

Participatory Democracy and the Representation of Minority Groups in Brazil

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Brazil has been holding a particular position regarding the national consolidation and international dissemination of participatory democratic devices of governance. The most well known of such devices, the participatory budget, has become a standard case study on the topic after being originally created in Porto Alegre in 1989, and since then has been replicated all over the world, regardless the different levels of success it has achieved in each context (Sintomer, Röcke, Herzberg, 2010). Participatory budget's positive outcomes, especially concerning the redistribution of public goods (Baiocchi, 2003), is certainly one of the causes of the increased institutionalization of participatory mechanisms, along with the enforcement of the democratic Constitution enacted in 1988 which contains strong directives towards the improvement of political participation in the country (Abers, 2001; Avritzer, 2009).

Since the Workers Party (Partido dos Trabalhadores, PT) took hold of the Presidency in 2003, it has been applying in the national level the same programmatic participatory commitments that allowed its former administration in Porto Alegre to become worldwide known. Lula's government has over its two subsequent periods in office been responsible for activating and institutionalizing in the federal level a participatory innovation that have been altering the way public policy is designed, implemented and monitored in Brazil: the national public policy conferences.

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Nowadays the national public policy conferences are doubtless Brazil's major participatory innovation, and at least three are the reasons why such experiment both confirms the country's vocation for designing democratic practices of social empowerment and its potential to envisage new forms of inclusive governance. First, the national conferences are, as implied by their name, nationwide, and thus challenge the myth that participation is possible only at the local level. Not only do national conferences transcend geographic boundaries of local space, they also overcome the limits imposed as to their substance and content. By enabling participation to be exercised at a national scale, national conferences favor the interests represented to be national as well, which ensures that its procedures will lead to its main outcome: the formulation of guidelines for federal public policies. Yet, acknowledging that it is at the local level where citizens meet and is therefore the site from where demands sprout, national conferences are but the culmination of a process that begins in municipalities (with municipal conferences, when the delegates are elected out of an open poll of participants), moves up to states (with state conferences), and often involve steps and linkages that transcend any geo-political division (as with the so-called free and virtual conferences, both entirely open for participation). The open and elective nature of the municipal conferences not only allows for any local issue to get channeled through to the national level, it also allows potentially any citizen to become its representative at the highest level. The national conferences thus can potentially elevate local problems into national solutions.

Second, the national conferences consist of participative experiences that are originated, developed and unfolded within representative institutions – therefore they defy the myth that participation and representation are concepts opposed to each other, or implying incompatible or even antagonistic democratic models. Summoned

by the Executive branch through its ministries, secretariats or national councils, and organized jointly with civil society through commissions, forums or working groups, the national conferences come full circle at the moment they direct their demands to the Executive and Legislative branches in the form of administrative or legislative guidelines. In choosing public deliberation as its mechanism of participation the national conferences are converted into representative entities, providing voice to ideas, preferences, ideals and opinions, therefore bypassing the confines of electoral circumscription and directly communicating demands to those who, elected by the ballot, have the power to turn them into law and policies. In becoming more responsive to the guidelines presented by the national conferences, the Executive and Legislative branches are strengthened and fulfill the role of political representation more democratically. National conferences thus, by vocation, render participation indistinguishable from representation.

Finally, the national conferences enable the direct participation of social and cultural groups who are successful in making their minority interests represented as they are converted into public policies – thus challenging the myth that citizens can only make themselves collectively represented through elections or through lobbying and interests groups. With women being able to voice their demands, with the indigenous empowered to express their own preferences, or with blacks stepping forward to defend their own interests, the national conferences enable representation that is more just by affording a form of presence that often does not seem to belong to political parties or quotas in parliaments. By enabling indigenous women to deliberate on health policies as women and as indigenous citizens or by allowing young black citizens to deliberate on educational policies as young and black citizens, the national conferences spare the possibility of inclusion from being diminished by the need to

bargain, from being treated as a tradable commodity, or by having to bear the cost of cooptation. By allowing women, the indigenous or blacks to affirm their identity as groups, by the sharing of experiences, perspectives and values which transcend divisions of class or ideological trenches, the national conferences redefine the meaning – and practice – of political equality. The national conferences thus have the ability to actually turn the aggregation of individual preferences into social choices – and, furthermore, by dethroning pluralism in favor of multiculturalism, to turn historically excluded groups into bearers of rights, and particular interests into universal policies.

The national public policy conferences therefore give shape to a form of participatory democratic governance (Fung, 2003), although they are much larger than most minipublics tend to be, and although they allow for groups to represent themselves as groups, and not only as citizens representatives (Warren, 2008). It is precisely this feature of such democratic innovation that will be addressed in this paper. My aim is to take Brazilian national conferences as a case study that enables me to argue that the institutionalization of participatory mechanisms of deliberation within representative institutions may actually enhance the political inclusion of minority groups, advancing their preferred policies, fostering their rights and consolidating their identity. Moreover, this paper aims to present empirical evidence on how participation and deliberation may be turned into representation, or more specifically how minority groups can improve their political representation in the Legislative branch regardless of the formal mechanisms of electoral democracy. The Brazilian case shows how through a participatory innovation some of the known flaws of representative democracy – such as representational deficit and political inequality – may be somehow healed: minority groups can prove themselves

successful in having the policies favored by them adopted by the government without eventually having been successful in electing their favorite parties or representatives. Institutional practices of social participation and deliberation may not only provide further accountability and legitimacy to electoral democracy and its traditional institutions, they may also indicate a shift on representative government. Once proved true, the Brazilian case may allow for a step forward in the direction of taking participation and deliberation as enhanced features of political representation itself, and not as opposed models of democracy.

The National Policy Conferences on Minority Groups

The national policy conferences are designed to allow for a more democratic policymaking. Instead of formulating policies by itself, through a formal process that might at best involve the technical aid of expertise, the government let civil society join the task of designing new policies – and while doing so, revising old ones. It is Brazil's federal government that summons a national conference to convene, and the Presidents' decree that initiate the process may either follow an internal governmental perception that certain area is in need of new (national) policies or an external claim coming from civil society. In general, both parts in the national conferences process, government and civil society, join each other since the very first moment, as partners in the task of organizing those new venues for democracy.

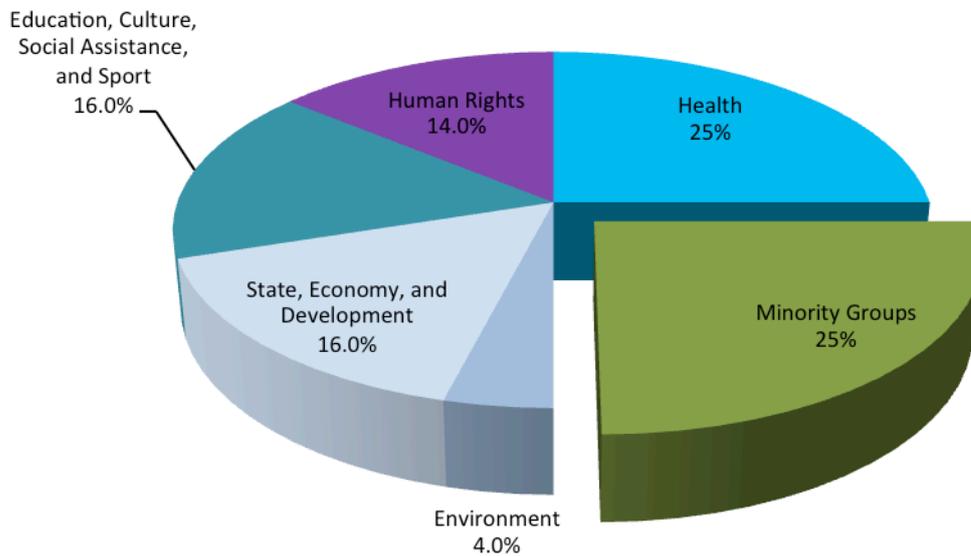
No matter the origin of the claim that initiated the process, it usually sheds light in one area of public policy, focusing in diverse policy issues. In their historical origin, the national conferences arouse out of the health reform movement that have traditionally been very strong and organized in Brazilian civil society since long

before the re-democratization in 1985. That is the reason why before then (but certainly not during the military dictatorship) the first national conferences were organized to deliberate on health and health-related policies. However, it was only after the enactment of the new Constitution in 1988 that other policy areas began being discussed in the national conferences, although still very limitedly until Lula took office in 2003.

Between 1988 and 2009, 80 national public policy conferences, all of which deliberative and normative in scope, were held in Brazil.² According to the substantive convergence of the policy issues they are aimed at, these national conferences can be classified into five thematic sets: “health,” “the environment,” “State, economy and development,” “education culture, and social assistance,” “human rights” and “minorities groups.” As illustrated by Graph 1 below, the fraction of national conferences related to policy issues concerning minority groups corresponds to 25%, that is, a fourth of all conferences held in the country in 21 years.

² There were in fact 92 national conferences organized in this period, but only 80 of those satisfy what I call a deliberative and normative scope, that is a previously arranged deliberative procedure consisting of various stages, and that ends up with the approval by all participants of a document containing the policy guidelines resulting from the entire process.

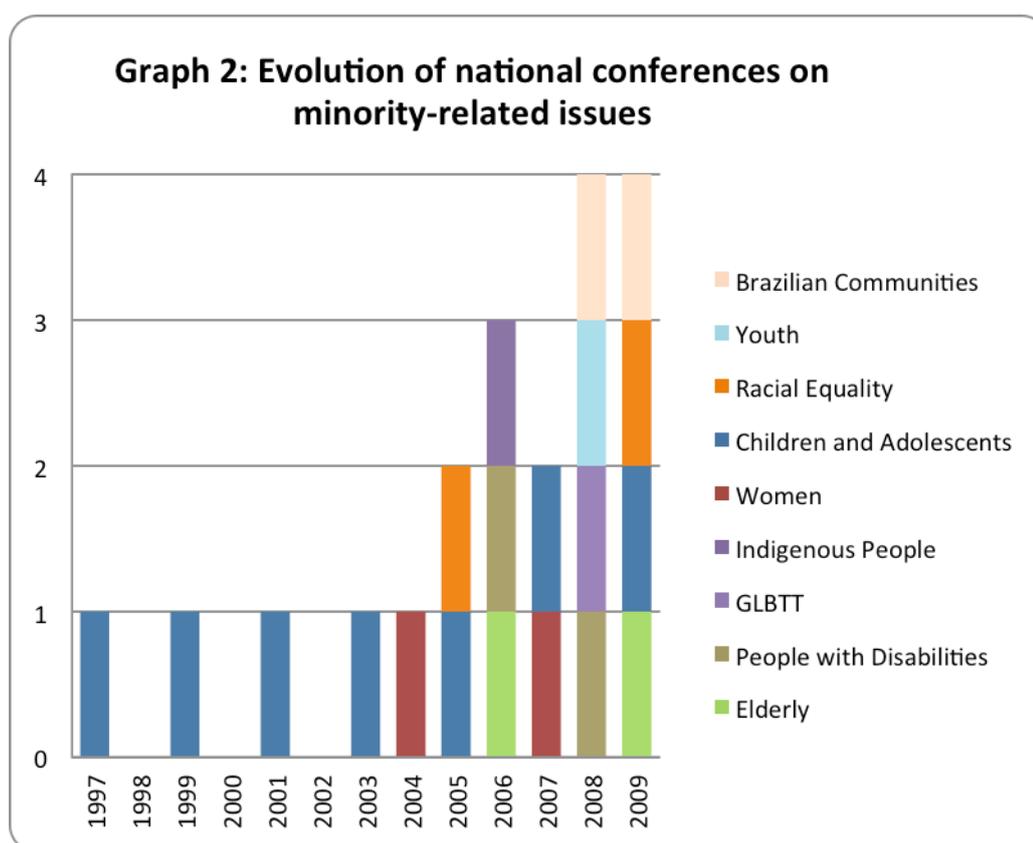
Graph 1: policy areas deliberated in the national conferences (1988-2009)



The twenty national conferences comprising this minority-related policy area are further subdivided into nine policy issues, each one corresponding to a social or cultural group that has been historically excluded from the political decision-making process in Brazil. The nine policy issues from which twenty national conferences were organized are: “elderly people” “people with disabilities ” “gays, lesbians, bisexuals, transvestite and transsexuals” “indigenous peoples” “public policy for women” “youth”, “children and adolescents rights”, “promotion of racial equality”, and “Brazilian communities abroad.” Of these nine policy issues that addresses the rights and interests of social and cultural minority groups, eight were not deliberated in national conferences until 2003, which coincided with the beginning of Lula’s first presidential term. The sole exception is the conferences on rights of children and

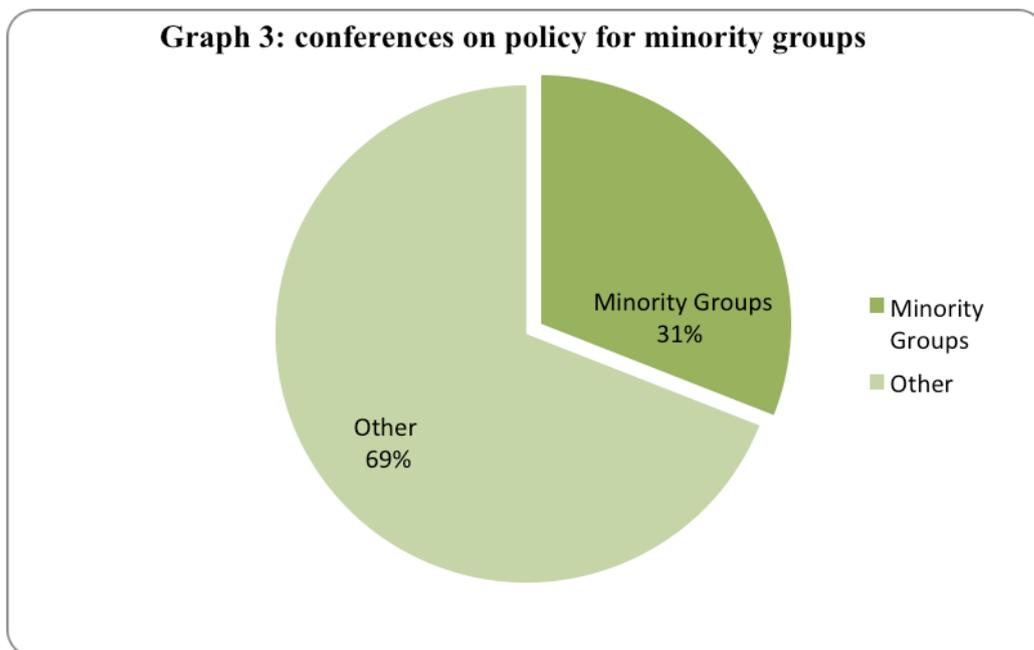
adolescents – to be sure, a quite institutionalized national conference – which were first held in 1997 and since then occur every two years.

Graph 2, below, indicates the evolution of national conferences on policies for minority groups since the first national conference on the rights of children and adolescents took place in 1997. Furthermore, it indicates, after 2003, a strong pull towards the broadening of minority-related issues as subjects of national conferences, the diversification of policies formulated according to this participative mechanism, and the increase of the numbers (both relative and absolute) of conferences designed for the deliberation of policies for minority groups.



The proportion of national conferences for deliberating minorities-related policy issues within the total universe of national conferences held since 1998 thus

becomes more significant the moment we realize that in the short span of seven years they reached 25% of the total comprising all conferences held during a little over than two decades. Considering that national conferences held during these seven first years of Lula's government – which alone make up for 69% of the total of all deliberative and normative conferences held from 1988 to 2009 – one arrives to the conclusion that the conferences that approached issues related to the interests of minority groups correspond to almost a third of the total, with 31% out of 55 national conferences held from 2003 to 2009, as shown in Graph 3, below.



Lula's government was alone responsible for introducing 22 new policy areas into the deliberative process of the national conferences, which corresponds to 67% of a total of 33 areas of public policy that the government have been deliberating along with civil society through such participative mechanism until the end of 2009. Going beyond the obvious implication that the policy areas subject to public deliberation became more numerous as well as more diverse after Lula took office, what also

becomes clear is the central role conferred to minority groups, which started taking on a prominent role in the newly created national participative spheres. During the Lula government, not only did the minority groups conferences increase in number, assuming a higher profile in the overall context of national conferences held during his two terms, additionally, the very conception of minority group also was broadened so as to encompass a larger and more heterogeneous set of social and cultural groups, which from then on found a channel through which demands for specific policies could be voiced toward their political, social, cultural, and legal inclusion.

At least nine are the groups whose specific policies have begun to be deliberated in national conferences in which they have the chance to directly participate in alongside government representatives. I said at least nine since in the case of the ‘national conferences for the promotion of racial equality’, for example, although blacks constitute the main group targeted, other racial, ethnic and religious minorities are equally benefitted: gypsies, African descendants, practitioners of African religions, Jews, Arabs, in addition to indigenous people and women. Still within this same group targeted as “the black” in the ‘national conferences for the promotion of racial equality’ there are specific policies for black youth, black women, and the *quilombolas* (the surviving descendants of runaway African slaves).

In this same direction, the national conferences for the rights of children and adolescents focus on groups whose specific policies can be further subdivided into actions and specific programs for two sub-groups: children and adolescents. It is worth remembering that this latter designation does not perfectly coincide with the group designated “youth,” the specific policies for which did not become the object of national conferences until 2008, with precisely the aim to broaden the scope of the group benefited by policies formulated until then, thus including those aged over 18

and below 29. Furthermore, the ‘national conferences for the rights of children and adolescents’ deliberate upon policies specifically targeted at “children and adolescents with disabilities “black children and adolescents,” as well as the ‘1st National Conference for Youths’ in 2008 deliberated upon specific policies for “black youths,” “youths with disabilities” “young women” and “GLBT youths.” The same occurs with the ‘national conferences for public policies for women’, when there is deliberation upon specific policy guidelines for “black women,” “indigenous women” and “young women,” among others. Similarly, the ‘national conferences on rights of people with disabilities’ deliberate upon inclusive policies for the blind, deaf, mute, physically impaired, and, within this latter group, the wheel-chaired bound.

The examples above indicate that first, policies for minority groups deliberated in the national conferences tend to be crosscutting as to their content. The policies tend to favor more than one group simultaneously, respecting overlapping identities. Second, the national conferences on minority policies constitute spaces of deliberation for specific policies for certain minority groups defined according to their unique identity-traits, but also for specific policies that are inherently cross-cutting among minority groups since they all somehow seek for inclusion. While claiming to have their differences respected, minority groups frame their identity as a minority. Third, each minority group participate and make itself represented not only in those national conferences designed to deliberate policies targeted at them, but also in others which prioritize policies aimed at other social and cultural minorities. The groups have decisively learned how to use such democratic innovation in order to shape their own demands, and to successively reiterate them until the government converts them into policies.

Besides all national conferences which specifically address policy for minority groups, the main participative arena in which cultural and social minorities have been able to express their demands are however the national human rights conferences. Eleven have been the editions of this conference from 1996 to 2008, almost one for year. Until 2003, the human rights conferences were the only within all policy conferences where minority groups found their demands specifically deliberated. That makes sense when one keeps in mind that up to then policies addressing minority groups interest were usually part of larger national policies, such as the human right one, and that it was only on Lula's government that each of the minority groups became the addressee of a definite broad national policy program. Indeed, if one look at the demands made by minority groups in the national conferences on human rights one realizes that they mostly call for specific actions and programs to be adopted by the public federal administration (such as “the elaboration of a massive, systematic, and permanent campaign, to be disseminated in all types of media, against any form of prejudice, and stimulating diversity – including religious and cultural – as something to be respected and as a value”) or enacted as more generic and abstract law by the Legislature (as for example “creating a National Program Against Religious Intolerance and Racial and Ethnic Discrimination”).

Minority groups also make themselves heard in national conferences addressed to other policy areas, that is those whose deliberations are not targeted at minorities or human rights issues. This explains why, for example, in the “I National Conference on Education”, held in 2010, deliberations upon guidelines included policies aimed at the inclusion of blacks and the indigenous in universities, the extension of the national educational system so as to incorporate *quilombola* populations, among other sectorial policies aimed at promoting the inclusion of

minority groups. Another national conference on a general policy area that also systematically approves guidelines which incorporate the demands of minorities is the health one. Since 1992 the health conferences have emphasized policies which, for example, aim at promoting the reconsideration of professional curricula so as to adjust them to the ethnic and cultural profile of the population, especially in the case of the indigenous. This group, it must be added, has been the target of specific conferences within the health and education policy areas: the national conferences for indigenous health (which exist since 1986) and the national conferences for indigenous schooling (the first edition of which was held in 2009).

The guidelines approved in national conferences that are aimed at the deliberation of universal policies such as education (and its several categories: “elementary education,” “professional and technological education,” “education for the indigenous,” in addition to the national conference for education) and health (and all of its categories: “mental health,” “oral health,” “workers’ health,” “environmental health,” “health for the indigenous,” in addition to the general national conferences for health) have during the last years incorporated an increasing number of specific policies aimed at the inclusion of social and cultural minorities (as, for example, in the two abovementioned cases, promoting the access of such minorities to the national educational system and the unified public health system). This can be explained by referring to the broadening and strengthening of civil society entities for the rights of minorities, as well as to their greater experience acquired in national conferences in which specific policies are deliberated upon, and which allow them to voice their demands in other participative arenas which deal with issues of their concern.

If minority groups demand their inclusion in deliberations concerning general universal policies such as health and education, then what is the nature of the

demands voiced in the national conferences which are aimed at providing guidelines for the design of policies specifically addressed to them? After analyzing the policy guidelines approved in the final assembly that closes each national conference, summoning the results from the deliberation and consent of all participants, it can be said that, in terms of their substance, they can be classified into three types: guidelines for the inclusion in general area policies (*inclusive* policy guidelines, that aims for the inclusion of groups within the scope of general universal policies which in many cases already exist, as for example: “creating a law providing for the teaching of indigenous culture in public schools” or “creating health programs, awareness and prevention campaigns for diseases, aimed at black women and communities traditionally victimized by violence), guidelines for the broadening of specific policies (*specific* policy guidelines, that aim to promote or broaden specific interests of minority groups such as “creating quotas for black, indigenous and *quilombola* populations in civil service” or “instituting November 20, the National Black Awareness Day, as a national holiday”) and guidelines for general public policy (*general* policy guidelines, expressing demands that go beyond the interests of the group as a group, such as “promoting the preservation of the natural environment and the decontamination of water springs” or “mandatorily including computer classes in elementary and high school”). Besides their inclusion on supposedly universal policies such as education and health, minority groups seem to seek in the participatory space of the national conferences their recognition as a group through the claim of rights, but as well as citizens concerned with general policies not necessarily connected to their group identity.

Enlarging Participation: Minority Groups' Claims

The national conferences are organized by the government with the explicit intent of deliberating public policy along with civil society. Although the results of the conferences are not binding, the government has been strongly relying on this participatory practice in order to draft its policies. And this is how minority groups achieve to have their interests further represented and taken into consideration on political decision making. Civil society has incentives to participate in the national conferences, once it knows its claims will potentially be heard. And the government has incentives to take the conferences' results seriously, once it counts on the (electoral and intra-electoral) support of civil society. The result is a more participative government, a fuller represented civil society, better responsive political institutions, and therefore a deeper democracy.

Several are the civil society entities (from more organized NGO's to less organized social movements) that represent minority group's interests in the national conferences. The II National Conference on Women Policy, held in 2007, for instance, gathered together dozens of entities representative of women's interests, plus many other civil society associations that represent diverse interests among which those of women. If one also takes in this account the women's associations that participated in the local and state conferences but have not achieved to elect delegates to the national level one, this number increases significantly – especially if one bears in mind that 690 local conferences on women's policy were organized, and all the 27 states also had their own conferences preceding the national one. The overall number of participants in the 2007 National Conference on Women Policy was 2306, out of which 60% were civil society representatives, and 40% members of the government.

One can therefore assume that even considered as a group united by common features (such as common identity, experience, memory, narrative, values, needs, and interests), and distinct from others by the shared differences that singularize them as a minority, women (as happens to other minority groups) have diverse positions regarding their own demands, and thus frame diverse claims seeking for their inclusion. There is no such homogeneous group as ‘the women’, and although the internal diversity is part of the group’s identity, a minimal homogeneity must be reached regarding the political claims; otherwise, lack of consensus among group’s members may result in lack of policies enacted by the government. Therefore, the national conferences provide a deliberative space in which not only civil society and government are able to openly negotiate policies to be drafted, but also the groups themselves have a chance to frame their own claims, and thus shape their identity as a group.

The new institutional venues for participation, and the increased chances to channel claims to the government, stimulates civil society. New associations, NGOs, and social movements have been created; old ones have been reformulated or have been joined by new members. Participation does increase when there is increase in the participatory spaces, and mostly when those prove themselves effective. Civil society entities begin to organize themselves long before a national conference take place. They are most of the times responsible for negotiating with the government the call for a new conference, as well as its date, format and other organizational aspects. Once the President’s decree calling a national conference to convene (on average 12 to 16 months before it takes place) is issued, the social organizations begin to internally discuss their claims and chose their ‘representatives’. Therefore, the

national conferences have a positive impact on civil society's degree of social associativism and political mobilization.

The local level conferences allow social organizations to meet and deliberate along with similar social organizations from neighborhoods municipalities. They frame together their claims, negotiate with the representatives from the local governments, and elect their delegates to the succeeding stages. In the state conferences the same logic happens, this time involving the representatives from all local conferences, and the state's government. When finally the national conference takes place, the social organizations that participated and elected delegates in all states (what certainly includes nationally represented organizations which may have participated in several municipal and state conferences) already have their demands better framed, and are more ready to make their claims, negotiating with others 'representatives' (also the government ones) in order to have them included in the final document that will contain all approved policy guidelines.

As the aim of the national conferences' is to have those policy guidelines later converted into real policy by the government, they are framed in such a way as to be followed by either the Executive branch or the Legislature. Hence, accordingly to their supposed addressee (what follows the nature of the demand addressed), the policy guidelines that came out of the national conferences can be classified in two types, administrative and legislative. Administrative guidelines expresses demands the fulfillment of which falls within the powers of the Executive branch, and legislative guidelines, those which point toward legislative capacities and require for their fulfillment a normative act to be enacted by the Legislative branch (no matter if the initiative for proposing a law, for example, departs from the Executive). Let's look at examples for each type of policy guidelines, both taken from the II National

Conference on the Promotion of Racial Equality, held in 2009. One of the hundreds approved administrative guidelines reads: “producing orientation material concerning racist behavior, attitudes and acts in order to inform the population at large of the Anti-Racism Statute and its application and of the federal and state-level prosecution’s offices and local public safety authorities in charge of enforcing it”. One legislative guideline for its turn says: “proposing state and municipal-level Legislative branches the elaboration of statutes creating state and municipal councils for the Racial Equality Promotion Policies, linked to executive bodies responsible for developing said policies,” or, furthermore, “approving the bill creating the Racial Equality Statute”. The first contains a directive for a policy that must be enacted by the Executive, and the second is clearly addressed to the lawmaking power of the Legislative branch.

And what is deliberated in the national conferences aimed at policy for minority groups? In what consist the policy guidelines approved, and to whom are they addressed? I will answer those questions looking into data I have collected concerning all conferences aimed at deliberating policy for minority groups that took place between 2003 and 2010, that is the period comprehended by the two terms of Lula’s government. This data sums up a total of 15 national conferences, distributed into eight minority groups: women (I and II national conferences on women policy, respectively held in 2004 and 2007), elderly (I and II national conferences on rights of the elderly, respectively held in 2006 and 2009), people with disabilities (I and II national conferences on rights of people with disabilities, respectively held in 2006 and 2008), gays, lesbians, bisexuals, travesties and transsexuals (I national conferences on gays, lesbians, bisexuals, travesties and transsexuals, held in 2008), indigenous people (I national conferences on indigenous people, held in 2006),

children and adolescents (IV, V, VI and VII national conferences on the rights of children and adolescents, held respectively in 2003, 2005, 2007 and 2009), black, and other racial and ethnic minorities (I and II national conferences on the promotion of racial equality, held in 2005 and 2009), and youth (I national conference on youth, held in 2008). Taken together, those 15 conferences approved 3428 policy guidelines, which can be divided into administrative and legislative ones, accordingly to their main addressee.

The data reveals that the Executive branch is the main addressee of the guidelines approved in the national conferences aimed at the deliberation of policy for minority groups: 68.7% of all deliberations originating from minority groups' national conferences since 2003 demanded some kind of direct response from the Executive branch. To this percentage should be added a total of 23,4% of mixed guidelines, that is guidelines that contain demands that could be fulfilled by both Executive and Legislative branches. Only 7,9% of all approved deadlines addressed specifically the Legislative branch, that is require a law or other legal act enacted by the Congress in order to be meet.

Interestingly enough, the results for groups that only very recently became the addressees of specific public policies – such as the youth, the elderly, the GLBT, and the people with disabilities – display a higher number of legislative guidelines than the average. This clearly reveals the greater need for recognition of those groups as legal subjects, that is as recipients of rights and bearers of judicial protection. They certainly need as much policy as the other minority groups do, but they also need to be first recognized as groups, and as such they claim for a legal benchmark of their own. More than having their political inclusion granted, those groups expect to have their social and cultural identity recognized. Women, black, and children have been

for a longer time anyhow protected by law in Brazil, even though they still lack basic policies that meet their needs and interests. The indigenous people make a proviso here. Although this group has been contemplated by state policies for a longer time, those have always showed insufficient to account for indigenous cultural diversity; and although the indigenous people have been included in the democratic constitution of 1988, they still lack basic rights, and mostly they still lack legal protection. Part of this protection is a territorial one, required due to reiterated land ownership conflicts. And those are issues that must be approached by law, what explain the high number of legislative guidelines among those approved in the ‘I National Conference on Indigenous Peoples’, held in 2006. Table 1 below displays the data concerning the nature of the guidelines approved in minority group’s national conferences.

Table 1: Nature of guidelines approved in minority group’s national conferences

National Conference	Year	Legislative Guidelines	Administrative Guidelines	Mixed Guidelines	Total
Rights of the Elderly	2006	49 (23%)	97 (45,5%)	67 (31,5%)	213
	2009	0 (0%)	1 (14,3%)	6 (85,7%)	7
Rights of People with Disabilities	2006	5 (2,7%)	67 (35,8%)	115 (61,5%)	187
	2008	9 (18,4%)	40 (81,6%)	0 (0%)	49
Gays, Lesbians, Bisexuals, Travestites, and Transexuals	2008	29 (23,2%)	68 (54,4%)	28 (22,4%)	125
Indigeneous Peoples	2006	93 (49,2%)	73 (38,6%)	23 (12,2%)	189
Women Policy	2004	5 (6,3%)	21 (26,3%)	54 (67,5%)	80
	2007	0 (0%)	251(66,4%)	127 (33,6%)	378
Rights of Children and Adolescents	2003	8 (5,9%)	120 (88,2%)	8 (5,9%)	136
	2005	0 (0%)	37 (61,7%)	23 (38,3%)	60
	2007	0 (0%)	14 (58,3%)	10 (41,7%)	24
	2009	1 (1,6%)	12 (19,4%)	49 (79%)	62

Promotion of Racial Equality	2005	33 (3,1%)	874 (83%)	146 (13,9%)	1053
	2009	16 (2,1%)	646 (84,9%)	99 (13%)	761
Youth	2008	23 (22,1%)	34 (32,7%)	47 (45,2%)	104
Total		271 (7,9%)	2355 (68,7%)	802 (23,4%)	3428

This apparent bias towards administrative guidelines should not lead one to infer that it denotes indeed a stronger preference among delegates of national conferences for punctual and specific policies rather than generic and abstract laws. Neither should one infer that national conferences' participants simply consider that the Executive can potentially respond more effectively and rapidly than the Legislative. Beyond the fact that consensus towards policies takes longer to consolidate in the Legislative (due not only to the many procedures required in the course of the legislative process, but also to the need of forging coalitions able to approve the policies in addition to other variables), one should also remember that many demands which are administrative in nature require the implementation of policies that have been established by law in a previous moment.

With regard to minority groups, the proposition above seems all the more true. It is no casual coincidence that national conferences on minorities are often referred to as “conferences for rights” (something which, not surprisingly, some of their names carry: national conference on the *rights* of elderly, national conferences on the *rights* of people with disabilities, national conference on the *rights* of children and adolescents). Many of these rights – such as those concerning the elderly, the children and the people with disabilities – already are declared in the Constitution. However, these are social and cultural rights which, due to their legal nature, imply a greater number of obstacles standing between their specification and their enforcement, and consolidation. This explains why often what administrative guidelines call for is the

actual fulfillment of rights that have already been granted, but whose implementation depends on policies that wait to be drafted. Therefore, once able to rely on laws that guarantee their rights and preserve their interests, minority groups tend to eventually prioritize the approval of administrative guidelines rather than legislative ones. This, however, does not prevent them from demanding that the implementation of certain policies be one way or the other guaranteed by law.

The points made in the previous paragraphs suggest yet another proposition: for as much as the main objective of the national conferences consists of providing guidelines for the *formulation* public policies, they have also demonstrated their potential as both sources of guidelines for the *implementation* of previously formulated policies, and arenas for the *monitoring* of already implemented policies. The national conferences thus have an impact in several stages of the public policy cycle. Furthermore, it can be stated that since 2003 such participatory mechanism has been responsible for a major change in the way political decisions are taken, and public policies are made in Brazil.

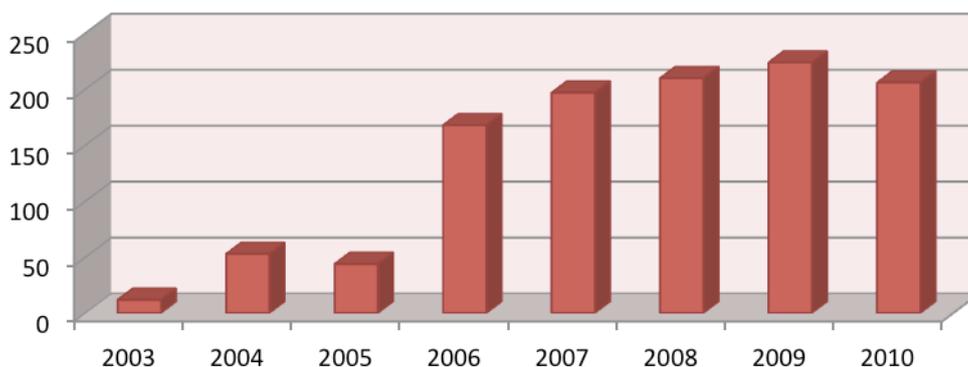
Improved Representation: Governmental Responses

To what point are the Executive and the Legislative branches in Brazil responsive to civil society's demands as voiced in the national conferences? How much are the guidelines deliberated in such participatory spaces followed in the government's drafting of policies and laws? To what measure minority groups have been further included in the political decisions, achieving to be the final beneficiaries of policies and law that advances their interests and guarantee their rights?

In order to answer those questions, I have built up a database with all the policy guidelines that have been approved in the national conferences on minority groups, plus all of those approved in the human rights national conferences that deal with minority group's issues. Those policy guidelines have been classified into administrative and legislative, accordingly to the branch of the government that is institutionally competent to fulfill them. Each policy guideline has been taken as an entry for searches in the databases of the federal Executive branch and of the Congress, accordingly to the nature of the guideline. Those searches were made taking into consideration the date of each national conference whose guidelines were searched, and covered the entirety of Lula's government (2003-2010), except for its two final months. All search results were then analyzed in order to verify precisely which were those that matched the policy guidelines. Naturally, one same presidential decree or law may match more than one policy guidelines, and in the results I will mention below those have been counted only once. Certainly, the fact that a decree or law matches the national conference's guidelines is by itself not enough to elicits the conclusion that such decree or law has indeed been determined by the guidelines resulting from the social participation processes. But such fact is certainly enough to support the argument that the national conferences guidelines operate as an informative basis that somehow influence the policymaking by the Executive, and the lawmaking by the Legislature. And that seems even truer when one can notice besides the substantive coincide between the contents of the conferences' guidelines and those of the law and policies enacted by the government, also a temporal coincidence between the national conference's occurrence and an increase on the policymaking and lawmaking concerning the same issues deliberated by civil society in those participatory mechanisms.

Let's first look at the presumed impact on the Executive branch. Considering only the presidential decrees issued from 2003 onwards, one can note a very significant increase starting in 2006. As we have already seen above in graph 2, with the exception of children and adolescents, the first specific minority group national conference was held in 2004 (women policy), the second in 2005 (promotion of racial equality), and then in 2006 three national conferences on minority-groups were held (elderly, people with disabilities, and indigenous people), and such an average of three conferences a year on minority groups' issues was kept until 2009. Graph 4 below displays how apparently policymaking by the Executive branch has increased following the increase on the national conferences focused on minority group's issues. In 2003, when only the regular national conferences on human rights and children and adolescents took place, 12 presidential decrees relating to those issues were issued. In 2009, after each minority group here considered have had its own specific national conference, the number of presidential decrees that matches such conferences' administrative guidelines raised to 224.

Graph 4: Presidential Decrees on Minority and Human Rights Issues (2003-2010)



The major impact of the national conferences on policymaking is however qualitative, and not merely quantitative. While it is harder to rigorously evaluate the presumed impact of the national conferences on the Legislative due to the many variables that may be at stake when a bill is proposed or a law enacted, in the Executive branch policies were made in Lula's government with the clear and explicit intent of fulfilling the civil society's demands contained in the national conferences guidelines. One of the most well known examples is the so-called National Program for Human Rights 3. This long national plan that contains among other things policies for all sorts of minority groups became binding after the publication of a presidential decree in the end of 2009. As it is written in the policy itself, its 25 guidelines, 81 strategic objectives and hundreds actions reflect the demands of about 55 national conferences held during the Lula presidency, and especially those related to minority group's and human rights issues.

Several other important presidential decrees were issued, many of them bringing to life for the first time national policy plans in areas that have never before been specifically addressed by federal policymaking. This is the case, for example, of women. Although women have in a way or another been contemplated in different policies over the years, they have never had a specific policy that addressed them as a group, and that intended to provide them with a national framework to be implemented in each and every state of the country. Most importantly, apart from never having had a full policy agenda of their own, women had also never taken part into the drafting of such policy. That was until the enactment in March 2005, by presidential decree, of the '1st National Plan for Policies for Women', which explicitly states in its introduction that it was the result of the 1st National Conference on Women Policy, "that in July 2004 established itself as a watershed in the

affirmation of the rights of women, and mobilized throughout Brazil approximately 120 thousand women, who directly participated in debates and presented proposals for the elaboration of a National Plan of Policies for Women”. As participation began to be institutionalized in Brazil and the women’s movements received a new impetus, a second national plan on women policy was issued by presidential decree in March 2008. The ‘2nd National Plan for Policies for Women’ declares in its introductions to be the “result of the mobilization of almost 200 thousand Brazilian women, who participated throughout the country in the municipal and state Conferences, and elected 2,700 delegates to the II National Conference on Women Policy which took place in August 2007”.

Just like it happened with women, national policy plans were drafted for the black people, the people with disabilities, and the elderly. These examples are just a small sample of the potential that administrative guidelines formulated at national conferences on minorities and national conferences on human rights have of being converted into public policies formulated and implemented by Executive branch at the federal level. Even though the main scope of national conferences consists of providing content for the formulation of *national* policies, the national plans and programs which incorporate the demands voiced by minority groups are complemented by several other decrees regulating them, and their scope have been both broadened and specified by a wide array of normative acts of the federal public administration which privilege sector policies and specific actions which aim to turn the deliberations of the national conferences into reality.

The exact measure of how much national conferences are able to shape the public policy agenda in Brazil certainly requires a more profound and rigorous analysis. However, there is no doubt that, based on data presented in last few pages,

these nationwide participative practices strongly impact on the actions of the Executive branch, which, on its part, has become increasingly responsive to the demands of minority groups and, equally important, has been redesigning itself institutionally, particularly with regard to the way it formulates, implements and oversees public policies.

Let's now turn to the presumed impact on the lawmaking in the Legislative branch. We already know that the final deliberations of the national conferences on minority groups' policy tend towards approving more administrative than legislative guidelines – or, in other words, they express in numbers the greater demand for policies to be designed and implemented by the Executive through actions and programs carried out by varied bodies of the public administration at the federal level. However, the volume of legislative guidelines, although smaller, proves itself very significant.

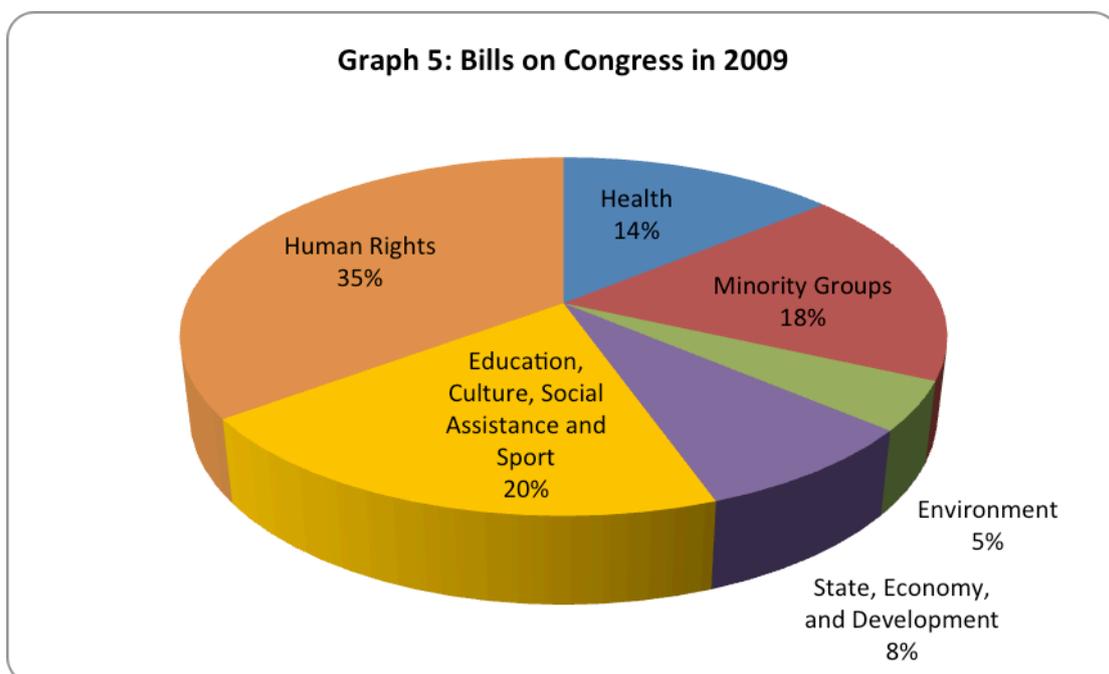
As shown earlier in this paper in Table 1, legislative guidelines approved by the fifteen specific national conferences on minority groups' policy comprise on average 7.9% of the total, but to this percentage should be added the 23,4% of mixed guidelines that contains demands addressed to the Legislative as much as to the Executive branch. A total of 1073 guidelines thus envisaged a response from the Legislative, as a result of the deliberations of civil society entities in the new participatory venues they were granted since in 2003. Therefore, for as much as minority groups for various reasons tend to demand more from the Executive, and for as much as the national conferences aim mostly at providing guidelines for public policies to be formulated and implemented by the Executive, the percentage of demands submitted by minority groups to the Legislative is significant. These demands indicate, first and foremost, that, regardless of how avidly groups might

pursue actions and programs from the Executive, the need for formal inclusion, for the legal guarantee of many rights, in addition to the conversion of temporary government policies into permanent State policies remains unfulfilled. This leaves us with the task of verifying how the Parliament has responded to the demands submitted by minority groups.

If one look at the presumed impact on the Legislature of all the 80 deliberative national public policy conferences which took place in Brazil from 1988 to 2009, one arrives to the conclusion that conferences dealing with subjects related to minority groups stood out either because of its rising number of occurrences, or the high number of legislative guidelines deliberated upon, or lastly the presumably significant effect of these guidelines on the Congress's lawmaking activities. Such conclusions can be derived from a comparison between the results achieved in the Legislative by the set of minority group's conferences and the results achieved by all others. Those results concern both the bills introduced by the representatives, and those laws and constitutional amendments effectively enacted by the Congress. Looking at bills is as much important as looking at approved legislation because they reflect the eventual informational basis provided by the national conferences to the elected representatives. Some representatives may not be successful in having their bills approved by the Congress and converted into law, but the fact that they have simply proposed bills convergent with the national conference's demands imply that they are anyhow representing those demands.

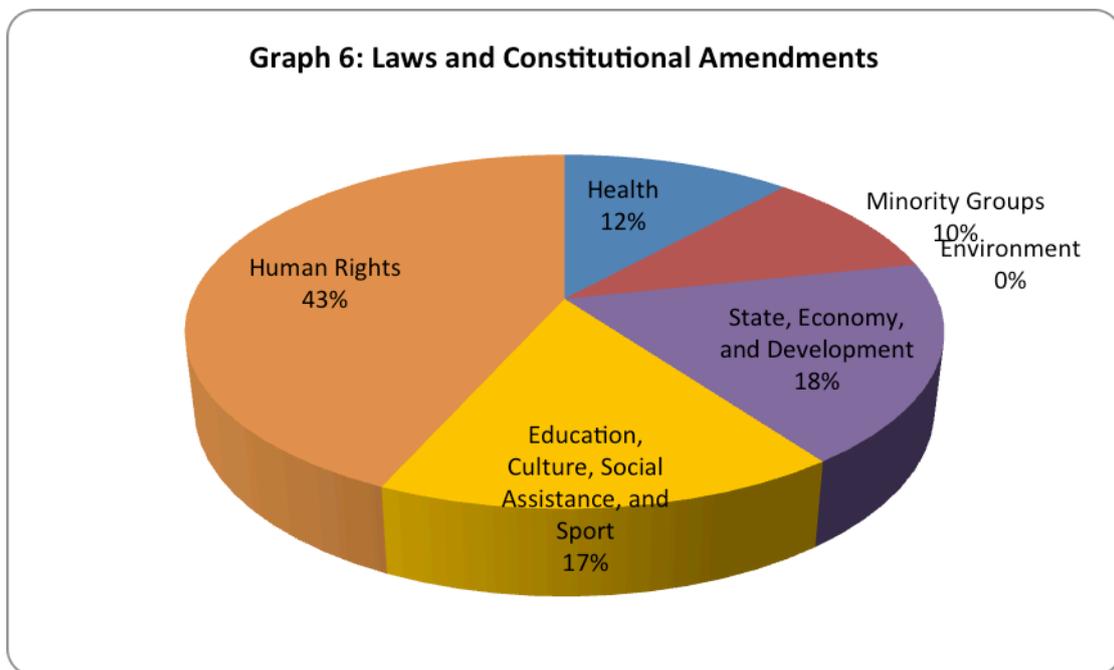
Graph 5 below displays the distribution of all bills that cover national conferences' demands that were by the end of 2009 active in the Brazilian Congress, waiting to be voted and converted into law. One can note that of all national conferences held since 1988, the 20 dealing specifically with minority groups' issues

were alone responsible for 18% of the total of bills and constitutional amendment proposals whose subject involved guidelines approved in national conferences. Adding the 35% correspondent to the national conferences on human rights, one comes to the conclusion that more than half of all bills convergent with the legislative guidelines originating from the eighty national conferences potentially aimed at fulfilling the demands of minority groups.



With regard not only to the legislative activity but also to the actual output of the Brazilian Congress, Graph 6 below shows that minority groups are also successful in converting bills that relate to their interests into statutes and constitutional amendments: 10% of all laws and constitutional amendments identified as convergent with the legislative guidelines of the 80 national conferences analyzed to some extent incorporated the demands expressed by minority groups in the participative arenas of the national conferences. Although this proportion is smaller than the one found for the bills, when one adds the laws and amendments convergent with the guidelines of

the conferences on human rights, one finds the same 53% reached in Graph 5 concerning the bills not yet voted. Nevertheless, the fact that the number of bills convergent with the guidelines from the national conferences on minority groups is smaller than the number of laws actually enacted by the Congress is absolutely expected: when compared to the other policy areas, the national conferences on minority groups were the last to take place (mostly beginning only after 2003), and the average time required to have a bill converted into law is not small, and must be taken into consideration.



Unlike the bills and proposals to amend the Constitution, which correspond to those active in the Congress by the end of 2009, the statutes and constitutional amendments displayed in graph 6 encompasses all those enacted between 1988 and 2009. Given that the national conferences for minorities did not start being held until after 2003, there are still unanswered questions, namely: whether they were capable of generating as many responses by the Legislative in so little time; and how powerful

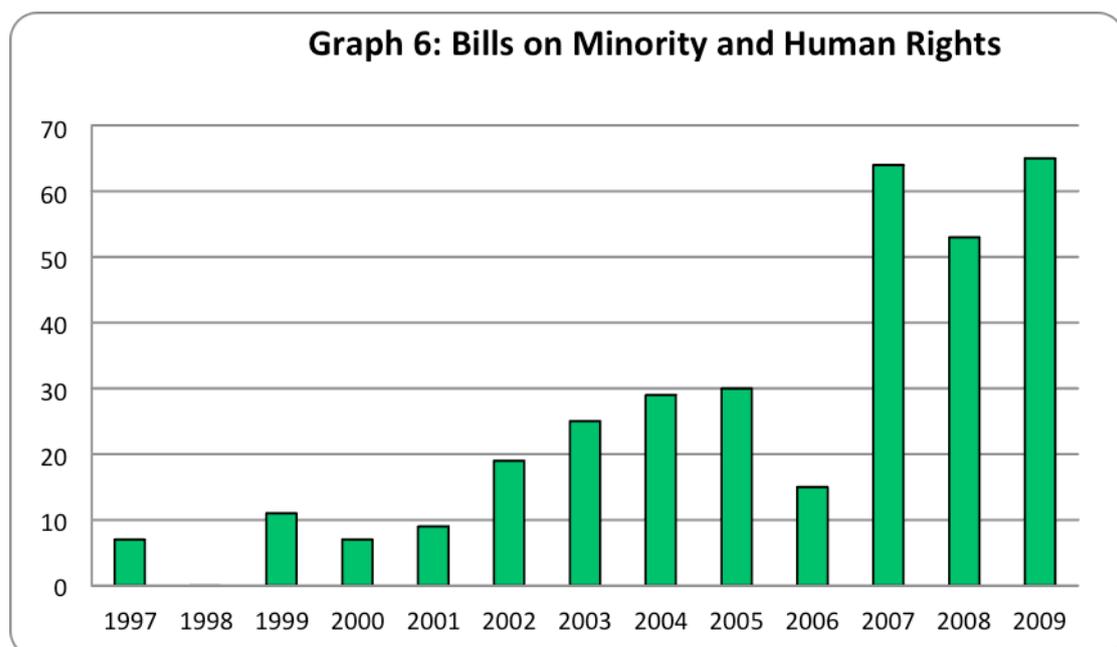
is the national conferences for human rights' ability to absorb the demands of minorities?

Graph 7 below can provide some tentative answers to these questions. It presents the distribution over time of bills and constitutional amendment proposals convergent with the guidelines of the national conferences for minorities and human rights. The period under scrutiny spans from 1997, when the 'I National Conference on the Rights of Children and Adolescents' took place, until 2009. One notices that, save for a slight dip in 2006, the number of projects has been increasing steadily and considerably since 2003, when the first of the eight new specific national conferences on minority groups' were put into practice by Lula's government. In 2007, the year following the 'I National Conference on the Rights of Elderly', the 'I National Conference on the Indigenous People', and the 'I National Conference on People with Disabilities', one can notice that the number of bills presented pertaining to minority groups increased six times compared to 1997.

The year 2008 presents a slight decrease in relation to 2007 and it is interesting to notice that it follows a year in which, in addition to the 'VI National Conference for the Rights of Children and the Adolescents', which was taking place every two year since 1997, there was only one new specific conference for minority groups, the 'I National Conference on Women Policy'. This indicates that the decrease of the number of national conferences on minority groups held in a year, no matter how small, is related to a decrease in the number of bills pertaining to minorities the following year. The relationship between the number of national conferences and the number of bills alone already sounds as an indication that, effectively: 1) the national conferences are a driving force behind legislative activity

of the Congress and, 2) national conferences shape the agenda of the Congress, prompting it deliberate upon certain issues, and at certain times.

The year 2009 also seems to confirm these two hypotheses: since an increase is perceived compared to 2008, it is likely that this was caused by the holding of four minority group's conferences in the previous years. As the national conferences take few months until announcing their final reports containing the approved deadlines to the public, it is reasonable to expect that any potential effects would only be felt months after, meaning that waiting for a year or two year seems advisable for this kind of analysis. 2008 was a year that set new records for national conferences for minority groups, and brought three new policy issues to public deliberation. Also, during the two preceding years new policy issues had become the object of national conferences. This can perhaps explain the high success rate achieved in 2009 and allows me to advance one further hypothesis: 3) national conferences succeed in placing *new* items in the agenda of the Congress.



Converting Participation into Representation

The data discussed in the previous pages suggest that Brazil's national public policy conferences have established themselves as spaces in which social and cultural minority groups are able to eventually yet successfully convert themselves into political majorities. Once this latter claim is true, then institutionalized participation and deliberation may in fact strengthen political representation.

As we have seen, the national public policy conferences have become not only broader and more frequent after 2003; they have also become more wide-ranging and inclusive with the beginning of Lula's government. Since then, an increasing number of policy areas have been submitted to public deliberation, and an expressive part of them dealing with issues aimed at minority groups. The contours of the public policy are thus to be defined to a large extent by the particular nature of the groups that participate in those public deliberations. The demands of the women (in the national conference on women policy), of the indigenous people (in the conference for indigenous peoples), of the elderly (in the conferences for the rights of the elderly), of the people with disabilities (in the conferences for the rights of persons with disabilities), of the gays, lesbians, bisexuals, transvestites and transsexuals (in the conference named so), of the children and youth (in the conference on children and youth rights), and of different races and ethnicities (in the conferences for the promotion of racial equality) inevitably touch other non-particular public policy areas, such as health, education, social assistance and culture. Therefore, in addition to increasingly including more diverse and heterogeneous interests usually represented by civil society (dispersed among NGOs, social movements, worker unions, business entities and other professional or non-professional entities), such Brazilian democratic

innovation operate as spaces that allow minority groups to represent their hitherto fragmented and scattered interests, and advance a policy agenda of their own.

Minority groups have therefore not only been able to rely on an increasing number of participatory spaces in which public policies targeting them are the specific object of deliberation within the government, they have also been effective in articulating a considerable number of administrative and legislative guidelines addressed respectively to the Executive and the Legislative branches. Although such participatory deliberated policy guidelines are not binding, since it is reasonable to suppose that they do actually inform policymaking and lawmaking, a high percentage of the informational basis passes on to both the Executive branch and the Legislature deal with demands made by minority groups.

The data discussed in this paper suggest that the two main branches of representative government have been responsive to those demands. Such responsiveness for its turn may lead to the increase of the representativity of groups whose interests are eventually not directly taken into account in electoral and party politics. Minority groups' interests have been reaching the government through new channels (or putting it in another way: have been generated within government through new forums of participation and deliberation), ultimately being able to reconfigure how political parties mediate interests.

The institutionalization of participatory experiments such as the national public policy conferences in Brazil may not only give minority groups a voice, but also make it effectively heard in the government. Even when minority groups eventually are not able to elect their preferred candidates, institutional democratic innovations may provide them with an opportunity to have their interests represented in the traditional institutions of representative government.

The effect of a law or policy backed up by the guidelines deliberated in the national policy conferences may operate as a form of ‘retrospective representation’ (Mansbridge 2003), since elected representatives may be presented with strong incentives (which eventually transcend party agendas or the priorities of traditional constituencies) to endorse the demands voiced by minority groups, and thereby gain new electors or reestablish severed ties with former ones. Democratic participatory innovations are thus capable of achieving political representation for political minorities which would otherwise not be able to build up party majorities.

The institutionalization of democratic innovations may therefore allow for the political representation of minority groups even when at first instance their preferences are not even eventually envisaged in parties’ programs and platforms. The public policy guidelines contained in the deliberations undertaken at the national conferences stimulate governmental activity, offering elected representatives a broad menu of demands directly shaped according to the preferences of civil society’s groups in a non-electoral setting – one that is therefore free from party influences, media appeal, or any other form of interference in the formation of citizens’ opinion and will. Once institutionalized, democratic participatory deliberations are imbued with a strong legitimacy claim, which allows minority groups to overcome the traditional logic of interest distribution. This is what can eventually enable a major party to decide to represent a previously unrepresented interest, one hitherto not represented by any other party or perhaps weakly supported by a minor party.

Brazil’s national public policy conferences therefore function as a form of political mediation which runs parallel to elections and party politics, and which is nonetheless capable of converging to achieve democracy through representative institutions. The participation of civil society and the deliberation they engage in with

the government yield more representative institutions (insofar as they are able to appreciate with greater emphasis broader and more inclusive interests) and bolster political representation by creating new incentives for elected representatives to perform their activities better aligned with civil society's preferences.

The concrete impact of such bolstered political representation in the actual social inclusion of minority groups is however an issue yet to be addressed, as well as it is the redistributive effects of the policies designed accordingly to the demands brought up by those groups in the national policy conferences in Brazil. Nevertheless, the way such institutional innovation has been serving the interests of minority groups evidences how democracy is able to express itself as representation in yet another way through participation and deliberation.

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