PRESIDENTIALISM AND CRISIS OF GOVERNANCE IN BRAZIL[1]

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Brazil was the only American country that, when independent (1822), established a national monarchy that reigned for almost seventy years[3]. From the late 1840's until the proclamation of the Republic (1889), also worked a parliamentary system in unitarian country. From one hour to another, our leaders decided to replace the system of government for a presidentialism and, in the other hand, the unitary form of state by the federal one. All these deviations in only one political transition.

The presidential system, then wrapped in high expectations, became more of the same. Too much personalism, little institutional resistance to the authoritarian impulses of the rulers, fragility of the institutions to control the presidential power (and of the governors, in the Member States). Alongside this reality, this first phase of the Brazilian Republic (1889-1930) was marked by a standardized set of electoral frauds[4] throughout the territory that only reinforced the same regional oligarchies in power, with little porosity to substitution and popular participation, in spite of the increase of the contingent of voters occurred with the end of the census vote existing at the time of the Empire (1822-1889) and abolished with the Constitution of 1891.

In the course of the 20th century, there were long periods of deepening authoritarianism (1937-1945 / 1964-1985), followed by other short terms of re-democratization (1946-1964 / 1985 onwards), indicating a dynamic pendulum that made it difficult to consolidate a true democratic environment settled by constant free electoral

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[3] Besides Mexico, but for only 5 years.

[4] Victor Nunes Leal. Coronelismo, enxada e voto - O município e o regime representativo no Brasil. 248. Alfa-Omega, (1976). This system of electoral fraud deepened the political dominance of regional oligarchies without allowing the emergence of new leaders or the alternation of power, strengthening their influence also at the national level in view of the need of the federal government to have them as supporters for its own political survival.

processes ruled by the law and not by the expectation of the powerful groups fighting for the maintenance of power.

With our last Constituent Assembly (1987-1988) the expansive impetus of presidential personalism was maintained and, paradoxically, increased. Some centralizing features established by the military dictatorship[5] were maintained in the constituent debates for the ”new” presidentialism. The President of the Republic, with the new Constitution, has gained more power, as we will see, even for the role of defining the political agenda of the National Congress[6].

But the paradox is that the system established, despite the success of the approval of the great majority of Government's projects in the National Congress[7], has to coexist with the instability of a hyper-fragmented party system[8] that generates, on the other side, several political instabilities, like the two processes of impeachment which have occurred since then with Collor de Mello in 1992 and Dilma Roussef in 2016.

Among the presidential attributions that demonstrate its political strength, we can cite[9] the exclusive initiative of the budgetary law process; the expedition Provisional Measures (Decrees) with the same legal force of the statutes that, only after, are analyzed by the National Congress; the proposal of Constitutional amendments; the competence of making laws by delegation of the National Congress; the imposition of urgency for the legislative process of his interest in the Congress; the imposition of restrictions on the legislative amendments of parliamentarians having financial content; the possibility of partially vetoing bills passed by Congress; the filing of an unconstitutional complain before the Federal Supreme Court to request annulment of laws, etc.

On the other hand, if the government rates of success and dominance of the Parliament are very high[10], what demonstrates the ascendency of the Government over

[5] Octavio Amorim Neto, El presidencialismo moderno em Brasil. 103. In Presidencialismo u Parlamentarismo - América Latina y Europa Meridional (Jorge Lanzaro ed., 2012).
[6] Fernando Limongi, A democracia no Brasil: presidencialismo, coalizão partidária e processo decisório, Novos estudos - CEBRAP, n. 76, p. 17-41, Nov. 2006, 20.
[7] Limongi, id., at 23. With dominance and success rates between 80 and 90 percent, it approaches parliamentary systems like those of the British government or Finland and much more high if compared with Italy or Portugal.
[8] Russell Dalton at al., Political parties and democratic linkage. 42 (Oxford University Press,2011).
[9] Amorim Neto, *supra*, 216.
[10] And can be compared with parliamentarian systems, as defined by LIMONGI, Supra, p. 25.

the Congress, the hyper-fragmented party system, in fact, balances that power by the difficulty of an all-time negotiation[11]. Every government is in a constant bargain with non-ideological and physiocratic parties in a system where almost 30 of 40 in total, are represented in the Congress. These deals are not only to establish a majority for the new government but also for the maintenance of instable majorities what is an arduous and continuous work for all governments.

To make the situation worse, even if political parties have reasonable party discipline[12], what would be an important question to stabilize the majorities, it happens because of the deficit of democracy inside the political parties' life dominated by leaders who decide without listening to members or even those who exercise their mandates. Even the choices for candidates inside political parties are not defined by members but by those leaders without any consultation, as a rule.

Otherwise, the excessive number of parties represented in the National Congress hinders the stability of government projects. In this scenario, a President of the Republic with broad attributions, which has been seen, including the power to largely define the political agenda of the National Congress[13], is forced to negotiate with a wide range of political parties, most of them unrelated to strong ideologies and more with more affection for administrative positions to support the Government of the moment. This reality means that the difficulties for the formation of majorities at the beginning of government continue to be repeated during the exercise of the presidential mandate, in order to make the political negotiation essentially based on budget amendment for singular deputies and senator[14], positions in the administrative structure for the supporters and ministries , for the parties more committed to give support to the Government and with greater number of federal deputies and senators of the Republic. No wonder there were governments with more than 30 ministries[15].

[11] We can see this reality from the number of ministerial reforms that each government has since the new Constitution the 90's, which means changing the composition of positions and ministries to those who support the government. Collor (4), Franco (5), FHC - 1st term (2), FHC - 2nd term (4), Lula da Silva - 1st term (6), Lula da Silva - 2nd term (6).
[12] LIMONGI, *SUPRA*, 22.
[13] Argelina Figueiredo & Fernando Limongi, Instituições políticas e gobernabildiade: desempenho do Governo e apoio legislativo na democracia brasileira.155(Carlos Melo & Manuel Alcantara Saez eds. , 2007).
[14] Another presidential competence used in a personalistic way.
[15] The actual one has 28.

The traditional personalistic vision of politics is another question. Is is reflected in the electoral system in which partisan membership is required to run for any political office and as we saw and candidates are chosen by leaders and not by members of the political parties in a democratic process. So, it is forbidden to run as independent candidate for any political mandate in Brazil[16]. Even for the proportional elections, like for the House of Deputies, the peoples' choice is also defined by a personalistic way, since the use of open lists favors the vote in the candidate and not for the parties. In the same direction, the lack of ideological clarity of political parties tends to weaken the identity between voters and parties, eventually strengthening personalism[17].

In short conclusion, the political instability of the Brazilian presidential system, which demonstrates that, in one side, the expanded range of powers of the President of the Republic in the constitutional plan is a tradition and was increased by the Constitution, on the other side, shows that a hyper-fragmented party system, without internal democracy inside political parties, and a personalistic view of politics fragilizes the system and increase the instability in a non-stabilized democracy.

[16] Luiz Guilherme Arcaro Conci & Marcelo Peregrino. Tratado de Direito Eleitoral. 71-84 (FUX, Luiz et al eds. , 2018)

[17] It is true that the current political polarization process can change this route, strengthening again party identity, but it is a process in development[17] and cannot be definitively known yet. For more information see André Borges & Robert Vidigal, Do Lulismo ao Antipetismo? Polarização, partidarismo e voto nas eleições presidenciais brasileiras. Opinião Pública, vol. 24, n. 1, 2018.