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## THE CONCEPT AND HISTORY OF ASSOCIATIVISM

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### ABSTRACT

Associativism has followed human history since its birth. Based on this, the present study aims to analyze the evolution of this practice from its institutional emergence in the Roman and Greek context until the present-day in Brazil, which constitutes the *locus* of research of the authors of the present analysis. Methodologically, the study can be characterized as a documentary and bibliographic study, with qualitative analysis. Regarding the objective, the study can be characterized as exploratory. It is concluded that the practice of associativism was a primordial condition for human development in its most different aspects, from social, political and economic points of view. Therefore, its practice must be fostered for this development to continue.

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## INTRODUCTION

Associative human action is not just a recent trend, but a behavior that has accompanied humankind practically since its emergence. In a certain sense, it can be said that associativism arises precisely when the animal becomes human, conscious of its own action, which becomes aimed at the survival of the species. The ability to cooperate was certainly *condicio sine qua non* for survival. Based on this assumption, the present report analyzes the history of associativism in its institutionalized form, from the Roman and Greek conceptions, to the recent practices, in the present States. The study is structured in five focal points, beginning with the analysis of the origins of associativism, its gestation in the Middle Ages and its modeling with the advent of the Modern State. Afterwards, it analyzes the relation of associativism with the Universal Declaration of Human Rights, in order to understand its implementation and development in Brazil. Methodologically, the study can be characterized as a documentary and bibliographic study, with qualitative analysis.

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### Origins of Associativism

The union of a group of people for the attainment of a common purpose exists from the beginning of humanity. It can be pointed out that the first moment in which these groups begin to be legalized, being denominated as corporations, was in Ancient Rome. These associations of voluntary people had a certain purpose, being funerary, religious and commercial. They were called *collegia* and *universitates* (Garcia, 2007, p.27).

For Bobbio (1997, p. 71) the Associations must comply with the following conditions for their formation:

Freedom of association and freedom of opinion should be considered preliminary conditions for the proper functioning of a democratic system, since they place the actors of this system (founded on the demands from below and on the free choice of decisions or of delegates who must decide) in condition to express their own demands

and to make decisions after careful evaluation and following a free discussion.

In post-classical law, the union of people, being corporative or associative, received several denominations by the Roman jurists, being *sodalitas*, *sodalitium*, *ordo*, *societas*, *corpus*, *universitas*. These types of entities had to fulfill certain prerequisites for their constitution, such as “a minimum of three people, a statute that regulated their organization and functioning, and that their purpose was lawful” (Garcia, 2007, p. 27). In addition to the above requirements, the State needed to participate in the constitution of these legal personalities. The function of the State would be to verify whether the purpose was lawful, being that this authorization was necessary for the constitution of such entities (Garcia, 2007, p.28). The Roman State has several similarities with the Hellenic State, but the “sagacious juridical spirit of the Romans”, for Jellinek *apud* Pasold (2013), recognized the duality of the quality of citizenship: bearer of demands for state benefits and of participation rights in the state’s life. Calmon *apud* Pasold (2013), for his part, stresses the position of the state (that is, the City) as a superorder, in which family and property are the main and sacred elements, and the notion that “the individual is subject of the law, member of the political corporation, a citizen”; Engels *apud* Pasold (2013), on the other hand, describes how the state was “at the end of the fifth century” when it was “weak, exhausted and powerless ...”. He goes on to say: “The Roman state had become an immense and complicated machine, destined exclusively for the exploitation of its subjects; taxes, personal benefits for the State and encumbrances of all kinds plunged the mass of the people into ever more acute poverty. The extortions of governors, prosecutors, and soldiers reinforced oppression, rendering it unbearable” (Pasold, 2013, p.13-14).

**Associativism in the Middle Ages:** In the Middle Ages, individuals began to divide into classes, and these were hierarchized. The characteristic of the old state, according to which it was a general unit that did not allow internal division, suffers a reversal of expectation in the evolution of the Middle Ages. The example Jellinek *apud* Pasold (2013) develops is that of the states of the Germanic world, where the beginnings of a political life have “an imperfect character”, even though in them a strategic element has been formed toward the “perfect State”, in a process of difficulties, being that, initially, the Germanic state was an “association of peoples”, in which the constant relationship with a fixed territory was absent, and such a permanent bond of the people with a territory was slowly built up in its history (Pasold, 2013, p. 14).

The classes that emerged in the Middle Ages began to gather and create entities, described by Leonardo (2014, pp. 26-27):

- a) **Monasteries and convents:** the expression *convent* comes from the Latin *conventus* which means, precisely, meeting or assembly. To protect against the barbarian invasions, the monasteries represented important refuges for the primitive Roman associations (*collegia*) and Germanic associations (*gildas*). The religious associativism, in turn, was organized *in supra* associations of federations, congregations, etc.
- b) **Free communities (*librescommunes*):** parallel community organizations and thus independent of feudal organization, largely developed after the

decline of barbarian invasions. The earliest document of these free communities would be from the year 967, known as *la charte de franchise de Morville-sur-Seille*.

- c) **Corporations:** professional associations created since the eleventh century, which brought together teachers, apprentices and professionals who sought to master the knowledge and development of certain activities.
- d) **Parallel organizations:** constituted, especially since the fourteenth century, were formed by people excluded from brotherhoods and corporations.

These entities cited above are exemplary only. It is also worth mentioning that there existed, at that time, military, corporate, honorary, organizations etc. It should be noted that these entities did not have a rigid hierarchy, and it is difficult to identify the principle of freedom (Leonardo, 2014, pp. 26-27).

### The modern state and associativism

The model of Associativism that today is in force occurred in the Modern State. The Modern State was born in the condition of a unit of association. Its organization is based on a Constitution, because it characterizes the domination of a double dualism composed by the king and by the people, Spiritual and temporal Power (Pasold, 2013, p. 15). Under its first title, the French Constitution of 1791 guaranteed to all citizens the freedom to gather in peaceful assembly. This model of Associativism was repeated in several European countries in the following century (Leonardo, 2014, p. 34). In the book “Democracy in America”, Tocqueville (1998, p. 226) states that “In no country in the world has the principle of association been more successfully used, or more unsparingly applied to a multitude of different objects, than in America.” Still on this theme, Tocqueville (1998, p. 220) writes:

The citizen of the United States is taught from his earliest infancy to rely upon his own exertions in order to resist the evils and the difficulties of life; he looks upon social authority with an eye of mistrust and anxiety, and he only claims its assistance when he is quite unable to shift without it. This habit may even be traced in the schools of the rising generation, where the children in their games are wont to submit to rules which they have themselves established, and to punish misdemeanors which they have themselves defined. The same spirit pervades every act of social life. If a stoppage occurs in a thoroughfare, and the circulation of the public is hindered, the neighbors immediately constitute an deliberative body; and this extemporaneous assembly give rise to an executive power which remedies the inconvenience before anybody has thought of recurring to an authority superior to that of the persons immediately concerned. If the public pleasures are concerned, an association is formed to provide for the splendor and the regularity of the entertainment. Societies are formed to resist enemies which are exclusively of a moral nature, and to diminish the vice of intemperance: in the United States associations are established to promote public order, commerce, industry, morality, and religion; for there is no end which the human will, seconded by the collective exertions of individuals, despairs of attaining.

Thus, Tocqueville (1998, pp. 220-221) conceptualizes associativism:

An association consists simply in the public assent which a number of individuals give to certain doctrines, and in the engagement which they contract to promote the spread of those doctrines by their exertions. The right of association with these views is very analogous to the liberty of unlicensed writing; but societies thus formed possess more authority than the press. When an opinion is represented by a society, it necessarily assumes a more exact and explicit form. It numbers its partisans, and compromises their welfare in its cause: they, on the other hand, become acquainted with each other, and their zeal is increased by their number. An association unites the efforts of minds which have a tendency to diverge in one single channel, and urges them vigorously towards one single end which it points out.

The author states that association of people for the purpose of carrying out a joint activity makes the group have a greater power of expression, as well as helps its members to pursue their desires. Still, those associated with an entity tend to meet with their peers to discuss the end activity, thereby propagating the proposed ideals. Tocqueville, at the same time, asserts that freedom to associate in America is unlimited. "The right of association was imported from England, and it has always existed in America; so that the exercise of this privilege is now amalgamated with the manners and customs of the people" (Tocqueville, 1998, p. 223). However, Tocqueville asserts that the right to associate in America is linked to the right to write, since the Association has more strength than the press in this country. The opinion presented by an Association needs to be clear, so that its members commit themselves to the cause and the idea. This right of association is linked to the exercise of the power to assemble. In these "[m]en have the opportunity of seeing each other; means of execution are more readily combined, and opinions are maintained with a degree of warmth and energy which written language cannot approach" (Tocqueville, 1998, p. 220).

In America, the right of association is similarly linked to that of minorities. In the case of politics, while one group is in power, the other finds in the Associations a place to stay together and disseminate their ideas, because the field that is in power, at least the majority, uses the State to disseminate its ideas and stay united (Tocqueville, 1998, p. 223). An association is an army. In it, people disseminate their ideas, they encourage themselves to then march against the enemy (Tocqueville, 1998, p. 225). Still on the subject, the Author teaches:

The Association is the means that American democracy has found to prevent the group that is not in power from being dismantled, thus leaving the way free for the majority (Tocqueville, 1998, p. 227). The ideal of American Associativism, described by Tocqueville, where freedom prevails, is the one that has spread to the democracies around the world (Leonardo, 2014, p. 46).

**Human Rights and Associativism:** After World War II, Associativism became an important actor for the freedom of the people. Since numerous international treaties after World War II recognized the freedom of association, denied until then in several countries. The Universal Declaration of Human Rights thus addresses the Associations:

This important document for world peace enshrined the right of association, considering its relevance to the freedom of the people and to the guarantee of individual and collective freedoms. And the declaration also enshrines the right of workers to join trade unions in order to discuss their labor relations, and in Brazil, trade unions have the legal personality of Associations.

Freedom of Association after the Universal Declaration of Human Rights has become not only a fundamental human right, but an essential thing for social progress, economic sustenance and for the basic shoring within the nations of democracy (Leonardo, 2014, p. 69). The growth of Associations in the world was very fast. In France in the 1960s, they registered 10,000 associations per year, reaching 300,000 associations in the 1970s. In England, in the 1980s, they registered 4,000 associations per year, reaching 550,000 associations at the end of the decade. In Italy, at the beginning of the 1980s, there were 74,000 national Associations, not including political parties and trade unions (Leonardo, 2014, p. 70). These Associations created after the Declaration of Human Rights have the most varied purposes, thus showing the need for people to unite in an entity that represents their desires.

#### Associativism in Brazil

In Brazil, Associations began to be created only in the second half of the nineteenth century. The first Brazilian Constitution of 1824 makes no mention of the right to associate. The first normatization related to Associations came with the decree 2,711 and with the law 1,083, both of 1860. Through this legislation, whenever a group of people wanted to found an Association they would have to ask permission at a police station in order to have such a meeting. After the first meeting, it was necessary to send a report to the police station stating how many meetings would be required to prepare their statute. After its elaboration, it was to be sent to the Business Section of the Empire of the Council of State with the purpose of deliberating on the possibility of its foundation (Jesus, 2007, p.145). According to Jesus (2007, p. 146), from 1860 to 1889, records of the following associative types were requested:

- Beneficent Societies;
- Brotherhoods/Sisterhoods;
- Religious Societies;
- Literary and Instructional Societies;
- Scientific Societies;
- Drama, Recreation and Sports Societies;
- Social security and Montepios funds;
- Insurers and Cooperatives.

The first Constitution to recognize the right to associate was the 1891 Constitution, which, in its art. 72, § 8, recognized: "It is lawful for all to associate and assemble freely and without arms; and the police cannot intervene other than to maintain public order". This legal device is present in the constitutions of 1934 and 1946, being that in the Constitution of 1937 and in the letters of 1967/1969, this right had several restrictions. As described, the association of people is a way for society to organize itself. On Civil Society, Bobbio (2007, p.33) conceptualizes it thus:

“civil society” means the sphere of social relations not regulated by the State, understood restrictively and almost always also polemically as the set of apparatuses that in an organized social system exercise the coercive power.

Still on the subject, Bobbio (2007, p.35) states:

Civil society acquires an axiologically positive connotation and begins to indicate the place where all instances of modification of the relations of domination are manifested, the groups that fight for the emancipation from political power are formed and acquire the so-called anti-powers force.

Associativism is the “tendency or movement of workers to congregate in representative Associations (class organs, unions, etc.) to defend their interests” (Houaiss and Villar, 2009).

On Associativism in Brazil, Castro and Mezzaroba (2015, p. 65) describe it as follows:

In liberal democracy, civil society formed of individuals (individualism as the foundation of society, from the parts to the whole) is organized in civil associations (social movements, non-governmental organizations and, with a role highlighted by its universalization of private interests of the various associations of civil society, political parties), which mediate with power and with the state apparatus.

The Associative entities, besides making use of the will of its associates, are an important representative element of the people before the State. In the councils created by the State, the representation of society generally occurs by seats reserved for the Associative entities, having the right to voice and vote.

Ildete da Silva and Paulo Brandão (2015, p.161) state, regarding the association between people: that “it is in the associations between people and in the communities that the recognition of self and the feeling of belonging are given”.

Still on the subject, we find the following consideration:

The action of family, religion, voluntary associations, social assistance networks, NGOs, is seen as a powerful instrument for the development of a model of social citizenship that is less centered on the State, as Alba Zaluar argues, it does not seek a humiliating philanthropy, but solidarity as a fundamental principle of society, so that each one is responsible for all (Morais and Nascimento, 2010, p. 34).

Gilberto Garcia (2007, p. 58), thus, describes Associativism:

Associative Organizations are a social movement of sensitization of the public spirit in the individual. They promote community activities through the practice of cooperation, the encouragement of solidarity, the development of mutuality, the enhancement of responsibility for the assets of the community and, as a consequence, contribute to the formation of greater political awareness in the full exercise of citizenship in organized civil society. The associative phenomenon is

inherent to the human being's desire to give vent to the sense of realization through the collectivity, especially in the so-called idealistic actions, directed towards the common good.

For the practical effect of these concepts, the present study outlines as Associative entities: Associations, Private Foundations and Cooperatives. In Brazil, there were, in 2010, 290,692 (IBGE, 2010, p. 28) Private Associations and Non-Profit Associations and 7,062 Cooperatives (Reisdorfer, 2010, p.79). Data also show an expansion of associative practice in Brazil since this information has been being collected by the Brazilian Institute of Geography and Statistics (IBGE). In 2001, 16.73% of the Brazilian population declared themselves to belong to some type of association, while in 2015 this percentage reached 19.31% (IBGE, National Household Sample Survey 2001-2015).

### Final Considerations

Associativism has integrated the development of human societies throughout history and constituted a fundamental element for its growth. It was a way that individuals found to be able to realize their goals when individually it was feasible. In a way, it can be said that associativism develops precisely in spaces where the state does not meet the needs of the subjects or as a way of keeping the ideals of minorities alive while they have no possibility of ascension to state power. The Brazilian reality can accurately be understood under this bias, that is, the growth of associative practice is indicative of a state that is lacking in several spheres of individual and associated life.

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