

# The future of democracy: political-institutional scenarios until 2022

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## **Introduction**

**A**nticipating future risks and opportunities that the Brazilian political system might confront was the objective of the “Brazil: 3 Periods – 2007, 2015 and 2022” Project coordinated by the Nucleus of Strategic Subjects of the Presidency of the Republic (NAE). The study was implemented by the Institute of Advanced Studies of the University of São Paulo (IEA-USP), with the support by the same institution’s Future Studies Program, culminating in the elaboration of political-institutional scenarios for Brazil on the horizon of 2022.

In this text, we succinctly describe the scenarios generated by the exercise. From a base in research, data and in complementary arguments, we evaluate the scenarios that the participants considered desirable and more probable, indicating two other scenarios that could frustrate the expected improvement of the political-party and legislative institutions. Keeping in perspective that the materialization of the positive scenario will probably require political reforms, we analyze some of the reasons for the persistent resistance to their enactment.

## **Elaboration of the scenarios**

IEA’s 2004 exercise encompassed institutional factors that influence the governmental decision-making process and also political factors related to the process of participation and of democratic representation.

With reference to the first, the intention was to examine restrictions of an institutional nature that affect the capacity of government to formulate, approve and implement public policies. Included were the relations among the Executive, Legislative and Judicial and between the Union, the States and the Municipal Districts; the impact of the party system in the conformation and dynamics of the parliamentary coalitions; and the influence of pressure groups (unions, social movements, NGOs, etc).

With relation to political factors, the ways in which the mechanisms of participation and democratic representation have been effective were questioned. Analysis of this question involves evaluation of the electoral system and the rules that structure the political party debate. Socio-cultural factors are equally important, acting as intervening variables capable of influencing the

decision-making process as much as political participation and representation. The exercise of constructing political-institutional scenarios for Brazil, with temporary markers extending until 2022, was carried out by IEA based on interviews with 104 political scientists and jurists. With relevant events for the future of the political-institutional dimension identified, the Delphi method was used in order to estimate probabilities of occurrence in 2007, 2015 and 2022, as well as the most probable and desirable future situations for each event and their interrelations.

Originally developed by the Rand Corporation, the Delphi method is a collective decision process about the probability with which certain events are going to occur. The name, derived from the oracle at Delfi in ancient Greece, emphasizes that the collection of procedures seeks to improve the forecasting of future events. The method is based on a panel of experts who are most able to predict the future based on their experience and intuition of what can occur by extrapolation from past tendencies. Rescher (1970) argued that many times the referral to intuitive judgement is not only an expedient, but an inevitable requirement in order to try to anticipate the future. Another advantage of the method is that the specialists need not physically meet. Nor is it recommended that they do, since physical proximity could facilitate the formation of biases favoring a dominant opinion. In the IEA exercise, consultation was done via the Internet, allowing the participation of experts from the entire country. The method also does not require a consensus of the participants, inasmuch as the majority opinion is represented by a median. Generally speaking, the Delphi method is more useful for responding to specific questions. More complex scenarios involving multiple factors require other methods (which were also used in this exercise), such as the analysis of crossed impact matrices that use the Delphi estimates as input. It should be underscored that the scenarios are constructed based on the opinions of the experts on the panels. Their anxieties and expectations, their vision of a better or a more probable future, certainly will not be the same as of another group, much less that of the population as a whole.

### **A desirable scenario and the most probable scenario**

Scenarios, according to the definition of Herman Kahn in his classic *The Year 2000* (Khan & Wiener, 1967), seeks to describe in detail a hypothetical sequence of events that could arise, in a plausible manner, in a future situation. Drawing a sufficiently broad scenario, the analyst can anticipate the evolution of the events and identify the necessary choices in order to track a determined path.

In the exercise related here, it became convention to distinguish between desirable scenarios that express visions of a better political future, and probable scenarios, derived from more realistic perceptions of how democracy is a long term investment that requires strengthening of the formation of the institutional outline.

Box 1, including questions addressed to the panel of experts in institutions and politics, shows that there is not always a correlation between these scenarios.

Box 1 –Desirable and Probable Scenarios

<i>Desirable Scenario</i>	<i>Probable Scenario</i>
<i>Federation</i>	
New federation agreement with redefinition of attributes and redistribution of revenue	60%
More cooperation among federal entities	60%
Deconstitutionalizing questions of safety and taxes	40%
Reduction of the disparities between regions and states	70%
<i>Congress</i>	
Strengthening of Congress, with untying from the budget of revenue and its levying.	40%
Consolidation of a party system resulting in a small number of national parties	80%
Instituting a mixed district vote	50%
<i>Participation</i>	
Greater social control over rendering of public services	70%
Intolerance of corruption in public life, with the institution of efficient control mechanisms and recourse to exemplary punishments.	80%
Strengthening of the NGOs and para-party organizations on the fringes of representative democracy.	50%
Secularization of politics, with less activity by religious sects in political-party life,	(60%)
Increase in Judiciary efficiency and responsiveness.	( 60%)
Elimination of the normative power of the Department of Labor.	70%

Note: The numbers between parentheses are the complement of the percentages attributed to questions formulated inversely to what appears in the description of the desirable scenario. For example, the question “Reduction of the disparity between regions and states” was formulated as “Deepening the disparities between regions and states” and in this form a probability of occurrence was attributed to it as 30%.

Although there has been a foundation for the criticism that the most probable scenario tends to conform to the most desirable, some differences leap to the eye in Box 1. For example, “Strengthening of Congress, with detachment of revenue and imposition of budget levying,” considered desirable by the majority of those interviewed, received only 40% median probability of occurring by 2022. The same is true of what was said with respect to “Desconstitutionalization of questions of safety and taxes.” Reforms considered indispensable in the reordering of the political system, as in the case of “Instituting mixed district vote,” which also failed exceed a 50% probability. In other words, what is considered desirable is not automatically considered executable within the proposed time frame. The

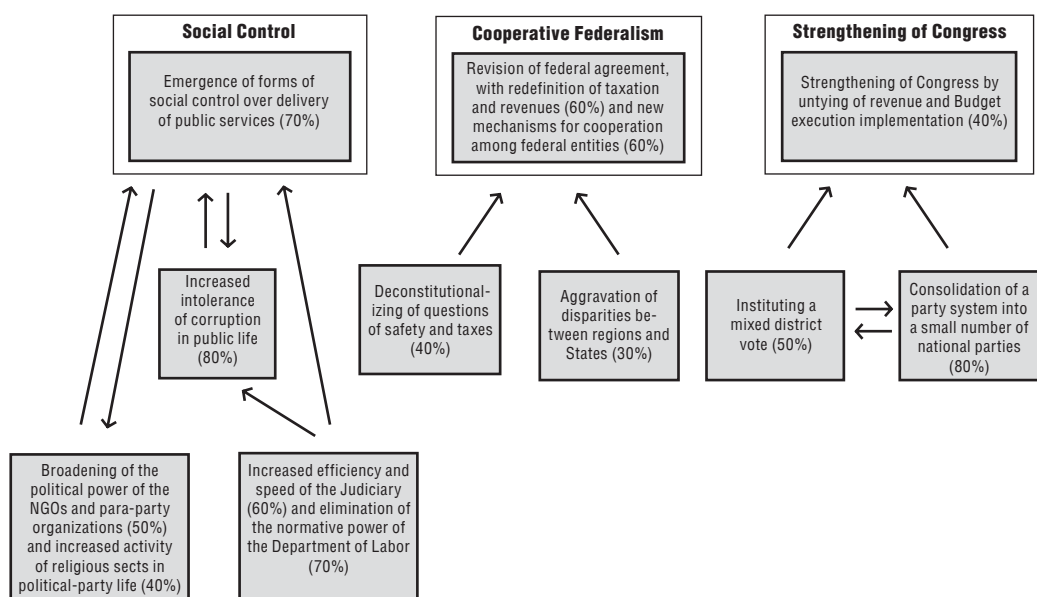
most probable scenario, called “Republican Equilibrium,” which in part overlaps what the experts judge to be the desirable scenario, is summed up as follows:

1. *Cooperative Federalism*. In the Brazil of 2022, there will be a significant increase in governmental decentralization with a redefinition of attributions and redivision of revenue among the Union, the States and the Municipal Districts. The two questions motivating reduction of federal power beyond all the federation questions would be the increase of criminal violence and the regional concentration of income. A road to the negotiation of a new federal pact is separating tax and safety questions from constitutional concerns, with each State choosing its own form of police organization and management of its taxes.

2. *Strengthening of Congress*. To strengthen Congress, in the perspective of the future, consists of untying its role concerning revenue and imposition of a budget, effectively transferring to the Legislative the power of defining the federal budget and allocating revenue according to priorities determined by legislative members. In order for Congress to perform this role, the scenario foresees the emergence of a small number of large national parties, stimulated in part by the implementation of mixed district voting for proportional elections.

3. *Social Control*. Besides a new federal agreement, the future scenario anticipates growing control by the population over delivery of public services, with a view as much to universalizing access as improving its quality. Two factors are decisive. On the one hand, modernization of the Judiciary, with increase of its efficiency and speed. On the other, the struggle against corruption undertaken by organizations of civil society and to a certain extent supported by the modernization of the Judiciary. The crossed impact matrix analysis allows reconstruction of the sequence of events that give rise to this scenario. (Graphic 1)

4. Graphic 1 – Political-institutional Scenarios to 2022.



It is a plausible scenario, but also has debatable aspects for reasons succinctly listed in Box 2.

Box 2 – Plausible and debatable aspects of the most probable scenario.

Plausible Aspects	Debatable Aspects
Among the most influential Socio-political segments there is a strong belief in democratic consolidation and in economic and social development, as is evidenced in various studies of the elite conducted by the authors of this article between 1989 and 2002.	In the XXI century, sustainability of democracy will probably depend not only on the level of development, but also on the progressive reduction of inequality and of poverty.
Level of development and complexity already attained by the Brazilian economy.	Effective retaking of sustainable growth is not a trivial question, since it involves risks of structural stagnation.
Institutional complexity of the political system, of the Judiciary and of the Press.	The Brazilian index of urbanization is extremely-high and tends to catalyze some clearly disruptive processes, such as the increase of criminality and drug-trafficking and dissemination of weaponry. Incidence of corruption has to do with the created volume of wealth, in other words, with the economic growth process. Cultural factors formed in the historic past might have facilitated this, but what has in fact determined it is the current behavior motivated by ambitions of consumption and enrichment.
A representative system with significant roots going back to the 19 <sup>th</sup> century, and which already surpasses the critical line of pacification of confrontations and of power alternations.	With respect to values a disruption of communalism is observed, emphasis on divisions and loss of efficacy of older normative controls which furthermore always very weak in Brazil.
End of the cold war, facilitating settling of the elite and attenuating the asperity of confrontations.	The settling mentioned refers to the elite; and full inclusion of the base of the pyramid is a broader long term question.

These are the factors that can lead to two other less favorable scenarios, elaboration of which is based on the exercise. Besides their likeliness, seen in light of the crisis through which the country has passed, these scenarios serve as an alert to the fact that there are no predetermined paths for political-institutional evolution. On the contrary, these are scenarios of gradual degeneration of public life.

### *Conflicting fragmentation*

In this scenario, conflict and competition prevail within the federation and between its powers. The relations between the Executive and the Congress are marked by instability, by threats and mutual retaliation. Increasing fragmentation of the party system and maintaining the proportional system, with dominance through coalition. With reduced cooperation, each federal entity struggles to preserve its existing prerogatives thereby hardening the present model.

Corruption, the swapping of duties and the shameless use of temporary measures become the key to governing. Negotiations for approval of the legislative agenda follow a topical and casuistic standard with maintenance of Congress in the background with respect to the elaboration and execution of the federal budget.

The perception of weakness of the institutions undermines the attempts to obtain social control over public policy and party and electoral life. At the same time the influence of organized crime is increased over parties and governments and the tolerance of the electors in the face of corruption.

### *Democracy defended*

If the hypothesis of “Conflicted fragmentation” underlines a process of political retrogression and points to future endemic and corrosive conflict, the final scenario anticipates the Leviathan. In this scenario, the Federal Executive exerts strong control over institutional and political life, justified by an aggressive ideology of centralization of governmental actions, under the pretext of increasing the efficacy of public politics. This directed and interventionist way tests the limits of the democratic regime, but in strictly legal terms does not restrain it. In the federation, measures are taken by the Union via mechanisms it imposes and without great appreciation for the autonomy of the many federal entities.

There is a sensitive weakening of Congress and demobilization of the organizations of civil society, at the same time that the insecurity of the population increases in the face of violence and organized crime with its growing influence over public institutions.

The federal Executive recurs to “temporary measures” to dominate the agenda of Congress. The federal budget is elaborated and executed according to the strictest conveniences of the government. Democratic rituals are followed in Congress, where a governmental coalition prevails that is formed by few parties with great weight. The Government implements a systematic policy of fragmentation of the opposition and goes on to exercise great control over the selection of the candidates, actively interfering in the internal life of the parties.

In order to guarantee the balance of public accounts, the government adopts strongly repressive policies against evasion and imposes new modes of taxation. Its reaction to the growth of organized crime consists of concentrating powers connected to safety, increasing federal police repression and taking command of security policies of the States and Municipal Districts. The presence of the military is also increased in the border regions. Stiffening of the repressive

measures is justified by the rhetoric of “domestic and foreign defense” of the nation, silencing the critics.

The description of the two preceding scenarios illustrates the importance of defective institutional formation, particularly regarding the known debility of the political-party system. To put it in another way, democratic consolidation is always *path dependent*. Anticipation of scenarios that represent significant deviations in relation to desirable and more probable scenarios requires that the short-term be analyzed with a focus directed toward the institutions as they are at the moment.

### **Vicissitudes of political reform**

In the last three decades, an understanding has firmed among economists, jurists and social scientists and also among the principal multilateral agencies that economic and social development requires a simultaneous political-institutional improvement process. An adequate and modern institutional outline contributes to economic efficiency and society’s well-being. In the world as a whole this understanding feeds research and a fruitful debate not only about political institutions in the strict sense, but also about systems of justice, federal arrangements, regulatory mechanisms etc.

In Brazil, an eventual reformulation of the political-institutional structures has been intensely and practically uninterruptedly discussed since the Constitutional Congress of 1987-1988. Numerous suggestions and reform proposals have been made, notably with reference to the electoral system, parties, and the government. However, such proposals have many times arisen purely circumstantially and nearly always in a fragmentarily, i.e., without a necessary analytical, historical and comparative foundation. In the National Congress the eagerness to quickly reach practical results caused excessive slashing of the questions according to a “sliced” approach (recalling parliamentary jargon at this point). As a result society engaged in a debate of isolated themes without the contextualization it was owed, focussing on possibly relevant “trees” but without the indispensable vision of the different “forests” to which they pertain.

The limitations of the Brazilian political model have shouted for institutional reform for a long time. The key to this reform is the necessity of strengthening the party system as quickly as possible by reducing the number of parties and reinforcement of party discipline, creation of more efficient mechanisms for coordinating the relations between the Executive and the Legislative, and establishment of stronger ties between the electors and their representatives (*accountability*).

In spite of the generalized dissatisfaction with the functioning of the political institutions, political reform attempts nearly always failed. The reform neither made headway nor continued even during the government of President Fernando Henrique Cardoso, whose party, PSDB, had advocated profound changes in the political system. Paradoxically, the failure of political reform in the 1990s happened due to two success stories. When corruption shocked public

opinion and Congress and toppled President Fernando Collor, many proclaimed that the possibility of *impeachment* had made political reform superfluous. From 1995 on reform was thought unnecessary in view of President Fernando Henrique Cardoso's making Congress approve an ambitious program of economic and public sector reforms.

Political reform entered the agenda of the Brazilian elite in the middle of the decade of the 1980s, impelled by the perception that the electoral rules were not functioning adequately and that political practices threatened democratic government. In the 1990s, there was the inverse tendency, which made the question seem less urgent. The politicians continued to reiterate rhetorical support for political reform, but also a resistance to alter the country's already embedded standard of personalized voting and fluid party ties.

The absence of a formal political reform, however, did not impede political changes in fact. New arrangements were created beginning with initiatives for wholesale reform that profoundly affected Brazilian politics, such as the *coincidence of federal and state elections for shortening the presidential term*. In 1995, incited by the Upper Electoral Court (Tribunal Superior Eleitoral - TSE) Congress approved the Organic Law of Political Parties in order to stiffen the rules for the formation and functioning of parties.

Among the innovations are found the *barrier clause*, according to which the parties have to obtain 5% of the national vote with at least 2% in a third of the states in order to obtain parliamentary representation. The rule, which was enacted in 2006, restricted access to representation in Congress of parties with little electoral weight. Another initiative was *reelection*. The constitutional amendment approved in 1997 allowed the president, governors and the mayors of large cities to run a consecutive mandate.

The aim the reform was after was the *temporary measures*. A constitutional amendment approved in 2001 limited the prerogative of the president to define temporary measures. The amendment also established an automatic blocking of the voting agenda when Congress left voting temporary measures within a period of 45 days.

The will to put political reform on the legislative agenda is relatively recent. The most ambitious project is from the Special Commission for Political Reform of the House of Representatives, which tries to inhibit distortions in five areas: 1. adulteration of electoral results by party agreements in the legislative elections; 2. weakening of political parties by extremely personalized vote; 3. the increasing cost of electoral campaigns and the dependence of candidates in relation to interest groups for financing campaigns; 4. an excessively fragmented party system; and 5. Party changes, by which the party benches change size during a legislature.

In order to resolve these questions, the Commission proposes public campaign financing, prohibited party alliances in the legislative elections and introduces the closed list by which electors choose candidates in order of preference launched by the party convention and not by name (as in the open list). To dilute resistance to the prohibition of party alliances, the Commission



suggested that the parties that want to join forces in legislative elections form federations. A party federation, in turn, is obliged to behave as a single legislative party for a minimum period of three years.

This failed to create a device for ensuring party fidelity in the face of the presupposition that the closed list will be sufficient incentive for politicians to remain in the party within which they were elected. It is, besides, debatable whether a closed list has disciplinary power over the parties and the parliamentarians that it is credited with, although representing undeniable improvement comparison to the open list in the large electoral districts in effect today. This matter will be returned to later on. Neither is the Special Commission's proposal acceptable of reducing the national votes from 5% to 2% as the minimum limit by which political parties qualify for parliamentary representation (barrier clause) as a way to make the other initiatives of the reform project more acceptable.

Starting from the present crisis, combating political-electoral corruption (and, specifically, the search for an adequate campaign finance regulation became an important additional focus of the reforming effort. The decisive contribution to this was the discovery of a broad scheme of payments using illegally originating funds to motivate members to change parties in order to form majorities in Congress and to assure some cohesion among the weak and undisciplined designated parties. Already contemplated in the Caiado project, this focus made a strong return to the public and congressional debate.

The proposal to finance electoral campaigns with public resources is sufficiently controversial. The Special Commission Project is to distribute approximately R\$ 7 per voter (around R\$ 800mi total) to the political parties, not counting the resources already distributed through the Party Fund (Fundo Partidário) that channels around R\$ 60mi per year to the different groups in proportion to their respective bench sizes in the House.

The free hour on radio and television is definitely the most important form of public campaign financing to democratize access to what is today the principal means by which candidates relate to voters. It is also a valuable resource for cementing party alliances. Small parties are accustomed to ceding the free hour to the large parties in exchange for support in disputes for chairs in the Legislative, which ends up encouraging the so-called "for-rent signs," created exclusively by the political swapping.

The recent crisis dramatized the preoccupation with financing via donations by corporations, many of them who are not regularized slush fund. In open list elections, raising and spending campaign money is the candidate's responsibility, and not the party's. But there is no requirement for reckoning the accounts for political parties, a lapse that can be used to cover up the receiving of illegal donations. Subjecting the expenses of the parties and candidates to auditing and effective sanctions in the case of transgressions of legal limits for expenditure is a condition *sine qua non* for campaign financial reform. The recent proposal of the Superior Electoral Court (TSE) for establishing a coordinated action with the Tax Bureau for inspecting campaign donations with periodic reckoning of

actual expenditures could significantly reduce the amount of abuse, although its elimination should not be expected.

The faults of the present system do not, however, constitute sufficient argument for the substitution of exclusively public sources of financing. Transgressions occur in all systems, and transferring the burden of complete campaign financing to the public budget will not eliminate the “caixa dois (double books)” resource, reestablishing by crossover paths the inequality of electoral competition that is intended to be eliminated. Maintaining financing with public and private resources as occurs in the majority of countries still seems the most adequate solution.

### **The debate about political reform since the 1980s: recapitulation**

Throughout the last two decades, an agenda of political reform was seeded in a base of proposals presented within the orbit of the National Congress and also by external commissions – among which are the Afonso Arinos Commission appointed in 1986 by the Presidency of the Republic, and the Commission of Studies for Constitutional Revision created in 1992 by IEA-USP. Recapitulation of these works shows that the debate has distinct phases. The first should be understood as based on the process of constitutional elaboration – the Constitutional Committee, in 1987-1988, and the Revision, determined by the Transitory Devices, which should have occurred in 1993. An encompassing vision, an intention for profound reorganization of the political system, prevailed at the very first, as was necessary, with important changes in the electoral and party systems and through a proposal for the adoption of a parliamentary model, in relation to the system of government itself.

With the defeat of the parliamentary proposal in the Constitutional Committee and, once again, in the national vote of 1993, many defenders of the reform lowered their expectations. In the second stage, the discussion remained alert to the difficulties of reform by the normal process, through amendments to the Constitution and the dominance of the public agenda through other priorities, notably in the economic area, after the implementation of the Real Plan and the election of Fernando Henrique Cardoso.

In the new picture, political reform went on to be conceived in an incremental manner (“sliced”, as the political jargon usually puts it), with more limited and specific initiatives and greater confidence in changes eventually derived from the political system either functioning or indirectly produced by structural reforms in the economic and State realms.

The road effectively followed up to that moment was a combination of timely interventions with changes inbred generated by the political system. The general direction of political reform proposals corresponds to the original diagnosis of the debates and the preliminary project elaborated by the Afonso Arinos Commission. This statement is applicable to the “verticalization” imposed by the Superior Electoral Court (TSE) in response to a council shaped by the PDT. Contested in relation to the decision-making method as much as to its

rigorousness, such rule is not distinct in spirit from the anxiousness to strengthen and nationalize the party groups that guided the Commission's work. Other proposals resulted in specific conjunctions, without clearly noticing their future consequences, as occurred in the coinciding of federal and state elections triggered by the reduction of mandates. Viewed together, it was possible to realize that the reform process has a direction or conceptual anchor, but did not follow a rigid *blueprint*, immune to zig zags and uncertainties.

The principal themes of the political reform agenda that were sown in the last two decades are the following.

### ***"Consensual" or majority democracy?***

In retrospect, the government of President Fernando Henrique Cardoso might come to be evaluated as one of the most effective in Brazilian history, but it is debatable to what measure it bequeathed irreversible improvements in our standards of governing. The performance of different presidents certainly varied over time, but the quality and effectiveness of the Brazilian political system continues to be an open question.

The key question seems to be that it refers to a system structurally oriented to dispersing and diluting political power, continually eroding the power and the cohesion of any majority that is formed. It is not a coincidence that this description strongly evokes consensual democracy, in contrast to the majority model (also known as the (Westminster model).

The majority model tends to be considered more effective and intelligible to the ordinary citizen than the consensual model. The reason is that reaching consensus among agents with power of interdiction in order to make relevant decisions is better managed in a majority system.

### ***Stability of the regime and organization of powers***

Dispersal of political power in Brazil is generated by a combination of multi-partisanship, government of coalitions, strong bicameralism, a robust federalism, verification of constitutionality (*judicial review*) and an extensive and detailed Constitution protected by rules that require higher majorities for amendment approval.

The Brazilian political system is a combination of the consensual and presidential system that, in the end, is democratic governance. The existence of a highly fragmented and undisciplined party system beside an inefficient Judiciary and an extremely decentralized federal structure complicates governability even more.

In the case of Brazil and of a goodly portion of Latin America presidentialism *cum* the consensual system tends to further weaken already weak institutions, since at the moment that presidents are confronted with the loss of party and parliamentary support the temptation becomes almost irresistible to bypass Congress and appeal directly to the "people." Populism (or the plebiscite) is an always present temptation in systems characterized by a low level of institutional consolidation and in which the Executive sees itself obliged to surmount in some way the obstacles generated by the consensualism.

In the institutional context described here, the Executive seeks to bypass the Legislative and the Judiciary (especially in relation to abuse of the prerogative of passing legislation), while the other two Power and a myriad of “consensual” institutional agents react trying to buckle the Executive via favors from via parliamentary and party politics based on the distribution of resources and share of power, or even seeking to undermine and delegitimize presidential power.

This is one of the reasons why the debate about parliamentarism *versus* presidentialism has not completely disappeared, in spite of the unfavorable results of the parliamentary system of government reached by two national referenda (plebiscites) conducted in the last forty years, in 1963 and in 1993. The imprecise demarcation of the borders between the three Powers is aggravated by the interdiction power of “consensual” institutional agents that operate within each of them. Concerning the Judiciary, positive aspects could be underscored, but also detrimental aspects, in its growing interventions to assure rights and arbitrate conflicts.

The judges’ freedom even from the very first instance to make different decisions in similar cases and the power conceded to them to paralyze public policies has stimulated society to seek the solution to its social and political conflicts in the Judiciary. The result has been the twin ills known in public debate as the “judicialization of politics” and the “politicization of the Judiciary,” these maladies that overburden the courts and compromise their capacity to be impartial.

In addition to this, the reach of verification of constitutionality is such that the courts are inevitably dragged into the political arena. The Judiciary can deliberate about the constitutionality not only about ordinary laws approved by the Legislature or the temporary measures published by the Executive, but even constitutional amendments, given its power to question whatever it wants to of any one of these instruments, as it wishes to, in relation to the merit or the method of deliberation by which the decisions were made.

### *Effective decision-making power*

As previously underscored, Brazil has a political system more accustomed to blocking than making decisions. As healthy as this might seem from the point of view of abstract democratic theories preoccupied with the limits of government, its cost in terms of democratic effectiveness is indubitably very high.

With respect to the relations between the Executive and the Legislative the principal means of administering the nearly continual impasse generated by our institutional structure is the broad presidential prerogative of creating temporary measures – a rose with the smell of the old military regime demands. Inserted into the Constitution, this legislative instrument rapidly turns into an uncontested source of power that is the Executive tramples in order to overcome obstacles placed by the fragile and fractured structure of the country’s party and legislative system.

It is important to recall that from 1988 on all the conceivable obstacles to stabilization and economic reform embedded within the Constitution could

only be removed by an amendment approved by 60% of the total number of parliamentary members of the two Houses of Congress, in two separate turns of voting. Keeping in view that the larger parties have difficulty controlling 20% of the chairs of each one, this means that during all this period the Executive remained at the mercy of Congress to make constitutional reforms required in innumerable areas.

Acting in the opposite direction, the prerogative of the legislator by means of temporary measures, to which is delimited by very vague requirements of relevance and urgency, puts the Executive in a privileged position in relation to ordinary legislation. Seen from this angle, it is not inappropriate to describe the norm for Brazil's relations between the Executive and Legislative in the following terms: Congress is hostage to the Executive in questions related to ordinary legislation (i.e., provisional measures), while the president is hostage to Congress in relation to questions that demand constitutional reform.

Even if the premise were acceptable with reference to using temporary measures that do not *ipso facto* signify the emasculation of Congress, as some authors have argued, the abundant editing of these edicts brings on a serious distortion in the democratic legislative process, which could only be understood and tolerated as a means of turning around some of the deep defects in the Brazilian institutional structure.

The merely rubber-stamp character of the federal budget, execution of which is subordinated to the power of the Treasury in scheduling the expenditures approved by the Congress, also deforms the legislative process, notwithstanding its importance in assuring the fiscal adjustment. Aggravating this distortion when the mechanism is used for controlling voting of the Executive's interest through selective release of resources by parliamentary amendments.

### **Accountability: *parties, party fidelity and the electoral system***

The period 1988-1990 marked a transition from a moderately fragmented party system to another, highly fragmented one. In 1994, Brazil was certainly one of the democracies that showed the highest degree of fragmentation.

Besides the legislative fragmentation, the larger parties, especially those integrated in the governmental base of President Fernando Henrique (PSDB, PFL, PTB and, much later, PMDB and PPB) had little discipline in contrast to the then opposition of the left which marched in unison. Although some of the authors defend the idea that the large Brazilian parties act in a discipline manner and that their behavior is predictable rather than chaotic, the fact of a minority of 10% to 15% vote consistently against the majority of the party on key questions tends to aggravate the inherent problems of a fragmented legislative system. Starting from a minority position and supported by the large but little disciplined parties the presidents have no option other than to form multiparty coalitions of exaggerated size and high financial cost.

Something similar occurs on the voter's level. The Brazilian voter in the face of an excessive number of options, first because there are a large number of parties and second, because none of the larger behave in a consistent manner,

either in the electoral arena or in the legislature. By increasing the costs of information for the electors, the legislative fragmentation coupled to party lack of discipline dissolves the lines of responsibility (*accountability*) between representatives and represented.

Notwithstanding the difficulties enumerated here, the party system seems to have improved. This can be attributed in part to the indirect impact of the economic reforms of President Fernando Henrique's government, or perhaps the constitutional reform of 1997, which instituted the reelection, or even the timely political reforms that have been approved until the present. This tendency of improvement also left roots in the coinciding of the presidential and legislative elections and should be favored in the case of *de facto* single candidate election district standard that already prevails in many regions scattered throughout the country.

One option still more adequate would be to preserve the salutary characteristics of the open list system, adopting a mixed system that would combine majority run-offs in single-name districts with proportional elections of the closed list in state contexts.

The mixed district system provides good advantages. The single-name majority elections can increase the intelligibility of political competition, because such disputes tend to be decided between two candidates. The candidates that run on a closed list would have to compete for votes by offering encompassing programs and not favoritism (*cronyism?*). The system also provides the responsibility of the representatives in front of well defined geographical electoral bases. Being significantly smaller in size than the present electoral context, the single-name district would allow voters to clearly identify their representative and charge them with responsibility for subjects of interest to them.

### *Popular versus Federal Sovereignty*

The difficulties that originate in the Brazilian consensual model are exponentially greater for certain specific aspects of our federation, contributing to the complexity of the political system.

Federal arrangements are inherently consensual and a convincing argument could be made in favor of their adoption by continent-size countries.. However, at least two aspects claim greater attention in the Brazilian situation. The first is that the 1988 Constitution reacted against the centralized government promoted by the military regime by instituting a radical decentralization. Besides having transferred a substantial part of the tax returns of the Union to other federal entities, it conceded full political and administrative autonomy not only to the States but also to the municipalities, transforming Brazil into a genuine federation with three levels of government.

From a political and electoral point of view, Brazil today is a composite of a national government, 27 State governments and more than 5,560 local governments. As more healthy as this arrangement might seem, the sad truth is that some States and at least half the municipal governments do not have sufficient revenues to sustain themselves. One of the consequences of this discrepancy

between the autonomy of local politics and financial dependency on the central government is that the quality of democracy practiced in the municipal districts leaves much to be desired.

Adding to this, the consensual argument, in some federations, has been invoked in order to justify under-representation of the electoral majorities in favor of over-representation of the less populous states. This has been for some time a bone of contention in Brazil, especially in view of the dramatic under-representation of São Paulo and the over-representation of sparsely peopled areas in the North and Center-West areas. Alfred Stepan coined the odd expression *demos-constraining* (i.e., reducing the power of the popular majority) to refer to this characteristic that, from a comparative perspective is particularly prominent in the Brazilian federation.

### Conclusion

According to the original diagnosis of the proposals of political reform formulated in the 1980s, the essence of the Brazilian institutional problem is the combined problem of the presidential regime with strong traces of the “consensual” model of democracy, in other words, an electoral and party system conceived in order to impede the formation of governmental majorities. The resultant difficulties of this model, in the case of Brazil, are aggravated by extreme individualism fomented in the legislative elections by the open list’s proportional vote.

One point highlighted in the present text was the Brazilian mixture of presidentialism *cum* consensualism beginning to function better in the government of Fernando Henrique from 1995 on. On the one side this became possible due to the less polarized atmosphere that emerged at the end of the cold war and the new world agenda, and on the other, by control of inflation and the rise to presidency of a politician not only capable of building consensus but also armed with a broad agenda of reforms. It is also plausible to state that the functioning of the political system was indirectly transformed and in practice as a consequence of the economic and public sector reform. Privatization of state banks and the Law of Fiscal Responsibility represented a hard blow to the centuries-old practices of cronyism and corruption.

According to this hypothesis, even without a political reform in the *stricto sensu*, the conditions had changed significantly by which political parties and individual politicians considered their actions. Although they had done relatively little to reform the political institutions, the important transformations that occurred in other spheres will alter their functioning in the middle term. Public opinion came to value the monetary stability, fiscal discipline, and modernization of the public sector but there is much still to be done with reference to the questions of redistribution as well as others related to law and public safety.

Election of President Lula in 2002 should be understood as a consequence and also as a cause of the expressed changes in cultural politics, notably touching on the peaceful manner of presidential succession and alternation of power.

In particular, the line of continuity that the new government maintained in relation to political macroeconomics represented an important additional contribution to democratic consolidation— without impeding the substantive controversies that enabled it to occur.

The political crisis that engulfed the government and PT after May, 2005 gave evidence of the convenience of a profound debate about political reform in the following years. Although relevant, the deceptive changes up to the present did not seem sufficient to assure stability, effectiveness and a desirable index of *accountability* in the political system. The elevated political cost and the demonstrable inefficiency embedded in the valid political-institutional model was again manifest with unusual force in Lula's government. It provided evidence of the resources needed for the PT's use in order to attract smaller parties and with small programmatic content and thus form a majority coalition in Congress.

The robust formal and informal Brazilian democracy should not be underestimated since the 1980s. Differently from what occurred with José Sarney, Fernando Collor and Itamar Franco, presidents Fernando Henrique and Lula were beneficiaries of a substantial advance: the strong *expectation of stability* originating in inflation control and from a much broader political-electoral base.

If the experience of these twenty years is a good guide for analysis, it could be conjectured that serious crises only will occur if at least two of the following three factors arise simultaneously: 1. an economic situation *felt to be* extremely adverse for the majority of the population; 2. plausible accusations of corruption that reach the person of the president himself; and 3. a climate of antagonism or lack of confidence in the political environment, with a substantial share of political agents of the first degree (president, party politicians, Congress, governors), mutually attributing some intention of provoking animosity or of creating destabilizing facts.

Today's widespread confidence with respect to democratic consolidation, shared by this text, is however much more tied to the practical experience acquired in overcoming serious individual crises of the last presidents and apparently irreversible economic changes than it is to the health of political institutions in their formal configuration. This observation by itself indicates a deepening of the debate over political reform. It is possible that the 2006 presidential election will reopen the discussion, hopefully renewing its terms and preparing its third stage.

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*ABSTRACT* – THIS ARTICLE reports the results of a political scenario-building exercise carried out by the Institute of Advanced Studies within the framework of a larger project sponsored by the federal government. The authors first draw a positive scenario, characterized by political stability, improvement of the party system and of the legislative machinery, and better social policies. Next they turn to two negative scenarios, under which the above-mentioned goals seem unlikely to be reached. The positive scenario is unlikely to come about without substantial political reforms. An effort is therefore made to analyze reform proposals debated in the country over the last two decades, with special reference to those aiming to strengthen the party system, improve Executive versus Legislative relations and increase accountability in the political system as a whole.

*KEYWORDS:* Democracy, Political & Institutional Scenarios, Delphi Method, Political Reform, Public Policies, Republican Equilibrium, Conflictual Fragmentation, Tutelary Democracy, Electoral System, Party System, Government System.

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