 7, 1986 as National Constituent Assembly Day. In particular, the national organization for Brazilian bishops joined in calling for mechanisms for direct participation in both the writing of the constitution and in its final text. “Por uma nova ordem constitucional—declaração pastoral,” *Coleção Documentos da CNBB*, no. 36 (São Paulo: Edições Paulinas, 1986), 7.

35. The heterogeneous Partido do Movimento Democrático Brasileiro, successor party to the dictatorship-era opposition Movimento Democrático Brasileiro, won 303 of the 559 competitive seats, by far the most of any party, and won control of legislatures in all but one state. But their victory belied the diminishing power of the party’s progressive wing after joining the Sarney government, a rift that would lead center-left PMDB leaders to form the Brazilian Social Democracy Party (Partido da Social Democracia Brasileira, PSDB) in 1988. Likewise, right and center-right parties won significantly more seats (188) than their left and center-left counterparts (50). See “PT triplica bancada, mas a votação decepciona dirigentes,” *Folha de São Paulo*, November 23, 1986, 5.

36. “Iniciativa Popular Constituinte, primeira conquista a assegurar,” *O São Paulo*, February 13–20, 1987, 10. Fourteen senators and 76 deputies endorsed the proposal.

37. “Presidente afirma que resultado foi justo,” *Jornal de Brasília*, February 2, 1987, 2. The PPPC’s president, Francisco Whitaker, believed that the committee adopted the proposal out of fear that progressive forces would continue attacking the constitutional process as illegitimate if popular participation were not included. See also Michiles, *Cidadão constituinte*, 58–59. The popular amendments were included in Article 24 of the Regimento Interno, approved on March 25, 1987.

“NÓS AND THE CONSTITUENT ASSEMBLY”

Even with this victory, effectively utilizing the popular amendments would prove challenging. Groups could not finalize the text of their amendments until mid June of 1987, when the first draft of the constitution would be published. The unprecedented nature of the popular amendments made educating the public about them a daunting prospect. Moreover, organizers would have only eight weeks to gather the required 30,000 signatures, while ensuring that each citizen signed only three amendments.³⁸ Given the large number of amendments that were ready to circulate, this presented an enormous problem for coordination among hundreds of civil society groups and social movements scattered across Brazil. The stakes of chaos were high: if too many groups pursued slightly different amendments, they might fail to reach the 30,000 signatures necessary. There was also the potential that groups might submit contradictory amendments. The Catholic Church, for example, planned to submit an amendment for the continued illegality of abortion, while feminist groups rallied for its legalization.³⁹ Nonetheless, the popular amendments became a key part of a remarkable nationwide movement in which millions of Brazilians took part in discussing and even contributing to the shaping of Brazil’s new democratic constitution.

The need to coordinate signature collection led national groups to attempt to provide structure to grassroots efforts and mediate disagreements among their constituent movements. A coalition of leftist political parties, labor groups, and popular movements founded a national umbrella organization, the *Articulação Nacional de Entidades para a Mobilização Popular na Constituinte*, which attempted to coordinate the process of signature-gathering. The umbrella group set up a series of national events to coordinate the process, among them a launch day in June, a day for signature-gathering in July, and a day for all groups to submit their amendments in August 1987, just before the deadline.⁴⁰ At the June launch day, leaders of the *Articulação* navigated polemical questions such as how and when the coalition should pursue direct election of the president. In one incident, the political director of the labor federation

38. “Comissões que farão a Carta estão compostas,” *Correio Braziliense*, March 31, 1987, 2. Eight thematic commissions and 24 subcommissions were established on April 1 and April 7, 1987. In April and May, these commissions elaborated sections of the draft constitution. The groups interested in organizing popular amendments closely monitored the drafts as they wound their way through the commissions, waiting to launch their amendments once a finalized text appeared.

39. Michiles, *Cidadão constituinte*, 67–69. The organization was called the *Articulação Nacional de Entidades para a Mobilização Popular na Constituinte*. In São Paulo, the PPPC and its allies established a central location for signature-gathering, the “Sala da Constituinte,” in the University of São Paulo’s law school downtown, where anyone could come and sign popular amendments supported by these groups.

40. “Sala da Constituinte quer tirar dúvidas da população,” *O São Paulo*, June 6–11, 1987, 8.

CUT (Central Única dos Trabalhadores), Delúbio Soares, defended pushing for holding presidential elections immediately. But he then relented on the timeline for elections, stating “It’s no use wanting to pass our own proposals [if] they do not have consensus.” The president of the national student association, Gisela Mendonça, cited the urgency of the moment and the need to “mobilize the people in the streets and stop the advance of the right. This Constituent Assembly, despite its faults, was the result of much struggle by the Brazilian people. We cannot give up now.” Where differences were irreconcilable between groups, the Articulação Nacional allowed groups to pursue different amendments. But like Mendonça, most of its leaders saw the need to coordinate efforts among their groups and with the grass roots.⁴¹

To coordinate among groups and educate the public, the PPPC issued a special edition of its bulletin, “Intercarta Cidadão 30.000,” whose title referenced the required 30,000 signatures for each amendment. The first issue of “Intercarta Cidadão 30.000” spoke to the challenge of educating the public about the popular amendments, much less helping them decide which three to sign. Accompanied by a plea to copy and distribute the bulletin, the issue combined a detailed description of how the popular amendments worked with explanations of why they mattered to that moment in Brazil’s democratic transition. As the bulletin explained:

This instrument will lessen the effects of the defects and imperfections of our representative democracy; our constituent deputies alone will not decide the content of the New Constitution. The population will also mobilize in the collection of signatures for the proposals that they consider necessary. With this mechanism of direct democracy, our representative democracy will undergo the questioning that it needs to perfect itself.⁴²

In short, the popular amendments would serve as a corrective to Brazil’s unrepresentative democracy, one whose defects had been the subject of mass mobilization.⁴³ One pamphlet put out by the Catholic Church in São Paulo indicated the great effort that pro-participation groups went through to explain the constitution writing process. The pamphlet contained eight sections ranging from “What is a Constituent Assembly?” to “How [do I] participate in

41. “Emendas populares ganham as ruas,” *Correio Braziliense*, June 29, 1987, 5.

42. “Intercarta Cidadão 30.000,” no. 1, May 1987, from the personal collection of Pe. Antonio Marchioni.

43. “Intercarta Cidadão 30.000,” no. 3, July 1987, from the personal collection of Pe. Antonio Marchioni. While expounding the urgency of making those mechanisms for popular participation permanent, the issue also promised to print in full the texts of amendments submitted from groups around the country. But as the second issue declared, the response was so overwhelming that only short summaries could be printed, and only of a handful of the submissions.

the Constituent Assembly?” followed by a group-discussion guide prompting discussants to articulate their desires for the new constitution.⁴⁴

Indeed, far from being an isolated exercise, the popular amendments emerged as part of a multifaceted nationwide campaign by hundreds of groups to educate the public while pressuring the Constituent Assembly. In Curitiba in the southern state of Paraná, a Catholic outreach organization called the Center for Urban-Rural Education (Irmã Araújo) combined its pastoral activities in support of labor unions, urban social movements, and landless rural workers with advocacy for popular participation in the Constituent Assembly, in accordance with directives from the influential organization for Brazilian bishops, the CNBB (Conferência Nacional dos Bispos do Brasil).⁴⁵ An intelligence report documented that the Irmã Araújo center held seminars and distributed materials on the popular amendments and the Constituent Assembly to its community partners, with titles like “Popular Participation: How Do We Get There?” Moreover, as the area archbishop recounted to the press, “Contact with the community happens, virtually exclusively, in [the] mass, when a majority of priests explain the campaign” for the popular amendments from the pulpit. The center facilitated signature collection for popular amendments in favor of the agrarian reform proposed by the Landless Workers’ Movement, the expansion of labor rights supported by CUT, and the amendment for continued popular participation supported by the PPPC.⁴⁶

The content of the popular amendments themselves often resulted from grassroots meetings focused on the constitution. To cite one example, a national network of women’s groups led by the NGO Rede Mulher launched the campaign “Nós e a Constituinte” in 1986. Even prior to the official approval of the popular amendments, women’s groups held meetings in at least eight states over the course of that year to determine the content of their petition and later, the content of a popular amendment asserting equality between women and men in the constitution.⁴⁷ On June 8, 1986, one such

44. “Constituição: com povo cria tudo de novo!,” Centro de Defesa dos Direitos Humanos Oscar Romero, n.d., from the personal collection of Pe. Antonio Marchioni. The Centro Oscar Romero is a human rights organization affiliated with the archdiocese of São Paulo.

45. The Catholic Church played an essential role in this effort through the CNBB and its pastoral outreach arms. The coordinator of the PPPC, Francisco Whitaker Ferreira, wrote a form letter to all the bishops in Brazil notifying them of the CNBB’s endorsement and providing the text of the amendment and official signature sheets. Francisco Whitaker Ferreira to bishops, May 8, 1987, from the personal collection of Pe. Antonio Marchioni.

46. Centro de Formação Urbano-Rural “Irmã Araújo” (CFURIA), July 2, 1987, AN, FNSI, ACTACE 6536/86. Despite the return to democratic rule in 1985, intelligence forces continued surveillance of ostensibly “subversive” organizations. The archbishop quoted in the report was Dom Afonso Niehues, who oversaw the archdiocese of Florianópolis, Santa Catarina.

47. “Nós e a Constituinte,” Boletim de Intercâmbio das Organizações Populares de Mulheres, no. 4, September 1986, CEDEM, CMZS, box 10, folder 37, doc. 17.

meeting in São Paulo brought together over 1,000 people, most of whom were working-class women from the city's southern periphery, to elaborate proposals within eight thematic working groups ranging from health, housing, and agrarian reform rights to racial discrimination and domestic violence for their popular amendment. As the text of the popular amendment PE-20 explained, the work of “hundreds of women's groups across the country” through “Nós e a Constituinte” had produced a consensus as to what gender equality meant in practice, “the synthesis of which is contained in this amendment.”⁴⁸ Rather than simply prescribe gender equality, the amendment reflected the concerns raised in meetings like the one in São Paulo, specifically citing the need for gender equality in rights to property, in treatment of the disabled, in the execution of agrarian reform, and across racial lines.⁴⁹

The public echoed the organized pro-participation campaigns with letters and suggestions written directly to the Constituent Assembly. Historian Maria Helena Versiani writes in her analysis of thousands of letters composed by everyday Brazilians to the ANC that they reinforced “the idea that it was fundamental for the Brazilian people to assume sovereignty over the process, as a condition for reconstructing the country upon a truly democratic basis.”⁵⁰ Between March 1986 and July 1987, a Senate commission launched the *Diga Gente!* program through which 72,719 Brazilians directly submitted recommendations using cards available at schools, post offices, and other public entities.⁵¹ One such suggestion, from a transportation worker in Belo Horizonte, advocated for popular constitution-making through mechanisms for popular participation because they would incentivize “the people [to take part] in the practice of democracy, [and] by way of their direct participation, in the construction of the Rule of Law.”⁵²

After two decades of dictatorship, the physical presence of diverse groups in the capital Brasília to lobby the Constituent Assembly seemed to mark a new phase in Brazil's political history. As the thematic subcommissions elaborated their respective parts of the constitution beginning in April 1987, diverse groups made their presence known outside and inside Congress. In the Subcomissão

48. Relatório do encontro Nós e a Constituinte, September 1986, Rede Mulher, CEDEM, CMZS, box 10, folder 37, doc. 42.

49. Comissão de Sistematização, Assembleia Nacional Constituinte, *Emendas populares*, Vol. 2 (Brasília: Centro Gráfico do Senado Federal, 1987), 20.

50. Versiani, *Correio político*, 42.

51. On “Diga Gente!,” see Caroline Silveira Bauer, “Presenças da ditadura e esperanças na Constituição: as demandas da população sobre a prática da tortura,” *Estudos Ibero-Americanos* 45:1 (March 2019): 97–98.

52. Suggestion submitted by Angelo Fortuna, January 14, 1987, Arquivo Histórico do Senado Federal, Fundo Sugestões da População para a Assembleia Nacional Constituinte de 1988 (SAIC). Pro-participation organizers noted that public enthusiasm for participating in the Constituent Assembly remained high despite Brazil's roiling economic crisis in the 1980s and repeated setbacks in the struggle for democratization. See also Michiles, *Cidadão constituinte*, 12.

dos Negros, Populações Indígenas, Pessoas Deficientes e Minorias (Subcommission on Black, Indigenous, Disabled, and Minoritized People), to take one example, various groups used the public audiences to shape the first draft by speaking and occupying the public galleries in boisterous fashion.

The speakers were well aware of the historic nature of their presence and the stakes in the Constituent Assembly. José Antônio de Mascarenhas of the group Triângulo Rosa remarked in his speech, “For the first time, in our country, the National Congress hears a representative of a group for homosexual liberation.”⁵³ Maria da Graça dos Santos of the Movimento Negro Unificado called the moment of her speech an “emotional” one for Afro-Brazilians, but cautioned constituent deputies: “If one does not recognize racism, how is that they will they know demands made against it?”⁵⁴ On behalf of the disabled movement, Benício Tavares de Cunha remarked how in the past medical professionals had spoken to Congress on behalf of disabled people, but that “I think that this is the great victory of our Movement today: to be present here, making demands, to be here participating and demanding effective action [from the Constituent Assembly].”⁵⁵ Ailton Krenak, head of the Indigenous movement’s lobbying effort, used his time to explain the unique nature of Indigenous land rights. Upon taking the stand, he argued, “When we talk of Indigenous lands, we are speaking of the ‘homelands’ of the Indians, [which] cannot be characterized only by the economic significance that they might have. Indigenous territories are not the farms of Indians.”⁵⁶ As Krenak’s speech demonstrated, presence in the Constituent Assembly went beyond representation to active participation in shaping the emerging constitution.

These representatives rarely came alone. On April 23, 1987, a delegation of over 50 Indigenous people that included representatives from various nations walked through the halls of Congress and met with not just the relevant subcommission but also the president of the Constituent Assembly and the leader of the assembly’s largest political party, the Brazilian Democratic Movement Party (Partido do Movimento Democrático Brasileiro, PMDB).⁵⁷ As sociologist and Constituent Assembly deputy Florestan Fernandes recounted: “By various

53. Câmara dos Deputados da República Federativa do Brasil, *Diário da Assembléia (suplemento ao n. 62)*, May 20, 1987, 165. José Antônio de Souza Mascarenhas was the communications director of Triângulo Rosa. On the gay movement during the dictatorship and democratic transition, see James Green, *Além do Carnaval: A homossexualidade masculina no Brasil do século XX*, 3rd ed. (São Paulo: Editora da UNESP, 2022).

54. Câmara dos Deputados, *Diário da Assembléia (suplemento ao n. 62)*, May 20, 1987, 126.

55. Câmara dos Deputados, *Diário da Assembléia (suplemento ao n. 63)*, May 21, 1987, 96.

56. Ana Luzia Backes, Débora Bithiah de Azevedo, and José Cordeiro de Araújo, orgs., *Audiências públicas na Assembleia Nacional Constituinte: A sociedade na tribuna* (Brasília: Câmara dos Deputados, Edições Câmara, 2009), 515.

57. “Índios invadem Congresso e entregam propostas,” *Correio Braziliense*, April 23, 1987, 5. The article specifically cited the presence of representatives from the Xavante, Karajá, Canoiciros, Kaiapós, Txucarramae, Terena, Krahô, and Caiapó nations.

means, people of diverse social categories, professions, ethnicities, and races assumed center-stage and [took] the role of actor, of someone who speaks. An Indigenous person, a Black person, a physically disabled person, a modest teacher, emerged out of obscurity and rubbed shoulders with the notables.”⁵⁸ The pressure campaign inside the Constituent Assembly was matched by mobilizations throughout the country. Following the public audiences in meetings of the subcommission, protests occurred across Brazil in July 1987 as part of a national day of signature collection for the popular amendments.⁵⁹

On August 13, 1987, caravans brought more than 3,000 people to Brasília for a coordinated delivery of the popular amendments, where they were received by the president of the Constituent Assembly, Ulysses Guimarães, in an often raucous ceremony (see [Figures 1 and 2](#)).⁶⁰ As with earlier engagements with the subcommissions, the full diversity of groups engaging with the Constituent Assembly was on display. For pro-participation groups, the level of engagement with the popular amendments and the Constituent Assembly among the Brazilian public evidenced a nation ready to construct democracy.

THE POPULAR AMENDMENTS

The 122 popular amendments accumulated over 12 million signatures and sponsorships from hundreds of groups from across Brazil. The groups behind them varied widely, from large national organizations to local groups, from socialist organizations to powerful rural landowning associations. The measures proposed in the popular amendments ranged accordingly. A survey of the popular amendments underscores that civil society eagerly took up participation in the restoration of constitutional rule in Brazil. The diversity of the constitutional remedies contained within each of the popular amendments reveals, moreover, the degree to which the constitution became enmeshed in a multiplicity of agendas that reflected both the struggles that had dominated Brazil’s twentieth century and those around which political conflict in the New Republic would revolve.

The popular amendments with the most signatures reflected the wide range of issues brought forward but also their immersion in larger lobbying efforts centered around the constitution. The single amendment with the highest number of signatures, at 1.2 million, proposed rights for children, including rights “to life, a name, a family, an education, leisure, housing, [and] nutrition,”

58. Florestan Fernandes, “Invasão e desafio,” *Folha de São Paulo*, May 8, 1987, 3.

59. “Nas ruas do Rio, a passeata das emendas,” *O Estado de São Paulo*, July 18, 1987, 7.

60. “Ulysses recebe vaia durante ato no Congresso,” *Jornal de Brasília*, August 13, 1987, 3.

FIGURE 1

Disability Activists Submit Popular Amendment PE-86, August 13, 1987



Source: Arquivo Histórico da Câmara dos Deputados do Brasil, Fundo Assembleia Nacional Constituinte de 1987–1988, Grupo XIV–Divulgação, Série FT–Fotografias, Dossiê–6012.

as well as to social security. The justification for the amendment explained that the objective of the national awareness campaign of which the popular amendment was a part had as its objective “to broaden and deepen the debate over the life conditions and development of children and their rights in society.”⁶¹

Together, the two major pro-agrarian reform amendments acquired nearly 1.2 million signatures. While both were sponsored by essentially the same coalition, the difference between the two shows that constitutional concerns provoked varied approaches among backers of otherwise similar popular amendments. The first amendment, PE-52, was led by the National Confederation of Agricultural Workers (Confederação Nacional dos Trabalhadores na Agricultura, CONTAG) in collaboration with Catholic Church’s rural outreach arm, the Pastoral Land Commission (Comissão Pastoral da Terra, CPT), one of the major national labor

61. Comissão de Sistematização, Assembleia Nacional Constituinte, *Emendas populares*, Vol. 2 (Brasília: Centro Gráfico do Senado Federal, August 1987), 6. PE-1 was sponsored by the Comissão Nacional Criança e Constituinte. The amendment PE-96, proposing stricter laws against child labor, was backed by the National Movement for Street Children (Movimento Nacional de Meninos e Meninas de Rua), the national pediatrician’s association, Catholic entities, and the National Association for the Defense of Children’s Rights (Frente Nacional de Defesa dos Direitos da Criança). A third amendment, PE-64, likewise proposed rights explicitly for children.

FIGURE 2

President of the Assembleia Nacional Constituinte Ulysses Guimarães (standing, second from right) Receives a Popular Amendment, August 13, 1987



Source: Senado Federal do Brasil, Senado Fotos, <https://www12.senado.leg.br/fotos/busca>

federations (CUT), and the Brazilian Association for Agrarian Reform (Associação Brasileira de Reforma Agrária, ABRA). The amendment laid out a sophisticated series of constitutional mechanisms to effect a profound redistribution of rural land, including asserting the “social obligation” of land over private property rights, setting rates of compensation, asserting the rights of Indigenous populations, and restricting the maximum size of landholdings. The Landless Workers’ Movement (Movimento dos Trabalhadores Sem Terra, MST) insisted on a second amendment, PE-53, which included additional provisions for direct participation by landless workers in matters relevant to agrarian reform (among other measures), reflecting the greater affiliation of the MST with ideologies of participatory democracy relative to the more traditional CONTAG. Ultimately, the other groups sponsored and gathered signatures for both amendments, thus preventing major infighting among pro-agrarian reform groups during the Constituent Assembly.⁶²

62. Comissão de Sistematização, *Emendas populares*, 48–53. On agrarian reform and the popular amendments in the Constituent Assembly of 1987–88, see José Gomes da Silva, *Buraco negro: A reforma agrária na Constituinte de 1987/88* (Rio de Janeiro: Paz e Terra, 1989), 163–168.

While large national organizations played important roles in sponsoring numerous amendments, local and sectoral groups with less reach used them to make their own significant contributions. Even as CUT sponsored several amendments calling for sweeping labor rights and protections, so too did unions representing oil workers from Bahia, metalworkers and small farmers in Minas Gerais, port laborers in São Paulo, and retired steelworkers from Rio de Janeiro.⁶³ While organized labor claimed changes to their sector or sought additional protections, other workers used the amendments to demand their inclusion in the formal workforce. Associations of domestic workers from São Paulo and Santa Catarina, for example, submitted PE-114, which would extend labor protections and benefits to them, effectively formalizing one of the largest sectors of informal labor in which working-class Black and mixed-race women predominated.⁶⁴

This dynamic extended beyond amendments dealing with labor rights. The Catholic Church acquired over one million signatures cumulatively for its amendments supporting religious freedom and education and for continuing the illegality of abortion. Spiritualists (*espíritas*) and practitioners of Afro-Brazilian religions put forward two amendments establishing the right to spiritual treatments in health care. The Associação Umbandista e Casa de Caridade “Pai João de Porteira e Caboclo Pena Branca,” an Umbanda center in São Paulo, was among the key sponsors of PE-33, which sought to ensure that spiritual healers like *benzedadeiras* were not “marginalized and framed in the Penal Code.”⁶⁵

The legacy of the dictatorship loomed large in the popular amendments, especially with regard to military intervention and censorship. The União Nacional dos Estudantes, the national student association heavily targeted by the dictatorship’s intelligence forces, put forward an amendment that would expressly prohibit the military from intervening in domestic affairs.⁶⁶ Moreover, dueling popular amendments highlighted how struggles over morality around which Cold War conflict in Brazil had revolved continued into the post-dictatorship period. Two popular amendments, one supported by

63. Comissão de Sistematização, *Emendas populares*, 23–24, 32–33, 72–74. The cited amendments included PE-72 by oil workers in Bahia; PE-74 by metalworkers, miners, and small farmers in Minas Gerais; PE-23 by port and transportation workers in Santos, São Paulo state; and PE-34 by steelworkers and community groups in Volta Redonda, Rio de Janeiro state.

64. Comissão de Sistematização, *Emendas populares*, 102–103.

65. Comissão de Sistematização, *Emendas populares*, 32.

66. Câmara dos Deputados, *Diário da Assembléia (Suplemento “B”)*, August 31, 1987, 428–429. On the Brazilian student movement, historical memory, and the dictatorship, see Langland, *Speaking of Flowers*. Other proposed political reforms that relitigated conflicts over the pace and profundity of democratization included PE-88, which called for direct election of the president; PE-100, which instituted a four-year term for president beginning with the current president, José Sarney; and PE-108, which set term limits for the presidency.

artists and cultural workers and another by journalists, proposed constitutional measures prohibiting state censorship, “be it political or moral.”⁶⁷ In contrast, PE-84, sponsored by state censorship agents for the continuation of moral censorship, acquired more signatures than the two anti-censorship measures put together. The amendment advocated continued censorship to protect children and for the “preservation of family, religious, moral, and social values of the Brazilian people,” citing television in particular for its wide yet “indiscriminate” reach.⁶⁸

The popular amendments also evidenced an emergent right-wing coalition of religious conservatives, rural landowning interests, and politically active police associations. Four popular amendments included prohibiting abortion as a major or their sole provision; all of them received sponsorship from entities associated with the Catholic Church, signaling its conservative shift in the post-dictatorship era.⁶⁹ Police associations demonstrated high levels of political mobilization. One amendment, PE-97, supported by a coalition of teachers, civil police, and journalists from Bahia, sought to establish municipal control of police forces, declaring that the police “had been the object of militarization incompatible with their duties.” In contrast, four popular amendments supported by police associations in at least five states sought to maintain privileges enjoyed by police and stave off reform efforts.⁷⁰

Rural landowning interests led by the Democratic Association of Ruralists (União Democrática Ruralista, UDR) and the coffee-grower dominated Sociedade Rural Brasileira sponsored their own anti-agrarian reform amendment, although the 40,000 signatures they acquired paled in comparison to the 1.2 million amassed by pro-reform groups. Foreshadowing the political power that rural interests would hold in the New Republic, the only successful amendment of the six proposing the creation of new states was PE-26, backed by influential agribusiness interests. The amendment carved Tocantins out of the large but

67. Comissão de Sistematização, *Emendas populares*, 7–8. As PE-2 protested, over 500 artistic projects had been prohibited since the return to democratic rule in 1985, even after 21 years of artists’ struggles against censorship under the dictatorship.

68. Comissão de Sistematização, *Emendas populares*, 79–80. PE-84 acquired 67,156 signatures, while the two anti-censorship amendments PE-2 and PE-91 received 62,420 collectively. On morality and television in Cold War Brazil, see Thamyris Almeida, “‘Soul of a Modern Nation’: Television in Cold War Brazil, 1950–1985” (PhD diss.: Brown University, 2022).

69. While growing rapidly, Brazil’s Pentecostal and evangelical churches did not sponsor a popular amendment, although the syncretic New Thought Japanese religion, Seicho-no-Ie, sponsored the anti-abortion PE-78. The other three anti-abortion amendments, all sponsored by various entities associated with the Catholic Church, included PE-7, PE-11, and PE-99. Comissão de Sistematização, *Emendas populares*, 10–11, 13–14, 76, 93.

70. Popular amendments sponsored by police associations included PE-6, PE-38, PE-94, and PE-102. See Comissão de Sistematização, *Emendas populares*, 9–10, 35, 88, 95–96.

lightly populated Goiás state, an act that further skewed Brazil’s Senate in favor of rural states.⁷¹

While these groups demonstrated the capacity to mobilize growing constituencies, industrialists had a more mixed record. Amendments in favor of maintaining popular public-private vocational training and the service provision programs SESC, SENAI, SESI, and SENAC cumulatively acquired a higher number of signatures than any other subjects targeted by the popular amendments. But PE-82, which would have weakened labor rights and was supported by industrialists from Rio Grande do Sul, came under intense criticism amid news reports that employers had forced employees to sign to get over the 30,000-signature threshold.⁷²

Expanding rights both universal and particular received significant emphasis in the popular amendments. In accordance with its sophisticated lobbying campaign, the Sanitary Reform (Reforma Sanitária) movement sponsored an amendment establishing a right to health and a universal health care system. While medical professionals composed the public face of the movement, grassroots health movements in urban centers, above all in São Paulo’s urban periphery, collected most of the signatures for the Popular Health Amendment (PE-50). By including citizen oversight councils at all levels of the public health system, the amendment reflected the coupling of social rights and participatory democracy that characterized proposals for rights expansions more generally at the Constituent Assembly.⁷³ Other popular amendments proposed social rights to education, childcare, housing, leisure, transportation, nutrition, and retirement pensions, as well as minimum funding levels for public health programs.⁷⁴

71. PE-98 affirmed property rights against any redistribution through agrarian reform. See Comissão de Sistematização, *Emendas populares*, 92–93. In addition to PE-26, popular amendments proposed creating the state of Iguazu (PE-32) out of Paraná and Santa Catarina to resemble the former Território Federal do Iguazu; the state of Triângulo (PE-67) out of western Minas Gerais; the state of São Francisco (PE-93) from parts of Minas Gerais and Bahia; and the state of Santa Cruz (PE-113) out of parts of Bahia. In contrast, PE-85 prohibited any division of Bahia. See Comissão de Sistematização, *Emendas populares*, 26–27, 31–32, 67–68, 80, 86–88, 101–02.

72. Five popular amendments dealt with the preservation of the constellation of the public-private vocational training and service entities SENAI, SENAC, SESI, and SESCL; these were PE-36, PE-37, PE-68, PE-95, and PE-122. They were sponsored by business federations such as FIESP (Federação das Indústrias do Estado de São Paulo), by the vocational entities themselves, or by labor groups representing workers within those entities. See Comissão de Sistematização, *Emendas Populares*, 34–35, 68–70, 88–90, 107–108.

73. Comissão de Sistematização, *Emendas populares*, 46–47. On the Reforma Sanitária, see Sarah Escorel, *Reviravolta na saúde: Origem e articulação do movimento sanitário* (Rio de Janeiro: Editora Fiocruz, 1999); and Jairnilson Silva Paim, *Reforma sanitária brasileira: Contribuição para a compreensão e crítica* (Salvador and Rio de Janeiro: EDUFBA/Fiocruz, 2008).

74. Câmara dos Deputados, *Diário da Asembléia (Suplemento “B”)*, August 28, 1987, 410–415. Additional popular amendments proposed rights to health care (PE-50), childcare (PE-73), education (PE-121), and transportation (PE-109).

Alongside these proposed rights expansions, numerous popular amendments proposed rights and protections for particular groups denominated by race, ethnicity, gender, and age. The extraordinary range of groups speaks to just how widely the popular amendments were utilized: Afro-Brazilians, Indigenous people, disabled people, women, children, the elderly, incarcerated persons, and consumers all either submitted amendments or were the subject of proposed rights expansions.⁷⁵ Amid the wide range of measures proposed by the popular amendments, the expansion of rights, coupled with popular participation by marginalized groups became one of the defining experiences of the Constituent Assembly and the rationale by which the 1988 constitution would become the “Citizen Constitution.” This became particularly evident during the defenses of the popular amendments, held between August 26 and September 4, 1987, in which backers of amendments that met the signature threshold could nominate a speaker to make their case directly to the Constituent Assembly.

PARTICIPATORY DEMOCRACY, INCLUSIVE CITIZENSHIP

On October 5, 1988, Ulysses Guimarães, the president of the National Constitutional Assembly, formally baptized the final version of the constitution as the “Citizen Constitution” for its expansion of rights and its incorporation of mechanisms for popular participation. Indeed, the text of the new constitution proclaimed that the vote and direct democracy, equally, constituted the popular sovereignty (*soberania popular*) of Brazil’s new democracy.⁷⁶ As the oral defenses of the popular amendments in August and September 1987 demonstrate, the establishment of popular sovereignty and related rights expansions stemmed not from constitutional precedent, but rather from historical arguments about the active role of the Brazilian people in constructing democracy from below. Within that paradigm, diverse groups made claims to citizenship that reflected racial, ethnic, gendered, disability, and place-based distinctions.

The oral defenses of the popular amendments were poorly attended by Constituent Assembly deputies, as were many formal sessions. However, as Deputy Lysaneas Maciel argued, the absence of legislators did not detract from the significance of the defenses. Rather, by speaking to the press, the public in

75. Amendments for rights expansions included those for Afro-Brazilians (PE-104), Indigenous peoples (PE-39, PE-40), women (PE-19, PE-20, PE-23, PE-65), children (PE-1, PE-73, PE-96), the elderly (PE-3, PE-7), incarcerated persons (PE-16), and consumers (PE-45). See Comissão de Sistematização, *Emendas populares*, 7–8, 10–11, 17, 19–20, 35–38, 41, 64–65, 73–74, 90–91, 96–97.

76. “Referendo popular,” *Jornal do Brasil*, October 5, 1988, 12.

the galleries, and those legislators who did attend, the speakers could force debate on issues that mattered to them and counter the behind-the-scenes dealing “in the Bank of Brazil, in the Ritz Carlton [Hotel], and in various apartments” in Brasília that threatened the potential of the constitution to affect substantial change.⁷⁷ Of the 122 amendments submitted, 83 met the requirements for a public defense in front of the Comissão de Sistematização, the central committee of the ANC. Amendments that did not meet the signature or group sponsorship requirements could still receive consideration if they were co-sponsored by any constituent deputy.⁷⁸

The arguments made in the defenses offer a window onto how the social mobilizations that accompanied Brazil’s return to democracy were essential to creating legal justification for making popular participation a fundamental part of the constitution. In his defense of PE-56, which prescribed citizen oversight councils, former construction worker José Gomes Pimenta made this connection explicitly. Everyday citizens “involved in their representative entities, be they Labor Unions, associations and other popular organizations, strengthen themselves politically. . . these popular organizations fulfill the role of elementary schools of democracy and politics.” The amendment framed the Popular Participation Councils (Conselhos de Participação Popular) that would oversee every area of the state in collaboration with appointed bureaucrats as a simple “juridical recognition” of the democracy already in existence at the grassroots.⁷⁹

The defense of the PPPC-sponsored amendment, PE-21, echoed Pimenta and stressed that direct democracy would complement the election of representatives in constituting Brazilian democracy. PE-21 proposed giving citizens the permanent right to initiate both constitutional amendments and ordinary legislation provided they met certain signature requirements, among other mechanisms for direct democracy. As the legal justification submitted for PE-21 argued, the mechanisms it proposed were “entirely new in our juridical norms” but would further the collective responsibility “of all Society in the elaboration of the new Constitution and, therefore, in its legitimacy.”⁸⁰ In his defense of PE-21,

77. Câmara dos Deputados, *Diário da Assembleia (Suplemento “B”)*, August 27, 1987, 405.

78. PE-104 banning racial discrimination and prescribing rights for Afro-Brazilians was one such amendment that advanced in this manner. The amendment’s sponsors—the Centro de Estudos Afro-Brasileiros (CEAB), the Associação Cultural Zumbi, and the Associação José do Patrocínio—obtained only 2,074 signatures, but the amendment advanced with the co-sponsorship of constituent deputy Carlos Alberto Caó. See Natália Neris da Silva Santos, “A voz e a palavra do Movimento Negro na Assembleia Nacional Constituinte (1987/1988): Um estudo das demandas por direitos” (MLS Thesis: Escola de Direito de São Paulo, Fundação Getúlio Vargas, 2015), 140–146.

79. Comissão de Sistematização, *Emendas populares*, 56–57.

80. Comissão de Sistematização, *Emendas populares*, 22–24. PE-21 also included a measure whereby any congressional action regarding citizenship rights could be put to referendum should a portion (0.5%) of the electorate petition it. The amendment further proposed that any constitutional amendment approved by Congress but voted

jurist Dalmo de Abreu Dallari affirmed the “extraordinary interest” of the public in fulfilling this role as evidenced by their participation in the ANC, not least through the popular amendments. He emphasized, moreover, that the people would not supersede the role of the legislature. Rather, the people “feeling allied with the Parliament, its fellow worker, will be [the] uncompromising defender of its independence and [the] prerogatives that the Parliament needs.”⁸¹ In effect, Dallari argued that this dual basis for Brazilian democracy, composed of representative and direct democracy, would protect it against a resurgence of the arbitrary and authoritarian rule that had characterized the dictatorship.

The idea that the grassroots fight for democracy had qualified the Brazilian people to play this role offered diverse groups an opportunity to make their own claims to inclusion within this emerging constitutional order. In his defense of PE-86, a popular amendment submitted by national disability rights groups, Messias Tavares de Souza framed the extension of rights and welfare benefits to disabled persons as part of the larger civic awakening during the long, slow return to democracy that had begun during authoritarian rule in Brazil: “In the decade of the 1970s, disabled people, just like Black [people], women, and other groups in civil society, resolved to organize, on the question of survival.” After recounting the extensive mobilizations of disabled rights groups around the issue of a new democratic constitution, Souza criticized the “assistentialist” and paternalistic vision of disability advanced by another popular amendment sponsored by disability groups for a minimum income for disabled persons. Souza positioned his amendment and movements as “firstly and above all, for the right to citizenship,” which he said had as much to do with the material conditions of disabled people as it did their ability to actively participate in public life: the “right to come and go” like any citizen. To illustrate his argument, Souza pointed out that he had the right to defend the popular amendment but that he could not physically access the microphone provided.⁸²

Groups further cemented this claim by pointing to their contributions in elaborating the constitution up to that point, allowing them to tie longer histories of struggle to the constitutional restoration then underway. Ailton Krenak defended PE-40, which established rights and protections for

against by 40 percent or more of congressional deputies, or conversely, any amendment rejected by Congress but for which 40 percent of congress deputies voted in favor, be submitted to a national referendum. The mechanism for making popular constitutional amendments permanent, known in juridical terms as amendment by “popular initiative” (*iniciativa popular*), required signatures from one percent of the national electorate. Citizens could propose regular legislation on an equal basis with legislators with just 70,000 signatures, after which Congress had 180 days to vote on the proposed legislation.

81. Câmara dos Deputados, *Diário da Assembléia (Suplemento “B”)*, September 1, 1987, 441.

82. Câmara dos Deputados, *Diário da Assembléia (Suplemento “B”)*, August 27, 1987, 421–423.

Indigenous Brazilians, emphasizing the active role that Indigenous people had taken in pursuing their rights and participating in the constitution-making process during the previous months. This presence, Krenak surmised, had served to reinforce for constituent deputies that Indigenous people were claiming only their original rights to their lands. Moreover, their work in the Constituent Assembly “had cast a light onto the stupidity and darkness that has been the historical relationship between the State and Indigenous needs. It has made progress in the sense of having advanced a perspective of a future for Indigenous people.”⁸³ In the middle of his speech, Krenak began painting his face with the *jenipapo* fruit in a manner traditional to Indigenous peoples in Brazil.

Krenak characterized this act as a manifestation of Indigenous culture in protest of the extreme violence with which rural landowning interests were coveting their lands, and the responsibility of the constituent deputies in protecting Indigenous peoples from that violence. As sympathetic constituent deputies commented in the debate that followed Krenak’s speech, his act laid bare the fact that Brazil could not “construct a democratic country without respecting the rights of minorities.”⁸⁴

If Krenak underlined how popular participation shaped the responsibilities of the future democratic state, especially to marginalized ethnic and racial groups, those supporting the democratization of Brazil’s cities through an urban reform (*reforma urbana*) agenda underscored the need for new formulations of citizenship so that the people could fulfill their constitutional role as active participants. The defender of PE-63, urban planner and scholar Ermínia Maricato, advocated for urgent reforms in the face of “the new Brazilian reality,” namely the mass rural-to-urban migration and the rise of megacities with large urban peripheries and informal settlements completely lacking in basic urban infrastructure and state services.⁸⁵ Dalva Stela Rodrigues Madeiro, the president of the National Confederation of Residents’ Associations (CONAM), lamented that the ANC had ignored the needs of the urban poor, but that the popular amendments offered an opportunity to call attention to questions that impacted both the “living conditions and exercise of citizenship of millions of Brazilians.” PE-115, in favor of a right to housing, addressed both issues so that all Brazilians “could enjoy their citizenship in the broadest sense, incorporating social citizenship to political citizenship, without which the very existence of democracy is threatened.”⁸⁶

83. Câmara dos Deputados, *Diário da Assembléia (Suplemento “B”)*, September 4, 1987, 572.

84. Câmara dos Deputados, *Diário da Assembléia (Suplemento “B”)*, September 4, 1987, 573–574.

85. Câmara dos Deputados, *Diário da Assembléia (Suplemento “B”)*, September 4, 1987, 402–403.

86. Câmara dos Deputados, *Diário da Assembléia (Suplemento “B”)*, September 4, 1987, 406–408.

In short, defenders of amendments in favor of popular participation as well as rights for particular groups and universal social citizenship laid out a vision of popular sovereignty that would undergird an expansive, participatory citizenship. Groups marginalized due to racial and ethnic discrimination or disability articulated the rights that would allow them to play the constitutional role as co-guardians of Brazil's new democracy alongside the elected legislature.

To what degree were pro-participation groups successful in implementing this vision in the Citizen Constitution? On one hand, the direct impact of the popular amendments themselves on the final text of the constitution is difficult to measure. After the defenses, the popular amendments were evaluated by the ANC's central committee, the Comissão de Sistematização. As technical staff associated with the Comissão reported, the central committee ultimately integrated some part of 43 popular amendments into the text of the constitution. This gave the popular amendments a higher success rate (35%) than amendments submitted by Constituent Assembly deputies (27%).⁸⁷ But defeat in the Comissão de Sistematização, whether partial or total, did not mean that a popular amendment or a given provision did not make it into the text of the constitution. Rather, many that were initially rejected were reintroduced later by sympathetic deputies, or were fused with existing amendments as the constitution underwent several rounds of revision over the course of 1988.

The varied, sometimes contradictory aims of the popular amendments likewise complicate an assessment of how the constitution reflected their priorities. Citizens won universal rights including health, education, housing, transportation, leisure, nutrition, unemployment insurance, and retirement, among others. Indigenous people acquired stronger constitutional rights to their lands and disabled persons significant rights supporting the exercise of active citizenship. The constitution established gender equality, made racism a crime, granted land rights to *quilombos*, confirmed the right to vote for illiterate people, and provided some measures for democratizing Brazilian cities. Among the biggest defeats, however, was the lack of agrarian reform in the final text.⁸⁸

87. "Carta inclui as emendas populares," *O Globo*, July 3, 1988, 7. In the registries produced by the Comissão de Sistematização, the initial approval rate for popular amendments is recorded as slightly higher, with 48 (39%) receiving either partial or total approval. Notably, those that met the requirements for an oral defense were substantially more likely to be approved than those that did not, representing 83 percent (40) of all approved amendments despite composing only 68 percent (83) of the total 122 popular amendments submitted. For amendments that received an oral defense, see Comissão de Sistematização, Assembléia Nacional Constituinte, *Projeto de constituição: substitutivo do relator* (Brasília: Centro Gráfico do Senado Federal, 1987), 4–11. For amendments that did not meet the requirements for a defense and thus were co-signed by a constituent deputy, see Comissão de Sistematização, Assembléia Nacional Constituinte, *Parecer sobre as Emendas oferecidas em Plenário ao Projeto de Constituição* (Brasília: Centro Gráfico do Senado Federal, 1987).

88. For an overview of the 1988 constitution, see Daniel Aarão Reis, "A Constituição cidadã e os legados da ditadura," *Locus: Revista de História* 24:2 (February 2018): 277–279.

Perhaps the greatest contribution of the push for popular participation was the inclusion of concepts of popular sovereignty that undergirded the idea of a “citizen constitution.” Article 1 of the constitution states that “All power emanates from the people, who exercise [it] by way of elected representatives or *directly, under the terms of this Constitution.*” The italicized phrase refers to the mechanisms for direct democracy included in the PPC’s popular amendment and inspired by the popular amendments themselves. Brazilian citizens would now be able to propose laws, a concept referred to as popular initiative laws (*leis de iniciativa popular*) on equal grounds with legislators, provided certain signature requirements were met. This basis for sovereignty is further reflected in the constitution’s conception of political rights: “Popular sovereignty will be exercised by universal suffrage and the direct and secret ballot, with equal value for all, and, by the terms of the law, by means of I – plebiscite; II – referendum; III – popular initiative.”⁸⁹ This represented a remarkable shift from the arbitrary constitutional manipulations of the dictatorship. Rather, the text of the Citizen Constitution situated everyday citizens as guardians of Brazil’s democratic order, a role reflected in its inclusion of direct democracy as a core component of citizens’ political rights, alongside the vote, at least in theory.

The degree to which the rights expansions contained in the 1988 constitution has translated to material realities presents a more complicated picture. The logistical challenges of popular initiative laws—the one percent of Brazilian population required as signatories exceeded 1 million people in 1990—has contributed to the use of the mechanism on only a limited basis, although the anti-corruption measures such as the Clean Slate Law (*Lei da Ficha Limpa*) and a major public housing fund remain significant achievements.⁹⁰ More broadly, the culture of active citizenship that the push for popular participation both fed off and fueled has become an accepted part of Brazilian political life.

Popular sovereignty, however, remains a contested space. While this article has focused on those movements affiliated broadly with the political left that fought hardest for popular participation, right-wing groups such as the anti-agrarian

89. *Constituição da República Federativa do Brasil: Texto constitucional promulgado em 5 de outubro de 1988, com as alterações determinadas pelas Emendas Constitucionais de Revisão nº 1 a 6/94, pelas Emendas Constitucionais nº 1/92 a 91/2016 e pelo Decreto Legislativo nº 186/2008* (Brasília: Senado Federal, Coordenação de Edições Técnicas, 2016), 11.

90. See “A democracia participativa na Assembleia Nacional Constituinte e na Constituição de 1988,” *Revista Brasileira de Estudos Políticos* 121:2 (July–December 2020): 438–440. The authors identify seven laws that have begun as *leis de iniciativa popular* since 1988: PL 2710/1992, which proposed a national fund and oversight council for public housing (Fundo Nacional de Moradia Popular e o Conselho Nacional de Moradia); PL 4146/1993, which altered law concerning homicides after the murder of telenovela star Daniella Perez; PL 1517/1999, on anti-corruption measures related to vote buying; PL 7053/2006, dealing with issues of sentencing for violent crimes; PL 1472/2007, which proposed measures clarifying taxes paid for goods or services by consumers; PLP 518/2009, which created the anti-corruption “Clean Slate Law” (*Lei da Ficha Limpa*); and PLP 321/2013, on minimum levels of public health funding.

reform União Democrática Ruralista also participated in the founding act of Brazil's new democracy. This has had significant consequences, given the vexed nature of the 1988 constitution, riven between its expansive social democratic project of rights and welfare expansion and its deeply conservative elements. These consequences reflected in part the strategic choice of the left to focus its efforts on issues of rights and welfare at the ANC in the face of conservative strength. Leftist deputies understood that the 1979 amnesty law made achieving justice for human rights abuses during the dictatorship an unlikely event, even if they had the political force to do so.⁹¹ The need to reconcile the progressive and conservative visions also contributed to the extraordinary length of the constitution, as did its inclusion of measures perhaps better left to ordinary law. In turn, this has promoted the judicialization of Brazilian politics, as competing factions can instrumentalize the constitution to settle political disputes.

As Tomaz Womhon predicted, the Citizen Constitution did not cause a revolution in Brazil, but it did create mechanisms for the social advancement of its people. Popular social movements encountered significant headwinds in the 1990s: rampant inflation, the continuing conservative turn of the Catholic Church, deindustrialization, rising violence in cities, and the “NGO-ization” of certain movements, to name a few. Nonetheless, the social pact cemented by popular participation could not be undone. The Movement for Ethics in Politics (Movimento pela Ética na Política) led by sociologist Herbert “Betinho” José de Souza powerfully reprised its ethos in the movement to impeach Fernando Collor de Mello for corruption in 1992, as did the influential movement to end hunger in Brazil, the *Ação da Cidadania contra a Fome, a Miséria e pela Vida*.⁹² Movements for Afro-Brazilians, Indigenous peoples, women, disabled persons, and favela residents, among many others, likewise grounded claims for rights and participation in politics in the new sense of *cidadania* or citizenship, helping place Brazil on the forefront of the “inclusionary turn” in contemporary Latin American politics. The diverse coalition behind the popular amendments had understood that the Citizen Constitution was only one step in a longer struggle. Brazil could be the egalitarian democracy that they desired—but only if its citizens make it so.

CONCLUSION

This article has examined the restoration of constitutional rule in Brazil through the push for popular participation in the writing of the country's

91. Brazil would hold a truth commission investigating human rights abuses during the dictatorship only in 2012–14, the last country in the Southern Cone to do so.

92. On these movements and Herbert de Souza's NGO *Ibase*, see Carlos Fico, *Ibase*.

post-dictatorship constitution. That effort had its roots in the long struggle for a return to democratic rule amid a dictatorship that paradoxically used constitutional measures to enhance its capacity for arbitrary and extra-constitutional actions. The persistence of that constitutional order and the lack of justice for victims of human rights abuses committed during the dictatorship—despite the broadest and most sustained social mobilizations in Brazilian history, culminating in the massive street protests of the *Diretas Já* campaign in 1983–84—have led some scholars to characterize Brazil's democratic transition as the most "conservative" of the South American constitutional restorations.

The popular amendments represented a concession won by pro-democracy forces within that transitional process. Accordingly, they reflected the extraordinarily heterogeneous coalition that continued that effort even after the return to formal democratic rule in 1985. The variety of measures proposed in the popular amendments and the diversity of groups that engaged with the Constituent Assembly demonstrate that the constitutional restoration did not remain confined to political elites within the most rarefied of political institutions, the constitutional assembly. By tying the constitutional restoration to myriad social struggles for full citizenship, pro-democracy groups like the PPPC and marginalized Brazilians fought to make everyday citizens co-equal guardians of Brazil's nascent democracy. In doing so, they replaced the authoritarian constitutional order with one that grounded its sovereignty in the direct participation of ordinary Brazilians, even as the consolidation of that order, and therefore of Brazilian democracy, remains an ongoing struggle.

The popular amendments open new possibilities for understanding democratic transitions in Latin America by situating the restoration of constitutional rule within social struggles that spanned the twentieth century. Popular participation in the Brazilian case evidences the real impact that social mobilizations during democratization and the transitions had on the constitutional restorations: that constitutional concerns mattered significantly to everyday citizens of diverse backgrounds. Through the popular amendments, those citizens laid claim to the post-dictatorship democracy they hoped would emerge after years of instability, economic crisis, and political backsliding. Concurrently, groups of marginalized Brazilians in fighting for participation tied resistance to authoritarianism to the struggle for a democracy more cognizant of inequality along lines of race, ethnicity, gender, and disability, issues around which political conflict would more overtly revolve in the post-Cold War age.

Indeed, both the very existence of the popular amendment themselves and the far-ranging proposals contained therein evidence that beneath the surface of

controlled political transitions swirled currents of radical possibility. The history of the popular amendments restores a sense of possibility to the 1980s as a decade in which a diverse, heterodox coalition won a democracy grounded in notions of popular sovereignty, even if its full realization remains elusive.

SUPPLEMENTARY MATERIAL

To view supplementary material for this article, please visit <https://doi.org/10.1017/tam.2022.7>.

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