Supreme Court rulings at the onset of the Covid-19 pandemic: impacts on Brazilian federalism?

Decisões do Supremo Tribunal Federal no início da pandemia de Covid-19: impactos no federalismo brasileiro?

Fernando Manuel Bessa Fernandes[1,2], Assis Luiz Mafort Ouverney[1,2]

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ABSTRACT In the current pandemic context, the Supreme Court (STF) is a rich field of research for understanding how political-ideological disputes are intertwined with bureaucratic-administrative issues. Authors argue that the STF tends to issue more favorable rulings to the Federal Government than to the states or municipalities in interfederative disputes. This paper aimed to analyze and reflect on the decision-making impact of the STF on government actions within the debate on interfederative relationships, considering the current context and verifying whether the pandemic changes such trend of favoring the Federal Government. Thirty-three collegiate rulings were made using the keywords "Coronavirus" and "Covid-19" and the first half of 2020 as a chronological landmark. A typology was constructed for the analysis: 'Regulation and Territorial Management', 'Health Policies and Services', 'Employment and Income', 'Public Finance', and 'Others'. In a context marked by tensions and omissions, the role of the STF in resolving conflicts of interfederative competence was reinforced, suggesting an inversion of the centralist tendency in Brazilian jurisprudence. On the other hand, we could question the extent to which this situation could reinforce the role of subnational entities and, therefore, of Brazilian federalism.

KEYWORDS Health's judicialization. Pandemics. Covid-19. Federalism.

RESUMO *No contexto pandêmico atual, o Supremo Tribunal Federal (STF) é um rico campo de pesquisa para o entendimento de como disputas político-ideológicas se entrelaçam com questões burocrático-administrativas. Segundo autores, o STF tende a emitir decisões mais favoráveis para a União/governo federal do que para os estados e/ou municípios em casos de disputas e litígios interfederativos. Os objetivos deste artigo foram analisar e refletir sobre o impacto decisório do STF nas ações governamentais, no âmbito do debate das relações interfederativas, considerando o atual contexto e verificando se a pandemia modifica a tendência de favorecimento da União/governo federal. Levantaram-se 33 decisões colegiadas utilizando-se as palavra-chave "coronavírus" e "covid-19"; e como marco cronológico, o primeiro semestre de 2020. Para a análise, construiu-se uma tipologia: 'Regulação e Gestão Territorial', 'Políticas e Serviços de Saúde', 'Emprego e Renda', 'Finanças Públicas' e 'Outros'. Em um contexto marcado por tensões e omissões, reforçou-se a atuação do STF na resolução de conflitos de competência interfederativa, sugerindo uma inversão da tendência centralista na jurisprudência brasileira. Por outro lado, é possível questionar até que ponto tal situação poderá significar um reforço de protagonismo dos entes subnacionais e, portanto, do federalismo no Brasil.*

PALAVRAS-CHAVE *Judicialização da saúde. Pandemia. Covid-19. Federalismo.*

[1] Fundação Oswaldo Cruz (Fiocruz), Centro de Estudos Estratégicos (CEE) – Rio de Janeiro (RJ), Brasil. *fernandombessa@gmail.com*

[2] Fundação Oswaldo Cruz (Fiocruz), Escola Nacional de Saúde Pública Sergio Arouca (Ensp), Departamento de Ciências Sociais (DCS) – Rio de Janeiro (RJ), Brasil.

Introduction

The Covid-19 pandemic is an unprecedented historical phenomenon in the breadth and depth of its impact on human relationships in all dimensions, from those that can be understood from a macro-territorial viewpoint (relationships between blocks of countries, between peoples and nations located in the world, whether distant or not) to those that can be understood from a micro-existential perspective (institutional, group, family, and individual relationships).

Therefore, it would be fair to say that, while this text is being written, during most of 2020 and in the first quarter of 2021, humanity has found itself at an authentic, unprecedented crossroads of ideas and actions.

As a direct and indirect consequence of the advent of the pandemic, a significant portion of the planet's citizens found themselves in the contingency of, if not wholly ceasing, at least altering and reducing, sometimes drastically, their activities until then considered and held as usual, standard, and typical of everyday life, for different periods and at varying lengths per the local reality, and the countries' economies, cultures, and daily life.

This is no wonder when considering a biological agent that has *sui generis* features like the new Coronavirus, such as great transmissibility/contagion capacity, symptoms of difficult diagnostic accuracy, and considerable and not negligible mutability and lethality. We should also consider the connections and implications of the situation with other diseases, inequality, and vulnerability, as attested by the official indices of international and national health organizations. In their apocalyptic catastrophe subgenre, some of the worst fears of sci-fi literature and cinematography are being greatly honored by the reality imposed by the novel Coronavirus, with morbid and unprecedented refinements in specific places.

This situation has led to harsh decisions and tragic choices by those responsible for public administration globally. The situation is no different in Brazil, where the responsibility for the well-being and health of the population far exceeds the self-preservation of the population itself in its necessary zeal and care for its healthy existence – as is expected of responsible citizenship, in individuals who hold positions of prominence in the spheres of the famous three Powers that date back to Montesquieu: Executive, Legislative, and Judiciary.

With the advent of the pandemic and the consequent reconfiguration of the daily life of most of the population in all its dimensions, the work of the Judiciary Power's stakeholders has acquired more relevance in a type of movement that is considerably observable in the use of apparatus, means, and legal processes, also for the achievement of the most varied objectives. An example that already existed even before the pandemic is 'Health Judicialization' – implementing a legal apparatus for claims to guarantee the supply of medicines or health services not provided or provided in an excluding way in the health system[1-3].

Extrapolating the discussions in the field of health, authors point to the existence of clear indications that for some years now it has been possible to speak of the existence of a "Judicialization of Politics" rather than a "Politicization of Justice", in line with both what became known as Lawfare (political use of juridical maneuvers in order to compromise, neutralize, or eliminate opponents, replacing armed force or traditional democratic processes), and what can be understood by excessive judicialization of motivated governmental actions caused by political-party and ideological disputes that, under usual temperature and pressure conditions, would be resolved by other means – primarily electoral[4,5].

In the same way that theorists of legal and economic and social sciences, sociology and political science scholars have studied the theme of democracy in its possible forms – representative, deliberative, participatory – focusing on the role, function, scope, depth,

limits, and potentialities of the interpretation and application of laws by the legal and judicial apparatus, and its consequences for the sustainability of the capitalist system in the dynamics of the relationships between Justice, Politics, and Economy[6-9].

For example, in his book 'Toward a New Legal Common Sense'[7], Boaventura de Souza Santos develops the idea that the global economy provided by the hegemonic Liberal Economic Consensus, also known as the Washington Consensus, is based on four fundamental dimensions, among which the dimension of the Rule of Law/Judicial Consensus stands out. In a nutshell, this dimension would be the establishment of a legal framework suited to the contingencies generated by the neoliberal development model of dependence on markets and the private sector that affect the basic rules of public or private institutions.

The logic inherent in the system says that goods, consumer goods, and services, and ideas and people must flow smoothly, harmoniously, and peacefully. Thus, laws should guarantee this logic, which is the fundamental constitutive element of the Rule of Law and the basis of good governance in building a lean and efficient form of State (and, by extension, a legal system that is also efficient in this sense), with regulatory or conflict arbitration prerogative and not leading or interventionist. It follows that Judicialization of Politics implies a depoliticization of social transformation movement, even if, contradictorily and dialectically, it entails the assumption of political interests instrumentalizing legal/judicial action[8].

Again, in the field of judicialization, but in a more refined and more operative standard, another interesting phenomenon also becomes observable and has been recurrent in the Brazilian reality under the aegis of the Covid-19 pandemic: the Judicialization of Public Policies. It consists of "[...] shifting the decision-making space on the realization of social rights through public policies"[10]. In conclusion, it appears that the higher the Court, the more weight the rulings have and the more intense the debates, clashes, and consequences.

Therefore, the highest Judiciary authority becomes a field of research with great potential wealth for understanding how political-ideological disputes intertwine with bureaucratic-administrative issues in the current pandemic because it establishes itself as the locus of trials and rulings, by no means exempt from interesting polemics.

In this article, we start by discussing the premise supported by a group of authors that the Federal Supreme Court (STF) tends to issue more favorable rulings for the Federal Government than for the states or municipalities in disputes and litigations between these federative entities[6,11-20].

Given this argument, we surveyed the legal and prominent documents published by the Court in the Brazilian judicial structure in a period determined by the initial stage of the pandemic, or in other words, the Supreme Court (STF). We aimed to analyze this Court's performance in the face of the Covid-19 pandemic backdrop and reflect on the possible impacts of its rulings on government actions within inter-federative relationships, verifying whether the pandemic became an element of modified tendency to favor the Federal Government in STF rulings.

From there and for future studies, focusing on more refined and more specific questions, the motto may be to investigate whether and how the Politicization of Justice and, mainly, the Judicialization of Politics and Public Policies appear in the lawsuits that lead to court rulings.

This survey is nested in the set of activities within the research 'New Federalism in Brazil? Tensions and Innovations in the Covid-19 pandemic', carried out by a group of researchers from the Center for Strategic Studies, the Oswaldo Cruz Foundation (CEE/Fiocruz). This research simultaneously covers surveys with the same objectives within other spheres of Power – Executive and Legislative – and

covers the dissemination of corporate and non-corporate/alternative media content related to the Covid-19 pandemic in their respective impacts on inter-federal relationships.

Material and methods

The survey was conducted in July 2020, retrieving data from the website of the highest court of the Brazilian judicial system, the STF. Regarding the competencies of the court that qualify it as an essential body for rulings in the country's current situation, it is public knowledge that it is a body whose main competency consists of preserving the 1988 Federal Constitution, as defined in its art. 102. Furthermore, especially about the rulings in the context of the pandemic, it is worth noting that:

> Constitutional Amendment 45/2004 allowed the Federal Supreme Court to approve, following repeated rulings on constitutional matters, a precedent with binding effect regarding the other Judiciary bodies and the direct and indirect Public Administration, in the federal, state, and municipal spheres (Art. 103-A of CF/1988)[21].

As of March 27, 2020, the STF made available a 'Covid-19 Actions Panel' to the public to ensure transparency and direct access to information about its actions, an interesting section of its website that provides automatically updated data every five minutes on cases pending in the Court and its rulings during the fight against the pandemic:

> The Covid-19 Action Panel, a page on the website of the Federal Supreme Court (STF) where people can follow up-to-date data on all ongoing processes related to the pandemic, now includes the primary rulings already taken by the Court on the matter. With the measure, the STF provides more transparency to the user, presenting a summary of the decisions with simplified language, which allows the citizen to follow the cases of more significant repercussions on the theme. Rulings are organized by procedural class to facilitate research. The trials of issues related to the pandemic were prioritized in the first semester[22].

In principle, using the information contained in this panel would be an attractive way to carry out the study. However, despite offering a spreadsheet containing systematized data regarding the lawsuits related to Covid-19, no breakdown of rulings was entirely adequate for the study.

Thus, we opted for the direct search of the legal documents listed on the STF website in its 'Statistics' section, 'Rulings' subsection, qualified as STF Monocratic Rulings (by the President and Ministers, individually), and Collegiate Rulings (that is, the rulings by the Plenary and the Panels, collectively), from 2010 and including months of 2020.

Considering only 2020, from February – February 26, which marks the first confirmed Covid-19 case in Brazil, when the first measures related to the pandemic emerged – to June 9, a chronological milestone for the first semester of the research, the STF issued 7,225 Collegiate Rulings, 12,335 Monocratic Rulings of the President, and 19,686 Monocratic Rulings, made available in spreadsheets.

The next step was to look in these three spreadsheets to identify the files on rulings regarding the Covid-19 pandemic outbreak in Brazilian territory, within the aim of this study.

Keywords "Coronavirus" and "Covid-19" initially returned 2,344 occurrences in the Monocratic Rulings, 145 occurrences in the Monocratic Rulings of the President, and 130 occurrences in the Collegiate Rulings.

Each worksheet contains a set of categories created by the STF itself to systematize information about decisions. They are: 'Class', 'Number', 'Link', 'Notice Date', 'Current Rapporteur', 'Minister's Name', 'STF Classification', 'Ruling Type', 'Ruling Body', 'Progress Date', 'Progress', 'Progress

Observation', 'Criminal Preference', 'New Law Branch', and 'Subjects'.

Of these, the preexisting category 'Progress Observation' identifies the subject addressed, the preexisting category 'Ruling Body' identifies whether the ruling was by the Court's Plenary, while the preexisting category 'Class' explains the procedural nature of the legal documents. As examples, we can mention the *Habeas Corpus* (HC), Direct Action of Unconstitutionality (ADI), and Criminal Action (AP).

We established that this set of 'collegiate' rulings by the group of Ministers would be specifically addressed to meet the aim of this study; in other words, the rulings identified in the preexisting category 'Ruling Body' as served by the Court's Plenary. Thus, rulings by the Plenary were filtered, resulting in 33 Collegiate Rulings selected for the study.

We proceeded this way for two reasons: they are legal pieces debated and released publicly. They also fit the Court's actions in its quintessence of attention to the democratic precept of safeguarding the variety of opinions of the Ministers and the possibility of *audi alteram partem*.

Still, regarding the rulings identified in the preexisting category 'Ruling Body' and served by the Court's Plenary, we should highlight that five of the 33 rulings were served remotely, through electronic/virtual means, two in March and three in April. Interestingly, the other 28 rulings were served in face-to-face sessions of the Court's Plenary, and steps were taken to comply with the health protocols recommended by the World Health Organization (WHO).

Each of those spreadsheets from the STF website contains information arranged in categories produced by the Court, broken down and varied by each document's type. We carried out recategorization, establishing macro-categories 'Nature/Subject', 'Temporality' and 'Situation/Status' to meet the scope and objective of this study, in which the preexisting categories of the respective two document types were grouped.

Some of the preexisting categories were considered only to identify and contextualize. They were: 'Number', 'Link', 'Current Rapporteur', 'Minister's Name', 'Decision Type'.

The remaining preexisting STF categories were grouped into the 'Nature/Subject' macro-categories (containing 'Class', 'STF Classification', 'Ruling Body', 'Criminal Preference', 'New Law Branch' and 'Subjects'), 'Temporality' (containing 'Notice Date' and 'Progress Date'), and 'Situation/Status' (containing 'Progress' and 'Progress Observation') to classify, systematize, and analyze effectively within the survey's objective.

Specifically, regarding the macro-category 'Temporality' related to the time frame adopted in the study, it should be noted that the recognition of the state of public disaster caused by the Covid-19 pandemic in the country was approved by Congress, through Legislative Decree Nº 6, of March 20, 2020 – DLG 6/2020[23].

We should clarify that it is necessary to conceptually define three preexisting categories in the STF website's spreadsheets, which are not self-explanatory or immediately understood.

The first is the 'STF Classification', which has the options 'originating from', which refers to actions that originate in the body itself, that is, that do not arrive as an appeal against a decision rendered in a lower jurisdiction level; and 'appeal', which concerns lawsuits that fall within the other condition mentioned. None referred to appeals in the selection made for this survey, which resulted in 33 rulings.

The second is 'Criminal Preference', with 'yes' or 'no' options. It refers to rulings from original lawsuits related to crimes qualified in the Penal Code and, thus, fall within the Criminal Procedural Law, not fitting into other areas such as Administrative Law.

The third is the 'New Law Branch', which offers options in the Law areas where the lawsuits can fall. Precisely, one of the areas or branches is Criminal Procedural Law, which occurred only once in the 33 collegiate rulings

selected for this survey concerning an HC.

From there, a type of court rulings was built, cross-sectionally to the previous categories and per the nexus regarding measures/actions and facts within the pandemic, comprising the following types: 'Regulation and Territorial Management', 'Policies and Health Services', 'Employment and Income', 'Public Finance', and 'Others'.

The concepts that govern these types adopted for STF rulings are specified in the following section, which contains the results of the survey with the proposal of an analytical model of the Court's rulings, considering the debate on interfederative relationships in the Covid-19 pandemic in Brazil as a backdrop for the discussion, considering the current political-institutional context.

Results

In the current Covid-19 pandemic context, the STF rulings from the first Brazilian registered case and the chronological framework for collecting research information were systematized and analyzed in a table, with their categories and corresponding concepts:

Box 1. Survey analytical categories

CATEGORY	CATEGORY CONCEPT
Regulation and territorial and management	Includes administrative actions and measures, norms, decrees, or laws incident to the organization of services and federative relationships in the public administration spheres.
Policies and health services	Directly related to actions, programs and, especially, public policies and health services.
Employment and income	Linked to actions, programs, or policies aimed at generating employment and guaranteeing income.
Public Finance	Concerns administrative actions and measures, rules, decrees, or laws with a direct impact on investment accounts and financial expenses of the public administration spheres.
Others	Decisions that do not fit into the previous categories because they have different natures or specificities.

Source: Own elaboration based on the database of the research 'New Federalism in Brazil? Tensions and Innovations in the Covid-19 pandemic'.

With these categories in mind, we proceeded to systematize and analyze the survey results, considering the characteristics of the set of rulings.

The courts' performance in all their levels has been increasingly subjected to demands and pressures from the most varied interests, including those of their underpinning judges. In the specific case of the STF, this situation acquires even greater amplitude, importance, and consequences. When thinking about the nature of the rulings served by the Brazilian Supreme Court, their types are governed by parameters that reveal very interesting potentialities and limitations from an analytical viewpoint.

Monocratic Rulings are merit trials performed by a single Minister without the participation of the other Court members. The price of the agility of a monocratic ruling usually vis-à-vis the dialogue/debate and the exchange of ideas of a collegiate ruling concentrates the responsibility in an individual, which opens gaps for doubts and questioning regarding

the ruling's partiality and bias. Furthermore, the Monocratic Rulings of the President of the Court are of even greater weight, given that they are merit trials carried out by the Minister who 'incarnates' – and embodies, in the polysemy of this word – the authority of the Court.

Finally, regarding the Collegiate Rulings, we can affirm that they are the quintessence of the work of a court as a collegiate body, guaranteeing legitimacy, transparency, depth, quality, and space for *audi alteram partem* in the debate regarding the actions and resources of the lawsuits, one of the foundations of democracy. The risk of politicizing the Court's work materialized in the rulings is less likely to occur with collegiate rulings. However, this in no way means the total elimination of risk since analytical and decision-making asepsis, a complete exemption, and total impartiality are knowingly unattainable utopias, given the human nature of judges – however much they rely on theoretically equidistant coldness from the legislation.

Thus, a table was produced, taking the 33 STF collegiate rulings that fit the criteria stipulated for the study. They were distributed by analytical types that make up the types adopted, as seen in *table 1* below:

Table 1. Types of STF collegiate decisions

TYPE	NUMBER
Policies and health services	9
Regulation and territorial management	9
Employment and income	9
Public Finance	3
Others	3
TOTAL	**33**

Source: Own elaboration, based on information from the STF website, 2021.

When it comes to temporality, one of the macro-categories, we noticed that five were served in a virtual Court Plenary session among the set of rulings selected for this study: one in April and four in May, which is interesting since a more significant number of virtual sessions would be expected through videoconferencing to avoid crowding and contact, as per the protocols officially recommended by national and international health bodies.

Also, in the temporality macro-category, noteworthy is a ruling of a Claim for Noncompliance with a Fundamental Precept (ADPF, a suit that aims to combat acts that disrespect the so-called Constitution's fundamental precepts) concluded in March 2020 referring to a trial that started in 2015. Except for this one, all the other 32 rulings selected for this study occurred between March and May 2020. Below is the rulings' distribution by type.

Type: Others

At first, we should note that two of the three occurrences of the 'Others' type were rulings in which one of the Ministers involved with the processing of cases in the court was prevented from working because he was infected with the new Coronavirus at the time.

One 'Others' type of occurrence was a Direct Action of Unconstitutionality by Omission (ADO), which started in March and ended in April. It pointed to a legislative delay by the President of the Republic and the National Congress in establishing a temporary minimum income during the socioeconomic crisis caused by the pandemic. The lawsuit was deemed as impaired, given that the Executive and the Legislative were addressing it at the time.

The second occurrence of the 'Others' type concerned an ADPF with a process that started in March and ended in May. It consisted of an incidental provisional guardianship request made by the Márcio Thomaz Bastos Right to Defense Advocacy Institute (IDDD) to ensure the physical and moral integrity of those held in the Brazilian penitentiary system in the Covid-19 pandemic. The injunction was not ratified.

The third occurrence of the 'Others' type referred to a collective HC, required because of the correlation of inmates' comorbidities with Covid-19, whose proceedings started in March and ended in April. As a result, an interlocutory appeal was not provided (proceeding filed and denied and considered null and void). Regarding this HC, it should be noted that the STF President accumulates the position of President of the National Council of Justice (CNJ), and Recommendation Nº 62 of the CNJ, issued on March 17, 2020, regulated the possibility of releasing all inmate carriers of comorbidities, considering the pandemic.

However, early in the last quarter of 2020, we witnessed a change in STF's presidency and, consequently, the CNJ. Regarding the HC in question, CNJ Recommendation Nº 78 was issued, by which people accused of corruption, money laundering, heinous crimes, and domestic violence could not benefit from the review of the provisional detention or the regime of compliance with the sentence due to the pandemic, restricting what CNJ Recommendation Nº 62 was about.

Type: Public Finance

The three 'Public Finance' rulings were ADI: the proceedings of ADI 6329/20 started in March and ended in May. It consisted of the questioning made by the National Confederation of State Typical Careers (Conacate) on the validity of State Law nº 11.087/2020, of Mato Grosso (MT), which addresses the establishment of Indemnity Advantage to several public agents in external control activities, with a request for an injunction, to rationalize the remuneration in the pandemic. The injunction was granted.

The proceedings of ADI 6357/20 started in March and ended in May. It consisted of a request for a precautionary measure filed by the President of the Republic to confer an interpretation per the Constitution to arts. 14, 16, 17, and 24 of the Fiscal Responsibility Law (LRF), and art. 114, *caput*, *in fine*, and § 14, of the 2020 Budget Guidelines Law (LDO/2020), under the pretext of managing resources to fight the pandemic. The injunction was ratified.

Type: Employment and Income

The nine rulings of the 'Employment and Income' type are related to each other because they resulted from an ADI proposed by different entities that questioned the validity of Provisional Measure (MP) Nº 927/2020, which relaxes labor legislation during the state of public disaster resulting from the pandemic:

ADI 6375/2020 was proposed by the National Association of Labor Prosecutors (ANPT) and pointed out, among other points, the norm's lack of reasonableness where it authorizes anticipating the enjoyment of leave not yet acquired by the employee, in unlimited periods. It argues that, under the pretext of allowing the worker to isolate himself during the quarantine period imposed by the pandemic, the measure gives the employer the right to pay the respective leave remuneration in the following month and the leave bonus in the

same period of the Christmas bonus payment. This ruling was processed between April and May, and the injunction was partially granted.

ADI 6377/2020 was filed by the Confederation of Tourism and Hospitality Workers (Contratuh) and called for the suspension of the effectiveness of the MP device that provides for the prevalence of individual agreement over collective bargaining at the sole discretion of the employer, in the preservation/protection of acquired rights considering the context of the pandemic. This ruling was processed between April and May, and its preliminary injunction was denied.

ADI 6380/2020 was filed by the National Confederation of Health Workers (CNTS) and the National Federation of Nurses (FNE), which questioned a device that authorizes the employer to determine the suspension of administrative requirements in safety and health at work, which disregards the guidelines of health authorities. This ruling was processed between April and May, and an injunction was partially granted.

The six remaining rulings of this type were processed between March and April and their injunctions were partially granted. ADI 6342/2020 was filed by the Democratic Labor Party (PDT); ADI 6344/2020, by the Sustainability Network (Rede); ADI 6346/2020, by the National Confederation of Steel Workers (CNTM); ADI 6348/2020, by the Brazilian Socialist Party (PSB); ADI 6352/2020, by the Solidarity party (Solidariedade); and, finally, ADI 6354/2020, by the National Confederation of Industry Workers (CNTI).

As a result, art. 29 of MP 927/2020, which does not consider cases of infection of workers by the new Coronavirus, and art. 31, which limited the work of labor inspectors to guidance activities, were suspended.

It should be noted that, in the case of these rulings, despite the relevance of being part of the period chosen in the article for analysis and entering the domain of what is conventionally called political activism of the Judiciary, the meaning of the themes involves tensions between the Federal Government and the interests associated with the relationship between employers and employees. In other words, these STF rulings do not directly affect the Federal Government's relationship with states and municipalities.

Type: Policies and Health Services

The nine 'Policies and Health Services' and 'Employment and Income' rulings also resulted from ADIs.

Three of the rulings – referring to ADI 6347/2020 filed by Rede; 6351/2020, filed by the Brazilian Bar Association (OAB); and 6353/2020, filed by the PSB – addressed the provision of MP 928/2020, which changes the rules for requests for access to information from public bodies, previously provided for in the Access to Information Law (LAI), Law No. November 2011, in order to limit access to information provided by public bodies during the public health emergency enacted due to the pandemic. The injunctions of the three ADIs were ratified.

ADI 6359/2020 was filed by the Progressive Party (PP), receiving priority as it addressed the electoral calendar, with a request for a 30-day suspension of the deadlines for party affiliation, electoral domicile, and decompatibility for the October 2020 municipal elections, given the situation of public disaster decreed due to the pandemic. Injunction ratified.

ADI 6363/2020 was filed by the Rede party, whose object was MP 936/2020, regarding individual agreements to reduce working hours and wages or temporary suspension of the work contract. The injunction was not ratified.

The four remaining ADIs of this type were, respectively, filed by the Federal Council of the OAB (ADI 6387), the Brazilian Social Democracy Party (PSDB) (ADI 6388), the PSB (ADI 6389), and the Socialism and Liberty Party (PSOL) (ADI 6390) against MP 954/2020, which provides for the sharing of

data from telecommunications users with the Brazilian Institute of Geography and Statistics (IBGE) to produce official statistics during the pandemic. The injunctions of the four ADIs were ratified.

Like what happened with those indicated in the 'Employment and Income' type, some decisions set in this type do not directly affect the Federal Government's relationship with states and municipalities. Others are associated with the challenge of understanding the possible transformations of the STF regarding the Brazilian federative pact – Federal Government, states, and municipalities in interfederative disputes and litigations.

Type: Regulation and Territorial Management

ADI 6341/2020 was filed by the PDT. The STF confirmed the understanding that the measures adopted by the Federal Government in MP 926/2020 to address the pandemic do not rule out competing competency or normative and administrative measures by the states, the Federal District, and municipalities. The injunction was ratified.

ADI 6343/2020 was filed by the Rede party and aimed at the partial suspension of the effectiveness of the provisions of MPs 926/2020 and 927/2020. The STF ruled that states and municipalities, within their competencies and their territory, may adopt, respectively, measures to restrict intermunicipal and local movement during the emergency resulting from the pandemic, without the need for authorization from the Ministry of Health to decree social distancing, quarantine, and other measures. The injunction partially ratified.

The remaining seven lawsuits of this type were filed by the Rede Party (ADI 6421), by Cidadania party (ADI 6422), the PSOL (ADI 6424), the Communist Party of Brazil (PCdoB) (ADI 6425), the ABI (ADI 6427), the PDT (ADI 6428), and the Green Party (PV) (6431). All ADIs went against MP 966/2020, which provides, among other points, that public agents can only be held responsible in the civil and administrative spheres if they act or omit with intent or gross error for acts related to the measures of coping with the pandemic and the economic and social effects thereof. All the injunctions of these ADIs were partially granted.

Conclusions

The infallibility of judicial rulings is a myth, an image/idea/discourse/narrative built on something or someone, subjective, but based on a concrete, objective, and material reality. Moreover, myths are known to fall sooner or later, although in some cases, they persist in people's imagination, causing negative impacts and effects in the real world, whether by actions, inaction, or omission.

The myth of human invulnerability of certain groups considered 'chosen' or 'elected' due to the protection conferred by one or more than one supernatural agent or entity and the myth of scientific denialism, for example, subsist in the minds of all who refuse to admit the severity and gravity of the pandemic, in what is labeled as obscurantism. As for other political myths, only time will tell if they survive and have long-lasting consequences.

In the current pandemic context, observing the authorities' responses, primarily the Federal Government's actions concerning the relationships between the powers, suggests a direction marked by tensions and even omissions. Faced with the watering down of actions, programs, and policies (not only in health, but in other areas such as education, transport, employment, and income), whose formulation and implementation are the responsibility of the Executive Power, the other Powers were necessarily driven to move more proactively, given the pandemic situation. In the case of the STF, its role in resolving disputes of jurisdiction between the federative entities was reinforced, as the analysis of rulings brought to light.

The Constitution establishes a federative pact whose updating is imposed as a challenge inherent to the polysemic nature of bodies such as Congress (especially the Senate) and the STF, even more so in a context of calamitous unforeseen events as the Covid-19 pandemic. These authorities are responsible for regulating rights originating from autonomy and the prerogatives of exercising the competencies of each sphere of Power, under penalty of highlighting dichotomies, dissent, epidermal and deep-rooted issues, and contradictions and questioning of Brazilian federalism.

The stimulus to lead arising from the situation of pressure felt and produced, by action and omission, by some stakeholders and political arenas of the federation, requires the STF to serve decisions that transcend the exclusively technical legal scope towards balancing and calibrating the federative equilibrium, which would mean an inversion of the centralist tendency in Brazilian jurisprudence, marked by favoring the central government in litigations and disputes, as pointed out by authors[12-14,16,18]. On the other hand, the pandemic situation opens up the possibility of questioning: to what extent does the STF's performance reinforce the powers of subnational entities and, thus, Brazilian federalism[20]?

One cannot ignore the perception of the extremist political nature in an anti-institutionalist sense of the current Federal Government guidelines. Such a political condition becomes an essential part of the proposed problem for analysis. Future analytical efforts on this political variable will strengthen STF's alternative understanding of what has been stated in the literature in question. Besides the pandemic context, the current governing coalition's situation and political nature also make up the explanatory framework of the STF's rulings.

This text does not intend to exhaust this interesting debate. However, it seems fair to say that, as is usual in every crisis, the situation also brings the possibility of envisioning creative ways of overcoming spontaneous or induced conflicts and developing innovations, and following paths that do not mean stagnation and the worst of all worlds, the setback of institutions – among these, the greatest of all, the Democratic and *de facto* State of Law.

Collaborators

Fernandes FMB (0000-0002-8859-3626)* and Ouverney ALM (0000-0002-8581-3777)* equally contributed to the elaboration of the manuscript. ■

*Orcid (Open Researcher and Contributor ID).

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