

## THE APPLICATION OF THE LAW OVER CULTURE INCENTIVE ON THE DEMOCRATIZATION OF THE LEISURE ACCESS

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**ABSTRACT:** The article analyzes the law of culture incentive on the art democratization, as source of popular leisure, inserted on social rights. It's about the bibliographic research with descriptive reading of tax incentives and their public – private partnership applied in the promotion of entertainment to peripheral populations. In multidisciplinary analysis of Cesnik (2012), Coelho (2009), Costa (2020), Nagayama (2020) dialogued with Almeida (2019, 2020), Barbosa (2012), Bretas (1997), Dumazedier (1975, 2015), Gomes (2014) and Marcelinho (1997, 2015), introduces the needs of inclusive measures for leisure service purpose. Realizes the tax exemption manipulated by capital and political interests to demand restructuring of social movements in the requirement of public politics of leisure as culture accessible to low-income layers, in a regional and pluralistic way.

**KEYWORDS:** Tax Incentives. Leisure Activities. Culture. Art.

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## **A APLICAÇÃO DA LEI DE INCENTIVO À CULTURA NA DEMOCRATIZAÇÃO DO ACESSO AO LAZER**

**RESUMO:** O artigo analisa a Lei de Incentivo à Cultura na democratização das artes, como fonte do lazer popular, inseridas nos direitos sociais. Trata-se de pesquisa bibliográfica com leitura descritiva dos incentivos fiscais e sua parceria público-privada aplicadas no fomento do entretenimento às populações periféricas. Em análise multidisciplinar de Cesnik (2012), Coelho (2009), Costa (2020), Nagayama (2020) dialogadas com Almeida (2020), Barbosa (2012), Dumazedier (1975, 1979), Gomes (2014) e Marcellino (1997, 2015), apresenta-se a necessidade de medidas inclusivas a serviço do lazer, que nesse texto se conecta com as artes e a cultura. Percebe-se a isenção tributária manipulada pelo capital e interesses políticos a reclamar reestruturação das instituições públicas atuantes na exigência das políticas públicas de cultura enquanto lazer acessível às camadas de baixa renda, de forma regional e pluralista.

**PALAVRAS-CHAVE:** Incentivos Fiscais. Atividades de Lazer. Cultura. Artes.

### **Introduction**

The importance of tax incentives as a way of structuring artistic dissemination in a more comprehensive and democratic way brings a reading of leisure and art focusing on fundamental human rights. It is necessary to conceive recreation as a social right and its essential character within the universe of human needs with intimate connection with artistic cultural themes in such a close connection with entertainment, to the point of being considered inseparable.

The article presents the historical-political route of the valorization and devaluation of culture. It is pointed out that the normative spirit of sociocultural inclusion permeates moments of neutrality of political sectors, military repression and appropriation by the market, in order to make a standardization formatted in the interests of the business domain and, thus, hinder access to the layers the most disreputable in economic terms.

The third section describes and argues the exhibition of marketing aggregating events with their marketing dividends benefiting at the expense of diversities and their multicultural forms of broader and more democratic manifestations inserted in the field

of art as a source of leisure. The research analyzes how the main law in support of culture, made through a public-private partnership and implemented through tax incentives, exerts influence in the entertainment industry.

The bibliographical, descriptive and qualitative article seeks the understanding of authors as Cesnik (2012), Coelho (2009), Costa (2020), Menezes (2016), Nagayama (2020), Oliveira (2018) and others who contribute with their divergences and convergences realigned in an analytical understanding for the construction of this dialogue and conclusion of the normative importance of encouraging private initiative. In this explanation, the readings of Almeida (2020), Barbosa (2012), Dumazedier (1975, 1979), Gomes (2014), Marcellino (1997, 2015) and others make a dialogue in the construction of criticality.

The dialogue with writers from the cultural, educational, tax and artistic areas presents a vision of issues related to leisure within a systematic of the completeness of human needs, in the universe of fundamental rights, which will be explored in the development of this study.

## **Development**

Bebida é água. (*Drinking is water*). Comida é pasto. (*Food is grass*). Você tem sede de quê? (*What are your thirst for?*) Você tem fome de quê? (*What are you hungry for?*) A gente não quer só comida. (*We don't want just food.*) A gente quer bebida, diversão e arte. (*We want booze, fun and art*). A gente não quer só comida. (*We don't want just food.*) A gente quer saída para qualquer parte. [...] A gente quer a vida como a vida quer (*We want to go anywhere. [...] We want life as life wants*) (ANTUNES; FROME; BRITO, 1987).

The right to leisure was contextualized in this article within the artistic universe, institutionalized as intrinsic to the dignity of the person affirmed in the Federal Constitution, according to the caput of article 6 of the chapter, which establishes, among these, leisure as part of social rights (BRASIL, 1988). It is a matter of natural law as an

element of composition of the human personality and for this reason it is a diffuse matter in the constitutional text.

The Brazilian cultural management is provided for in articles 23 and 24 of the Federal Constitution, which specifies the competence of Federative Entities (BRASIL, 1988) in promoting cultural manifestations. These constitutional forecasts moved by a historical and political trajectory show a dynamic struggle for the democratization of knowledge as an element of aggregation and diffusion of the peculiar pluralities of artistic manifestations that add up to the formatting of a multicultural national identity, rich in its diversity and plurality.

The tax incentive laws allow the capture of projects by deducting a percentage of taxes from companies and individuals. It means that instead of paying the tax in its entirety to the government, the taxpayer can deduct amounts and allow taxes to be applied to projects in their communities.

The Rouanet Law (BRASIL, 1991), enacted on December 23, 1991, is the main incentive tool for cultural activities. Through it, businessmen and individuals can have financial incentives to benefit from cultural projects such as museums, theaters, cultural exhibitions, deducting the total or partial amount of the expenditure from the income tax. This awareness of the importance of the political capital of culture as a positive marketing aggregation factor makes the groups alternate in subjugating, manipulating and articulating themselves around the movements of popular, intellectual, educational and artistic expressions.

Both the political-business environment and the media aim to favor the dividends of the expressions of knowledge and entertainment of the people. Within this dynamic that involves the convenience of groups aimed at domination and with economic and political capital, the game of interests only turns to the production of a

more democratized culture, if there is a strong inspection of institutions that represent social interests and those with low incomes.

It is noted that the complexity of urban development has increasingly incorporated leisure components into an intimate imbrication with culture, in such a way that both themes are connected and intertwined as a composition of a whole. Furthermore, within these elements, art is the least accessible to low-income communities, which is why the research is centered on the issue of entertainment in its artistic environment.

### **Concepts about Leisure and its Developments in Public Policy**

“[...] What does someone gain with all their work? [...] God set the right time for everything. [...]. So, I understood that in this life, all someone can do is try to be happy and live the best they can. All of us should eat and drink and enjoy what we earn as our work. This is a gift from God (BÍBLIA, 2009, p. 800).

In the 1920s and 1930s, the first studies of the empirical sociology of leisure appeared in the United States and France, associating the phenomena of leisure with other fields of social reality. It was from the Second World War, however, that the sociology of leisure and a series of research on the subject expanded across several countries and began to relate more frequently to other social areas, such as: politics, urbanism, economic planning, health, law and social assistance.

In Brazil from the 1970s onwards, initiatives and studies on the importance of entertainment emerged. The French sociologist Joffre Dumazedier stands out, who came to live in Brazil and boosted the development of the sociology of leisure in the country. Several of his works were translated, such as: “Lazer e cultura popular” (1973); “Questionamento teórico do lazer” (1975); “Sociologia empírica do lazer” (1979); “Valores e conteúdos culturais do lazer” (1980) and others.

Dumazedier (1979) points out characteristics about leisure that are fundamental:

Libertarian character; Disinterested character; hedonistic character; Personal character.

1) Libertarian character – leisure is understood as the release of professional, family, socio-spiritual and socio-political obligations, resulting from the subject's free choice; 2) Disinterested character – leisure does not need to be linked to any specific purpose, whether professional, utilitarian, profitable, material, social or political; 3) Hedonistic character – the experience of leisure is marked by the pursuit of pleasure and, therefore, hedonism represents its main motive; 4) Personal character – the functions of rest, entertainment and personal and social development of leisure respond to the individual's needs in view of the range of rigid obligations imposed by society (SILVA *et al.*, 2011, p. 16).

In this regard, the meanings and practices related to leisure were expanded. For Marcellino (1987), it is necessary to recover the sense of recreation and think about other possibilities, different from what was historically constructed in our context. When recreation is understood as a form of reflection and conscious interaction with our reality, it helps us to lead personal and collective changes.

Thinking more broadly, Marcellino (1997, p. 157-158) points out 4 important points for the characterization of leisure:

Leisure is the “culture experienced in the 'available time' of professional, school, family and social obligations, combining the aspects of time and attitude”; 2. Leisure is “a phenomenon historically generated and from which questioning values of society as a whole emerge and on which influences from the current social structure are exerted”; 3. Leisure is “a privileged time for experiencing values that contribute to moral and cultural changes”; 4. Leisure is “the bearer of a double educational aspect, vehicle and object of education” (SILVA *et al.*, 2011, p. 17).

Marcellino (1997) presents culture as a central element in the discussion of leisure. It is necessary to break, however, with the limited concept of what can be conceptualized as culture, as most of the time it is only linked to arts and spectacles and to the volume of knowledge acquired by the subjects. Camargo (2017) also questions the restriction of leisure when asking whether activities such as sport, work, art and cultural expressions can be defined as such.

The questionings of these two authors bring to light a common point, which is the link between culture and leisure. It also exposes an apparent paradox to consider, entertainment as a banality or within the need for less attention on the scale of human values, without an accurate analysis of the serious problems and challenges that the absence of cultural leisure policies brings to our society.

Within this practice of devaluing the arts and leisure, universalist policies cling to the common sense of trivializing this human need as if it were not as elementary as health, education and housing, etc. With this, the contemplation of artistic works, a museum or an exhibition becomes a privilege of the ruling classes.

Gomes (2014) conceives in this assertion that leisure, as culture and art, are still incipient under an approach of human need. In her definition, the author points out the multiple forms of entertainment molded to the values and interests of subjects, groups and institutions in each historical, social and cultural context. Thus: “[...] leisure is a complex social practice that encompasses a multiplicity of playful cultural experiences that are contextualized and historically situated” (GOMES, 2014, p. 3).

Content related to leisure and culture can be linked to physical, manual, artistic, intellectual, social interests (DUMAZEDIER, 1979); tourist (CAMARGO, 2017); visual (SCHWARTZ, 2003). Leisure is understood within a broader dimension, beyond the mere biological needs of people, both in Christian theology and in many religious and philosophical theories. Thus, millenary knowledge does not justify the need for relaxation of the body, spirit and soul to be considered superfluous in the pyramid of essentials of human experiences.

With this substantial completeness, Banda Titãs was successful with a song, whose lyrics expressed human hunger within an expansion that advances towards art, leisure and happiness, they sang: “[...] we don't just want to food [...] Food is pasture!

(ANTUNES; FROME; BRITO, 1987). The song “Food” externalized as art and entertainment compose the framework of physical and spiritual needs within the same measure as other urgencies of nature that define the being in its totality and human complexity.

Gomes (2014) characterizes leisure as a lack of playfully enjoying the countless social practices constituted in cultural terms, where its multiple forms of enjoyment in the cultural and historical context cause entertainment to be constituted in dialogued relationships with education, work, economy, language and art, taking dimensions in social life as an integral and constitutive part of the collective. The integrality of each being in its individuality is added.

Marcellino (2015) mentions that it is necessary to understand the issue of leisure in the framework of people's dignity:

With the intention that leisure is not just an opportunity to recover the workforce or that it can be characterized as an instance of alienated consumption or an “escape valve”, which helps to maintain the unfair social status, the municipal scope is just a of those that should be considered, in the sphere of public administration: it needs to be taken into account, but it is essential that it differentiates its performance from other initiatives, from spontaneous ones to those of the so-called “cultural industry” (MARCELLINO, 2015, “n. p.”).

For Marcellino (2015), the installation of this new social order that elevates culture to an economic level does not mean the isolation of social plans from the right to entertainment, but what happens is an expansion of debates on the role of public administration in relation to policies of leisure formulation. From there, entertainment is considered as an instrument of cultural mobilization and participation.

In this logic, and under the focus of leisure and art as a source of social promotion, the Citizen's Charter provides that the Public Power is responsible for promoting it through incentives. At the same time, the Constitutional text requires the



State to guarantee the full exercise of cultural rights and access to cultural sources in a democratized manner.

Fortuna (2015) mentions that since culture and entertainment are fundamental rights with social guarantees, cultural and sporting activities must be based on legal security, with laws that preserve the development of the arts and guarantee access to society as a whole. For the author, it cannot be forgotten that the Culture Incentive Law makes possible the range of policies related to their access to leisure under the encouragement of the private sector, stimulated to sponsor cultural events that return to the appreciation of the companies' brand in the eyes of the public.

It can be said that in all areas of leisure, the intimate connection of entertainment with culture and art allows the application of the Culture Incentive Laws to guarantee the right to recreation. Specifically, these tax exemptions find space for the application of their resources with the aim of democratizing access to entertainment for low-income populations to consume and participate in cultural events, in a playful way.

Camargo (2017) understands leisure for its degree of freedom of choice and definition subjectivity in which the time made available for exercise is the precious gift. For the author, the pursuit of pleasure with an effort to obtain pleasant relaxation or a feeling of well-being can define variants of recreation and, within this context, art is leisure. The leisure that interests this study is found in cultural areas.

Almeida (2020) outlines that leisure in Brazil developed in a colonized way in an entertainment industry that makes massive use of mass communications. The State was the great patron of Brazilian leisure, investing for later private exploitation: “[...] leisure is the result of relationships between intact subjectivities in the capitalist system, which developed through the complexification of society, having an intimate cultural relationship -artistic [...] reinforces the idea of social, class development [...]”.

This assertion by Almeida (2020) refers to the delicate issue in the realization of leisure inserted in the artistic-cultural universe that refers to economic power. Another issue raised by Almeida (2020) concerns urbanization as a process of complexification of leisure in view of the increase in its possibilities and transformation into multiple trends and ways of interpreting society through films, plays, music, books, radio programs and television.

The question that arises in this research is that, although urbanization comes with an increase in possibilities, leisure is not yet democratized and accessible to peripheral sectors in whose localities of access to this right are on a secondary level and, at times, almost non-existent .

Despite advances, the policies of access to leisure and the arts are still considered commonplace in common sense, where laws of cultural incentives, artistic events, carnival parades and other manifestations are considered dispensable in view of the needs of health, education and public safety . As if entertainment were not complementing and shaping human completeness with a positive impact on other sectors.

Barbosa (2012) centralizes the role of art in the formation of a people's identity and as a symbolic representation of the spiritual, material and emotional traits characterized by society, at the same time that it is the differentiator of social groups with potential for identification and transformation.

In the absence of public policies aimed at leisure, it is clear that today (2020) there are few sectors that are as dependent on resources as the cultural sector. The trivialization of its importance means that universalist policies do not meet the promotion of incentives to this public right as a priority.

## **Historical Context of Tax Incentives and the Democratization of Culture**

In our society, culture is an integrating element of generations, it proposes leisure and reflection and often advances in relation to tradition, contributing with a new vision of the world. Therefore, it is also the duty of culture to insert minorities in its magical universe of art and playful creation (MORAES, between 2005 and 2020).

It should be clarified that although it is said that the taxpayer sponsors artistic manifestations through tax incentives, it is, in fact, a way of stimulating culture, whose investment is made with public money. Practically, what happens is a tax waiver made by the government, of a sum that the administration would receive, but it gives up to apply it to other social needs under the spirit that the application through the intermediation of the private sector is more efficient in terms of democratic expansion of artistic expressions.

Aware of the potential of culture as knowledge and power, and of this value of positive attraction of political and market capital, Coelho (2009) reflects on the trajectory of the struggle for Brazilian cultural democratization. The author presents the instruments of fiscal incentives through income tax deductions, seen as an advance in the democratization of knowledge.

With the recent change of government, the Rouanet Law, on account of Normative Instruction No. 2, of April 23, 2019, changed the nomenclature and came to be called the Culture Incentive Law (BRASIL.a, 2019). The new regulation establishes procedures for the presentation, receipt, analysis, approval, execution, monitoring, rendering of accounts and evaluation of the results of cultural projects financed through the Tax Incentive mechanism of the National Cultural Support Program (BRASIL, 2019).

Published on 04/24/2019, the aforementioned Ordinance is hailed as the “New Law of Incentive to Culture” (BRASIL.a, 2019). However, it is clarified that there is no “New Law”, the legislation referring to policies to promote cultural productions remains

the same Law No. 8313 of December 23, 1991 (BRASIL, 1991) which was not repealed and, therefore, it is in effect at the moment.

Cesnik (2012) narrates the paths of fostering culture in Brazilian politics and highlights the importance of patronage, a nomenclature used to characterize projects in which tax incentives are granted. It is clarified that the origin of the word comes from ancient Rome, in honor of Caius Cilnius Mecenas, minister of the Emperor of Rome Caius Julius Augustus. Sponsor argued that culture and power are inseparable issues that needed government protection with regard to artistic manifestations.

It then proceeds with the mention that for Cesnik (2012), investment in the manifestations of knowledge in Brazil was late. Only in the mid-twentieth century, the Brazilian elite was aware of the need for investments in culture. Even so, in a timid way that was not stimulated by the interests of the administrative machine. It is important to highlight that the government's lack of interest in the democratization of culture was a logic of a dictatorial government that imposed censorship with the rigor of a military command articulated with an iron fist, whose strategy to maintain power consisted of suppressing knowledge and manipulating leisure.

Thus, according to Cesnik (2012), at the time, awareness of these cultural development needs were not shared simultaneously by government and society, in order to have concrete and positive effects. It was only at the end of the 1990s, with the reopening of democracy, that there was government mobilization, but society's stimulus was already lost.

From then onwards, the need was felt to resort to the legal institutes of tax incentives. In demonstrating the context of the delay of cultural investment policies in Brazil, the author makes a comparison with the American government, pointing out that

as early as 1917, the United States had already adopted cultural incentive policies through the abatement of tax values mediated with the private initiative.

Thus, evidenced by the “Sarney Law”, on July 2, 1996, Law No. 7,505 (BRASIL, 1996) pioneered cultural investments in Brazil. The legislation moved the issue around discussions of tax incentives to national culture, removing space from the dictatorial embrace and enabling a freshness of freedom. The rule was extinguished, however, with the Collor government, which relegated culture to the private sector, without any government participation or incentive and more accurate analysis of the impact of this sudden measure, without political encouragement. What is considered a step backwards in terms of the democratic dissemination of popular knowledge.

Going back a little in time, Coelho (2009) highlights that the Sarney Law was put into effect by Decree, after a long 14 years of processing a bill presented by, then, Senator José Sarney. The proposal underwent several changes before becoming a reality, and stood out for its pioneering approach to proposing the transfer of the right to choose the cultural manifestations to be encouraged to the private sector.

It should be noted that the historical-political context was surrounded by a right-wing dictatorship with a strong military regime controlling the country with an iron fist and marked censorship. The author's acclamation for the referred law considered the military repression and its resistance to transference from the State to civil society, part of the power to decide what is to be done with culture. At this juncture, Coelho (2009) considers the Sarney Law, in terms of cultural democratization, as an achievement of civil society.

As Coelho (2009) faced the inefficiency of a paternalistic and authoritarian State, and even without the resources to enable him to take a more comprehensive action, Celso Furtado, a left-wing intellectual, supported the public-private partnership

project through incentives tax, of the then Senator José Sarney, right-wing politician. On the occasion, the leftist justified in that historical context in which the country surrendered to a military dictatorship, to be the opponent's proposal of ideology, consistent with the democratic regime, calling for a joining of antagonistic forces, to unite in favor of a value greater than presents itself in the freedom of cultural expression.

According to Coelho (2009), the military period was marked by a censorship that crushed freedom of expression, given a society that was fed up with seeing the State get involved in everything. The Brazilian was already anxious, concludes the author, “[...] of seeing the State send artists and poets like Caetano and Gil to prison or exile, fed up with hearing what they could or could not consume in terms of culture.” (COELHO, 2009, “n. p.”).

So, supporting the pioneering of culture delivered to the private sector, Coelho (2009) emphasizes that the country was already gorging on a State that dictated what one should read or sing, or do. Thus, the Sarney Law “[...] was a breath of freedom [...]” (COELHO, 2009, “np”) in a time of harsh oppression. With that, despite the times of dictatorship, normative innovation symbolized opportunities for significant changes in society and State relations with the advance in the encouragement of cultural projects, as the social interest of that dictatorial context was mobilized.

In this regard, and according to Coelho (2009), the Sarney Law fell into that historical-governmental context, as the formatting of a new comprehensive cultural policy, germinating the public-private partnership in the preservation of the memory of the past, allied to renovating ideas for enrichment of the present. It should be noted that the project was born in the midst of a dictatorial process in which censorship was

imposed as a rule. Reason to justify the joining of opposing ideologies in the sum of forces, in favor of the freedom of cultural manifestations.

However, the greatest benefit of the Sarney Law, according to Coelho (2009), was the elimination of state domination in culture with the release of the subjection imposed by previously existing government subsidies, but with oppressive potential. Those who experienced the harsh years of military dictatorship and censorship gained a voice and enjoyed some sense of freedom.

[...] through which, the culture incentive law was seen, literally, as a “relief”: democratization of the relations between society and the State; greater citizen participation in cultural decisions; openness to the participation of companies in the construction of the cultural universe, with internal and external effects; and elimination of cultural domination (COELHO, 2009, “n. p.”).

Nagayama (2001) considers the period of validity of the Sarney Law as a pattern of stable spending. However, in March 1999, the Collor government extinguished the Special Secretariat for Culture and the law revoked by the first president elected in direct vote in the post-dictatorship. The repeal of the norm meant the closure of all cultural activities of the main federal institutions, driven by a neoliberal political project of the minimal State. There was a sudden annihilation of public policies to encourage artistic projects.

For Nagayama (2001), the understanding for the promotion of Culture prevailed, it was enough for the State to leave in the hands of the private initiative the interest in the culture, which, aimed at the market, would absolve the demand. With this, the Government released itself, in its entirety, from its responsibilities with cultural development, without any participation. This interest of the market system, however, was not effective in practice, given an immature and incipient business logic in terms of a value view of artistic expressions, which did not see the value of adding culture as an important capital of business marketing.

Thus, Nagayama (2001) reports that a phase of cultural neutralization followed. This fact led the artistic milieu to mobilize strong pressure from the government. Cultural agents demanded incentive policies. Thus, the movements had a positive effect and a process of cultural reconstruction was triggered with the enactment of the current Law of Incentive to Culture, known until now as the Rouanet Law, named after the then Secretary of Culture of the Collor government, who was the creator of the first standardized version.

Despite criticisms of the system labeling the dependence of Brazilian culture on tax incentive resources, Belém and Donadote (2013) argue that the great finding of the Cultural Incentive Law is that the counterpart stimulates artistic production. The authors admit that during the Collor government, during the period in which art was handed over to private initiative without government action, artistic production lived in total neglect.

Currently, the propagation of a normative inauguration through the Ordinance edited by the Bolsonaro Government presents a “New Dress” to the Rouanet Law to detach from the depreciated name in electoral exploitation in the face of media depredation of electoral campaigns on social networks. Particularly in the last presidential election, the legislation was marred by mismatched information that coined the norm as a kind of goose that lays the golden eggs of famous and elitist artists.

The new name for the Tax Incentive Law is political marketing to unleash the negative stigma during the tumultuous electoral period through the social networks that spilled over into Rouanet, the stain of only justifying itself to raise public resources put to the cost of projects of artists already established.

The government seeks to remodel an unoriginal idea of tax incentives used in the democratization of the arts, with some changes considered punctual in their



implementation, without losing sight of their diplomatic potential to attract political dividends. This information is important in this context, in order to establish that the facts narrated below refer to the trajectory followed until the current law in force.

For Belém and Donadote (2013), the policy of incentives works in a double logic that guarantees the entrepreneur a tax strategy with a return on marketing, whose greatest advantage is the link between the company and the encouraged product. This dynamic is rewarded for the benefit of the sponsor with the establishment of the corporate brand in cultural actions, however, this “free transfer” of cash to cultural projects with promotional and institutional advertising purposes is made with public money.

Saldanha (2020) questions, however, whether the Tax Incentives Law supports the construction of a plural culture and whether it is the State's role to promote this multicultural axiological base. On the other hand, the author recognizes that “[...] the cultural market requires large investments and is considered high risk [...]” (SALDANHA, 2020, p. 3).

According to Saldanha (2020), the arts play a role of social identity by revealing their culture through expressions of knowledge acquired in the past and present, with expectations of future reflection. With this assertion, the author adds that there is an enormous plurality of cultures existing in the country, which drives the need for state intervention in the democratization of these diversities of knowledge.

In view of this, Saldanha (2020) intends that tax incentives have the potential to “[...] attract private investments through mechanisms that can, at the same time, leverage the promotion of culture and offer advantages to society, the State and investors ” (SALDANHA, 2020, p. 3).

Finally, after the due analysis, Saldanha (2020) exposes the state's duty in the democratization of knowledge, adding to the debate that the sponsoring companies contemplate benefits, selecting that publicity that favors them with immediate acquittal in the market. This issue, according to the author, requires, in the normative implementation, a mechanism that can leverage cultural development offering, in the same measure, advantages for society, the State and the investor.

Thus, having overcome the difficulties of the dictatorial period, the understanding of the need for private action to promote culture and leisure now crosses the logic of an incipient market of its social responsibility with the application of these resources in favor of minorities and diversities.

### **The Arts between the Market Logic and the Dictatorial Arm**

A country does not change because of its economy, its politics or even its science; it does change because of its culture (SOUZA, 1993).

Belém and Donadote (2013) specify that cultural incentive laws have as a central component for the growth of the cultural sponsorship market, the State as an intermediary in the process of a private market, but made with public money, making use of uncollected taxes. What happens then is not a donation, but an indirect transfer of public funds, leaving the private sector to choose the projects they wish to encourage.

However, Belém and Donadote (2013) denounce that the way in which the legislation that promotes culture is structured ends up asserting a superiority of the market logic in the organization of the production of cultural goods. As a result, criticisms emerge regarding the elitization of culture at the service of an already established and self-sufficient artist, and, moreover, an outstanding centralization of the resources moved in the Rio/São Paulo axis.

Another negative point is that these artists make use of tax incentives and even so, they charge expensive tickets that are inaccessible to the low-income masses. With this, artistic leisure is inaccessible to those that the law, of an inclusive character, should contemplate.

Costa (2018) carried out a survey of the largest companies supporting cultural projects over the years 2016 to 2018, to indicate who invests in encouraging culture in Brazil and who their beneficiaries are. Rather, the author emphasizes that the Law is a two-way street, bringing culture, information and leisure to the population, and bringing benefits to the private sector, with disclosure of supporting companies.

The author criticizes a manipulation of the Rouanet Law giving power to a select group of companies and people to decide the project and the preference for the destination of public money. With that, it questions what are the characteristics of the companies that sponsor cultural projects encouraged by the law. As a result, Costa (2018) reflects on the impact of the Culture Incentive Law as an instrument of cultural democratization that is not effective in the end, because it is concentrated in the hands of an elite, with no space for diversities, minorities and regionalism outside the focus of the Southeast region.

The author observes a concentration of projects captured in the Southeast region, in the Rio/São Paulo axis, with an ultra-concentrating character that is not in line with the democratizing and inclusive spirit of the Culture Incentive Law. This accumulation within a limited stretch is indifferent to the artistic pluralities of national identity. This is observed because even in the face of population agglutination in these nuclei, the condensation of regionalized incentives leaves the minorities and the existing diversities in other regions speechless.

Still, Costa (2018) concludes that there is an overlap of promotional purposes to cultural purposes, showing, however, that the concentration in raising funds in a concentrated manner is older than the law itself, and is the result of the country's socioeconomic structure. This evidences the historical distortions of inequality in Brazil in opposition to the ideal of cultural democratization, which the spirit of the law intends.

In this regard, Belém and Donadote (2013) consider cultural incentive an indirect transfer of resources to the business economy. With this, it is the market that indicates, and dictates, which culture should be encouraged, even when the money comes from the State. This marketing dynamic of artistic concentration at the service of the interests of a dominant group is not in keeping with the spirit of democratic diffusion and inclusion of the Cultural Incentive Law.

Oliveira (2018) highlights multiculturalism as the characteristic to be highlighted in Brazilian culture and the main reason for being, of the Law of Cultural Incentives. The reality that can be seen in Brazil, however, is the social exclusion of a portion of the population that does not have access to cultural instruments or resources for exhibitions of their artistic entertainment manifestations. The author denounces that the bowels of the Brazilian political system distort the purpose of political acts, avoiding the fulfillment of the completeness of public policies and making the democratization of culture and leisure unsatisfactory.

In this regard, these multiple leisure variants in cultural terms are made available to the privileged classes that manipulate the leisure and art selection process. There it presents one of the biggest bottlenecks of tax incentives, because although many of these renowned artists receive benefits from the law, they still charge amounts incompatible with the citizen's income.

Mega (2015) criticized this distortion of the law for restricting the access of the low-income population to culture with an exorbitant value of income for the standard of these strata. The point is that before the changes there was no limit on the amount to be charged for tickets sponsored by tax exemptions, but only a percentage of free tickets. The author mentions that in 2013, the musical *o Rei Leão* benefited from R\$11 million in resources when entry costs ranged from R\$50.00 to R\$280.00.

Regarding the bottlenecks of the tax exemption law for the promotion of culture, it turns to its effects on access to entertainment by populations with low purchasing power when it promises to face the concentration of resources that benefit few. In this case, the changes propagate an increase in the free distribution of tickets for low-income families, which previously corresponded to 10%, to 20% to 40%, with a drop in popular value that drops from R\$75.00 to R\$50% (SEE, 2019, "n. p.").

No survey was carried out here of the impacts that recent changes in the law can have, whether positive or negative, such as setting a ceiling for projects approved each year, but it is important to analyze the access of these population layers to the benefits of fiscal incentives to the sponsorship of their local cultural expressions. In this context, an incentive is propagated with greater stimulus for projects in the North, Northeast, Midwest and South regions, as well as in Minas Gerais and Espírito Santo, with the objective of not concentrating exemptions on the Rio/São Paulo axis.

The main criticism is that artistic production is submissive to the market trend, which guides the choice made by funders, and this is linked to projects with potential for greater attraction to the public and dissemination of the brand within a more extensive virtualization. It should be noted that tax exemption mechanisms are attractive to large companies in view of the possibility of investing in the institutional image with cultural projection that brings positive publicity and financial return. With the

dividends, the business sectors have been awakening to the capital obtained in terms of political marketing of investment in culture, which reverts to the addition of the value of the company's image in the consumer market.

However, the unilateral choice of what should be produced by the financiers is guided by the tendency for the product to have a more immediate impact on the same market. Thus, the choice of incentive ends up limited and limited to cultural productions as the use of a political tool in the service of publicizing the business brand, but without an effective concern with the expansion of the culture produced by peripheral sectors.

The controversy revolves around the choices restricted to artists already established and capable of attracting immediate visibility, but prestigious as a strategy for adding value to the marketing of business institutions. This circumstance compromises the implementation of the constitutional provision guaranteeing all citizens in the exercise of cultural rights of access to their sources of specific national identities. The paradox arises of seeing the Culture Incentive Law driven by the standardization of its effects within the logic of capitalism with accessibility of dissemination to a restricted group, instead of democratizing access for all to the production and dissemination of its intellectual wealth.

According to Oliveira (2018), the scenarios demand that cultural public policies are not limited to external financing, as is the result of neoliberal policy. It is necessary, in principle, that there are also mechanisms for greater participation by the States and, in particular, by the Municipalities, in addition to the private initiative. It is considered, in this emphasis, that the municipalities have a closer relationship with community artistic expressions in their most diffused process.

In view of this, the author questions to what extent the Culture Incentive Law has been fulfilling its role. They also highlight the disparities in the number of projects

supported in the Northeast, North and Center-West regions, compared to the Southeast region, centered on the Rio-São Paulo axis, with data from 2016, representing 69% of the funds raised.

The Costa survey (2018) demonstrates that the 20 largest proponents who sponsored the crop in the years 2014 to 2017 raised, in each year, the corresponding 20% of the resources obtained by the 10,590 proponents in the same period. In her surveys, the author found that around 80% of the resources were destined for the Southeast Region. This justifies recent policies aimed at encouraging the realization of projects in the North, Northeast and Midwest regions.

In another research, Oliveira (2018) verified the occurrence of over-invoicing of proponent companies and fraud with omission of investment in resources that are foreseen by the project and are not carried out. For the author, the negative points should not serve to demonize the law, nor even ignore its positive aspects. However, it admits that in order to implement the values of cultural democratization through tax incentives, it is necessary to have stricter control of the application of the norm, with monitoring of projects throughout the execution phase.

In view of this, Nascimento (2013) emphasizes the importance of more persevering legal control by representative institutions, and monitoring of government institutions that represent social interests and minorities. The indication of the destinations of tax incentives must be instrumentalized in the service of public policies, under penalty of loss of credibility, and an increase in the bureaucratic apparatus.

Defending the use of tax incentives in the service of culture and entertainment with the picture in which it finds itself in its current terms, Menezes (2016) refutes that contrary discourses are reverberated by the media and reproduced on social networks, without official critical data. The author laments the “demonization” of the Law in

force, tarnished with the service to artists already established and closed to new revelations, which are those for which the law was directed. After all, the main objective of the law focuses on multiculturalism, those arts that need the incentive for the aggregation of pluralities of knowledge manifestations.

Menezes (2016) argues that critics of the centralization of investments in the Rio-São Paulo axis do not assess this concentration based on the address of the sponsors involved in patronage (which is the raising of these resources) and sponsors. However, the author does not point out data to prove that there is an effective diffusion and fairer distribution in regional terms.

Also, Menezes (2016) raises an important report that as a result of these incentives, the Brazilian cultural scenario has had an impact with thousands of cultural actions. The author points out, however, that the biggest issue is not the approval of a cultural project, but the fact that, in order to obtain business sponsorship, the support of fundraisers is necessary. This practice requires the work of the specialist who has credibility with the sponsors. Thus, the practice of patronage is justified by the historical dependence that the cultural market has on these circles to boost the production, dissemination and propagation of the arts and even the maintenance of the artist.

Because of this, Menezes (2016) makes a defense reading of the various projects that generated controversy, such as the approval of R\$1.3 million for singer Maria Bethânia to create the blog “The world needs poetry” and Disney's American shows, as well as the Blue Man Group, as well as projects by singers Luan Santana and Cláudia Leite. For the Author, the choice of what should be disclosed is a legitimate exercise of the tax-paying sponsor and that the definition of what is considered established is very fluid and subjective.



However, it is interesting that after justifying that consecration is a concept loaded with subjectivity, the author cites some artistic references such as Maria Bethânia, Luan Santana and Cláudia Leite, without bothering to introduce them to the reader.

With regard to the protestant right of choice given to the tax payer, according to Menezes (2016), the “[...] tax incentive is nothing more than the recovery, by the taxpayer, of a piece of the wealth he produced and which was confiscated from him by the State.” (MENEZES, 2016, “n. p.”). With that, the author considers it to be “[...] natural that it is up to the taxpayer to choose how to invest it, within the rules and limits established by law.” (MENEZES, 2016, “n. p.”). In his arguments, he does not mention that the State has the obligation to support the excluded in the name of the diversified identity and tradition of Brazilian cultural innovation. Considering him that it is impossible to establish the limit of what deserves or not to be injected through tax incentives.

Although there are important reservations in defense of the Culture Incentive Law, Menezes (2016) errs by separating the State as the only debtor of cultural promotion of classes marginalized by exclusion. The author misrepresents himself when he considers the resources impounded through fiscal incentives as a sovereign right of the business market, under the argument that he, the entrepreneur, is the producer of the nation's material wealth.

In this simplistic reflection, Menezes (2016) does not analyze that wealth is not produced, much less reproduced without its connections with consumption and with the production networks of workers or the supply chain and other components of the production plot until its consumption Final. So that a country's wealth is not the only

and exclusive achievement of its entrepreneurs. These would not produce it if there was not a broad connection with society, through the production and consumption chain.

It should be noted that assets are built, as a rule, with the participation of human capital (worker, consumer, supplier, etc.), since even if the concentration of income is in the hands of the holders of the means of production, it lacks the participation of a collective, in its manufacture, distribution and consumption. Also, the author does not consider that the so-called “sponsorship of the private initiative” is actually made with public money from wealth built with the participation of society. The reality is that incentives are taxes that are decentralized from the hands of the Government in a democratizing spirit that diffuses cultural pluralities.

Thus, the attention and action of these tax funds must be directed, in fact, to the expansion of the artistic market in a diffused, decentralized, distributive and inclusive way. This is because it is through diversity and accessibility that cultures express their vigor. Therefore, it is necessary to have a business awareness that the use of tax incentives is, again, public money from the construction of wealth, on whose participation a collective whole depends.

Thus, dealing with a good that is common to everyone's work is directed, in particular, to the inclusion of marginalized categories, under penalty of resulting in an anti-pluralist panorama that impoverishes the manifestations of knowledge and leisure in their multiple diversities. And because of that, it would be as harmful as was the domination of culture subjected to the will of dictatorial governments in the era of militarism.

In view of this, the recent changes in the regulation of the Tax Incentive Law, for better or worse of culture, with many criticisms that would demand another field of analysis in their details, announce mechanisms of access to culture in other regions of

the country. One of the main changes is the reduction of the maximum values allowed per project and encouragement to small and medium cultural producers (BRASIL.a, 2019).

The Secretariat of Culture website (BRASIL.a, 2019) announces in this new regulatory journey, the intention of business stimulus to support new talents, as well as small and medium projects specifically targeted at different regions of the country. It is hoped that proposals sponsored by this way of fiscal incentives, in a more effective and efficient way, are extended to the expressions of arts within local and diffuse communities.

A nicer change from the recent regulation is the increase in the percentage of tickets to be sold at more popular prices (previously it was 10% and went to 33% of those available), even with a reduction in prices of R\$ 75.00 for BRL 50.00. The base for the value is based on the amount paid in the culture voucher (benefit granted to workers with a formal contract who receive up to five minimum wages).

If carried out, this measure could be a differential in the access of the poorest populations to artistic events and a step forward in the democratization of a leisure modality, until then, accessible to a privileged group.

There is also the expectation of improving a broader inspection and supervision management, from the approval stage to the rendering of accounts. To this end, there is a provision for a specific committee created to propose measures to address the liability of accountability not only in the area of Culture, but also in Sports and Social Development (BRASIL.b, 2019).

In any case, the Federal Court of Accounts has already stated that fundraising under the Rouanet Law (current Law on Tax Incentives) should not be applied to projects with profitable and self-sufficient potential. The analysis took into account the

representation of the Public Ministry against evidence of irregularities in the support granted by the Ministry of Culture to the Rock in Rio event, in 2011 (BRASIL, 2016).

Then, an Opinion was issued on the legality and legitimacy of the granting of cultural incentives, which determined that fundraising for projects with strong lucrative potential and capacity to attract private investments should not be authorized, given the scarcity of resources. It was recommended to prioritize projects with greater difficulty in obtaining financing. (BRASIL, 2016).

The website *Pragmatismo Politico* reported that the then Minister of Culture vetoed the project by singer Claudia Leite, which aimed to raise half a million for the launch of a biography. The justification for the denial was based on the argument that the artist is economically successful (PRAGMATISMO POLITICO, 2016).

It is noted that the project presented by the artist met all the legality requirements, but, it seems, the rejection was due to the clamor of the controversies that erupted on social networks. It is in this expectation that the impulse of communication mechanisms such as media and social networks is estimated, to always position themselves, because companies, artists and politicians, all of them feed on public acceptance.

### **Final Considerations**

The 21st century and Brazilian society have discussed leisure and its implications for today's population. It is up to the government to direct, present and manage resources aimed at training and encouraging leisure in society. It should be an obligation of the public authorities to provide mechanisms that encourage the most diverse cultural activities capable of promoting and providing leisure and recreation for the needy population.

Therefore, the research showed the relevance of sponsorship by the private sector from the perspective of the inclusion of minorities in order to prevent the market monopoly that depletes our multicultural wealth and makes leisure inaccessible to the popular classes. It was demonstrated that precepts are only effective in tune with a supervisory action by the competent bodies mobilized through public opinion and demanding responsible behavior from business, artistic and governmental groups.

It was observed that popular manifestations in economic and regional terms reach concrete effects in the democratization of leisure as an art. But, for it to be effective in social inclusion, it is important that inspection bodies are articulated to police the business sector. Still, the behavior of these public-private sectors needs to adapt to a spirit of inclusion as a fundamental right to the consumption of artistic entertainment, in such a way that this right is not just a game of words lost in the wind.

The axiom of public-private partnership is the greatest conceptual manifestation of social responsibility of companies and dominant art groups. This solidarity is connected with everyone's commitment to the quality of life in the construction of a democratic society that promotes egalitarian human development in its most varied expressions of leisure in the artistic sphere.

One way or another, regardless of opposing or favorable opinions, it appears that public mobilization, the media and inspection bodies are factors in the control of legality and morality, with a high potential to direct what should or should not be covered by incentives cultural inspectors. In this regard, the awareness of society and the Public Power is a motor that drives ethical business conduct in the use of tax incentives for the benefit of the community. It starts with the principle that the funds used to sponsor the events are public money.

The Tax Incentive Law has limitations and generates controversy as to the means of contemplating incentives, often because it benefits projects with greater revenue potential that are subject to market interests. We have another way, however, pointing out to the paradox of a Brazilian political history demonstrating the harmful effects of cultural sponsorship left to the pure discretion of the State and which has not generated better results.

The democratic construction systems require constant changes and permanent supervision to cut their inconsistencies in the middle term where leisure and culture receive incentives, but which demand an energetic action by the government in the sense of making these tools accessible to all. It is expected that the recent changes regarding inspection, do not reflect in more bureaucratization and consequent disincentives to investments, without an effective return in terms of inclusion and diversity.

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