

## The Legal Field in Dispute at the Constituent Assembly

The subject of this study is the 1988 Constitution of the Federal Republic of Brazil which acknowledges an access to justice as a fundamental right. Therefore, in an unprecedented act, constituent power established the institution of the Public Defenders' Office to safeguard this fundamental right. Thus, the Brazilian policy of legal assistance became entrenched in the constitution in accordance with the state-run institutional model (also known as the staff model) where legal assistance remains integral and free. This article will analyze the political environment that led to this decision and the controversy surrounding its creation (raised during the constitutional debate.) The constitutional choice for the staff model was not chosen exclusively from its legal aspects but because of the dispute over the social and symbolic capital within the social field of legal institutions.

We will apply an interdisciplinary examination that explores the dialogue between law, linguistics, and sociology to analyze the proceedings of the Brazilian Constituent Assembly, according to the concepts of Pierre Bourdieu. Bourdieu's ideas are indispensable for us in understanding that behind any legal dispute, there is, in essence, an intense power struggle or – in Bourdieu's words – a symbolic dispute between actors belonging to a certain social field. In order to narrow down the subject, we will consider the proceedings of the main argument surrounding the clash between Deputy Michel Temer and the former president of the Brazilian National Association of Public Defenders, Suely Plety Neder. The argument centers around the inclusion of the word "preferably" into the wording of the constitution. The inclusion of that word would mean removing the exclusive privilege the Public Defenders' Office holds in providing the public service with legal assistance. In studying the argument, we will use theoretical concepts to analyze the discursive strategies of each participant and the rationale they used to build their arguments.

In conclusion, we will come to understand that the Brazilian Constitution, since its inception, has never followed the advice of Deputy Michel Temer by excluding the word "preferably" in the text. This has resulted in the perception that the creation of the Public Defender's Office is an obligation of the states and the Union to guarantee a fundamental access to justice. The relevance of this research lies in the analysis of the environment in which the possibility for the constitutionalisation of the Brazilian Public Defender's Office, and its institutional model, arose.

**KEYWORDS:** *Constituent power; Public Defender's Office; Symbolic capital; Bourdieu.*