



Education in the Constituent of Minas Gerais (Brazil) – 1947

La Educación en la Constituyente de Minas Gerais (Brasil) - 1947

A Educação na Constituinte do Estado de Minas Gerais (Brasil) - 1947

CARLOS ROBERTO JAMIL CURY¹

Abstract

This study examines the process by which the 1947 Constituent assembly was able to incorporate the right to education into a new State Constitution for Minas Gerais. As a federative country, Brazil had established certain national guidelines for its member States regarding education and the development of school-systems, guidelines that appeared in the 1946 Federal Constitution. However, the same document also called for States to draft their own constitutional texts which, all while following federal guidelines, might nonetheless afford a certain measure of autonomy and decentralization in the management of education within each State. The present article aligns itself with other studies concerned with the link between parliamentary process and education. Our investigation of sources consulted at university and public libraries, in conjunction with close reading of primary texts (namely, the Constituent Assembly Annals available in the library and archives of the State Legislative Assembly, as well as in the Public Archive of Minas Gerais) leads us to conclude that the 1947 Constituent did in fact discharge its duty as laid out by the Federal Constitution. This is especially apparent when one compares the final text to the process by which it was drafted, as evinced by records of debate, proposals for amendment and the arguments supporting them. The chapter on education would eventually gain clearer form following the introduction of infraconstitutional legislation.

Keywords: Constituent and education; Education and the Minas Gerais Constituent; Right to Education and Constituent process.

¹ PhD in Education: History and Philosophy of Education by Pontifical Catholic University of São Paulo. Post Doctoral in the Law School of São Paulo University (USP), in the Université de Paris (Sorbonne V - France), in the École de Hauts Études en Sciences Sociales de Paris (EHESS-France) and in the Federal University of Rio de Janeiro (UFRJ). Research Scholarship CNPq 1A – Productivity. Full Professor Emeritus Retired of de Federal University of Minas Gerais (UFMG). Adjunct Professor of Pontifical Catholic University of Minas Gerais (PUCMinas). E-mail: crjcury.bh@terra.com.br

Resumo

Este texto visa verificar o processo de tramitação do direito à educação na Constituinte do Estado de Minas Gerais – Brasil no ano de 1947. O Brasil, país federativo, atribuía aos Estados o respeito às diretrizes e bases da educação nacional e a capacidade de desenvolvimento de seus sistemas de ensino em suas Constituições. Ao mesmo tempo, a Constituição determinava que os Estados deveriam elaborar suas Constituições devido à sua autonomia e à descentralização de competências no campo da educação. Este estudo se insere dentro de pesquisas e estudos interessados na relação entre processos parlamentares e educação. O estudo das fontes evidenciou que a Constituinte Mineira de 1947 se desincumbiu do dever posto na Constituição Federal. Busca-se tanto apontar o texto final como o processo que o constituiu. As fontes documentais foram a matéria-prima de consulta nos Anais da Assembleia Constituinte na biblioteca e arquivos da Assembleia Legislativa Estadual de Minas Gerais e no Arquivo Público Mineiro. Bibliotecas de universidades e do setor público também foram investigadas. O capítulo próprio da educação ganharia um desenho mais detalhado por meio de leis infraconstitucionais.

Palavras-chave: Constituinte e educação; Educação e Constituinte Mineira; Direito à Educação e Processo Constituinte.

Resumen

Este texto pretende traer al conocimiento el proceso del derecho a la educación en la Constituyente de Minas Gerais - Brasil en el año de 1947. Brasil, una federación, tiene reglas generales validas para todos los Estados-miembros. Las Directrices y Bases de la Educación Nacional constituyen una de estas normas. Al lado de esto, los Estados tienen la capacidad de desarrollo de sus sistemas educativos. También pueden elaborar sus Constituciones debido a su autonomía y descentralización en el campo de la educación. Este artículo es una continuidad de otras investigaciones que estudian la relación entre procesos constituyentes y educación. La búsqueda de fuentes se dio en los documentos originales constantes en la Biblioteca de la Asamblea del Estado de Minas Gerais y también en el Archivo Público y en las bibliotecas universitarias. El capítulo de la educación sería más detallado en las leyes ordinarias.

Palabras clave: Constituyente y Educación; Educación y Constituyente de Minas Gerais; Educación y Processo Constituyente.

Recebido em: maio de 2018

Aprovado para publicação em: junho de 2018

Introduction

This study examines the process by which the Constituent assembly of Minas Gerais, tasked with drafting a new State Constitution in 1947, incorporated into this document the right to education. The Federal Constitution – on which the Constituent’s efforts were based – had included a chapter on education, given that it was the purview of the Union to establish the basis and directives for a national standard of learning. This education was to be cost-free, compulsory at the primary level, and financed by tax revenues, all in view of increasing enrollment. At the curricular level, the Federal Constitution also allowed for religious teaching in government schools.

The Federal Constitution of 1946 required that each State of the Federation write its own respective Constitution.

It is precisely this decentralization, in a federative country, of duties pertaining to education that makes a clearer understanding of the 1947 procedures so important (ARRETCHE, 2000).

The 1946 Constitution, while guaranteeing the autonomy of each State in the federative system, set as a requirement for all States and Municipalities to provide free and mandatory primary education within the government system of schools, as well as to ensure funding for these schools via tax revenues allocated to this end. It established education as a right, in addition to setting other general directives to be followed by all federative entities (OLIVEIRA, 1990).

This is in accordance with a federalist approach to education, in which basic guidelines are set by the Union. It is then the responsibility of the individual States and Municipalities to put these guidelines into effect, and to allow for what is today called basic education, although they may also choose to invest in secondary and post-secondary institutions.

Continental-scale countries tend generally toward federative systems, and this is the case of Brazil also. These systems necessarily involve complex, multilateral engineering between competing seats of power – in particular, the power of the center and that of the member States. The primary relationship, in other words, is one of centralization x decentralization. When the resulting system is centrifugal in nature, it tends to resemble that of countries like the United States, in which the power of member States is considerable. On the other hand, in centripetal systems, the center – or the Union, as it is called in Brazil – is the more dominant party (OLIVEIRA; REZENDE, 2003).

Cooperative federalism seeks a balance of power between the Union and its member States. In establishing different duties and tasks, it creates collaborative links and activities planned in such a way as to encourage cooperation toward common goals. This political system of cooperative federalism was incorporated formally into legislation via the Federal Constitutions of 1934 and 1946.

On the opposite end of the spectrum from the Federal State is the Unitary State, in which a central government holds exclusive authority and total jurisdiction throughout the territory. In terms of any sub-dividing that may occur for administrative purposes, said subdivisions tend to have no federal autonomy, and are often termed Departments, Regions, or Provinces rather than States. Areas like health, justice, and education, therefore, though subject to delegated administration, are ultimately under the purview of the central government.

It is important to understand the forces that shaped and continue to shape our social and political reality, and this is particularly true as concerns the right to education, an area which, provided adequate study, may help shed light on the current distribution of tasks and duties of our different federal bodies.

The Constituent of Minas Gerais and its proceedings in 1947 are the primary focus of this study. As per national legislation, from 1947 to 1967 the State managed educational matters under its purview in accordance with the education Title (Title XI) of its State Constitution. The right to education was therefore guaranteed both by its national definition as well as by its practical execution in the public and private education systems of the State, and the State Constitution's Title on education played an understandably important role in this process (IVO, 1997).

This study proposes to fill a gap in the legal scholarship of Minas Gerais. The State's first Constituent assembly has already had its annals collected and analyzed as they pertain to the matter of education (CURY, 1991), and the most recent version has likewise been thoroughly studied (RESENDE, 1997). But there remain two Constituents yet to be examined (or three, if one considers the change made from the Minas Gerais Constitution of 1946 to that of 1967). The first of these is the Constituent of 1935, the annals of which were mostly lost in the fire at the former Assembly building. It is the second, the Constituent of 1947, that is the subject of the present work.

The Magna Carta of 1946 determined, in article 11 of the Transitional Constitutional Provisions Act, that state-level elections would take place on January 19, 1947. In addition to the election of governors, senators, and federal deputies, there would also be the creation of State Legislative Assemblies, which would have both ordinary and *constituent* duties. It is the latter of these that the study proposes to examine, i.e. the deputies' work within the Constituent assembly to draft a new State Constitution.

In undertaking our investigation, we asked ourselves the following question: did the Minas Gerais Constitution of 1947 present any significant innovations in terms of education policy? Or did the deputies of the Constituent limit themselves to minor adaptations of the previous year's Federal Constitution?

Archival sources, including annals, projects, and legislation, were the primary sources used in the consultation, data-collecting, and systematization done at the State Legislative Assembly of Minas Gerais (SLAMG) and at the Public Archive of Minas Gerais. They were consulted in the two volumes comprising the Constituent Assembly Annals of 1947 (MINAS GERAIS, 1948a).

These Annals have been digitized and may also be consulted on the online Portal of the Legislative Assembly of Minas Gerais. Other sources at university and public libraries were also of valuable use in locating subsidiary documentation.

Furthermore, thanks to the work of historians having already studied the period in question (BORGES, 2004; CIMINO, 2013), this archival information is explored in light of the context and realities of the era, either of Brazil as a whole or of the more local realities of Minas Gerais.

We hope in this way to contribute to a growing field of study that proposes to investigate the relationship between education, the right to education, and legal constituent processes.

Formally speaking, a constituent process is democratic if and when it is founded on popular sovereignty. Popular sovereignty involves each and every citizen as a source of power, ensuring they are the originators of the laws to which they are subject. Such a system necessarily requires a public space for dissent, by which we mean the many ways that differing social forces may carve a path through the political system. Dissent, an expression of disagreement regarding legal interpretations or proposals within a political system, does not in itself imply a violation of norms. Dissent may also take the form of a legitimized channel of expression for minorities who have come to question dysfunctional situations in the social system, and who call for changes to the status quo (BASTOS, 1994; VERGOTTINI, 1986).

This is why periodic, regular, and transparent elections constitute such an important opportunity for the proposal of legal changes and reform, since candidates' commitment to their platforms once elected may serve to alter the path of a political administration.

These changes occur within a referential framework of citizenship that, while hardly revolutionary in bent, nonetheless imagines a path toward increased social equality and decreased cultural discrimination and regional disparities (MARSHALL, 1967; CARVALHO, 2002; BOBBIO, 1992).

The creation of a Constituent or constitutional assembly is driven by a need to change some current situation; in other words, it aims to reform the status quo.

Reform is a polysemic concept that may refer to any number of different ideas. It derives from the Latin *re-formare*, meaning to return to a previous or original shape, to reconstruct it. It aims, in this sense, to modify a former situation in view of a desired new one. Over time, the word has also come to mean "to give a different form" or "to give a new and different form." In the first instance, the change is one that may still require examination. This is also true of the second, though in this case the change will be examined in relation to some previously existing state of affairs.

Whatever the case, the term "reform" implies a current situation that the reforming agent would like to change to another, since it no longer adequately addresses the agent's needs. This inadequacy may be the result of wear, failure, or insufficiency; it may also be the result of a crisis.

Hence the search for change and an alteration of the status quo toward something new and presented as better – more appropriate or more advanced. In the case of societies governed by written legal codes, reform involves a re-drafting of legislative texts and an alteration of norms in view of new parameters.

Considering, therefore, the many ways in which reform may be postulated, we may choose to follow Commaille (1993) in classing them into four major groups:

- a) Legislative and social change;
- b) Legislative change without social change;
- c) Social change without legislative change;
- d) Neither social nor legislative change.

Situation *a* occurs when, directly or indirectly, a social change effects a change in law. Situation *b* occurs when the law is unable to effect social change, or when the law is devised precisely in order to prevent such change from occurring. Class *c* indicates considerable

inefficiency of the law, such that the relationship between legal and social spheres is almost nonexistent. Class *d* describes cases in which social and legal realities have reached a state of equilibrium and stability.

The type of research method adopted in the present study, by combining historical research with that of social relations, may lead to meaningful insights and improve our understanding of such social and legal changes.

As concerns the present study, constitutional reform is viewed as a political decision, made by an authority with constituent power deriving from the original source thereof – namely, member States' prerogative to draft their own Constitutions by means of Constituent assemblies. From this then derive the policy changes that, through legal reform, attempt to change the state of education to one considered more aligned with a desired or projected reality.

Careful study of our sources showed that the Minas Gerais Constituent, in drafting its own Constitution in 1947, discharged the duty set forth by the Federal Constitution of 1946. The new document addressed the question of education in a title of its own (Title XI – On Education and Culture) with eleven articles, all of them in compliance with the chapter on education found in the Federal Constitution, with no significant alterations.

The Constituent was composed of 72 elected deputies, all male, the majority elected by the Social Democratic Party (Partido Social Democrático or PSD) with 272,003 votes (33.3%), followed by the National Democratic Union (União Democrática Nacional or UDN) with 191,271 votes (23.5%), the Republican Party (Partido Republicano or PR) with 165,656 votes (20.3%), the Workers' Party of Brazil (Partido Trabalhista Brasileiro or PTB) with 89,381 votes (8.5%), the Brazilian Communist Party (Partido Comunista do Brasil or PCB) with 19,889 votes (2.5%), and other parties with 97,323 votes (11.9%). PSD elected 29 deputies, UDN elected eighteen, PR had fourteen, PTB five, PCB one, and the others (PTN, PRP, PDC) also had one each.

The numbers show that three parties – PSD, UDN, and PR – amassed 59 of the total seats. The parties, who are identified in political science literature as being conservative, garnered 77.1% of the votes counted, according to a text published by the Assembly of Minas Gerais (1989), which also states that:

The rooting of the parties in these elections is also quite peculiar, and suggests that each party, in most electoral zones of the State, relies on the votes of a **single candidate**, a fact that speaks to the predominance, in these areas, of a **non-ideological** politics that was formerly personalist. (MINAS GERAIS, 1989, p.240)

Another fact highlighted by the source above concerns the role of political clientilism at the municipal level, which enabled the election of most deputies based only on the votes of a small number of electoral zones. A few doctors and lawyers, with no previous affiliation to municipal politics, were successfully elected.

According to this publication, the dynamic of municipal politics is of considerable importance, since

[...] the parties appear to draw their power, not from any ideological relationship with the electorate, but, overwhelmingly, from politicians' engagement in clientilism and the allies they are able to cultivate in each municipality or electoral zone. (MINAS GERAIS, 1989, p.246)

The opening or Installation Session took place on March 17, 1947, under the chairmanship of Magistrate Leovigildo Leal da Paixão. Senator Feliciano Pena of the Republican Party was chosen to act as President of the Presiding Committee, and Tancredo Neves, of the Social Democratic Party, was elected rapporteur of the Special Committee. It was the responsibility of this Committee to give shape to the final text as discussions and voting progressed.

The Constituent began its work on March 20 and concluded on July 14, 1947.

Themes in Education

As concerned education, the most frequent topics of debate were its being free, its being compulsory, funding sources, teachers, private education, and vocational training.

There was no debate concerning *passive gratuity*, by which is meant the process whereby students matriculate and attend school without having to pay an enrollment fee, tuition, or other similar fees. Rather, discussions centered on what would come to be known as *active gratuity*. At the time, much of this discussion involved the continued existence of so-called "school boxes" for family donations.² These boxes enabled school administrators to collect an informal tuition fee from families who were in a position to contribute funds. These funds were then used for the benefit of "the less favored of fortune" ("os desfavorecidos da fortuna"), to whom the school provided books and at least one daily meal. This sparked debate between those who supported the continued and regulated existence of the school donation box, and those who supported active gratuity, i.e. subsidies from the State (and especially the Union) that would fund the provision of food and school supplies. The proponents of active gratuity argued that education should be *absolutely* free, without need for donations.

In the speech below, which can be found in the Constituent Assembly Annals (1948, p.128), deputy Luiz Maranhã proposes to add the word "absolutely" to that of "free" in an early draft of the text, so as to read: "Primary or Elementary education, provided by the State, is absolutely free, extended to adults and compulsory for children of schooling age, and is offered solely in the country's official language." The constituent justifies the inclusion of the adverb thus:

² Article 130 of the 1937 Constitution asked *families who could afford to do so*, as an act of *solidarity*, to make a *small, monthly contribution to the school donation box*. In Minas Gerais, there is also Decree-law n. 734, from September 1940, which details use of the school donation box. For more on the nomenclature and decrees surrounding this practice, see Gandra-Martins, 1999.

The addition of “absolutely” stems from the fact that some school boards and other learning institutions of the State require a financial contribution upon students’ matriculating.

This should not be the case, under any pretext, since it is generally the children of the poor who attend State schools. (MINAS GERAIS, v.II, p.128)³

In the same spirit, another amendment requires that the State provide assistance to school-age children from families in financial need. The justification for such assistance is as follows:

this amendment, partly adopted by the State Constitution of 1935, will provide a direct channel of aid from the State to poorer families, as well as a highly efficient tool in the fight against illiteracy. If primary education is indeed compulsory for school-age children, it is only fair that the State should strive, by all available means, toward the fulfillment of this obligation, by coming to the aid of parents who are demonstrably poor. (v.1, p.649)

In its final version, the text will refer to the question of social assistance for disadvantaged students merely as a way of ensuring effective education, without specifying the actions that should be taken to do so. This broadness would eventually be corrected by later infraconstitutional legislation; until then, it continued in many cases to be solved by the aforementioned mechanism of the school donation box. Article 128 offers no specific solutions, stating only that: “The State, in collaboration with municipalities, shall maintain educational assistance services that ensure the necessary conditions for the effective education of disadvantaged students” (v. II, p.597).

Another issue surrounding the right to free education concerned secondary and post-secondary studies for those who could demonstrate financial need. It should be noted that as of 1934, national legislation on this issue had always ensured free four-year primary education, but the first cycle of secondary education, later *ginásio* or middle school, was a different matter. Not only was it not guaranteed to be cost-free, but it presented the further hurdle of its famously difficult admissions exams, one of the most selective elements of our school system⁴. One amendment proposal, signed by a number of deputies, reads as follows:

Art. 135 – The head of a family of more than five young children, and who cannot afford their education, is entitled to free enrollment of one child in a state-run secondary institution, in accordance with the law.

Rationale: It is undemocratic to extend this privilege to public servants without extending it to other parents also. The criteria for receiving this benefit should be the financial need of the parent, as opposed to his or her social position. (v.II, p.76)

³ References to the Annals will henceforth be cited by volume and page number only.

⁴ Fully free education in public schools – including the primary, secondary, and post-secondary levels – would only be established by the Federal Constitution of 1988. The 1967 Constitution expanded the provision of free education to eight years of elementary schooling, the period being compulsory and eventually termed “primary education” (“*ensino de primeiro grau*”) as per law n. 5.692/71.

The primary text under discussion does not address this question. In the questions that were discussed, there is some mention of “a sort of scholarship” for families with more than five children and whose father is a public servant. After this was judged to be a discriminatory practice, however, another proposal suggested that this privilege be extended to all disadvantaged families with more than five children – but the change was rejected. The final text, under its General Provisions, would grant this right to public servants only, as per article 164.

Another amendment regarding tuition-free education considers the application of this right at the middle school level. At the time, there existed only a small number of public middle schools, and many cities in Minas Gerais did not have a single such institution in place. This was true even of middle schools that were privately-run. The proposal in question required the State to donate land to private initiatives, whether secular or religious, for the construction of these much-needed secondary institutions:

In cities where there are no secondary schools, the Government shall donate, to secular or to religious institutions, a plot of land sufficient for the construction of such a school, which shall become the property of the State should the institution later be dissolved.

Sole paragraph – The educational institutions that benefit from the article shall grant up to five free enrollments per year to the Municipality.

Rationale: In many cities, even thriving ones, there is a lack of middle school institutions. This is in spite of an adequate number of local potential students, students who are therefore required to study elsewhere at considerable cost to themselves, though travel and boarding are expenses that few can afford. Cities would benefit directly from this initiative by gaining an educational establishment that would further the development, progress, and culture of their communities. Similarly, the influx of secular or religious teachers would greatly influence the intellectual life of these Municipalities. (v.II, p.18)

The arguments portray the extension of educational offerings beyond the primary level as a factor of progress and improvement in cultural life. They do not, however, address the problem of cost, and are clearly geared toward a limited number of students. Nonetheless, they do point to a growing recognition of the need for a progressive universalization of access to secondary schools, although the amendment was eventually excluded from the final version.

Somewhat curiously, the final version likewise makes no mention of the possibility of homeschooling, an option available at the time and which had been addressed in the Federal Constitution of 1946.

The *compulsory* nature of state education was also a frequent topic of debate, prompting a total of five proposed amendments. In fact, there continues to be a certain tension between the ideas of education as a right and as an obligation. Although in theory the holder of a right

has the power to exercise or refrain from exercising that right, to act or not to act, the fact of education's being compulsory means that he or she has no choice but to seek enrollment in an institution. For this reason, it has always been judged necessary to provide ample justification for the compulsory nature of this particular government service, and to ensure that the tension be incorporated into a broader perspective of the issue.⁵

In the primary text under study, the question is framed in similar terms as found in the Federal Constitution:

Art. 92 – The State's obligation to provide and maintain free primary education shall be extended to adults having not yet completed this or further levels of instruction.

Sole paragraph – The law shall regulate the manner and conditions of the obligation as well as the penalties incurred by its infraction, in accordance with federal law. (v. I, p.141)

It is important to emphasize that the idea of education's being an *obligation* is sometimes also discussed by the Constituent in terms of an obligation of the citizen. This obligation had already been established by the Federal Constitution, art. 168, I. Penal Code of Decree-law no. 2848 of 1940, which imposed a penalty for the *crime of intellectual neglect*, as per art. 246, for parents or guardians who failed to ensure that their child attend primary school. According to an amendment,

The State, in order to effectively enforce the obligation of primary instruction for school-age children, shall establish in law the manner and conditions of this obligation, enforcing penalties for violations of this law, in accordance with federal legislation.

Rationale: It is well-known that compulsory primary schooling is not universally observed. The vast majority of parents, especially in rural areas of the State, engage in the criminal exploitation of school-age children by having them work rather than study. It is therefore imperative that the State establish a way to curb such abuses, which unfairly harm the future men of Brazil. (v.I, p.648)

Phrased in this way, the issue is presented as though the children's non-attendance of school were simply a choice of the parents', as opposed to an economic necessity imposed on them by the material conditions of the families' lives. Yet the circumstances of these poorer families, victims of an unequal distribution of wealth and who received no assistance from the State, often required the labor of children to ensure their continued subsistence. It is the duty of the State to offer adequate conditions and opportunities for children's attendance of school. Only as a last resort, in extreme cases, should it impose criminal punishment on citizens who fail to comply.

⁵ On this subject see Horta in: Vidal, Sá & Silva (Org.), 2013.

This type of amendment was not approved for final inclusion in the text, but from the deputies' discussions it is clear that the idea of obligation always went hand in hand with that of punishment. Education's being compulsory implied the possibility of penalties for infractors, whose behavior was sometimes termed "abuse." And yet, on the other hand, in discussions concerning the necessity of education's being cost-free, these same families were regularly invoked and brandished as examples of the dire need for constitutional reform. These discussions concerned material and pedagogical assistance for children from the poorest classes of society, as well as vocational training and education in rural areas. Overall, it would seem that the deputies' earlier statements regarding the punishment of infractors were not the result of any callousness or insensibility to the plight of the poor; rather, they reflected an understanding of citizenship and the right/obligation relationship that was still in a state of flux and had yet to fully mature.

Schooling as an obligation resurfaces yet again in another amendment according to which the State must compel rural landholders with up to twenty school-age children living on their property to provide cost-free primary education.

Rural landholders with more than twenty school-aged boys on their estate shall, under penalty of losing all State benefits, provide them with basic primary school education.

Rationale: Primary education should be enthusiastically embraced not only as a duty of public authorities but of private citizens also. No one may shirk the collective responsibility of working toward the development and instruction of the disadvantaged classes, least of all landholders who have such persons living on their estate. These measures are a question of patriotism and basic human solidarity, and shall be required of all persons who are in a position to fulfill them. (v.II, p.28)

The rationale appears to refer on a fundamental level to articles 145 and 157 of the Federal Constitution, which conciliate freedom of initiative, the value of human work, and compliance with labor legislation. In cases of non-compliance with these standards, the State may use coercive measures to ensure third parties fulfill their duty to provide free and compulsory primary education.

Another category of *obligation* is framed with respect to the municipality and rural education, and more specifically to the percentage of municipal resources derived from what the Federal Constitution foresaw in articles 15 and 29.⁶ An amendment proposed by deputy Antonio Guimarães called for the creation and mandatory implementation by Municipalities of technical or regulatory bodies that would oversee the functioning of education in rural zones. This work was to be done by salaried employees of the regulatory bodies.

⁶ Amendment n. 5, from 1961, was to clarify the incumbency of the Municipality in § 6º of art. 15 regarding sociocultural matters.

To article 95, immediately after the end of the article, we propose to add the following new paragraph:

Sole paragraph – The Municipality is nonetheless obligated to create a local technical body for the permanent supervision and regulation of Rural Primary Education, which body shall itself be subject to State educational law. State legislation shall dictate the standards by which the institutions are to be guided, as well as the official selection exams by which their leaders and employees are to be selected, in accordance with Municipal law. Fixed salaries shall be derived from the percentage of funds allocated for Municipal public education (art. 94, first section). (v.II, p.52)

Further arguments reinforce the rationale of the amendment, emphasizing such problems as the disorganization and instability of rural schools, as well as their lack of supplies, amenities, and human resources. According to one deputy, the educational situation in most rural zones is simply “a mess.” He continues:

What is rural education today?

A collection of schools with pompous names and a staff of teachers with a “God will provide” mentality, working in cramped and messy schools with no teaching materials to speak of... This state of affairs testifies to the ineffectuality of municipal teaching, its lack of order, coordination, and regulated subjects of study. (v.II, p.52)

Yet another dimension of the question of obligatory schooling is revealed in an amendment calling for the mandatory creation of trade schools or Arts and Crafts institutions (“Liceus de Artes e Ofícios”) in factory towns and agricultural zones. It also proposes, for the benefit of female students, the compulsory installation of “professional schools” for women in all cities and towns, though is unclear from the text what is meant by the professionalization of women. The creation of primary schools in all cities and towns of the State is also prescribed. Overall, this particular amendment makes clear that allusions to the compulsory nature of education – as protected by the Federal Constitution – are frequently brandished by the Constituent deputies when justifying new solutions for the insufficiency of the current school system in Minas Gerais.

The last of the amendments in question is presented in terms of education and socialization, no longer merely at the primary level but at all levels of schooling. Deputy Luiz Maranhã makes the following proposal:

The Government shall, within a period of no more than 60 days from the promulgation of this act, appoint a commission of experts to provide a thorough study of the state of socialization and education in the State school system. The inquiry is to be completed within a period of no more than 180 days.

The commission shall also include Deputies chosen by the Bureau of the Assembly. (v.II, p.125-126)

The author presents certain arguments, such as the duty of the State to provide free education for all, as factors in *the development of the State and its citizens, preventing the commercialization of learning*. “A State in which the overwhelming majority of people live in precarious and distressing economic conditions,” he explains, “must tackle the problem of education with the utmost commitment and energy” (v.II, p.125-126).

Recognizing the dire state of the country’s finances, however, he proposes the creation of a commission to devise a project that would be far-reaching but gradual:

We therefore request a commission of experts to study the state of education, to scrutinize it from all angles, including teaching practices, private assets, and the contributions of religious associations, among others.

We defend in the strongest terms the principle of State education, in all its forms, being absolutely free; however, we also recognize the difficulty of its implementation with the necessary speed.

The critical state of our finances, as well as the enormous private interests invested in education, compound the need for a careful, balanced approach to this problem. (v.II, p.125-126)

The author even proposes a sort of socioeconomic targeting and prioritization, allowing for a more gradual approach to the universalization of education.

For the moment, as much as possible, schools are to be built in areas with the highest population density.

Municipalities shall, to the very best of their abilities, work in harmony with the State and assist in its efforts to improve primary education in rural areas.

State middle schools shall be built or re-opened in the most centrally-located Municipalities; that is, in Municipalities where the highest number of inhabitants of other communities may converge.

In the early stages of the implementation, enrollment shall be offered exclusively to the children of factory workers, laborers, salary-workers, and other members of the most vulnerable classes of society. This shall continue until such time as a greater adjustment or balance may be achieved. (v.II, p.125-126)

The originality of the measure is striking. Not only does it touch on the idea of universal free education beyond the primary level – the only amendment to do so –, but it also suggests the possibility of implementing the changes gradually, beginning with those most in need. Furthermore, it recommends collaboration with experts who can provide relevant data concerning the situation of education within the State, in view of making a plan for the growth and improved organization of the school system, as well as the progressive universalization of primary and secondary education. The amendment also implies that, by

adopting such measures, the State fulfills a role that would otherwise be taken over by the *commercialization* of schooling.⁷

In the final text, the compulsory nature of primary education is addressed in item I of article 124, where it is framed as an obligation imposed by the State on the citizen. In sections III and IV of the same article, it appears instead as an obligation imposed by the State on industrial, commercial, and agricultural enterprises with over 100 workers. These companies must offer free primary education for their servants and their servants' children, as well as schooling for any underage workers. In article 129, the State undertakes to install vocational or professional schools in different areas of its territory; in article 131, sole paragraph, it mandates compulsory physical education exercises in all public and private schools. Finally, in article 132 it mandates that all sports amenities built or financed by the State be required to allow entry of any disadvantaged students enrolled in State primary schools.

Another subject discussed was that of *funding for education*. Art. 169 of the Constitution had established that 20% of State and Municipal taxes would be allocated to schools.

The state budget shall necessarily include a special allocation of funds for research institutes, preferably in connection with establishments of higher learning.

At this time, the state of Minas Gerais must establish laboratories for experimentation and research into the condition of our soil and subsoil, the area's water regime, its waterfalls and other natural resources; such studies would shed light on the real economic potential of the State, directing public and private investment in its resources.

These institutes shall preferably be founded as a part of higher education establishments... (v. I, p.554)⁸

Other amendments will determine what percentage of municipal taxes should be directed toward education, proposing different possible amounts,⁹ as well as toward other municipal obligations like salaries for civil service, maternity and childhood care, roadways, and irrigation channels. In this case there is a prescriptive tendency to the constitutional text:

The Municipality shall dedicate fifteen percent of its tax revenue to public education; fifteen percent to the creation of medical clinics, as well as old age, maternity and childhood care; no more than twenty-five percent to civil service; and fifteen percent to roads and agricultural irrigation channels. (v.I, p.526)

⁷ Art. 167 of the 1946 Federal Constitution ensured freedom to provide education *so long as relevant legislation is followed*.

⁸ Sole § of art. 174 of the Federal Constitution establishes that "the law shall promote the creation of research institutes, preferably in connection with establishments of higher learning."

⁹ It should be noted that art. 169 of the 1946 Constitution established that 20% of municipal and state tax revenues were to be allocated to education.

Consider also the following proposal written and signed by deputy Luiz Maranhã, which restricts allotment but maintains the obligatory nature of education:

The Municipality shall disburse for public education, 30% of its revenue received from taxes, for maternity, childhood and adolescent care, 10% for Municipal Public Health, and no more than 20% on its civil service functions. (v.II, p.128-129)

Yet another amendment, written by José Carvalheira and notable for its originality, protests against the provision of funds for education as being the responsibility of municipalities. Education is simply too important an area to rely on this particular source of funding, and requires more investment than already overextended municipal budgets are typically able to provide.¹⁰ His explanation, which reveals a great deal about the Constituent's understanding of municipal obligations, is worth quoting in full:

The Municipality shall spend a minimum of five percent of its regular income on maternity and childhood care, and a maximum of twenty-five percent on its staff of civil servants.

Rationale: The Project had established the requirement of the Municipality to spend twenty percent of its tax income on Public Education, and five percent on maternity and childhood care, at a minimum, in accordance with the precept of the Federal Constitution which it is the goal of this amendment to protest.

Granted, the problem of education is pressing and vast, and in order to solve it the Municipality will have to contribute its part also.

However, it is unclear why, given the current economic crisis, this should be the main focus of municipal administrations... [...] For it is certain that the role of the Municipality has been, thus far, and will continue to be, to provide the rudiments of basic literacy for those in rural areas. [...] But the quality of such teaching is limited in the extreme. To actually allocate twenty or even twenty-five percent of the budget toward this cause, as the Constitution prescribes, would be absolutely senseless. [...]

It is high time we replace our nearly useless municipal schools with vocational schools.

And it is immediately apparent that such a demanding task would be quite beyond the meager abilities of the Municipality, who may well prove an efficient *collaborator* in large-scale, state-federal plans for technical schooling, but who could never be its originator or sole executor. For the moment, therefore, and until such a plan exists, Municipalities should be held to no obligations where education and instruction are concerned. (v.I, p.637)

¹⁰ There were many attempts at drafting a coherent arrangement between the three public entities (see in particular those of Anísio Teixeira in the 1950s and 1960s). These attempts would culminate, in 1996 and 2006, in a constitutional amendment creating a sub-vinculation by way of state funds.

As the above amendment makes clear, behind the quibbling over percentage points there existed real ideological divergences on the question of what should constitute the responsibility of Municipalities vis-à-vis education, and what should instead fall to the State, in this case the State of Minas Gerais.

There were some among the parliamentary members who argued that municipal education, which traditionally had meant rural education, was held back by a lack of resources, and particularly by human resources and an inability to properly administrate the system.

What can be gauged from these amendments is a wish to transfer the bulk of education to the State, allowing Municipalities to focus their efforts on maternity, childhood, adolescence and health care as primary ways of combatting hunger, malnutrition and the underdevelopment of children within their territory, in view of investing in the future population of working adults.

In the final text, the only mention of Municipalities' share of funding responsibilities appears in article 128; however, it does not fix a specific amount, stating only: "The State, in collaboration with municipalities, shall maintain educational assistance services, the goal of which shall be to ensure adequate learning conditions for underprivileged students" (v.II, p.597).

Since there was no way to contravene the Federal Constitution, all discussion of allotment of municipal funds in the State Constitution limited itself to the general terms of the first document, which superseded it. In other words, the proposed amendments could not be adopted and the final text respected federal guidelines concerning the State and its role, without making reference to specific percentages at the municipal level. Thus the final version states in article 130 that:

The State shall allocate a minimum of twenty percent of annual tax revenues to the development and maintenance of education, in addition to providing special funds for scientific research. (v.II, p.597)

One of the amendments, signed by deputies Miguel Batista and André de Almeida, concerned funding from the State budget to be directed to the University of Minas Gerais, established in 1927 and known today as the Federal University of Minas Gerais (Universidade Federal de Minas Gerais or UFMG). At the time, the University was still a private institution whose endowment derived from its own assets as well as from student tuition fees, donations, and some support from the State.

The yearly state budget shall include special funding, never below 0.5% of the ordinary income of the University of Minas Gerais.
Rationale – University centers are increasingly necessary to the material progress of nations, due to the value of the scientific research they produce; hence the need to assist these institutions in carrying out their valuable social purpose, by providing them with adequate resources and accommodation. (v.II, p.110)

Another concerned the allocation of State funds to finance the Research Institutes that were to be created. The rationale of the amendment invokes primarily the economic development of the State and the mining of natural resources, prefiguring the later reality of a state which – from the time of its founding and the choice of the name Minas Gerais – was always heavily invested in this particular industry, as indeed it continues to be today.

But it was the issue of *teaching staff* that was, by far, the most debated topic during regular and constituent sessions. There were fourteen such discussions in all, despite the fact that the source text contains only a single reference to the issue, to be found in article 95, which states: “The provision of teaching posts in the Public Magisterium shall comply with the terms set forth in the Federal Constitution” (v.I, p.141).

The amendments touch on many aspects of the careers of primary, secondary and university level educators in Minas Gerais. There are four amendments concerning years of service, retirement age, and pensions. The supporting arguments generally concern the difficulty of carrying out, at an advanced age, the necessary duties of a teacher, as is the case in the following proposal by deputy Aluísio Costa:

Taking into consideration the particular nature of a profession like teaching, which often requires travelling as well as working in unhealthy or unsafe conditions, the law should reduce the time periods established in item “b”, no. 2.* of the article.

Rationale: To require of an educator that he continue to teach at the age of 70 would be to make demands beyond his abilities, and even to expose him to ridicule. After having taught for 35 years, or after having reached the age of 70, he is most likely tired and old, and no longer suited to his modern milieu – a milieu that is eclectic, youth-oriented, and sometimes hostile, demanding a younger and more dynamic generation of educators. (v.I, p.611-612)

One proposal calling for mandatory retirement at 60 was supported by many deputies: “Female teachers (or teachers in general) who have reached the age of sixty (60) shall be required to retire” (v.II, p.59).

There is also the following proposal, signed by nine members, which refers to a combination of age and years of service:

5th – Female primary teachers shall be eligible for retirement with full benefits at 60 years of age, provided they have completed at least 25 years of work.

Rationale: Observation has shown that teachers having passed this age no longer work as effectively and are less eager to change or perfect their teaching methods. (v.II, p.74)

It appears that all matters pertaining to teaching staff were of great interest to the deputies. Their arguments tend to two opposite sides: on the one hand, deputies defend the needs and demands of the classroom; on the other, however, they must also take into

consideration their best interests, as deputies, in expanding their political base in rural areas. One proposed amendment aims to improve job stability by guaranteeing teachers' continued employment in a specific location once they have taught there for ten years. It is signed by deputies Geraldo Starling Soares, Guilhermino de Oliveira, and Augusto Costa:

Teachers and other staff who have completed more than ten years of service shall not be transferred to new locations unless at their own request. The exception shall be in cases where the transfer constitutes a disciplinary action following administrative investigation, during which investigation teachers shall be ensured a fair defense.

Rationale: This precept will ensure political freedom of choice for teachers and other educational employees living in rural zones. All too often, public servants' wielding of "the uncontrollable right of the Government" can translate to their *de facto* firing of teachers by means of transfer, since these teachers (and especially female teachers) are generally unable to leave their homes and families behind.

Unfortunately, in rural politics, it is common for certain power-hungry leaders to antagonize the educators who oppose them, and we must therefore ensure that the new Constitutional Charter provide some measure of protection for teachers who find themselves in this situation. (v.II, p.54)

The proposal is a response to cases of political persecution, still a common problem in Minas Gerais at the time.

It should be noted that the final version of the Constitution, in the Transitory Constitutional Provisions Act of the State of Minas Gerais, addressed the question as follows:

Art. 35. Employees having completed over ten years of service shall be considered stable. Art. 36. Current interim employees of the State and Municipalities having completed a minimum of five years of service shall be officialized as of the date of promulgation of this Act. Current unofficial employees (i.e. those who did not obtain their positions by official selection exams), yet who have held a permanent position for more than five years, or who have since passed a selection exam or equivalent proof of ability, shall be eligible for retirement, leave, availability and vacation benefits.

And further:

Art. 37. Employees who had accumulated teaching, technical, or scientific posts, and whom the decumulation ordered by the Charter of November 10 1937 and federal Decree-law n. O 24, from November 29 of the same year, caused to lose these posts, shall be considered to

be in a period of paid availability until such time as they resume their activities, without right to retroactive payment prior to the date of promulgation of the Transitory Provisions Act of the Federal Constitution. Single paragraph. Those whom the same Decree-law caused to lose their retirement benefits shall have the benefits reinstated. This excludes the right to retroactive compensation dating further back than the date of promulgation of the Act.

The insufficiency of public policy surrounding professorships in Minas Gerais is a cause of concern for the deputies of the Constituent, who seek to correct it in the new constitutional text.

An amendment concerning the quinquennium, or five-year employment period, was also presented. Signed by Guilhermino de Oliveira and Augusto Costa, it called for 10% increases every five years, stating that: “Each five-year period of work in a State or Municipal teaching post shall entitle the teacher to an additional 10% of remuneration, to be incorporated for the calculation of retirement benefits” (v.II, p.57).

There were two amendments concerning the availability of teachers to fulfill other functions in secondary schools upon completion of 25 or 30 years of work. The arguments are similar to those that appear in the discussions of retirement age and the perceived wearing out of teachers over time. Two other amendments, presented by a group of fourteen parliamentary members, concerned the officialization of formerly contractual or interim employees having held their posts for more than ten years:

Interim and contractual teachers in State secondary schools, upon completion of ten years of service, shall automatically receive full professorships, complete with appropriate salary, pension, allowances, tenure permanency, and other rights due to this post. Concerning tenure permanency, the same exceptions shall apply as outlined in the first paragraph. This change shall be effective from the date of promulgation of this Act.

1st – If, following an official selection exam, their post comes to be occupied, the teachers to whom the present article refers shall enter a period of paid availability until such time as they are called upon to resume a similar role.

2nd – For the purposes of applying quinquennial raises as outlined by Decree-law N^o 1.905, from November 12 1946, time of service shall be counted from the date the employee ceased to be a contractual or interim teacher and became an official teacher of the State Magisterium. (v.II, p.111-112)

Vocational training as an initiative and duty of the State was the object of several amendments and supporting argumentation. The primary text stipulated the following:

Art. 97 – The State shall organize and maintain its own system of vocational schools for the learning of trades, in accordance with regional specificities and demands.

Sole paragraph – Primary education and vocational training may be administered concomitantly, provided this does not in any way compromise the former. (v.I, p.141)

The article evinces an understanding of trades as something closer to crafts practiced by individual artisans, though still referred to in professional terms. The idea of trades in the modern sense – trades existing within the industrial-capitalist system that was quickly mobilizing the State – was at the time still being formed. It also bears noting that art. 157, IX of the Federal Constitution prohibited the hiring of children under fourteen years of age, and that the mandatory period of primary schooling comprised the ages of seven to ten. In other words, therefore, the sole paragraph suggests a continuity of vocational schooling in relation to primary education for fourteen-year-old students. The proposal, in this formulation, did not receive final approval.

In another text, which also seems to have provided a basis for the parliamentary members' discussions, clause d of article 117 states that: "Industrial and commercial enterprises shall be required collaboratively to provide instruction to underage workers, as stipulated by law and in compliance with teachers' rights" (v.I, p.410-411).

This version repeats, *ipsis litteris*, what is established in the Federal Constitution, article 168, clause IV.

It should be noted that the Estado Novo era saw the creation of the National System of Industrial Learning following Decree n. 4.048/1942, the aim of which was to galvanize industrialization in the country. The official education system, via the Organic Law on Industrial Education, Decree-law no. 4.073/1942, was divided into two cycles: the first or fundamental cycle was of a duration of three to four years; the second cycle, of the same duration, was for the training of industrial technicians.

Vocational training, as an initiative and duty of the State, was the object of three amendments, all of which stressed the State's obligation to provide this form of schooling.

One such amendment reads as follows:

The State must promote, independently or in conjunction with Municipalities and private organizations, the greater development of vocational training at the elementary and middle levels.¹¹

Sole paragraph – When the initiative originates at the Municipal level, and the training is free, the State shall subsidize the service with an annual contribution of no less than thirty thousand cruzeiros. If the service is instead initiated by a private organization, duly registered with the State, it shall receive subsidies in proportion to the number of

¹¹ Art. 18, II of the Capanema decree stipulates that: "First-cycle vocational training courses shall be combined with primary education, and technical courses with first-cycle secondary education, in order to direct recruitment."

vacancies reserved for the enrollment of students who are poor, employed, and resident in the region. (v.I, p.576)

In this amendment the notion of vocational training has advanced beyond the primary level to a complementary stage of the student's education, an extension that will facilitate entry into the work market. The rationale of the amendment presented by the Constituent is revealing of the motivations that led to its proposal:

The best colonization of our Country would be a colonization by her own sons. Vocational training will fill an important gap in the social and economic order by providing a workforce of laborers specifically suited to the industries of Minas Gerais. This system will also allow for the absorption and development of countless underprivileged children, children who sorely need the aid of the State and who have a right to it.

By extending these benefits to all Municipalities and all social classes, the State will be fulfilling a noble republican ideal, to its great credit. (v.I, p.576)

We may perhaps read in this text some of the preoccupations of the legislator, who implies a relationship between the issue of vocational training and that of colonization. He may see this form of education as an alternative to the State's having to import qualified labor for the construction of its rapidly changing economy. Another element of interest is the mention of the industries of Minas Gerais, which had begun to diversify beyond subsistence farming and the raising of livestock, and which therefore required new varieties of workers.

Finally, the author also touches on the influx of the poorest children of society into an educational stream eventually leading to their employment, in a way very similar to that described by the Constitution of 1937.

The second amendment, signed by deputy Antonio Guimarães, proposes the following:

To the Transitional Provisions:

To be added where appropriate:

1st – In all industrial cities of the State where there are mining operations or E. de Ferro steel processing, the Government shall establish vocational schools or Lyceums of Arts and Crafts, for the benefit of children of laborers and factory-workers, in view of preparing them for enrollment in the National Learning Service (Serviço Nacional de Aprendizagem or SNA) maintained by the Federal Government.¹²

¹² This is in reference to the National Industrial Learning Service (Serviço Nacional de Aprendizagem Industrial or SENAI), which would later lead to the National Commercial Learning System (Sistema Nacional de Aprendizagem Comercial or SENAC) following Decree-law n. 8.621/1946.

2nd – In agricultural zones, the Government shall provide practical instruction for the perfection of farming techniques.¹³

3rd – In all cities and towns, the Government shall establish vocational schools for women.

It shall allow and encourage the creation of primary schools in all cities, villages, and towns, providing assistance to those schools with at least twenty regularly-attending students, and a monthly salary of no less than \$200 cruzeiros to teachers who, after a period of four months, can demonstrate measurable improvement in their pupils.

4th – These teachers will later be given preference in possible appointments within the school as well as within other, Municipal-level establishments.

5th – The first lyceums and vocational schools to be created as a result of this amendment shall be in the following cities: Juiz de Fora, Barbacena, Lafaiete, Santos Dumont, Sete Lagoas, Nova Lima, Pouso Alegre, Ibia, Ibatuba, Cambui, Camanducáia, Extrema, Silvianópolis, and Divinópolis. (v.II, p.99)

The spirit of the amendment reveals important aspects of the agricultural and industrial configuration of the State as well its all-important relation to mining. For example, the metallurgic giant Companhia Siderúrgica Nacional, though located in the city of Volta Redonda in Rio de Janeiro, depended greatly on the iron ore brought in from Minas Gerais.¹⁴ Another key factor was the railway system of the time, which was essential to the transportation of goods, raw materials, and passengers, and which was particularly well-developed in Minas Gerais. There was also the need to ensure a pipeline of qualified workers for an increasingly technical approach to farming and the raising of livestock, major areas of the State economy. Finally, growing attention was also being paid to the question of women's work and their presence not only in farming but in factories as well, particularly textile factories.¹⁵

The third amendment, signed by 21 deputies, states that “The State shall establish vocational schools in different zones of its territory” (v.II, p.28).

This amendment was incorporated word for word into the final text as article 129. Records of the debate reveal considerable zeal on the part of the deputies, who tend to fall into one of two camps, either the more “traditional” or the more “modern.” Some argue for the education of lower-class students who would not otherwise be able to learn a trade; others for the extension of the service to other social strata as well. The question of access to secondary and post-secondary education is also raised, as is its relation to the State's duty to provide adequate mid-level vocational training.

¹³ For a detailed history of agricultural education in Minas Gerais, see Cimino (2013). Of notable importance is the creation of the Barbacena Agricultural School by Decree n. 8358/1910, of the authorship of Nilo Peçanha and under the jurisdiction of the Ministry of Agriculture, Industry and Commerce. Also important is state law n. 454/1907 by João Pinheiro and its focus on vocational training.

¹⁴ For the history of the industrialization of Minas Gerais, see Diniz (1981).

¹⁵ In subsequent education reforms in Brazil, reference is always made to the female workforce; see for example the Organic Capanema Laws of the Estado Novo period.

The discussions sometimes allude to the more advanced position of the State of São Paulo in this respect. “As we all know,” observes one deputy, “São Paulo is making great strides in this specialized sector of education. In Minas, however, the lack of specialized workers is keenly felt” (v.I, p.576).

There is also a certain morally-inflected concern with the development of the individual, and an image of the marginal citizen being brought back into the fold and re-integrated:

Civilization is shaped by forces both natural and cultural: – the natural ones being its soil, climate, ethnic groups, topology, and natural riches – all of them powerful influences on its social organization. On the cultural side we count the works of man, his inventive spirit; science, art, and technology – these together form his social patrimony, slowly accumulated through the efforts of his forbears, and continually enriched by the efforts of the present, until the time when it may be passed down to future generations, as a living inheritance and a symbol of indestructible solidarity.

Man is like the earth; if the soil is properly tilled and prepared, it bears fine and abundant fruit; but if left neglected, it becomes overrun with nettles and weeds. It must be cultivated in order to yield the best and most worthwhile results.

Man without education or employment is brought low, nearly to the level of animals; he becomes a negative and even a dangerous force in society. Cultivated, he rises to the level of a dignified and selfless patriotism, becoming a lively, productive, and fecund force of the Nation. (v.II, p.28)

At the time, Minas Gerais was still a predominantly agricultural state, but it intended to continue and intensify its industrialization, and speeches like the ones above provided a reminder of the need to ensure the sort of qualified workforce that might push an industrial economy forward. The question of *private education* is taken for granted as something already well-established in the State, thanks to the work of religious orders, and there appears to be no tension between the pre-existing private system and the newly created public one.

On this subject there was only a single amendment proposed, which reads as follows:

Private initiatives shall be free to found schools within the educational system of the Union and its States. This system shall respect the need for autonomy and variety in educational institutions.

Rationale: The amendment upholds the principle of freedom of education and avoids the danger of over-uniformization of schools, as well as the further danger of excessive and counterproductive bureaucracy. (v.II, p.134)

The annals reveal little debate or divergence on the issue. There were certainly those who believed in the precedence of Government education within the State, but not in its exclusivity. What is immediately apparent from the proposal is that it refers to private initiatives collectively, including both religious and secular organizations. In the Rationale, it asserts an intention to protect freedom of education. These details point to a certain reluctance or fear on the part of the deputies at the idea of the State's taking over education completely. In its final version, the text adopts what had been stipulated in the Federal Constitution.

Another topic of discussion was that of *libraries*.

In the source text to be discussed by the constituents we find the following passage (article 100):

Cultural advancement is one of the duties of the State, which must promote, incentivize, and assist in its development in the following ways:

By creating educational establishments of all branches and levels;

By creating libraries and museums; as well as ensuring the proper conservation of monuments, works of art, and other cultural documents of historical interest, whether regional or national;

By the creation and development of institutes for science and scientific research.

(v.1, part 1, p.410-411)

Another amendment, presented by deputy Starling Soares, reads as follows:

The State shall promote and stimulate the creation of public libraries. It shall organize, as part of the Education Department, a new initiative to be called "the Book Division," whose mission shall be to direct and assist municipal and popular libraries, as well as schools and existing sports and recreation centers.

Sole paragraph – The Book Division shall, in collaboration with the National Book Institute and within a period of no more than 120 days, undertake the creation of public libraries in every city of the State.

(v.II, p. 17)¹⁶

This issue was discussed at length by the parliamentary members, who delivered long speeches in praise of libraries, books, and certain past initiatives undertaken in rural towns – some of them the work of the deputies themselves, a handful of whom had served as mayors.

In its final version, art. 135 of the Constitution appears thus: "The State shall promote and stimulate the creation of popular Libraries." The requirement does not appear in the Federal Constitution of 1946.

¹⁶ The recent appearance of law n. 12.244/2010 on the universalization of school libraries is therefore somewhat surprising.

The presence of *physical education* in schools was the object of at least two amendments to the source text, generating considerable debate in the Constituent Assembly meetings. One of these reads as follows:

The State shall stimulate the wider dissemination within its territory of sports and athletic activities, which shall be mandatory, along with physical education, in both public schools and private schools subsidized by the State.

Rationale: The new phrasing is clearer. Certainly the construction of sports facilities is a duty, but more important still would be their integration into school groups in each Municipality, and this was not addressed. (v.II, p.72)

This amendment highlights the difference between the promotion of sports and that of physical education. Based on deputies' comments in the discussion, it seems that in Minas Gerais sports were already well-established and promoted (particularly swimming), whereas physical education had yet to take root.

A related amendment from deputy Badaró Junior addresses the topic as follows:

The State shall stimulate and oversee the practice of Physical Education and sports throughout its territory.

Sole paragraph – Athletic activities shall be mandatory in all public and private schools.

Art. – The State shall use all available means to promote the installation of sports facilities in the center or headquarters of each of its Municipalities.

Sole paragraph – Sports facilities built by the State or with State support shall be required to serve underprivileged primary students free of cost, in view of promoting the racial improvement of the population. (v. I, p.600)

This amendment appears virtually word for word in articles 131 and 132 of the final text, with the exception of the last phrase on racial improvement, which post-war backlash against eugenics caused quite understandably to be removed. Yet there continued to be heated debate around the question of physical education as a constitutionally-mandated practice, and this did sometimes include reference to the possible eugenic improvement of the populace:

Given that the greater part of our population is comprised of families living in poverty, who cannot afford to enroll their children in programs of physical development, it is imperative that the Constitution provide these children with a way to benefit from athletic facilities built, supported, or subsidized by the State. We believe that by providing free access to these facilities, from a young age and to all social classes, and, what is more, by guaranteeing this access as a constitutional right, the State shall ensure the positive eugenic development of its people. (v. I, p. 600)

The plan to build and run State-sponsored facilities was a popular one among the Constituent's deputies. Its main lines – namely, the mandatory presence of such facilities in Municipalities and the guaranteed access of underprivileged primary students – were successfully incorporated into the final constitutional text. Some of the arguments presented in its favor are worth examining in more detail, like the following argument from Badaró Junior:

At first glance, the requirement concerning the access of underprivileged students to the facilities may seem an unnecessary addition...

But we must stress that the children in question are very numerous and demand special attention from our public institutions. [...] Swimming pools, play areas, sports fields, and the chance to gather – all aspects of the planned facilities combine to stimulate and delight the child, and to attract him or her to the establishment... Furthermore, by opening their doors to these children, such facilities will provide something more than the opportunity for physical exertion, since before entering the facility they will be required to undergo a medical examination...receiving at that time a sanitary or hygiene test, for which local Health Centers will provide complementary lab testing if necessary. (v. I, p.600)

It is clear from the deputy's text that he was concerned with questions beyond that of education, and sought to combine a variety of public policies into a single constitutional mechanism. The resulting amendments on physical education were adopted as articles 131 and 132, as mentioned.

The question of religious education, though it appears in the final document, does not appear to have been the subject of much debate beforehand. This is in stark contrast to the debates that took place during the Federal Constituent and its own assembly proceedings.

Conclusion

Our study of the primary sources in relation to our general objective revealed that the Minas Gerais Constituent of 1947 successfully discharged its duty as established by the Federal Constitution of the previous year. This duty was to undertake the drafting of its own State constitution, which the deputies of Minas Gerais did in fact do, and for which they provided a mostly original section (Title XI – On Education and Culture) with eleven articles. This section generally adheres to the guidelines established in the Federal Constitution's chapter on education.

It makes no reference, however, to article 166 of the Constitution, which establishes *education as a universal right* and lays out the principles that may be said to guide it, such as *liberty and the ideal of human solidarity*. But implicit reference may be recognized in the language of Title XI when it addresses the need for primary education to be compulsory and cost-free. As concerns education after the primary level, with only one exception the text reproduces the terms set forth in the Federal Constitution: namely, that this level of education be cost-free *in cases of financial need*.

Concerning specific objectives, some departures may be observed in the State Constitution, an indication of the Constituent's willingness to exercise its autonomy in managing local realities.

One of these is the institution of a *single system for all common and specific levels* (art. 125) under an *organic State school system law* (art. 125).¹⁷ This is an example of the State of Minas Gerais asserting its autonomy in the same liberal spirit of decentralization that guided the Constitution of 1946.

The creation of vocational schools and the promotion of physical education are two issues that were very present in the Constituent debates. They express the ambition of Minas Gerais to industrialize and to ensure its own supply of qualified workers.

Another point of departure is found in article 134, which provides a state and municipal tax exemption for scientific, literary, and artistic events.

Article 130 ensures State support of scientific research, and article 135 establishes the State as the creator and promoter of *popular libraries*.

The limitations of access to secondary schools (which, unlike their primary counterparts, were not cost-free; and which were in any case a rarity in most towns) is evident when one considers the somewhat peculiar proviso that public servants with more than five children be granted free education for *one*. Such a rule speaks volumes about the scarcity and selectivity of post-primary education at the time. Despite important advances concerning the cost, funding, and compulsory nature of secondary education in the State, it remained a service to which only a select minority had access, reflecting the state of the school-system in Brazil as a whole.

In our research, we observed what may be called a *legislative and political change*. The country was still dealing with the fallout of the Estado Novo regime. This regime was dictatorial and highly centralized; it had revoked the Constitution of 1934 and replaced it with one of its own, in addition to revoking all of the 1935 State Constitutions. It had also deposed all leaders elected by popular vote and replaced them with new officials, or interventors, who would oversee the management of States and their Municipalities.

In light of this history, the Constitution of 1946 may be seen as a reaffirmation of civil rights (art. 141-144) and an establishment of the *principles of social justice* for both social and economic order (art. 145-162). In short, it rehabilitated the political rights that had been suppressed by the Estado Novo regime (art. 129-140).

Of course, as a State-level document it could not contravene the principles set forth in the Federal Constitution the year before, and it does in fact follow this earlier document very closely, but with an emphasis on civil and political rights. Social rights, on the other hand, would receive more attention at a later time. Their place in the country's Magna Carta would be consolidated, and their role become more effective, only after the passing infraconstitutional legislation.

¹⁷ Strictly speaking, this law would only come into effect following Decree n. 3.508 of February 21, 1950, concerning the Primary Education Code. Similarly, State Decree n. 1873 of October 28, 1946, would regulate the functioning of Teachers' Colleges within the State.

References

- ARRETCHE, Marta. *Estado Federativo e Políticas Sociais: determinantes da descentralização*. Rio de Janeiro: Revan; São Paulo: FAPESP, 2000.
- BASTOS, Celso Ribeiro. *Dicionário de Direito Constitucional*. São Paulo: Saraiva, 1994.
- BOBBIO, Norberto. *A Era dos Direitos*. Rio de Janeiro: Campus, 1992.
- BORGES, Vera Lúcia Abrão. *A instrução pública na fala da elite: modernização, republicanismo e ensino primário – Brasil e Minas Gerais, 1892-1898*. 2004. 245f. Doutorado (Tese em Educação) – PUC São Paulo, São Paulo, 2004.
- CARVALHO, José Murilo de. *Cidadania no Brasil: o longo caminho*. Rio de Janeiro: Civilização Brasileira, 2002.
- COMMAILLE, Jacques. Changement. In: ARNAUD, André-Jean (org.). *Dictionnaire encyclopédique de théorie et de sociologie du droit*. Paris: Librairie Générale de Droit et de Jurisprudence. [s.d.]: [s.n.], 1993.p. 63-65
- CIMINO, Marli de Souza Saraiva. *Iluminar a terra pela inteligência: trajetória do aprendizado agrícola de Barbacena, MG (1910 - 1933)*. 2013. 369f. Doutorado (Tese em Educação) – Centro de Educação e Humanidades, Faculdade de Educação - UERJ, RJ, Brasil, 2013.
- CURY, Carlos Roberto Jamil. A educação na primeira constituição mineira republicana. *Educação em Revista*, Belo Horizonte, n.14, p.5-11, 1991.
- GANDRA MARTINS, Ives. O ordenamento jurídico brasileiro. *Revista Jurídica Virtual*. Brasília, v. 1, n. 3, jun. 1999. Disponível em www.planalto.gov.br. Acesso em 02 de junho de 2018.
- HORTA, José Silvério Bahia. Direito à educação, obrigatoriedade escolar e extensão da escolaridade. In: VIDAL, Diana Gonçalves; SÁ, Elizabeth Figueiredo de; SILVA, Vera Lúcia Gaspar da. *Obrigatoriedade Escolar no Brasil*. Cuiabá: EDUFMT, 2013. p.381-397
- IVO, Gabriel. *Constituição Estadual: competência para elaboração da Constituição do Estado-membro*. São Paulo: Max Limonad, 1997.
- MARSHALL, Thomas H. *Cidadania, Classe Social e Status*. Rio de Janeiro: Zahar, 1967.
- MINAS GERAIS. *As Constituintes Mineiras*. Belo Horizonte: Assembleia Legislativa do Estado de Minas Gerais, 1989.
- MINAS GERAIS. *Assembleia Constituinte. Anais da Assembleia Constituinte de Minas Gerais*. Belo Horizonte: Imprensa Oficial, 1948. 2v.
- OLIVEIRA, Fabrício Augusto de; REZENDE, Fernando (Org.). *Descentralização e Federalismo Fiscal no Brasil: desafios da Reforma Tributária*. Rio de Janeiro: Konrad Adenauer Stiftung, 2003.

OLIVEIRA, Romualdo Portela de. *Educação e Sociedade na Assembleia Constituinte de 1946*. 1990. Mestrado (Dissertação em Educação) – Faculdade de Educação, Universidade de São Paulo, SP, 1990.

RESENDE, Márcia Helena Siervi. *O Direito à Educação na Constituinte Mineira de 1988/1989*. 1997. Mestrado (Dissertação em Educação) – Faculdade de Educação, UFJF, Juiz de Fora, MG, 1997.

VIDAL, Diana Gonçalves; SÁ, Elizabeth Figueiredo de; SILVA, Vera Lúcia Gaspar da. *Obrigatoriedade Escolar no Brasil*. Cuiabá: EDUFMT, 2013.

VERGOTTINI, Giuseppe de. Constituição. IN: BOBBIO, Norberto; MATTEUCCI, Nicola; PASQUINO, Gianfranco. *Dicionário de Política*. Brasília: UNB, 1986. p. 258-268.