

A Lei Orgânica de Segurança Alimentar e Nutricional (LOSAN) 2006: relatos, fatos históricos e processo de elaboração.

The organic law of food and nutrition security (OLFNS) 2006: reports, historical facts and elaboration process.

La ley orgánica de la seguridad alimentaria y la nutrición: informes, historia, hechos y procesos.

Anelise Rizzolo de Oliveira ¹

Abstract: With the (re)organization of the National Council of Food and Nutrition Security, the Brazilian State recognizes the responsibility to face the causes of hunger and to organize a legal political framework to guarantee the human right to adequate food. The configuration of the policy depends on the regulation of an organic law, involving the joint participation of civil society and the State, and, still, incorporating the relationship of public and private interests. The aim of this study was to analyze critically the historical-political process of elaboration of the Organic Law of Food and Nutrition Security (OLFNS) 2006. It's an exploratory, analytical-qualitative documentary study. Secondary data were identified and analyzed from documentary search and the primary data were analyzed from semi-structured interviews with key informants. The approval of the Organic Law of Food and Nutrition Security is the expression of a public policy affirmative of social rights, however it doesn't guarantee, by itself, the Food and Nutrition Security perspective. It is concluded that there is a long journey to operationalize the principles of law, which are valid for the whole national territory, marked by heterogeneity and significant inequalities. In addition, the construction of values and the consolidation of the notion of rights in the sociopolitical relations that are carried out in the daily life of institutions are equally fundamental. Keywords: Political Processes, Food and Nutrition Security, Human Right to Adequate Food, Social Participation, Public Policy.

Resumo: Com a (re)organização do Conselho Nacional de Segurança Alimentar e Nutricional, o Estado brasileiro reconhece a responsabilidade de enfrentar as causas da fome e organizar um marco político legal para a garantia do direito humano à alimentação adequada. A configuração da política depende da regulamentação de uma lei orgânica, envolvendo a participação conjunta da sociedade civil e do Estado, e, ainda, incorporando a relação de interesses públicos e privados. O objetivo do presente trabalho foi analisar criticamente o processo histórico-político de elaboração da Lei Orgânica de Segurança Alimentar e Nutricional 2006. Trata-se de um estudo documental exploratório, analítico-

¹ Universidade de Brasília - UnB

qualitativo. Os dados secundários foram identificados e analisados a partir de busca documental; os dados primários foram analisados a partir de entrevistas semiestruturadas com informantes-chave. A aprovação da Lei Orgânica de Segurança Alimentar e Nutricional é a expressão de uma política pública afirmativa de direitos sociais, contudo não garante, por si só, a perspectiva da Segurança Alimentar e Nutricional. Conclui-se que há um longo percurso para operacionalizar os princípios da lei, que valem para todo o território nacional, marcado por heterogeneidade e desigualdades significativas. Além disto, a construção de valores e a consolidação da própria noção de direitos nas relações sociopolíticas que se processam no cotidiano das instituições são fundamentais. Palavras-chave: Processos Políticos, Segurança Alimentar e Nutricional, Direito Humano à Alimentação Adequada, Participação Social, Políticas Públicas.

Resumen: Con la (re)organización del Consejo Nacional de Seguridad Alimentaria y Nutricional (CONSEA), el Estado brasileño reconoce su responsabilidad de abordar las causas del hambre y organizar un marco normativo legal para garantizar el derecho humano a una alimentación adecuada. La configuración de la política depende de la regulación de su ley orgánica, que implica la participación conjunta de la sociedad civil y el Estado, e incluso la incorporación de la relación de los intereses públicos y privados. El objetivo del presente trabajo es analizar el proceso histórico – la redacción de la Ley Orgánica política (SAN LOSAN) 2006. Este es un estudio documental de exploración, analítica-cualitativa. Se identificaron y analizaron de búsqueda documental datos secundarios, los datos primarios fueron analizados a partir de entrevistas semiestruturadas con informantes clave. La aprobación de LOSAN es la expresión de una política pública positiva de los derechos sociales, pero sin embargo, no garantiza por sí la perspectiva de SAN. Llegamos a la conclusión de que hay un largo camino para poner en práctica los principios de la ley que se aplican a todo el territorio nacional, marcada por la heterogeneidad y las desigualdades significativas. Además, la construcción de valores y la consolidación de la noción de derechos en las relaciones socio-políticas que tienen lugar en la vida cotidiana de las instituciones son cuestiones claves. Palabras-clave: Procesos Políticos, Seguridad Alimentaria y Nutricional, Derecho Humano a Alimentación Adequada, Participación Social, Políticas Públicas.

INTRODUCTION

Food and Nutrition Security (FNS) is a theme that has been present on the political agendas of countries for a long time. Almost 70 years ago, with the promising emergence of ideas, movements and statutes, the fight against hunger and the conception of a state of food safety and nutritional well-being have come to represent major challenges in the ideals of civil societies and the agenda of public authorities^{1,2,3}.

In 2003, with the (re)organization of the Food and Nutrition Security National Council (CONSEA), at the institutional level, the Brazilian State recognizes the responsibility to face the causes of hunger and to organize a legal political framework for guaranteeing the human right to food. adequate food^{4,5}.

The institutional legal milestone for Food and Nutrition Security became a reality after the adoption of the Organic Law of Food and Nutrition Security (OLFNS), in September 2006. OLFNS created the National System of Food and Nutrition Security (SISAN), with the objective of ensuring the Human Right to Adequate Food (HRAF) and, in this sense, it foresees actions based on the principles of universality and fairness of access to adequate food, with social participation

in the formulation and execution, in the monitoring, control and control of the policies and of action plans in all spheres of government, and the transparency of public and private programs, actions and resources, and the criteria for granting them⁶.

In 2010, the National Policy of Food and Nutrition Security (PNSAN) was published, which defined the guidelines and the Food and Nutrition Security Plan (PLANSAN)⁷, configuring, together with OLFNS, the juridical-legal triad of FNS in Brazil. In this context, the challenge of the institutional arrangement became the articulation of the policy, plan and system of the FSN with the feasibility of a set of principles capable of promoting the single management of actions articulated at intersectoral level, at the federal, state and municipal scopes of the State, and under the permanent participation of civil society in the planning, management, monitoring and evaluation stages, through councils and conferences of the FNS.

The theoretical framework adopted for SISAN sustains an open perspective that implements the coordinated articulation between actions and decentralized programs, with a certain degree of interdependence. It can enhance the synergies generated by the interaction between the actors involved in an action or program, which, in turn, can lead to initiatives that go beyond what was, initially, proposed through each action taken separately⁸.

The configuration of the policy depends on the regulation of its organic law, with the priority of planning spaces of insertion in the three spheres of management (federal, state and municipal), involving the joint participation of civil society and the State, and, also, incorporating the public and private interests. The OLFNS marks a decisive step in the political process of the FNS, which can be characterized as a window of opportunity in the context of affirmative public policies of social rights in Brazil.

The objective of this article was to critically analyze the historical-political process that planned OLFNS 2006.

METHODOLOGY

The present study was an integral part of the doctoral thesis entitled Analysis of the process of formulation of the National Policy of Food and Nutrition Security (2003-2006): actors, ideas, interests and institutions in the construction of political consensus. The publication of PNSAN and PLANSAN⁷ only occurred later, on August 25 of 2010, in Decree n° 7.272. All the analyzes are based on the OLFNS, which, at the time, was the only thematic institutional legal pillar, but the discussions may have some connection with a more recent historical context.

This is an exploratory, analytical-qualitative documentary study. Qualitative research is an appropriate scientific method to aid socio-historical contextualization and to portray the complexity of social phenomena analyzed, full of contradictions, interconnections, determinations and causalities, which are not identified by traditional quantitative methods⁹.

The interdisciplinary character given to the qualitative approach, as well as the concern with the meanings and intentionalities of the social actors, allowed a particular and general knowledge of the analyzed process. The study sought information from primary and secondary data. The primary data came from individual interviews conducted with key informants in the process, and secondary

data were sought through documentary analysis.

Documentary research is very similar to bibliographic research. This last one uses fundamentally contributions of several authors on a certain subject, whereas the documentary research uses, also, materials that did not receive analytical treatment. The sources of documentary research are more diverse than those of bibliographic research. In documentary research, there are first-hand documents, that is, those that have not received any analytical treatment, such as those kept in public agencies and private institutions, and the second-hand documents, which have somehow been analyzed, such as research reports and company reports, statistical tables and others¹⁰.

Thus, were used, as secondary sources, printed documents and made available on the internet related to FNS. The main documents analyzed were laws, decrees, reports, speeches, minutes of council meetings, institutional program sites etc.

The bibliographic search was carried out in the Scielo database, with the following descriptors: public policies, food and nutritional security, food and nutrition programs, human right to adequate food, programs to fight hunger and malnutrition, income transfer programs, policy formulation, decision-making processes, content of FNS policies, programs, projects, policies and systems.

The primary data collection was carried out from semi-structured interviews with key informants, representatives of the State and civil society. The key informants were identified from the confirmation of notorious knowledge or professional experience in the thematic of the FNS. All of them expressed familiarity with the subject and, obligatorily, participated in activities related to FNS in institutions or entities.

The technique chosen to support the cast of key informants was the so-called “snowball”¹¹. The qualitative analysis by saturation allowed to enlarge or reduce the network of informants, according to the exhaustion of the responses among the interviewees⁹.

Key informants were: six state representatives of the State (five from the executive power and one from the legislative power), six civil society representatives (academia, state and national forums, social movements) and one representative from an international body. In terms of loss, there were two denials: one from the representative of the productive sector and another from a representative of civil society, totaling 13 of the 15 interviews planned.

Regarding the analysis of the interviews, the qualitative technique of content analysis proposed by Minayo⁹ was used. The proposal seeks the most recurrent meanings in the speeches of the interviewees, performing the following procedures for analyzing the primary data: complete transcription of recorded interviews, aiming at pre-analysis of content; and the constitution and preservation of the discursive “body”, to safeguard the context and unity of the interviews and the identification of the categories of analysis.

The configuration of the actors and institutions that participated in the process were analyzed, as well as the coordination of ideas and interests experienced during the years 2003 to 2006, in the decision-making bodies of CONSEA, including the legislative process of approval in the National Congress. It was tried to characterize the process evidencing the facts that determined the political content of the OLFNS.

OLFNS was the result of a long process, culminating with its approval in 2006¹². Its historical articulations date back to the 1990s with the implementation of the first FNS conference, in 1994. However, for the present study, a historical cut was made since 2003, when, after the reconstitution of CONSEA, a ministerial Working Group (WG) was created for the planning and elaboration of OLFNS as the structuring axis of the legal framework of FNS in Brazil.

RESULTS

Construction and proceeding of the bill

The political proposal to combat hunger, carried out by Lula's government, entitled Zero Huger Strategy, took the FNS debate as a strategic axis of development, understanding that the food problem in the Country went beyond overcoming poverty and hunger. In the initial political discourse, the fight against hunger should be inserted in this larger strategy, since it is the most visible face of food and nutritional insecurity.

The Zero Hunger Strategy was driven by the federal government to ensure the human right to adequate food for people with difficulties in accessing food. It brought together 33 social programs, in 4 axes: access to food; strengthening family farming; income generation; and articulation, mobilization and social control. Its main focus was to associate the objective of the FNS with permanent strategies of economic and social development, with increasing equity and social inclusion¹². However, throughout the political process, it failed to articulate the dialogue on the fight against hunger with the broad approach of the FNS, and, thus, CONSEA was faced with the challenge of constructing the legal framework of policy¹³.

The WG of OLFNS was proposed at the CONSEA plenary, in December 2004, as a deployment of the recommendations approved at the II National Conference of Food and Nutrition Security (CNSAN). The WG that drafted the text of the organic law also followed strategies of socialization and discussion of the proposal. The first discussion forum took place from October to December 2004, along with the state CONSEA Meeting. In sequence, in April 2006, a videoconference was held to support the discussion of OLFNS and other aspects of the FNS in the state preparatory events that preceded the National Meeting of Food Security, called the Conference + 2, in May of 2006¹⁴.

At the CONSEA plenary held on April 26 of 2005, the principles that guided the work were defined: (1) to comply with the main determination of the II CNSAN; (2) seek to institutionalize consolidated achievements, highlighting the principle of the human right to adequate food and the conceptualization of FNS, as established in II CNSAN; (3) to build intersectoriality and the ability to interact in collaboration with other existing public systems or policies; and (4) create plural spaces for social consultation, formulation and control of FNS policies, through conferences and CONSEA¹⁴.

The records clearly show the intention to construct a lean draft law that would indicate the guiding principles for the operation of SISAN, with the necessary flexibility to take advantage of the political momentum and to continue advancing in the construction of the other stages of this complex and important process.

Because the problem was too complex [FNS], we started with a premise, and that is why, in some forums, we are criticized. So, the initial agreement we made was that OLFNS was going to, more than anything, express principles. That it was not going to delimit territory, it had to be a short law, short, to give the tone of what this open system would be, but it could not elaborate. Otherwise, we could not get out of this “quagmire”. (key informant State)

The issues raised for the discussion in plenary, despite some controversies, were consensual: they related to the nature of the CONSEA (it was questioned whether the character of this should be propositive or deliberative), as well as to its composition (with alternative propositions, between a composition parity in the representation between State and civil society, or the current composition of 2/3 of civil society and 1/3 of the executive state). Finally, the mechanisms for choosing civil society representatives were also discussed, whether through nomination by the President of the Republic based on nominations from CNSAN II or through the direct election of the representatives, by CNSAN. Another important aspect was the need to establish criteria to ensure representation from the point of view of gender, ethnicity, race, religious denomination and region, in CONSEA.

OLFNS institutes a CONSEA of an advisory and propositional character, establishing criteria for its composition. The indication of representation of the black and indigenous populations was very important and assured the social equity dimension of groups traditionally excluded from the public policy scenario in Brazil.

The conciliation process in the rapporteur group presented moments of tension and, sometimes, impasses, taking about a year to finalize their work.

The discussions were open, inclusively, they were always renewed, each time they had group meeting. We were few and always the same. We made several consultation processes for the support networks [...] Representatives of state councils also made their proposals and we held an event with the States, with this discussion. (key informant State)

The incorporation of the food approach as a human right has been the subject of tensions and debate in the group. Taking the FNS from the perspective of guaranteeing the human right to adequate food had inserted the dimension of the subjects (holders of rights) in the concept of FNS. From this assumption, objects cease to be food, stocks and stores, and become people in relation to food and its values, symbols, attitudes, rituals and eating practices. People occupy an important place in the field of FNS, bringing with them the reflection of human dignity in the context of citizenship and fundamental guarantees.

People from CONSEA had a lot of resistance to human rights and adequate food. I think that this advance, we really conquered it [...] later, with maturity, we would unfold it; with regulation, we were advancing more. But, if we would have agreed the HRAF and if it became law, we would leave the conference resolution and get in the right direction. (key informant State)

In this debate, the fact that food is not recognized in the Federal Constitution as a social right has become a problem. The importance of building this insertion was established with a future

development, which was achieved in 2010, with the approval of Constitutional Amendment 64, which inserted food as one of the fundamental guarantees of the Brazilian citizen in Chapter 6 of the Federal Constitution¹⁵.

OLFNS has instituted a SISAN that proposes the formulation and implementation of policies and plans of FNS, and the stimulus to the integration of efforts between government and civil society, as well as the promotion of monitoring, evaluation and evaluation of FNS in the Country⁶.

In this context, all actions which aim at ensuring the FNS should be based on the principle of universality and equity in access to adequate food, without any kind of discrimination; the preservation of autonomy and respect for the dignity of persons; social participation in formulation and implementation, follow-up, monitoring and control of policies and plans of FNS, at all levels of government; and the transparency of public and private programs, actions and resources, and the criteria for granting them⁶.

After the finalization of the drafting, negotiation and approval process, at the CONSEA plenary, OLFNS followed its process towards the steps before the National Congress. The approvals of the draft laws followed a flow of analysis in the two houses of the National Congress: Chamber of Deputies and Federal Senate. CONSEA was a proactive agent for promoting and monitoring these steps.

The political participation of the allied base of the government and the Ministry of Social Development and Fight against Hunger were equally important for the success of the process, which, having been admitted to the Chamber of Deputies in September of 2005, was discussed and approved (with amendments in the Chamber of Deputies and no amendments in the Federal Senate) in a short (political) period of one year.

In the events commemorating World Food Week of 2005, President Luiz Inácio Lula da Silva signed a message that sent the OLFNS project to the National Congress.

OLFNS was approved on December 13 of 2005, in the Work, Administration and Public Service Committee of the Chamber of Deputies, as a “supra-partisan” theme. The report of a member of the opposition party, with a favorable opinion and three amendments, was accepted unanimously in the committee.

In terms of popular participation, there was public support for the immediate approval of the bill, manifested through an electronic undersigned, held on the CONSEA website and delivered to the Federal Senate, with thousands of signatures and the support of state CONSEA such as Minas Gerais, Rio Grande do Sul, Paraná and São Paulo.

Following the proceeding in the Federal Senate, the Project (number 0008/2006) was approved, on August 2 of 2006, in the Constitution, Justice and Citizenship Commission (CCJ). The bill was also reviewed by the Commission on Human Rights and Participative Legislation (CDH). After it was approved, it went to vote in the Senate Plenary and Presidential Sanction on September 15 of 2006.

CONSEA made a permanent follow-up through the system of the Chamber of Deputies. After each step, what was to be done was articulated and what alternatives

existed. The important thing was to be proactive and articulate with the Ministry of Social Development [MDS] and with the parliamentary advising of the MDS, mainly in the committees of the legislature. There was, also, support for the rapporteurs (deputies) in terms of technical arguments to close the reports. Now, the political dialogue was made by Chico (president of the CONSEA), the councilors and the MDS, also in the final adjustments. (key informant State)

It is evident that the organization and the strategic position of the actors (both the State and civil society) committed to the FNS were the motto that guaranteed the success achieved in its approval process. The distribution of social and political actors historically committed to the theme, through positions and functions in the relationship between the State and civil society, ensured the necessary political arrangement for the consolidation of the process. A similar strategy occurred in the health reform movement of the 1980s and 1990s, in the construction of a universal health guarantee policy as a social right.

[...] this law will further strengthen the trajectory of significant advances that are already occurring, resulting from the joint action of the Brazilian government and civil society [...] with the law and its regulations, FNS becomes a policy of State that points to the guarantee of the human right to food [...] the entire path of building our law, alongside civil society, revealed the immense disposition to overcome any difficulty, in the face of the desire to conquer an old ideal. (civil society key informant)

The set of actors that participated in the OLFNS formulation process indicated, clearly, the role of civil society organizations in the process, with emphasis on the Brazilian Forum of Food and Nutrition Security (FBSAN), within CONSEA. It is important to clarify that the FBSAN today has the dimension of food sovereignty incorporated into the context of the FNS, denominated Brazilian Forum of Sovereignty and Food and Nutritional Security.

[...] it is clear that the pressure, the inductive role of civil society, which is at CONSEA, comes from the FBSAN. The FBSAN is the main guideline of CONSEA. The frameworks that are there are consistent, have accumulation of discussion in the theme. (civil society key informant)

I think that civil society was the most important protagonist of the process, and CONSEA conferred the necessary institutionality so that it could have evolved in an organized and productive way. They were not isolated initiatives. It was a coordinated process. That's the merits of CONSEA! And, without a doubt, the CONSEA has more civil society than the participation of the State. (key informant State)

Divergences of ideas and conflicts of interest in the decision-making process and in political-social concertation

The ideas and values go through the elaboration of public policies. This is because they define not only the governmental discourse, but, mainly, its own action. A public policy can also be defined by the set of decisions taken to respond to a particular civil society problem. Therefore, in order to understand them, it is necessary to consider them as a process that contemplates a flow of interactions between actors involved in the elaboration, implementation and evaluation of these

policies. Decisions imply, on the other hand, value judgments, ideas, interests and conflicts that take place within the institutional framework¹⁶.

In the elaboration of the OLFNS, the formation of the consensus was predominant and conflicts of interest were, in most cases, harmonized.

[...] we discussed objectives, principle, what would be the government part, but we did not disagree in general. Perhaps the tensest discussions were: does [CONSEA] have to be deliberative? No, a council with 2/3 of civil society cannot be deliberative. (key informant State)

No, I do not think there was an ideological dispute because there was no controversy. From the moment it was unanimously approved, there was a very great political ability to conduct this process at the Congress [National] level, perhaps not to draw attention to what is actually intended with OLFNS. (civil society key informant)

Interest groups are always trying to present their perspectives on a particular issue to a relevant policy maker. Some of these groups are well organized and have a good resource base. This capacity generally allows them to be able to influence the policy-making process more than other groups with fewer resources. To some extent, governments depend on well-resourced interest groups to help them decide what to do about a specific issue. Governments can, also, heavily rely on these groups or individuals to assist them in the implementation of policy-related decisions¹⁷.

I believe in this approach of concerting interests and formulating policies. In my view, the role of public policy is this. Civil society needs to exert pressure for the better functioning of the State. There's an author, Richard, he says: "the ideal situation is for you to have good rulers surrounded by good pressures, that's the ideal situation". The government builds itself up with social pressures, and if the rulers are good and the pressures are good, it has a virtuous combination. (civil society key informant)

Taking into account the reports of the interviewees and the records consulted, the economic interests of the food industry and the agribusiness sector formed interest groups opposed to the general one, in the process of construction of OLFNS.

The food industry, then, this is the great ideological conflict; then, in the field, what has ideology, at least two things, I think: the first, the relationship with the State, the vision of the State and the relationship with the State [...] (civil society key informant)

Despite having the Brazilian Association of Food Industries (ABIA) as the representative of CONSEA, the latter, in the Chamber of Deputies of the National Congress, requested the withdrawal of the OLFNS project. The strategy adopted by the food industry corroborates the impression of the key informants regarding the conflict of interests between the principles and guidelines of the FNS and the agricultural-industrial model in force in the Country.

One interest group was led by ABIA, which, even though it participated in CONSEA meetings, sent an opinion to the National Congress, stating that it did not need a Food and Nutrition Security law because it already had health legislation that addressed these issues, and proposed the archiving of the project. (civil society key informant)

The increase of the parliamentary advisories and the hiring of external consultants is a reflection of the reality of defense of interests of the political system: the lobby. Companies and class entities have more qualified human resources, and also deputies and senators increasingly depend on specialized advisors. The approach may be in the sense of protection against harassing lobbyists, or, depending on the situation, joining or participating in the political game¹⁸.

In the opposite approach to the FNS proposal, the agribusiness sector manifested its condemnation of the process by not attending and not participating in decision-making areas, such as CONSEA. OLFNS assumes the importance of strengthening family agriculture and the adoption of an agricultural model of production aimed at the domestic consumption market.

A clearly defended interest in the CONSEA process was that of family farming, but always making the dispute with agribusiness. Even with agribusiness representatives absent. The agribusiness sector had no advantage in exposing itself, the FNS debate is a field of attrition and they preferred to work underground. (key informant State)

The analyzes suggest that agribusiness, food multinationals, supermarket chains, large distribution sectors and agro-industries, in particular, have different visions of what OLFNS stands for. The strong questioning of the current agricultural-industrial model puts its commercial interests at risk. It is understood that, despite the absence of the productive sector, the CONSEA configuration guaranteed a space of representation for the defense of interests of both groups.

The public versus private relationship demands a careful look at the conflict of interest. In terms of interdependence and autonomy, the relationship between the public sector and the private sector requires ethical and transparent regulation.

This entry of the private sector to SISAN, it has to be very well thought, it is not to leave it up to the criterion of the social responsibility of the company. Because, if you have a small municipality, with less than 20 thousand inhabitants, and you have a big agribusiness there; and if it expresses interest in SISAN, Food and Nutrition Security, as a form of marketing, social responsibility: Who will monitor? In what way? It will have to meet the principles of the system. The system has to be unique, in terms of principles. This, for me, is a condition to guarantee the human right to adequate food. If we cannot ensure, in regulation, an ethical way of leading the private sector and, explicitly, the private sector, it will be dangerous. (key informant State)

It is important to emphasize that, in this perspective, it is necessary to strengthen the dimension of democratic control in the areas of social participation related to the FNS, such as CONSEA. The partnerships between the State and civil society should be complementary character and not substitutive of the role of the public power in facing the social question. Complementary initiatives are important but unable to account for such a venture. Public policies and regional programs cannot be abandoned, removing the commitment of social protection¹⁹.

It is worth remembering that, in the current order, society is under the conditions of the structural crisis of capital and, at the same time, of the political structural crisis. The great challenge of this time, therefore, is to discover how to significantly expand the margin of critical thinking as a way to construct a counter-hegemonic project of society²⁰.

However, CONSEA was the stage of numerous conflicts of ideas and interests, even among its peers and advisors. Pragmatically, it did not establish itself as a neutral and impartial territory in the face of all the ideas and interests defended, but nevertheless refused to engage in important political discussions concerning the political, economic and social conditions for the approval of OLFNS.

This was also expressed in the statements of key informants most critical to the process:

I am somewhat critical of the text of the law. I know it was purposeful, that it was thought because of the unfavorable context in the [National] Congress or all the pressures, barriers or difficulties that we could have in the processing of the bill [...] Surely, if it were something very transformative, with an expectation of changing structures a lot, it (the bill) would probably not have succeeded in approving it. I think there was a lot of hard work on the concept of the logic of access, this is well placed in the bill, but it does not signal the policy issue, it does not signal the policy implementation line. The way this project was structured and approved creates a certain nuisance. (key informant State)

Certainly, Food and Nutrition Security while an issue on the federal government's policy agenda, is certainly not a policy guideline. If it was, the government would certainly not have taken such steps as the approval of transgenics. The very question of the agricultural field and policy, its nuances, its controversies and its problems... The issue of monoculture, the question of a model that continues to be exclusive, concentrates income and has a high environmental impact, highly dependent on the power of transnational corporations... So, all those principles that are in the context of the discussion of Sovereignty and Food and Nutrition Security end up guiding the policies of the ministries of Social Development, Agrarian Development and, in a small way, Health. But, for sure, they do not guide the policy of the Ministry of Agriculture and macro policies of economics and planning. (key informant State)

Key informants identified a point of tension in the debates: food sovereignty, which was the cause of political dissent, even before the project was sent to the National Congress. When the project went to the Civil House, the main question was the term food sovereignty.

[...] this relation between Food and Nutrition Security and food sovereignty holds an ideological debate. But I think this debate is being overcome. What happened was that we began to construct a concept of Food Security shortly before the international movement made the conception of sovereignty appear. In the document of the parallel government, they did not drink at the source of food sovereignty. The food sovereignty movement is very marked by this critical view of ownership by private interests, governments, the World Trade Organization (WTO) and the World Bank. (civil society key informant)

Before being sent for approval in the National Congress, the original bill had its wording altered on this issue. The original phrase quoted food sovereignty, but, in the amended text, the term presents itself with a different approach. In the original bill, article 5 provided that “the human right to adequate food requires the food sovereignty of the Brazilian nation”, and, in its first paragraph, indicated that “food sovereignty will be achieved through sustainable policies and strategies for the production, commercialization and consumption of food, while respecting the multiple cultural

characteristics". The second paragraph indicated, also, that the exercise of food sovereignty by the Brazilian State, should be accompanied by the commitment of the Country to the realization of the human right to adequate food for all peoples.

Targets of divergences and discussions, the proposed amendments resulted in the articles of the text approved in OLFNS⁶:

Article 5 – Achieving the human right to adequate food and the Food and Nutrition Security requires respect for sovereignty, which confers countries the primacy of their decisions over food production and consumption;

Article 6 – The Brazilian State must commit itself to the promotion of technical cooperation with foreign countries, thus contributing to the achievement of the human right to adequate food at the international level.

For some, the focus on food sovereignty symbolizes the ideological-political component that OLFNS gives up throughout the process. But for others, this dimension is guaranteed, as it is part of the concept.

I think OLFNS loses a little when it does not put those two words together (food sovereignty). You see that the great defeats of CONSEA were in relation to food sovereignty – for example, transgenic. We have not won any cause of the Lula government in the field of food sovereignty. That's when I think: Is it feasible to build a Food Security policy in Brazil, without food sovereignty, if Brazil does not build its own food sovereignty? (key informant State)

This issue of food sovereignty x FNS, I think it's a bit over-zealousness. This word sovereignty was much more used as a word of affirmation for certain groups than as a great difference of a strategic project. No problem with the word sovereignty, but, perhaps, agriculture, I do not know... but I did not see this problem because I think the question, which has always been put, was like a national food security policy. This automatically refers to the question of the Country itself. (key informant State)

The form of resolution of the conflict over food sovereignty symbolizes the existing capacity for coordination, at that time, between the subjects and political actors who built the agenda of the FNS. The OLFNS was characterized as a pact of possibilities, in order to be a movement of resistance and weakening of neoliberal and focused policies in general. There was, therefore, a high degree of consensus, in order to guarantee the FNS as a State policy, with the negotiation of limits and concessions, since there was a greater implicit cause to guarantee and give continuity. There was a lot to be done...

So, I would say that there was no dispute of ideas, the differences were not disputes because the actors of the contradiction were outside. So, there was no model dispute, everyone who was there, was more or less in agreement. Some felt that the council had to be 2/3 civil society and deliberative, and that they had to put into the law everything that companies cannot do. The issues of conflict revolved around this [...] (key informant State)

The main challenge was related to the conditions for the political implementation of the legal framework of the FNS. The success of the formulation process was shared by the great majority of the participants and militants, in all or some phases of this trajectory. However, despite the political achievements, the management capacity, maintenance and integration of the actions would be what would configure the innovative characteristics needed for the proposed new political arrangement.

[...] from my perspective, the central focus of the FNS is a structural change, a change in the pattern of production and consumption, right? But, if this appeared explicitly, the law would not have advanced. So, I think it got a lot more in the access perspective. No one will be against the proposal that any citizen or any individual devoid of citizenship can have access to food. So, the law enters through a field that tends to have more unanimity. Certainly, there was no dispute in the economic field.
(key informant State)

In building the process, I have to admit that OLFNS was very smart, but insufficient. The law guides and ensures principles and guidelines, but, now, how will it be implemented? Will it be in a more interventionist, more regulatory or neoliberal way – that is, not assuring anything? (civil society key informant)

FINAL CONSIDERATIONS

The challenge of implementing SISAN is immense, because, despite adversities and confrontations in relation to economic issues and interests, the perspective of instituting an intersectoral system is even greater. The FNS cannot be summarized as a set of sectoral policies, since it is a guiding principle of policies that must contribute to the incorporation of its objectives into the set of national public policies aimed at social development.

Inequalities inherent in the economic system and the productive process, including food, are determinants of poor nutrition and social inequalities. Therefore, in order for the measures in this field to be resolvable and no longer only compensatory for a problem generated by an exclusionary development model, one must have the courage to face this question²¹.

Combating the inequalities that demarcate the process of food and nutritional insecurity demands changes. The potential of the OLFNS/SISAN proposals prompts profound changes in Brazilian political and economic structures. This challenge configures itself of such great importance, either because of its universalist character, or because it presupposes the attainment of public goods, such as social, economic and environmental sustainability, human rights, citizenship rights, adequate and healthy food, and culture, and these categories have been limited in the Brazilian political agenda in recent decades.

Another aspect to highlight are the risks that the option to structure the actions of OLFNS in a systemic way (SISAN) may have. The organizational form of SISAN cannot be based on the logic of the adequacy of supply and demand, marking the proposed actions. Existing experiences, which attest to, often, the failure of the traditional means of governing public affairs, cannot automatically define or lead to the conclusion that a radical return to market logic would be the best solution. The characteristics and learning of the Brazilian history in the search for the formulation of mechanisms and ways for social transformation need to be assimilated, in the sense of overcoming the limits of

the projects and of their own political practice²². For Campos²³, a sanitarian of the health reform movement that supported the organization of the Unified Health System (SUS) proposal, starting from the assumption that power relations are “frozen” as a result of a systemic administrative reorganization of the state, is to assume a perspective conservative, both economically and politically, since it implies passively accepting the model and the limits that already exist.

Therefore, there can be no illusion that, under the Brazilian political and institutional structure, the mere organization of a management system is sufficient to account for the complexity of the FNS issue. The central issues are: How to ensure conditions for full compliance with the HRAF, in the face of a model of exclusionary development? What is the nature of concessions, agreements and political bargains necessary to facilitate this transformation? What institutional capacity do public policies have for the concrete exercise of intersectionality?

For Coitinho²⁴, from a perspective of emancipation, the level of satisfaction of social demands cannot be extended beyond the point where such an extension prevents the accumulation of global capital; on the other hand, the level of satisfaction below the minimum threshold cannot be reduced unless the rules of the liberal democratic political order are broken. This limit runs positively on the possibility of social transformation.

In spite of the leading role that civil society has played (and still exercises) in the way of building the FNS, it is necessary to reiterate the essential role of the State in guaranteeing social rights. The State is not neutral and reflects an intrinsic relation with the relations of capitalist production. It cannot be a monolithic block without cracks; is a strategic field that organizes the unity of the political bloc in power through the play of present contradictions²⁵. The struggles of interests, contradictions, convergences and ideological confrontations are expressions of these relations, in the dynamic State-society.

Nor should it be forgotten that, historically, discussions on FNS have been focused on and targeted at biologically and socially vulnerable groups, being considered policies to combat poverty and social inequality, and what lies at the heart of the OLFNS idea is precisely the need to break with this perverse cycle of social inequality.

The approval of OLFNS is a participatory social conquer, important and affirmative of social rights, yet it does not, by itself, guarantee the perspective of the FNS. There is a long journey to locally operationalize the principles of law, which are valid for the whole national territory, marked by heterogeneity and significant inequalities. In addition, the construction of values and the consolidation of the very notion of rights in the sociopolitical relations that are carried out in the daily life of institutions are equally fundamental steps.

The legal policy framework of the FNS has not been able to implement universal actions aimed at the whole Brazilian civil society that modify the condition of access and choice for a healthy diet in a regular and permanent manner, in quantity and quality, as established by OLFNS.

Today, after 11 years of approval of this law, it is important to analyze its historical-political construction process to identify possible obstacles and/or potentialities that help redirect or realign the prospects for the implementation of OLFNS/SISAN, as well as the ways to achieve principles and guidelines. The review and updating of FNS policy must take place in a politico-social context,

and help society to re-signify or face the challenges necessary for its maintenance on the thematic agenda of priorities of the State.

Coping with political threats to production, supply, marketing and access to healthy foods, sustainable, culturally referenced, suitable for health and socially fair needs to be expressed in the context of political and social relations. The processes and activities that involve the food system must find correspondence in the practices of choice, selection and food preparation; they need to dialogue with the values involved in the identity of food as a social and political patrimony; they need to create mechanisms that allow the exercise of food sovereignty in its different dimensions: from the selection of the seed, through the supply and ensuring choices that dialogue with the food culture of the different ethnic and social groups in Brazil.

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