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From confrontation to the response of democratic institutions: a new post-COVID federalism?

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This article analyzes the transformations driven by the COVID-19 pandemic in Brazilian federalism, especially in the health area, highlighting the impacts on the pattern of intergovernmental relations established over the past three decades and discussing the possible legacies for current governments. Using a specific model based on historical neo-institutionalism and articulating the concepts of critical juncture and path dependence, the study examined the dynamics of the main actors and institutions in the national health arena, emphasizing their positions, strategies, disputes, and consensus; the level of government in which they operate; and the instruments, devices, and standards issued, comparing these elements with the trajectory of the pandemic. The results show a threefold structural shift in the implementation of the health policy, in which federative coordination was exercised by state and municipal health departments and their representative entities. Meanwhile, Congress and its parliamentary caucuses assumed the formulation of policies to support subnational entities. In turn, the Supreme Federal Court took responsibility for safeguarding the autonomy of state governments in the decentralized management of the health system. Finally, the article discusses the potential impacts of this shift on federal institutions and policy coordination within the Brazilian Unified Health System (SUS) in the current government cycle.
Keywords: federalism; pandemic; COVID-19; Unified Health System; intergovernmental coordination.

Da confrontação à reação das instituições democráticas – um novo federalismo pós-COVID?

Este artigo analisa as transformações impulsionadas pela pandemia de COVID-19 no federalismo brasileiro, em especial na área de saúde, destacando os impactos sobre o padrão de relações intergovernamentais construído ao longo das últimas três décadas e discutindo os possíveis legados para os governos atuais. A partir de um modelo específico fundamentado no Neo-Instituciconalismo Histórico, com base nos conceitos de conjuntura crítica e dependência de trajetória, foi realizada uma análise da dinâmica de atuação dos principais atores e instituições na arena sanitária nacional, destacando seus posicionamentos, estratégias, disputas e consensos, instâncias utilizadas,

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instrumentos, dispositivos e normas editadas, e cotejando-os com a trajetória da própria pandemia. Os resultados mostram que houve um triplo deslocamento estrutural na condução da política de saúde, em que a coordenação federativa passou a ser exercida pelas secretarias estaduais e municipais de saúde, e suas entidades de representação, enquanto as duas casas do Congresso, e suas bancadas parlamentares, assumiram a formulação de políticas de apoio aos entes subnacionais. Por sua vez, o STF se responsabilizou por garantir as prerrogativas de autonomia dos governos estaduais de gestão descentralizadas do sistema de saúde. Ao final, são discutidos os possíveis impactos desse deslocamento para as instituições federativas e a coordenação de políticas no SUS no ciclo atual de governo.
Palavras-chave: federalismo; pandemia; COVID-19; Sistema Único de Saúde; coordenação intergovernamental.

De la confrontación a la reacción de las instituciones democráticas: ¿un nuevo federalismo pos-COVID?

Este artículo analiza las transformaciones impulsadas por la pandemia de COVID-19 en el federalismo brasileño, especialmente en el área de la salud, destacando los impactos en el patrón de relaciones intergubernamentales construido durante las últimas tres décadas y discutiendo los posibles legados para los gobiernos actuales. Utilizando un modelo específico fundamentado en el neoinstitucionalismo histórico, basado en los conceptos de situación crítica y dependencia de trayectoria, se realizó un análisis de la dinámica de acción de los principales actores e instituciones en el ámbito nacional de la salud, destacando sus posiciones, estrategias, disputas y consensos, instancias utilizadas, instrumentos, dispositivos y estándares publicados, y comparándolos con la trayectoria de la propia pandemia. Los resultados muestran que hubo un triple giro estructural en la conducción de la política de salud, en el que la coordinación federal pasó a ser ejercida por las secretarías de salud estatales y municipales, y sus entidades representativas, mientras que las dos cámaras del Congreso, y sus bancadas parlamentarias, asumieron la formulación de políticas de apoyo a las entidades subnacionales. A su vez, el STF era responsable de garantizar las prerrogativas de autonomía de los gobiernos estatales para la gestión descentralizada del sistema de salud. Finalmente, se discuten los posibles impactos de este cambio en las instituciones federales y la coordinación de políticas en el Sistema Único de Salud (SUS) en el actual ciclo de gobierno.
Palabras clave: federalismo; pandemia; COVID-19; Sistema Único de Salud; coordinación intergubernamental.

1. INTRODUCTION: THE COVID-19 PANDEMIC AND THE PRESSURE FOR MORE POLITICAL AND INSTITUTIONAL COORDINATION

The rapid spread of the COVID-19 pandemic in Brazil created a critical situation, placing complex demands on various public entities. This included a lack of knowledge about the virus, its transmission, and its treatment, which strained health services and intensified the global race to produce vaccines and the supplies needed for prevention and care. In the political and institutional spheres, the pandemic response placed three types of pressure on Brazil's federal structure.

First, it significantly increased the scope and intensity of demands for actions, services, and resources across all levels of government, especially in the health sector. This created pressures for more financial resources, political influence, accountability, and mechanisms for both competition and cooperation (Marques & Ferreira, 2023; Noronha et al., 2020).

Second, it increased the need to develop policies and establish new regulatory mechanisms for intergovernmental relations, such as decrees, ordinances, working groups, crisis committees, task forces, consortia, regional health emergency plans, financial aid programs, joint procurement arrangements, and sectoral forums (Carvalho et al., 2022; Ferreira & Lima, 2024).

Finally, it increased the demand for institutional mediation in resolving conflicts over competence, prerogatives, and constitutional rights among different levels of government, especially regarding concurrent powers (Glezer et al., 2024; Maffini, 2021). These pressures reshaped the interfederative arrangements that had long ensured governance in the health sector.

Over the past thirty years, demands of this nature in health policy have been shaped by the dynamics of integrated and cooperative federalism established in the 1988 Federal Constitution and

the Organic Health Laws, which define the structure and principles of Brazil's national health system (Abrucio, 2006; Arretche, 2012; Souza, 2005). This political-institutional arrangement, unlike the dual federalism that isolates competencies, is characterized by greater integration and collaborative action among federal and subnational entities. It emphasizes the interdependence of responsibilities, collective decision-making processes, and joint efforts in implementing public policies and programs. In integrated federalism, shared responsibilities dominate, meaning that both national and subnational governments are jointly responsible for most policies, leading to more uniform standards and the development of national public policy systems.

Consequently, integrated federal regimes are marked by highly institutionalized and complex vertical systems of intergovernmental coordination. These systems structure functional relationships through a hierarchical division of responsibilities between central and intermediate levels, rigid regulatory instruments, and formal rules (rigid norms to prove competencies and managerial skills, for example) (Broschek, 2011; Saltman & Vrangbæk, 2007).

In the health sector, the integrated nature of sectoral federalism – developed over the past three decades – has ensured that all decisions related to expanding the health service network, implementing new programs, health information policies, and hiring and retaining professionals are jointly made by the Ministry of Health and the representative bodies of state and local governments: the National Council of Health Departments (CONASS) and the National Council of Municipal Health Departments (CONASEMS), respectively.

Regarding the management of the health actions and services network, it was observed that local governments significantly expanded their role during the implementation of the Brazilian Unified Health System (SUS). These subnational entities gradually took on responsibilities for policy implementation and managing health centers. State governments acted as intermediaries, handling the most complex services and coordinating federal efforts within their jurisdictions, while supporting municipalities (Cordeiro, 2001; Ouverney & Fleury, 2017).

However, this joint development dynamic was disrupted in the early months of the pandemic due to the federal government's denialist stance (Abrucio et al., 2020; Grin et al., 2022; Teixeira & Santos, 2023). This created a deliberate federative vacuum, marked by the Ministry of Health's absence from the national coordination of the SUS, especially under Minister Eduardo Pazuello (Alves et al., 2022; Giovanella et al., 2020).

The absence of the Ministry of Health, along with several other federal structures, led to a threefold shift in policy coordination functions. Initially, as an immediate consequence of the Ministry's operational paralysis in its role of coordinating SUS, governors and mayors assumed the leading role in pandemic response actions within their territories. State and local health departments became the effective hubs of coordination, regulating social and economic activities, contracting providers, organizing the health service network, and procuring equipment, further burdening health managers and professionals (Campos et al., 2023; Castro et al., 2023; Ferreira & Lima, 2024).

Later, the National Congress broadened its role in policy making and resource allocation for states and local governments. Due to the mismatch between the executive's and legislature's agendas, the president's confrontational approach, and the federal government's limited ability to build coalitions, the executive's legislative powers and historically high rates of legislative success (Figueiredo et al., 1999; Gomes, 2012) were largely diminished.

Congress, in turn, increased its legislative activity, passing a wide range of measures rapidly, reflecting agendas more aligned with subnational and societal demands than with those of the federal government, thereby asserting greater leadership on the national stage (Ouverney & Fernandes, 2022).

Finally, conflicts arising from these institutional realignments were brought before the Supreme Federal Court (STF), which recalibrated its decision-making approach on intergovernmental relations by protecting the autonomy of subnational entities. Confronted with President Bolsonaro's repeated efforts to limit state and municipal actions, the STF, as protector of the 1988 Constitution and federalism as a core principle, assumed its constitutional duty to defend subnational autonomy and uphold their prerogatives (Fernandes & Ouverney, 2022; Godoy & Tranjan, 2023).

The convergence of societal pressure for a swift response to the pandemic, the federal government's denialism, and the militarization and isolation of the Ministry of Health dismantled the cooperative federalism model that had long supported the SUS and created the conditions for a new structure. This new setup was characterized by two main pillars: (1) multiple national steering groups formed through initiatives by CONASS, CONASEMS, the National Congress, and the STF; and (2) a broad, more horizontal network of executive collaboration for health actions and services, consisting of intergovernmental cooperation between state and municipal departments within each state.

These transformations continue to shape Brazil's health governance following the 2022 elections. They could significantly alter the course of intergovernmental relations and the balance among government branches, each of which also functions as a federative institution. Together, they indicate emerging trends in the political dynamics of the health sector and in the institutional structure of federalism in Brazil. In this context, the key question is: can the changes introduced during the pandemic be maintained, and will they have lasting effects in the near future?

This article aims to answer this question by synthesizing the results of extensive research conducted by the Center for Strategic Studies at the Oswaldo Cruz Foundation (Fiocruz) from 2020 to 2023. It includes seven lines of inquiry examining the roles of the Ministry of Health, state and local government departments, CONASS and CONASEMS, the National Congress, the STF, and the civil society movement Frente pela Vida (Front for Life).

The text is divided into four additional sections. The next section offers a brief literature review on Brazilian federalism, emphasizing the characteristics of the 1988 constitutional model and its implementation over the past thirty years, especially in the health sector. Section 3 develops the analytical model used to examine the relationship between the pandemic's progression and the SUS's federative dynamics, based on historical institutionalism. Section 4 assesses the observed changes and potential trends for the near future, and Section 5 concludes by discussing the possible implications of these changes.

2. THE FEDERALISM AFTER THE 1988 CONSTITUTION: A FLEXIBLE ARRANGEMENT CONDUCIVE TO INNOVATION

2.1. Brazilian federalism post-1988

Until the 1990s, academic literature viewed the federal-style organization as an obstacle to the political system, hindering necessary reforms and constantly risking ungovernability (Guicheney et al., 2018). This perspective grew stronger after the 1988 Federal Constitution, which expanded the powers of state governments to counter the central government's authoritarian tendencies. The governors' significant veto power (veto players) and limited accountability ultimately led to what Abrucio (1998) called the "federation barons," reinforcing regionalism by creating a strong form of territorial representation layered on political representation.

Notable contributions include studies by Mainwaring (2001) and Stepan (1999), two Brazilian scholars. The former emphasizes the ungovernability caused by Riker's (1963) demos-constraining model, which hinders the government from implementing its program due to the number of veto players in the political system. The latter links ungovernability to tensions between the Executive and Legislative branches, arising from the highly fragmented and personalistic traits of Brazil's electoral and party systems.

Abranches (1988) coined the term "coalition presidentialism," adding the issue of intergovernmental relations to the challenging mix of presidentialism and multipartyism, suggesting that coalitions supporting the chief executive had to consider both partisan and federative factors.

However, the executive's power to issue provisional amendments and the College of Leaders' control over congressional benches were identified as mechanisms ensuring governability and partisan alignment, thus avoiding premature political crises (Cheibub et al., 2009; Figueiredo & Limongi, 1999).

The shift in focus within the political science literature during the second half of the 1990s reflects a centralizing trend in Brazil's federative dynamics, marked by developments in the legislative, fiscal–financial, and public policy coordination spheres, driven by the need to control inflation. This period was characterized by the strengthening of the president's relationship with the National Congress, the establishment of a new national public finance regime, and the use of federative coordination mechanisms.

Beginning in 1995, the federal government expanded its legislative initiatives affecting the interests of states and municipalities, influencing various aspects of intergovernmental relations. The new public finance regime encompassed: (1) the federalization of state debts; (2) the maintenance of the DRU (Untying of Union Resources), previously called the Social Emergency Fund and Fiscal Stabilization Fund; (3) the growth of federal revenues through the expansion of social security contributions (COFINS, CSLL, etc.); and (4) the approval of the Fiscal Responsibility Law (Complementary Law No. 101/2000) (Almeida, 2005; Ouverney & Fleury, 2017).

Arretche's (2012) analysis of the decentralization of social policies demonstrated that, although the Federal Constitution decentralized resources and the implementation of policies, it retained the federal government's normative power by keeping instruments that allowed it to influence the actions of local governments. Additionally, the governance of public policies was maintained through the tax–fiscal system, which centralized revenue collection in the federal government and gave it

authority over decisions related to social policy expenditures. This reinforced the central government's coordinating authority.

Thus, the literature shifted from emphasizing the weakening of central authority and the strengthening of regional governors to highlighting the alignment of centrally defined policies driven by the federal government. These policies depended on the voluntary compliance of subnational governments with the conditions set for access to centrally collected resources. In this way, national social policy systems were established, rather than decentralization leading to high fragmentation or autonomous local social policy systems (Abrucio, 2006; Souza, 2005).

The 1988 Federal Constitution established an arrangement in which all states participate, with municipalities also recognized as autonomous entities. In a text that was remarkably advanced in social, cultural, and environmental rights, the 1988 Constitution assigned many of these competencies as concurrent, involving all levels of government in the planning and implementation of public policies (except social security). Thus, the advancement of social protection was constitutionally linked to the strengthening of Brazilian federalism.

However, it left ordinary legislation to define the cooperation mechanisms necessary for sharing responsibilities and competencies. Since these supplementary laws were never approved, a legal vacuum emerged concerning intergovernmental cooperation, forcing each policy sector to address this gap independently, through different infra-legal instruments and institutional mechanisms.

The governors' loss of power under the new public finance regime was compounded by the adoption, since the 1990s, of a decentralization strategy that prioritized the federal government's guiding role and the participation of municipalities in implementing social policies. As seen in the case of healthcare, the regionalization process that began in the 2000s sought to restore the states' role within the federative structure of the Brazilian Unified Health System (SUS).

2.2. The development of SUS and tripartite integrated federalism

The constitutional text on health established both the guiding principles and the organizational structure of the system. In addition to affirming the universal right to health, the founding principles of the SUS were also outlined in the constitution—namely, comprehensive care and the creation of a single, decentralized, and hierarchical system with social participation at all levels (Constituição da República Federativa do Brasil, 1988). The Brazilian federal health system was characterized as public, cooperative, democratic, decentralized, and participatory. While allowing the private sector to complement or support the SUS, it highlights the system's public nature and significance.

The democratic transition led to institutional innovations that transferred power from the central government to local authorities and from the state to society. The uniqueness of Brazilian democratic federalism lies precisely at the intersection of local and societal spheres (Fleury et al., 2014). This characteristic results from the simultaneous implementation of changes in intergovernmental relations and the demands arising from the democratic transition, which mobilized administrators, politicians, and social movements, ultimately culminating in the National Constituent Assembly.

In the health sector, the Health Movement (Escorel, 1999), which united academics, professionals, grassroots organizations, administrators, and politicians, was built around a proposal for health reform (Fleury, 2018; Paim, 2008) that naturally reached the National Constituent Assembly through the effort to create the SUS.

Also during the 1980s, as part of the process of reorganizing actors and institutions amid the democratic transition, organizations representing state and local health departments (CONASS and CONASEMS) were established in 1982 and 1988, respectively. This development marked a significant step toward laying the groundwork for future shared governance. Another major milestone was the transfer of the National Institute of Social Security Medical Assistance (INAMPS), at the end of President Sarney's administration, from the Ministry of Social Security to the Ministry of Health, which unified the former's healthcare structure and resources under the latter's public health management (Faleiros et al., 2006).

However, between this initial phase and the effective establishment of a tripartite governance system (capable of positioning the Ministry of Health, CONASS, and CONASEMS as equals in the strategic coordination of the SUS), an extensive learning process took place. In practical terms, considering the role of the Ministry of Health within the framework and dynamics of national federative governance in health policy, it is possible to identify two major phases, followed by a crisis that occurred before the emergence of the pandemic. Therefore, the development of a cooperative and integrated federalism regime was neither immediate nor universally accepted, involving dynamics characterized by power and resource asymmetries, transfers of responsibilities and competencies, and the political-institutional changes that have taken place over the past few decades.

2.3. Phase 1: Formation of tripartite governance, asymmetry, and vertical relationships

The first phase involved establishing the institutional framework for federative governance of the SUS and transferring management responsibilities to states and, mainly, to local governments. This process took place throughout the 1990s. During this time, because it was responsible for over two-thirds of SUS funding and had significant management expertise (largely inherited from INAMPS), the Ministry of Health positioned itself as the primary force behind the decentralization effort.

Little progress was achieved during President Collor's administration due to its centralizing attitude and clear opposition to expanding the role of subnational entities in policymaking. Decentralization was pushed aside, and the model adopted by the government, outlined in NOB 91 (Basic Operational Standard of 1991), established a top-down relationship between government levels, reducing states and municipalities to mere providers of federal services (Cordeiro, 2001).

The most significant changes occurred during President Itamar Franco's administration (1993–1994). The rise of a municipalist elite to lead the Ministry of Health, aligned with the consensus from the 9th National Health Conference (CNS), helped facilitate a new federative pact. This was especially due to the administration's focus on an agenda of structural reforms, which included fostering a broad discussion process on decentralization strategies – outlined in NOB 93 – the dissolution of INAMPS, the effective implementation of tripartite and bipartite intermanagerial commissions, fund-to-fund transfers, and the creation of state and local health councils, among other advances (Carvalho, 2001).

In this new decentralization model, subnational entities, especially local governments, began to act effectively as SUS managers within a tripartite framework of shared decision-making and responsibilities, even though the federal government maintained significant inductive and regulatory authority. At the same time, the advancement of the process of transferring resources and management responsibilities to states and, particularly, municipalities, conferred veto power upon the latter within the national decision-making process, making decentralization effectively irreversible.

In the second half of the 1990s, focus shifted to finding new, stable federal sources of sectoral financing, such as the Provisional Contribution on Financial Transactions (CPMF), and to discussions about establishing a new decentralization framework. These efforts led to the initial version of NOB 96, approved in November 1996. After tensions between Minister Adib Jatene and the government's economic authorities escalated, resulting in his resignation in late 1996, the period from 1997 to 2002 was characterized by a preference for a stronger Ministry of Health with increased regulatory power over subnational entities.

During these administrations, efforts focused on revising the model adopted in NOB 96, emphasizing a fragmented pattern of federal financial transfers that linked funding to states' and municipalities' compliance with national policy standards, thereby establishing a vertical strategy of federative coordination. Although the regular functioning of the Tripartite Intermanagerial Commission (CIT) and the coordinating roles of CONASS and CONASEMS granted these entities certain prerogatives in rulemaking and policy development, disparities in funding and resource distribution limited their veto power (Levcovitz et al., 2001).

By the end of the decade, however, with the broad accreditation of states and municipalities under the rules of NOB 96 and the regular functioning of SUS's federative governance mechanisms, a regime of cooperative and integrated sectoral federalism had taken shape. The transfer of responsibilities and resources primarily benefited municipalities, while the role of states in the direct provision of services diminished, and they struggled to fully assume their regional planning and coordination functions. This dynamic led to a polarization of federative relations within the SUS, characterized by increasingly direct interactions between the federal and local governments (Ouverney & Fleury, 2017).

2.4. Phase 2: Policy induction, federal balance, and crisis

The trend toward expanding the regulatory capacity of the Ministry of Health and states regarding decentralization was halted by the fiscal impacts of the 1998–1999 economic crisis. This caused the federal government to reallocate the costs of financing decentralization through Constitutional Amendment No. 29/2000, which established earmarks for state and municipal revenues. Likewise, in 2000, strict spending limits were imposed on subnational entities via the Fiscal Responsibility Law (Complementary Law No. 101/2000), which penalized labor-intensive public policy areas such as health and education. These changes, over the medium term, shifted the internal balance of power within the tripartite pact (Piola et al., 2016).

During President Lula da Silva's two terms, efforts were made to introduce a new dynamic of intergovernmental relations aimed at restoring the cooperative nature of sectoral federalism enshrined in the 1988 Constitution, developing a federative coordination strategy oriented toward results in health goals, and strengthening the role of state secretariats in regional coordination.

Strengthening the cooperative character of sectoral federalism and introducing a culture of results-based management became the overarching guidelines of the period. Although no significant formal changes were made to intergovernmental relations in the early years, the administration promoted a series of initiatives that paved the way for major reforms to the federative model of the SUS in its second term. These included the organizational restructuring of federal management (creation of new departments and greater integration under the executive secretariat), the redefinition of the operational dynamics of the Tripartite Intermanagerial Commission (CIT), the establishment of a

dedicated unit for political coordination with CONASS and CONASEMS, the creation of a tripartite working group to develop a new decentralization model, and the establishment of the integrated support strategy, among other initiatives (Pasche et al., 2006).

The dissatisfaction of states and municipalities with a fragmented financing system and the excessive bureaucratization of policy and program implementation throughout the 1990s led to a two-year sectoral debate on a new model for intergovernmental relations. This process culminated in the publication of the "Pact for Health" in 2006, which was implemented throughout the latter half of the decade (Santos & Andrade, 2006).

Concurrent with the formulation of the pact, the Ministry of Health, seeking to fulfill its role as the driver of sectoral programs and policies, pursued an intense expansion and diversification of its organizational structure and operational dynamics from 2003 onward. Across various administrations during this period, new secretariats, departments, and coordination offices were created. This process went beyond administrative reform, representing a qualitative leap in the Ministry's approach as the national coordinator of the SUS. Several sectoral programs and policies, including *Mais Médicos* (More Doctors), *Farmácia Popular* (Popular Pharmacy), *Rede Cegonha* (Stork Network), and the Health Economic-Industrial Complex, were incorporated into national strategies to strengthen the SUS network of actions and services, significantly expanding the Ministry's presence through networks of supporters, financial resources, and contracted professionals (Menicucci, 2011).

This dynamic also strengthened CONASS and CONASEMS, as pressure for greater coordination and systemic rationality within this broad policy framework made it impossible for the Ministry of Health to manage all operations across 27 states and more than 5,000 municipalities alone (Machado et al., 2019).

Given their new position in the sectoral federative pact, and due to their greater fiscal contribution to SUS funding, these two entities played a central role in all phases of sectoral policy development, from the formulation of policy ordinances and the development of monitoring and evaluation metrics to decisions on implementation within the CIT. Their mediation extended across every aspect of this cycle.

This process enhanced the strategic learning of CONASS and CONASEMS, enabling them to form broad coordination networks with political parties, local bureaucracies, universities, the legislature, the judiciary, and centers of medical excellence. They also established their own support structures for states and municipalities, including specialized technical staff, training programs, and decentralized support mechanisms (Cerqueira, 2019).

The combined economic and political crises, coupled with President Rousseff's impeachment, significantly impacted the SUS federative coordination system, altering the balance of power within the tripartite pact. During President Temer's administration, a broad strategy of dismantling social policies and programs was initiated, including institutional restructuring such as approving legislation that curtailed rights, reducing funding, expanding criteria for accessing benefits, and streamlining administrative structures.

The impact on SUS's federative coordination was immediate: the implementation and monitoring of important programs were disrupted in the states, the Ministry of Health's presence in health regions was diminished, and its ability to influence local operating standards was undermined (Cruz & Gonçalves, 2020).

Compounding these effects were structural changes, including the new fiscal regime and the imposition of a spending cap, the weakening of coalition presidentialism, the introduction of a mandatory budget, changes in Ministry of Health financial transfer modalities in 2017, and the emergence of political-institutional arrangements for macro-regional governance (interstate development consortia). These changes dispersed resources and national decision-making capacity, opening space for new federative coordination arrangements.

3. ANALYTICAL MODEL: THE EVOLUTION OF THE PANDEMIC AND THE DYNAMICS OF FEDERAL INSTITUTIONS IN BRAZIL

3.1 The framework of historical neoinstitutionalism: The pandemic as a critical juncture

The historical-institutionalist literature on "varieties of federalism" emphasizes that certain choices made during the founding moments of national states influence their subsequent trajectories. These choices create power pacts, ideas, discourses, federative coordination architectures, specific policies and programs, and unique managerial and financial mechanisms, which together create a relatively stable timeline for the initially formed arrangements (Béland & Myles, 2012; Benz & Broschek, 2013; Broschek, 2011; Obinger et al., 2005).

However, throughout these trajectories, the originally established balance between autonomy and interdependence among government levels can shift at critical junctures. In these moments, previous arrangements may have their legitimacy and efficiency eroded, leading to their replacement or partial reformulation to fit a new order.

Critical junctures are periods when significant societal, institutional, or policy changes are expected. These moments are often triggered by external political or economic crises or major shifts in internal power dynamics, during which new actors emerge or existing ones expand their influence. In such situations, the impact of structural factors (economic, political, organizational, and cultural) on the actions of political actors is significantly weakened for a given period (Capoccia & Kelemen, 2007; R. Collier & D. Collier, 1991).

During a critical juncture, the range of available options widens, and the trajectory of a policy can split into multiple paths. The decisions of the main actors involved gain greater power to change the previous course of public policy. Opportunities and risks are heightened, and even small decisions can create legacies that are difficult to reverse (Mahoney, 2001).

A critical juncture is characterized by real opportunities for substantial changes in a society's foundational institutions, whether in the political system, the economy, or social protection, driven by shifts in the balance of political forces (Capoccia & Kelemen, 2007).

Consequently, the trajectory of a critical juncture involves the emergence of various possible institutional pathways, with its end marked by one path becoming dominant. This leading route initiates the creation and execution of institutional mechanisms that establish a new order, governing the dynamics of political, economic, organizational, and cultural relationships. It also influences public policy, the distribution of duties and powers, and the allocation of resources (Capoccia & Kelemen, 2007; R. Collier & D. Collier, 1991).

Since a critical juncture is a period of political polarization characterized by ongoing conflict and negotiation, the solidification of its legacy does not happen immediately. The subsequent emergence

of disputes surrounding the newly introduced innovations marks the period of legacy formation, as these institutional mechanisms become central to sectoral political relations (R. Collier & D. Collier, 1991). Once the legacy is established, later changes tend to be more gradual, following a dependent path characterized by an interactive dynamic between self-sustaining and reactive political-institutional sequences (Broschek, 2011; Mahoney, 2001; Page, 2006; Pierson, 2000).

This logic of institutional evolution formed the basis for developing the hypotheses and analytical model used to study the dynamics of Brazilian federalism in the context of the COVID-19 pandemic.

3.2. The analytical model: A sequential view of the political dynamics of the COVID-19 pandemic

The methodology employed is based on a relational framework that emphasizes actors and institutions, their dynamics of action, the intergovernmental relations established on each relevant topic in combating the pandemic, and the resulting federative outcomes. This approach uses a temporal perspective of analysis grounded in the concepts of critical juncture and dependent trajectory.

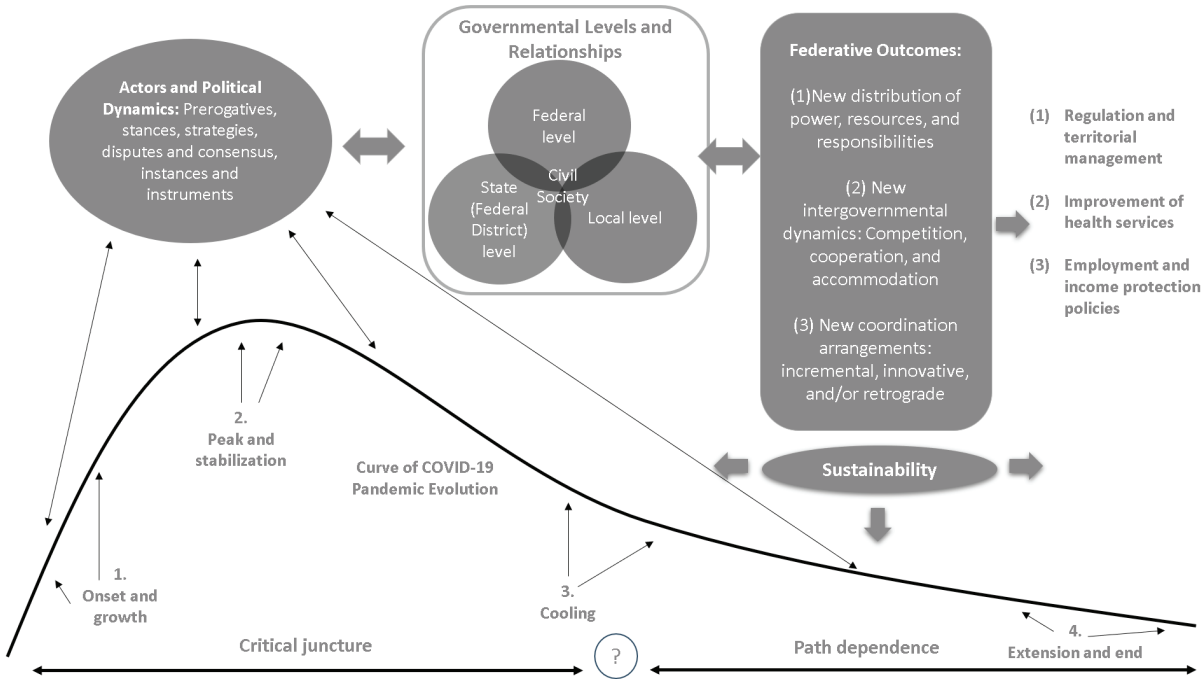
The federative analysis focuses on the dynamics of actions of both actors and institutions (Benz & Broschek, 2013), highlighting stances, strategies, disputes, and consensus, as well as the bodies, instruments, mechanisms, and standards enacted, comparing these with the trajectory of the pandemic. Figure 1 illustrates this concept.

The analysis adopts a broad perspective of the federative field, structured around three dimensions: (1) intergovernmental relations; (2) relations among branches of government; and (3) state-civil society relations. In this article, we focus on the results of the first two dimensions due to their significant federative impact.

In the first dimension, we concentrate primarily on the actions of the Ministry of Health, state and local health departments, and their representative entities (CONASS and CONASEMS), as well as the roles played by the president and state and local governments.

In the second dimension, we examine the actions of the National Congress and the Supreme Federal Court (STF) and their relationships with the executive branch, considering their significant influence on federal dynamics, including the federal government's enforcement capacity and the distribution of powers among the three levels of government.

FIGURE 1 ANALYTICAL MODEL OF THE DYNAMICS OF FEDERALISM IN THE COVID-19 PANDEMIC: A SEQUENTIAL ANALYSIS OF ACTORS AND INSTITUTIONS



Source: Elaborated by the authors.

The relational framework underlying the analytical model assumes that the initial phase (onset and growth) and the intermediate phase (peak and stabilization) of the pandemic's development could trigger a critical juncture by increasing pressure on actors, expanding the space for new positions among actors, and changing the previous federative dynamics. The resulting changes were analyzed across four axes:

(1) **Social regulation and territorial management**: measures implemented to regulate social and economic relations.

(2) **Measures to improve health services**: actions to increase the capacity of public services, regulate healthcare flows, and ensure the production and procurement of supplies, for example.

(3) **Employment and income protection policies and public finance measures**: such as initiatives to stimulate the economy, maintain the population's purchasing power, and provide fiscal support to states and municipalities.

(4) **Political relations**: including political stances, discourses, alliances, and conflicts.

In the cooling phase (phase 3) and the extension and end phase (phase 4), which are still ongoing, we aim to analyze the legacy of the changes observed in the previous phases, specifically in terms of the rearrangement of the federative pact, capable of producing: (1) a new distribution of power, resources,

and/or responsibilities; (2) new intergovernmental dynamics of cooperation, accommodation, and/or competition; and (3) new coordination arrangements, incremental, retrograde, and/or innovative.

Thus, despite the classic methodological limitations of producing historical analyses at the exact moment they happen, the following two sections examine the main changes and innovations observed during the most critical periods of the pandemic, as well as identify and discuss the most likely impacts in the near future.

4. RESULTS: FROM "CONFRONTATIONAL FEDERALISM" TO THE REACTION OF DEMOCRATIC INSTITUTIONS BORN OF THE 1988 CONSTITUTION: TOWARD A NEW FEDERALISM?

4.1. Producing confrontation as government policy and the reaction of the decentralized SUS: intergovernmental relations within the federation

The extent of the changes observed during the initial (phases 1 and 2 of the analytical model) and intermediate (phase 3) stages of the pandemic demonstrates that the main trends of the previous federative model underwent significant transformations.

In that model – developed between the 1988 Constitution and the years preceding the pandemic – the institutional framework of health policy combined a significant process of decentralization with the creation of a national and integrated system of federative coordination. During this period, the Ministry of Health evolved from an institution that directly managed all policy stages (from formulation to evaluation) across areas such as healthcare and surveillance into a policy driver and national coordinator of SUS.

At the same time, states and local governments, together with their representative entities (CONASS and CONASEMS, respectively), transitioned from service providers to co-managers of health policy, responsible for virtually all management of the service network and for implementing major national programs – such as *Mais Médicos* (More Doctors), the *Estratégia Saúde da Família* (Family Health Strategy), *Centros de Atenção Psicossocial* (Psychosocial Care Centers, CAPS), the *Serviço de Atendimento Móvel de Urgência* (Mobile Emergency Care Service, SAMU), and the Unidades de Pronto Atendimento (Emergency Care Units, UPAs) – in addition to jointly contributing more than 50% of SUS funding.

This dynamic, which also involved creating regulatory frameworks, financial incentives, training programs, sectoral information, and monitoring systems, among other mechanisms, established a broad and robust system of federative coordination.

However, this tripartite dynamic was weakened in the early months of the pandemic due to President Jair Bolsonaro's autocratic, denialist, and confrontational stance, along with the militarization of the Ministry of Health, which created a deliberate lack of federative coordination. The president's response to the pandemic was one of denial, contrary to the recommendations of the World Health Organization (WHO), national scientists, and public health authorities. This symbolic dispute was highlighted by his statement in March 2020: "It won't be a little flu that will bring me down" (Uribe et al., 2020). He also claimed that "Brazilians can jump into the sewer and not catch anything," implying that the novel coronavirus would not spread in the country (Gomes, 2020). By the end of that month, over 5,700 cases and 200 deaths had been recorded (Fundação Oswaldo Cruz, 2020).

Health Minister Luiz Henrique Mandetta was dismissed for opposing the use of chloroquine, and his successor, Nelson Teich, resigned shortly afterward, while the president declared, "I'm the one in charge" (Folha de São Paulo, 2020), reaffirming his supposed authority to prescribe treatments and define essential activities without the Ministry of Health's approval. The ministry was gradually militarized: under General Eduardo Pazuello, nearly three dozen military personnel were appointed to leadership roles, many without any knowledge of SUS, the National Immunization Program (PNI), or health policy, leading to significant institutional dismantling.

Most governors opposed the president, recognizing the severity of the pandemic and its risks to the Brazilian population, which polarized federal relations. Aligning with WHO guidelines, universities, and national research centers, state governments adopted immediate containment measures once the first cases were confirmed. Most states issued decrees within weeks of their first registered case, declaring states of emergency or public calamity and imposing restrictions on movement, commerce, services, and transport.

These decrees also established institutional mechanisms for coordinating actions, mobilizing public administration, and organizing civil society through the creation of crisis cabinets, scientific committees, and advisory groups composed of public administrators, scientists, business representatives, and municipal leaders. Based on these arrangements and analyses from state health departments, the main subsequent actions were coordinated (Carvalho et al., 2022).

Thus, the dynamic core of federalism that emerged during the pandemic was led by governors, in collaboration with mayors, forming a counterweight to President Bolsonaro and breaking with the polarized pattern of intergovernmental relations that had characterized decentralization since the early 1990s (Ouverney & Fleury, 2017). The prevailing logic of this earlier pattern was that the federal government set general rules, policy standards, and financial incentives. At the same time, municipalities, as emerging actors, implemented policies locally, and states played a mediating but secondary role, especially in less-resourced regions.

A new element also emerged: horizontal coordination among state governments in developing pandemic response strategies, strengthened notably by the Governors' Forum and interstate development consortia, particularly the Northeast Consortium.

At the forefront of this process, CONASS played a vital role as a coordinating hub for state health departments, promoting institutional and managerial innovations, facilitating learning and knowledge exchange, enhancing the organization of state-level actions, and coordinating public communication with the media and civil society. This form of horizontal coordination was unprecedented, even when compared to the 1980s, when governors had been key actors in Brazil's redemocratization and helped fill the coordination void created by the militarization of the Ministry of Health. Its effectiveness was rooted in the long-standing political-institutional trajectory initiated by the democratizing and decentralizing project of the Brazilian Health Reform, enshrined in the 1988 Constitution and the Organic Health Laws.

The experience accumulated over three decades of the tripartite pact endowed CONASS with sufficient legitimacy and political influence to assume this role. CONASEMS performed a similar function, though with less political visibility, likely due to the diverse positions taken by mayors during the pandemic.

A bipartite pact for SUS management was thus consolidated at the national and state levels, centered on the Bipartite Intermanagerial Commissions (CIBs), which coordinated state health departments

and councils of municipal secretaries at the state level (COSEMS). Around this state-level pact, a crisis governance framework emerged that encompassed multiple sectors, government agencies, universities, research centers, business associations, and social movements. Organized through crisis cabinets and scientific committees, these actors expanded civil society participation in state governance, reinforcing the existing participatory framework institutionalized through health councils.

These conditions set the stage for a critical juncture: a crisis of the previous model and the rise of an alternative path. It is therefore possible to argue that a critical juncture did occur, as the previous pattern of federalism was changed in its operational logic by the multipolarization of political-institutional leadership and the specialization of federative coordination functions. Together, these dynamics enabled the emergence of an alternative mode of intergovernmental coordination, minimally functional, dynamic, and sufficient to organize a short-term response to the challenges posed by the pandemic. Even without coordination from the federal executive branch, other federative institutions reorganized into a new, more networked and horizontal arrangement. SUS's decentralized and cooperative model thus became the foundation for an innovative governance framework. Box 1 summarizes the political dynamics among SUS actors and federative institutions during the COVID-19 pandemic.

BOX 1 POLITICAL DYNAMICS BETWEEN ACTORS AND FEDERAL INSTITUTIONS OF SUS DURING THE COVID-19 PANDEMIC

Ministry of Health	Mayors and Local Health Departments
▪ Militarization of the Ministry of Health leadership and institutional instability ▪ Dismantling of policies, programs, and information systems ▪ Weakening of technical areas and precarious employment relationships ▪ Breakdown of the tripartite federative pact ▪ Irregular financial transfer flows ▪ Use of treatments and medications without scientific evidence	▪ Varied political positions due to the partisan diversity of local government ▪ Greater proximity to the SES due to a lack of coordination from the Ministry of Health Expansion of the local network of health actions and services ▪ Reactivation of vaccination campaigns
Governors and State Health Departments	**CONASS and CONASEMS**
▪ Leading role in conducting actions to combat COVID-19 ▪ Frequent issuance of decrees with health regulations ▪ Establishment of crisis cabinets to coordinate government actions ▪ Formation of consortia to purchase equipment and supplies ▪ Creation of scientific committees to advise management ▪ Establishment of task forces to provide technical and managerial support to municipalities	▪ Acting as coordinators of an interstate/intermunicipal network to combat COVID-19 ▪ Issuance of technical notes in defense of SUS and science ▪ Support for the press consortium to disseminate information to the public ▪ Pressure on the Ministry of Health to release resources to states and municipalities

Source: Elaborated by the authors.

4.2. Formulating national policies, exercising legislative oversight, and mediating federal conflicts: The role of the 1988 Constitution's macro-institutions (federal-level interbranch relations)

This new modus operandi of SUS's federal coordination would not have emerged without the supportive stance of Congress and the Supreme Federal Court (STF), which, respectively, ensured the allocation of resources and upheld the decentralized implementation of policies.

In the face of a denialist president, elected as an outsider with limited capacity for institutional coordination, both institutions maintained a critical and autonomous stance.

4.3. The National Congress

Regarding the legislative branch, given the incompatible political positions of the two branches, the president's confrontational stance, and the government's limited capacity for political coordination, the executive's legislative prerogatives and Congress's centralized operational dynamics, factors identified in the national literature as key to governments' high legislative success rates, proved to be of little use.

The breadth of areas in which Congress formulated and approved legislation, and the intensity with which it acted, especially in 2020 (as reflected in the high monthly rate of laws passed), suggest that Congress was guided more by the agendas of various stakeholders than by government proposals, effectively seeking greater prominence on the national stage.

Within this group of stakeholders represented in Congress, states and municipalities benefited from the approval of a significant set of support measures, signaling convergent positions among the leaders of both houses, political parties, and governors, particularly concerning the development of a national agenda to combat the COVID-19 pandemic.

To increase the volume of resources available to support state and municipal efforts against the pandemic, five strategies were adopted: (1) relaxation of fiscal targets and spending limits established by the Fiscal Responsibility Law; (2) suspension of contractual obligations to pay debts to the federal government and creditor institutions; (3) direct transfer of resources to states and local governments to offset revenue losses; (4) relaxation of rules governing the use of funds transferred before the pandemic and not yet spent; and (5) transfer of resources to strategic partners of SUS, such as the philanthropic hospital sector (Ouverney & Fernandes, 2022; Ouverney et al., 2023).

Another important area of legislative action during the pandemic was the Parliamentary Commission of Inquiry (CPI) into COVID-19. The commission began on April 27, 2021, and concluded with the approval of its final report on October 26, 2021. The in-depth investigation required a 90-day extension beyond the initially stipulated deadline, resulting in two phases: the first, from its installation until the last session before the parliamentary recess on July 14, 2021; and the second, a three-month extension beginning on August 7 and ending with the approval of the final report.

The CPI employed various oversight instruments. It held 62 sessions and heard from 65 witnesses. Overall, the commission breached 55 records of telephone, telematic, tax, and banking secrecy. It summoned 21 members of the Executive Branch, including three former Health Ministers – Luiz Henrique Mandetta (DEM-MS), Nelson Teich, and Eduardo Pazuello – as well as the then-Minister, Marcelo Queiroga, and other officials from the Ministry of Health. It also took testimony from former Foreign Minister Ernesto Araújo, one of the individuals under investigation (Junqueira & França,

2023).

In its comprehensive final report (1,288 pages) (Senado Federal, 2021), the commission recommended charging 78 individuals and two private companies with more than 22 counts. The president was alone charged with 10 violations, including common crimes, misdemeanors, and administrative infractions, related to six main areas of investigation: (1) the federal government's denialist stance and its repercussions; (2) the use of medications without proven effectiveness (the "COVID kit"); (3) the creation of a shadow cabinet to advise the president on pandemic issues; (4) corruption in vaccine procurement; (5) the spread of fake news about COVID-19 and vaccines; and (6) serious failures to safeguard vulnerable groups.

The Pandemic Parliamentary Commission of Inquiry (CPI) was one of the most significant political events of the period. For about six months, it dominated the news cycle. Its sessions were broadcast live on TV Senado and the Federal Senate's YouTube channel, reaching record viewership for both. Major media outlets, both broadcast and print, also provided nearly daily coverage of its activities. Thus, the CPI serves as a successful example of legislative oversight over the executive branch's actions (Mainwaring & Welna, 2005; McCubbins & Schwartz, 1984; O'Donnell, 1998).

3.3. The Federal Supreme Court (STF)

Finally, regarding the judiciary, a similar reversal of position is observed, from favoring the federal government to defending the prerogatives of autonomous management by states and local governments, in the case of the Supreme Federal Court (STF). As the guardian of the 1988 Constitution, in which federalism is enshrined as a fundamental clause, the STF had no alternative, faced with President Bolsonaro's constant threats to restrict the actions of states and municipalities, but to exercise its constitutional duty to safeguard subnational autonomy and guarantee the prerogatives of these entities to exercise their powers.

Continuing the trend in Brazilian jurisprudence, historically marked by favoritism toward the central government in federal disputes, as widely documented in the literature, would have amounted to complicity with the institutional blockade that President Bolsonaro imposed on the Ministry of Health. This would have further limited the initiatives that states and local governments were undertaking, with great effort, to confront the pandemic.

Decisions of this nature would have led to complete inaction on the part of the Brazilian state in the face of the greatest health crisis in a century, aggravating the deep economic and political crisis the country had faced since 2014 and potentially pushing its governability to the brink.

In an emblematic episode, STF was called to rule on the constitutional jurisdiction of states and municipalities regarding the responsibilities of government entities in addressing the COVID-19 pandemic. The dispute focused on Article 3, §9 of Provisional Measure No. 926 of March 20, 2020, which authorized the president to decide, by decree, which public services and essential activities should be exempted during restrictive measures. In this instance, the STF, reversing a recent trend, ruled that the authority to regulate public health matters is shared among all federal entities, according to Article 23, section II of the Federal Constitution (Fernandes & Ouverney, 2022; Godoy & Tranjan, 2023).

Following this decision, the court ruled on several other cases, reaffirming the jurisdiction of states to establish measures to combat the pandemic and emphasizing that decisions concerning the

operation of activities or establishments must be based on technical and scientific criteria, evaluated according to each specific context and factual situation by public administrators. Consequently, any law that undermines this technical discretion also damages the management of the health crisis.

Thus, the STF, as guardian of the Constitution, played a decisive role in defending the autonomy and powers of each level of government, preventing the escalation of conflicts and tensions within Brazilian federalism. Its role was vital in ensuring that the new decentralized pattern of federative coordination could be effectively implemented by states and municipalities, despite the federal government's attempts to obstruct institutional action. Box 2 summarizes the main changes observed in the broader political dynamics of national federative institutions during the pandemic.

BOX 2 POLITICAL DYNAMICS BETWEEN ACTORS AND NATIONAL FEDERAL INSTITUTIONS DURING THE COVID-19 PANDEMIC

President	Congress (Senate – Upper House; Chamber of Deputies – Lower House)
▪ Autocratic stance and isolated decision-making ▪ Confrontational discourse toward states (especially governors) ▪ Low capacity for parliamentary coordination and distancing from Congress and the Supreme Federal Court ▪ Attacks on the media and on academic and scientific institutions ▪ Encouragement of population exposure to COVID-19 infection ▪ Undervaluation of vaccines	▪ Greater autonomy vis-à-vis the executive branch in reviewing bills and constitutional amendments ▪ Increased tendency of caucuses to formulate their own legislative agendas ▪ Closer relationship between party caucuses and sectors of organized civil society ▪ Prominent role in approving protection, employment, and income-support strategies (e.g., Emergency Aid, PRONAMPE, etc.) ▪ Significant initiative in approving budgetary flexibility measures and support for states and municipalities (e.g., War Budget, Federative Program, etc.)
Supreme Federal Court	**COVID-19 Inquiry Committee**
▪ Limited the scope of federal government decisions that curtailed local authority ▪ Guaranteed the prerogatives of state and municipal autonomy ▪ Preserved the authority of governors and mayors to define essential activities ▪ Legitimized decentralized actions to combat COVID-19 ▪ Defended responsible action by public officials based on scientific criteria	▪ Exercised legislative oversight ▪ Summoned authorities for clarification ▪ Requested information ▪ Investigated and recommended the indictment of individuals for various crimes

Source: Elaborated by the authors.

5. REFLECTIONS ON THE POSSIBLE IMPACTS OF CHANGES: A TRANSITIONAL FEDERALISM?

In this section, we revisit the central question posed in the introduction: can the changes introduced during the pandemic be maintained, and will they have lasting effects in the near future?

The answer to this question is clear: yes, a significant portion of the observed changes persisted after the pandemic (phase 4 of the analytical model) and projected their dynamics as a context for the actions of the new administrations (federal and state), which began their terms in January 2023.

Thus, we argue that new government guidelines can alter the triple singular shift evident at the height of the pandemic: (1) governors and mayors assumed a leading role in conducting policies in their territories; (2) Congress expanded its role in policymaking; and (3) the Supreme Federal Court adopted a stance defending the prerogatives of subnational entities. However, the tensions and innovations analyzed have not been fully resolved and remain structuring elements for the actions of new governments, pressuring for adjustments and redirections in their policy orientations.

When it comes to intergovernmental relations, the federal and state administrations that started in 2023 are in the process of rebuilding the core foundations of the federative pact. This involves a closer relationship between the federal government, states, and local governments, aiming to strengthen their collaborative nature. Examples of this process include political rapprochement with governors, the creation of the Federation Council, and agreements related to tax reform, Complementary Law No. 200/2023 (the New Fiscal Framework), Complementary Law No. 201/2023 (compensation for losses from the Tax on Circulation of Goods and Services – ICMS – and the Participation Funds of States, the Federal District, and Municipalities – FPE/FPM), the National Organic Law of the Civil Police, among others.

These initiatives show that the federal government elected after the pandemic has not only aimed for closer ties with states and local authorities but also plans to play a role in national policy coordination, a role that had been abandoned. However, this progress is neither simple nor automatic, as it relies on structural foundations that require significant changes typically occurring over the medium and long term, such as funding levels, restructuring policy coordination units, increasing technical staff and public service careers, and modernizing information systems, among other efforts.

Furthermore, the decentralization process itself has conferred a significant role on states and local governments in Brazil's public policy systems over the past few decades, with the latter becoming responsible for substantial percentages of funding, controlling service management, and significantly participating in national decision-making processes.

The consistency of these decentralized systems was even strong enough to establish macro-regional and national coordination structures that can replace the role of the federal government in certain situations, as demonstrated by CONASS, CONASEMS, and interstate development consortia. After the COVID-19 pandemic, these structures tend to maintain their roles, with varying degrees of prominence. Moreover, the autonomy achieved by subnational powers, as a result of the weakening of federal coordination, constitutes an obstacle to the resumption of the Ministry of Health's role in coordinating national policies. This is evident in the case of the Brazilian National Immunization Program (PNI), whose efforts by the Ministry of Health have yielded less than expected results, both due to the lack of commitment of opposition state governments and the loss of public confidence in vaccination effectiveness, disseminated through fake news and statements by officials in the previous administration.

A similar dynamic can be observed in relations between the branches of government, as the federal executive has also adopted a stance of political rapprochement and cooperation with legislative leaders and has sought to play a more significant role in public policymaking, as demonstrated by the examples cited above (tax reform, new fiscal framework, ICMS/FPE/FPM compensation, etc.). This agenda demonstrates that the government has prioritized structural reforms, especially in the fiscal sphere, which required achieving significant levels of interinstitutional coordination between the executive and legislative branches in the first year of government. However, this selective effort does not mean a return to the dynamic relationship between the branches characterized by the pattern seen throughout the 1990s and 2000s.

The persistence of two clear trends, observed during the height of the pandemic, shows that the rapprochement between the branches, which led to the approval of important measures, maintained significant levels of autonomy for the federal legislature: (1) notable self-initiative in the set of laws approved and (2) control over federal budget resources.

In the first case, preliminary surveys indicate that the government's share of national legislative output in 2023 was significantly lower than that of Congress (Senate and Chamber of Deputies), with a success rate considerably below most previous administrations. Of a total of 236 proposals converted into official norms through the legislative process, the executive branch was responsible for initiating only 64 (24.3%), while the vast majority were drafted by the Chamber of Deputies (139 proposals – 52.8%) and the Senate (44 bills – 16.7%), demonstrating the continued prominence of the legislative branch (Mali, 2023). Furthermore, the government also had low success in passing provisional measures, with only 8 out of 52 submitted to Congress. According to data compiled by the Chamber of Deputies, as of January 10, 2024, 21 provisional measures were still pending, and another 23 had expired or been revoked (Agência Câmara de Notícias, 2024).

The autonomy Congress has gained in controlling budgetary resources through the so-called "secret budget" (or "informal budget amendments," referring to non-transparent allocations of public funds to legislators' pet projects) has been the subject of ongoing disputes within the Legislature, particularly affecting ministries such as Health, which receives the majority of parliamentary amendments. Although the Supreme Federal Court (STF) ruled against maintaining this mechanism and demanded greater transparency, the leadership of the Chamber of Deputies has pressured the Executive Branch to release funds immediately, bypassing the technical review procedures established by the Ministry of Health. This dispute undermines the Ministry's planning capacity and the continuity of its policies and programs, while also serving as a bargaining tool in negotiations over the government's legislative agenda.

The growing control of part of the discretionary budget not only reduces the federal government's investment capacity and disrupts the planning and implementation of public policies, but also affects electoral competition and democracy itself. The 2024 municipal elections saw unprecedented levels of re-elected mayors, single candidates, or races with only one contender. The most likely explanation lies in the high volume of resources received by incumbent mayors through parliamentary amendments, distorting electoral competition.

Coalition presidentialism ensured that negotiations between the executive and legislative branches occurred through the allocation of ministerial posts to coalition parties, whose leadership maintained parliamentary discipline during votes. A stable governance mechanism has not yet replaced its current fragmentation, as approval of the government's agenda is now negotiated on a case-by-case basis by the speaker of the house, based on the approval of amendments.

The high level of conflict in the relationship between the branches of government has led to many disputes being channeled to the STF. This heightens tensions between Congress and the STF and increases the judicialization of politics, as seen in the Senate's current effort to limit the court's powers. Furthermore, it makes the executive branch dependent on court decisions, even when their outcomes do not favor government approval, as in judgments on controversial issues such as abortion and cannabis. The fact that Congress has a conservative majority and a significant presence of far-right lawmakers has prevented the executive from developing an agenda prioritizing its electoral proposals, with the moral agenda promoted by opposition lawmakers dominating the public debate. Starting in mid-2024, the opposition changed its strategy and began focusing its criticism of the government's performance on the economic arena, capitalizing on popular dissatisfaction with rising inflation.

In short, the current situation demonstrates attempts to revive the collaborative model in a new context, where the country's political and social polarization has significantly altered its political foundations. Rather than a clear-cut panorama, we can say that Brazil still experiences a federalism in transition, with several possible scenarios.

One possible, perhaps the most likely, scenario would involve continued instability and imbalance between the executive and legislative branches. The executive would seek to govern through negotiations with major parties, even if this strategy carries a high risk of causing a lasting crisis in interbranch relations, characterized by a weaker executive and a more autonomous legislature. The restrictions imposed by the fiscal framework on federal public spending limit room for maneuver, especially when parliamentary amendments increase resources for state and municipal expenditures.

Another scenario, less unfavorable to the executive, would result from the imposition of effective controls over budgetary resources in the hands of parliamentarians, reducing the legislature's autonomy in allocating public funds. This hypothesis favors the executive by curbing the legislature's power but leaves it weakened and dependent on the judiciary.

Finally, a possible, though less likely, scenario involves a shift in the executive's strategy to seek legitimacy for its actions from the population. This would require loosening the constraints that hinder greater investment in policies aimed at improving the quality of life for the most dependent on redistributive measures. By achieving greater governability, the executive could expand its power to negotiate governance with Congress. However, this scenario seems unlikely, given the political crisis and the economic speculation it could trigger. Therefore, the transition to a new model of sustainable federalism remains uncertain.

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DATA AVAILABILITY

The entire dataset supporting the results of this study was made available in the book "Novo Federalismo no Brasil: Tensões e inovações em tempos de pandemia de COVID-19" and can be accessed at https://cee.fiocruz.br/sites/default/files/Federalismo-WEB.pdf.