

## Representatives of whom?\*

by Clayton M. Cunha Filho

Universidade Federal do Ceará, Brazil

(NICOLAU, Jairo. *Representantes de quem?: os (des)caminhos do seu voto da urna à Câmara dos Deputados*. Rio de Janeiro: Zahar, 2017)

In the midst of one of the worst political crises in Brazilian history, UFRJ Professor Jairo Nicolau's book, "Representantes de quem?: os (des)caminhos do seu voto da urna à Câmara dos Deputados" (Representatives of whom? The (un-)path of your vote at the polls to the Chamber of Deputies) comes at a timely moment. Written in accessible language and free of excessive jargon, the book seeks to show how our electoral system functions to a broader public, beyond the walls of academia, by tracing the path from a vote at the ballot box to the distribution of seats in the Chamber of Deputies.

With a brief glossary for the few technical terms used, one introduction, seven chapters and six appendices, the book starts with a brief narrative of the parliamentary session of Sunday, April 17, 2016, in which the Chamber of Deputies approved President Dilma Rousseff's impeachment. This widely televised vote exposed the 504 deputies who attended to a national audience. It also gave exposure to the justifications for their votes ('in the name of God', 'for my city', 'for my family') and to idiosyncratic behavior such as using the national flag as a cape and throwing confetti while registering one's vote. The uncommon media coverage of the parliamentary activity—at least with this level of detail—led to numerous reactions on social media and the court of public opinion during and after the session. For one reason or another, these reactions tended to focus on the supposed non-representativeness of Brazil's deputies. This is the narrative used by Nicolau in his attempt, throughout the book's seven chapters, to

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answer the question of who and what our deputies represent, and why we tend to consider ourselves unrepresented by them.

One of the points of departure for Nicolau, even if it is not exactly a novelty, is that the Brazilian public, as a general rule, knows little about its electoral system. Even among those with greater access to information and who supposedly have more interest in politics, such as undergraduate social science students, there is widespread ignorance over the specific mechanism that transforms votes at the ballot box into seats in the Chamber of Deputies. Nicolau gives us a variety of anecdotes about his students that are easily verifiable by anyone, such as myself, who has also had similar experiences. Through these experiences, it is easy to infer that the population as a whole is even less familiar with the electoral system. As a result, Nicolau seeks to explain in the first chapter how open-list proportional representation works, asking why some deputies are elected with so few votes while others are left out with so many. He illustrates how open-list PR converts votes into seats by going step-by-step through Rio de Janeiro's 2014 election.

The nature of this question, which gives its name to the chapter and is one of the most commonly asked questions by laypeople after every legislative election, alludes to one of the most central, yet worst-understood, features of our electoral system: that the proportionality to which our proportional representation refers is to what political parties are represented in Congress. Despite the fact that we fundamentally vote for a nominal candidate (although voting for party lists is of course possible), the conversion of votes into seats is calculated through parties' voting totals, not by determining which specific individuals earned more votes.

Nicolau then continues by looking at the apparent paradoxes of our electoral system in Chapter Two. Why is it that a vote for a conservative candidate helped elect a communist in the state of Pernambuco? He uses this example in order to explain the effects of electoral coalitions on our representative system. Just like many people ignore that joint party voting totals determine the distribution of parliamentary seats, little attention has also been given to the fact that the parties may form a coalition, and that the distribution of seats is then determined by the number of votes for the entire coalition. This fact brings with it very important concrete effects. Since coalitions are built in accordance to the logic of state politics which vary widely from state to state and are not (with the elections of 2002 and 2006 as exceptions) reproduced in national

alliances for presidential candidates, these coalitions tend to result in unholy alliances, bringing together parties with opposing ideological viewpoints. As a result, we get effects such as that in Pernambuco, where a voter for the conservative candidate Mendonça Filho helped elect the left-wing candidate Luciana Santos (and vice versa) due to the electoral coalition between the Democrats (DEM) and the Communist Party of Brazil (PCdoB).

This leads to an important distortion in representation that is even more difficult to explain because of the lack of information provided by the electoral justice system about the existence and effects of coalitions before, during and after elections. Nicolau explains how the mechanisms that lead most parties to form coalitions are connected to obtaining more TV time for publicly funded campaign advertisements. Adding more parties—each of whom receives by law a certain amount of advertisement time—to coalitions also gives small parties the possibility of getting over the minimum number of votes required to win a seat in Congress (the state electoral quotient). But although he shows that such coalitions do indeed help small parties, Nicolau also shows the deplorable results it can generate when we compare the votes cast by the electorate with the composition of Congress. He argues that in a proportional representation system, there are, without a doubt, no grounds on which to justify the enormous distortions brought about by legislative coalitions.

In the next three chapters, 'How to choose a federal deputy', 'How did Brazil become the most fragmented legislative system in the world?' and 'Why is a vote from Roraima worth nine times a vote from São Paulo?' Nicolau tries to evaluate the strategies and processes for electing deputies, as well as the effects of post-electoral party migration on legislative representation. He also looks at the representative imbalance among different states due to the disproportionality between states' populations and numbers of representatives, which favors less populous states.

To evaluate the process of electing candidates, Nicolau uses survey data from the 2014 Estudo Eleitoral Brasileiro (ESEB, or the Brazilian Electoral Study) conducted by the Center of Public Opinion Studies at the University of Campinas (CESOP/Unicamp) in order to determine whether the voter remembers their choice after going to the polls, whether the candidate's party affiliation is taken into consideration when making this choice, and whether she votes the same way for deputies and president. The data show that half of all voters do not remember for whom they voted for deputy, even only weeks

after the election. This forgetfulness—which is not the case for executive elections—has enormous importance because most people who claimed to feel unrepresented after the vote in the Chamber of Deputies that ousted Dilma Rousseff did not even remember who their representatives actually were!

As for party affiliation, the 2014 ESEB's data confirm that few voters identify with specific parties, with 68% of respondents declaring no party preference whatsoever. But the data also show that even among the few who declare some kind of preference, it does not have much effect on their vote for deputy. If we only consider voters who declared some sort of preference for the Workers' Party (PT) or the Party of the Brazilian Social Democracy (PSDB), a mere 13% and 12% among them said that they had voted for the party list or for one of the candidates from their favorite party, with a vast majority either not remembering, voting for other parties, or even spoiling their ballot (although in the latter case, the difference between this and voting for one's preferred party is within the margin of error). Likewise, even though federal deputies hold a national political office and position themselves as either supporting or opposing the President, the vast majority of voters cast their ballot incongruently between the two offices, choosing a legislative candidate from a coalition opposed to their choice for president. Furthermore, if we remember that legislative coalitions within states are themselves frequently incongruent, bringing together parties from opposite sides of the presidential dispute, it is possible to speculate that the practical effects of this voting strategy are even more contradictory to the political system as a whole.

But despite this set of characteristics, which makes parties' roles extremely underappreciated by voters, counting for very little during the electoral process, political parties are still the metric for representation and the center of the system's activity. Once a representative arrives in Brasília, he or she faces a scenario where resources and power are allocated according to the distribution of party seats. But even there, where political parties acquire the centrality they theoretically occupy in the model, they are unable to keep their number of seats intact between different elections due to intense post-electoral migrations. Since 2007, the Supreme Electoral Court (TSE) has considered party migration as grounds for losing one's seat, which has diminished the phenomenon's intensity, even though it is not an automatic process, and requires ad-hoc rulings by the court. But the next election found a loophole, creating new parties instead of switching. Since 2011, both post-electoral party migration and the creation of

new parties have intensified, thereby making Brazil the most fragmented legislature in the world, as referenced by the question in Chapter 4's title. Nicolau attributes this to the effects of the aforementioned coalitions and the easiness with which parties—even the most negligible of registered parties—have access to resources from the public Party Fund.

Nicolau then proceeds to analyze the great disproportionality between the number of representatives by state and their respective populations—this causes, as reference in the question in Chapter 5's title, the vote of a voter from Roraima (RR) to be worth nine times that of a voter from São Paulo (SP). This figure number refers to the ratio between legislative seats and population, by which SP holds a seat for each 622,000 voters while RR holds one for each 66,000. Throughout this chapter, Nicolau traces the historical evolution of the distribution of parliamentary seats in the Chamber from the Brazilian Empire to the present day, as related to the number of seats and their proportion relative to their provincial or state populations. He shows how little attention has been given, both historically and at present, to representative equality. In contrast to countries such as the U.S., for example, where the constitution explicitly establishes the need to review the size and proportion of state seats after each census, Brazil lacks such an obligation, and the Constitution of 1988 has limited itself to establishing a minimum of 08 and a maximum of 70 deputies by state. This issue has received little attention from public opinion, and even parliamentary elites.

Over the last two chapters, Nicolau deals with the issue of political reform, which has been discussed countless times, forever promised as the solution to our political problems, but never implemented as such. He shows us in Figure 02 (pp. 121-122) that between 1993 and 2015, we implemented no less than 14 political reforms of various types. He calls attention to the fact that, since 2002, most reforms originated from judicial rulings, not legislative projects, which alludes to a process of increasing political judicialization. Nicolau argues in his conclusion that overcoming this is one of our system's major challenges, but he does not develop this idea with further details. This is a shame because the judicialization of internal control organs over the legislative branch is becoming a growing source of distortion for our political representation.

Nicolau speculates that this feeling of eternal postponement about political reform, in spite of the accomplishments that have happened, might be due to the public debate over reform—when it occurs—that centers on changing Brazil's open-list PR

system, the electoral system's most enduring feature, in use since 1945. He shows how the proposals for changing the open-list system can be grouped into three big cycles: one until the late 1990s in which propositions for a mixed proportional/single-member system predominated; one in the 2000s in which propositions for a closed-list system predominated; and one more recently, between 2013 and 2015, in which proposals for a Single Non-Transferable Vote system nicknamed the 'Distritão' (Big District) predominated.

But Nicolau also shows how the concrete debate over these reform proposals do not reverberate much among average representatives or civil society, instead being concentrated among small groups of specialists and operating in a highly fragmented way. Even political parties show little programmatic elaboration and systematized, concrete propositions; during the few times when these proposals reached the floor of Congress for a vote, the parties voted in contradiction to whatever little record they had on the issue.

The author ends the book by presenting a minimalist reform proposition of his own. One of the mistakes he identifies within the debate is that 'political reform' is too broad a term, and that it might relate to any number of aspects and features of the political system. As a result, he makes it clear that his proposition will focus on measures to reduce party hyper-fragmentation, correct the negative effects of the electoral system, and strengthen political parties. Nicolau claims to follow a realist line of thinking, avoiding measures that would be unlikely to be enacted within the current system, no matter how preferable he might find them to the alternatives.

With this in mind, he focuses on banning legislative coalitions as a way to eliminate this severe distortion of representation. Since the end of coalitions would harm small parties' access to parliament, he suggests an end to the informal barrier clause (the electoral quotient) at the state level, thereby allowing formerly excluded parties to participate in the divvying up of seats. And to compensate for this access channel to some small, but regionally relevant parties, he proposes a small national barrier clause of 1.5% of all total votes; those parties who could not reach this target would be excluded from receiving public resources from the Party Fund as well as free media time for campaign advertisements (perhaps with some safeguards guaranteeing access for newly formed parties participating in their first election). Nicolau defends maintaining a system of proportional representation, although he believes that it could

be enhanced with small adjustments, suggesting the adoption of a flexible list system as an alternative. This flexible list system would strengthen political parties without altering Brazilian electoral culture so radically. He also suggests the adoption of criteria for reviewing the number of state representatives; even if it would maintain relatively high levels of disproportionality, it would at least minimize these levels and guarantee, as a 'golden rule', that a given state could never have more seats in Congress than another state with a larger population. Finally, he also proposes for Congress to formalize, as a law, the judicial decision that made post-electoral party migration grounds for losing one's office, thereby making the criteria for such punishment explicit and ending its current ad-hoc character.

In this chapter, Nicolau declares in a footnote (p. 140) that he does not delve into campaign financing issues because he deems that, with the Supreme Court's prohibition of corporate donations in 2015 and some other recently adopted decisions over spending limits and related issues, the main changes that were needed have already been taken. Nowadays, minor changes would suffice, such as the establishment of an individual donation limit. I tend to agree with his diagnostic, but at the same time, I would have liked for the author to have dealt with this issue in a separate chapter, or at least further developed the idea of a limit for individual donations. Since this book is aimed at a broader lay public and that the intricacies of electoral financing are a dry, complex topic for many, it would have been highly desirable to have included an explanation of why such reform was so necessary. Why is the electoral finance system deficient as is? Many among the book's target audience might not know why, and could have learned more about this important aspect of our politics, thereby further enhancing the book's merit.

Likewise, a specific chapter about the effects of electoral financing on our political representation would also have been highly desirable. This could perhaps have been illustrated—as the other chapters are—with rich tables and graphs about the financial sources and predominant economic activity of 'thematic' supra-party parliamentary groups. Given that the political system has been shaken to its roots by corruption scandals fundamentally deriving from the association of big companies and politicians with the financing of campaigns and exchanges of favors, such a chapter would have gone to the heart of the book's declared aims of enhancing our population's understanding of our politics.

But be that as it may, there is no doubt about the great merit and opportunity of this book at the current time. I expect it to immediately become an excellent source for introductory college courses, as well as in extension courses on political education and teaching material in high schools.

Translated by Ryan Lloyd