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## **C2D Working Paper Series**

**Brazil:**

Mechanisms of Direct Democracy

**Raquel BOVO**

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## ABSTRACT

In the structure of Brazilian Government, regarding both the executive as well as the executive powers, the increase in ways in which society can participate in decisions of public interest, stands out. Among the shared or participatory managerial policies implemented in Brazil, the following are noteworthy: the participatory budget, managerial councils, committees dealing with watersheds, thematic conferences, plebiscites, public meetings and referenda. However, if compared to the size of Brazil's territory and population, the experiences of participatory management are rare and have developed mainly in the southern and southeastern regions of the country. In most Brazilian municipalities, politics by patronage, authoritarian and populist, is the rule, linked to changes in the parties and to the electoral mandate (four years).

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## **1. Historical and legal context**

The democratic process in Brazil has suffered various disruptions since its beginnings at the start of colonization up to now. Exercising democracy in Brazil is considered by the great majority as a synonym for electoral contests restricted to electoral campaigns and voting.

The conquest of the right of the Brazilian citizen to participate in decisions involving the development of his/ her country was due to social movements which strived to make Brazil democratic, culminating in the creation of areas for citizens' participation guaranteed by the Federal Constitution (BRASIL, 1988).

At present, Brazil has its sovereignty guaranteed by universal suffrage and by direct and secret voting, where all are considered equal, and also occurs through elections for the Executive and Legislative branches at the three levels of government (federal, state and municipal), plebiscites, referenda and public initiatives. These mechanisms for direct democracy are set out in Article 14, clauses I to III of the Federal Constitution (1988).

## **2. Plebiscite**

The 1937 Constitution was the first to define the role of the plebiscite in Brazil and was for incorporating, subdividing or annexing states, according to the wishes of the President of the Republic. The 1946 Constitution included only the incorporation, subdivision or dismembering of states. The 1967 Constitution, during the military government, did not even include the possibility of public consultation in cases dealing with territory and this topic became dependent on regulation by a supplementary law.

The first plebiscite in Brazil at the federal level was held in January 1963, and asked for people's opinion on the system of government (presidential or parliamentary), since the parliamentary system had been introduced to hinder the João Goulart government which had socialist tendencies and which frightened both the military as well as those who wielded power at the time. On the 6<sup>th</sup>, out of an electorate of 18 million, 11,531,030 voters voted in the plebiscite. The result determined a return to the presidential system, by 9,457,448 votes to 2,073,582.

In the 1988 Constitution, the plebiscite is described in five articles: article 14, I, declares the exercise of popular sovereignty also through plebiscites; article 18 allows for the incorporation, subdivision and dismembering of the states; article 18, 4<sup>th</sup> paragraph, talks of the creation, incorporation, fusion and dismembering of the municipalities; article 49, XV, establishes the exclusive jurisdiction of the National Congress to convene plebiscites; and the 2<sup>nd</sup> article of the Act of Transitional Constitutional Arrangements determined a plebiscite to choose the form and system of government in 1993.

For this system to function, an infra-constitutional legislation, which is dynamic and which guarantees its practical application, is necessary. However, for ten years Brazil did nothing about infra-constitutional arrangements. Therefore, even though provided for constitutionally the mechanisms of direct democracy were unavailable in practice, and this can be regarded as a historical regression since, with the exception of the 1993 plebiscite, there is no significant example of the use of these mechanisms.

**Plebiscite of 1993, on 21/04/1993  
General Information**

Municipalities	Sections	Electorate	Electors who voted	Abstentions
260	11,295	2,974,926	2,467,227	507,699

**Summary**

Form of Government			
Monarchy		272,577	11.04%
Republic		1,611,149	65.31%
Blank Votes		240,328	9.74%
Invalid Votes		343,173	13.91%

System of Government			
Parliamentary		590,655	23.95%
Presidential		1,375,520	55.75%
Blank Votes		130,893	5.30%
Invalid Votes		370,159	15.00%

Source: <http://www.tre-sc.gov.br/eleicoes/histeleiweb/1993/InfGeraiMunicM1993.htm>

An infra-constitutional law to regulate the plebiscite, the referendum and the public initiative (Law 9.709<sup>1</sup> of 18/11/1998) was only ready in 1998. This law states that a plebiscite will be convened before the legislative or administrative act, and that it is the public who will vote to approve or reject the subject under discussion. The 3<sup>rd</sup> article of the same law establishes that in questions of relevant national interest, the National Congress will convene a plebiscite through a legislative decree, proposed by a minimum of at least one third of the members of either of the two houses. This legal mechanism takes away from society the possibility of deciding what subjects it considers relevant for discussion and consultation at the national level, since it restricts this prerogative to the National Congress.

<sup>1</sup> According to Law 9.709, the plebiscite can examine subjects of significant constitutional, administrative or legislative relevance, and can also be used or not, to approve normative acts.

Law 9.709 had gaps and did not represent significant advances in the exercise of public sovereignty, as well as not regulating important topics on the viability of applying mechanisms of direct democracy in Brazil. Unfortunately, the mechanisms for public participation in Brazil are still not rights which constitute part of daily politics, so much so that many Brazilians are not even aware of them.

The plebiscite in Brazil can take two forms: the extensive and the fundamental. The extensive form examines any question of national relevance falling within the jurisdiction of the Executive and Legislative branches (the Judiciary is not included). The fundamental form is related to the incorporation, subdivision and dismembering of the states, or the fusion, incorporation, creation and dismembering of the municipalities.

In September 2000, Brazil had a national plebiscite on the Foreign Debt with the overall objective of consulting all adult Brazilian citizens to give their opinion and vote on Brazil's internal and foreign debts.

The plebiscite on the foreign debt also had the following aims:

1. to take the debate to public opinion and the grass roots, making available information and explanations so that the population could become aware of the fact that the internal and foreign debts were one of the main causes of the deepening of the social and ecological debts.
2. to put this topic on the agenda of public mobilizations and, based on practice, question the neo-liberal economic model adopted in Brazil, thus fighting to recuperate national sovereignty ;
3. to concentrate forces to demand a public audit of the foreign and internal debts, the suspension of the payment of the foreign debt and the adoption of controls on debt policy.

#### Results of the plebiscite on Foreign Debt:

In the plebiscite, more than 6 million electors voted, or 5.7% of the Brazilian electorate (data from the TSE for 1998).

The results for each question were as follows:

#### *Question 1: On the FMI*

*Should the Brazilian Government maintain the actual agreement with the International Monetary Fund - FMI?*

5,646,862 replied "no",  
280,442 replied "yes",  
76,574 blank votes and  
26,451 invalid votes.

#### *Question 2: On the Foreign Debt*

*Should Brazil continue to pay the foreign debt without a public audit of this debt as provided for in the 1988 Constitution?*

5,765,954 replied "no",  
182,462 replied "yes",  
57,954 blank votes and  
23,959 invalid votes.

*Question 3: On the Internal Debt*

*Should the federal, state and municipal governments continue using a large part of the public budget to pay the internal debt to the speculators?*

5,768,563 replied "no",  
158,995 replied "yes",  
80,481 blank votes and  
22,290 invalid votes

At the state and municipal levels, the plebiscite is convened according to the state constitutions and the fundamental municipal laws. The State of São Paulo can be cited as an example, where article 20, clause XVIII of the State Constitution declares that the convening of the plebiscite falls under the exclusive jurisdiction of the State Legislative Assembly. However, citizens can ask the High Electoral Tribunal for a plebiscite, proposed by at least 1% (one per cent) of the electorate, distributed between at least 5 of the 15 largest municipalities of São Paulo State, with not less than 0.2% (two tenths of a per cent) of electors from each one of them, and taking into account the wishes of the Legislative Assembly. The Constitution, however, does not state the criteria for defining the 15 largest municipalities of the state, thus making the correct interpretation and implementation of the plebiscite difficult.

The São Paulo state constitution also establishes that a plebiscite be held in cases of fusion, creation, incorporation and dismemberment of municipalities, under the same conditions as the national legislation, as long as the population directly involved is heard, and certain conditions stipulated by law are observed, such as a minimum population of 2,500 inhabitants, an electorate of not less than 10% of the population, and the urban centre already constituted with at least 200 houses, among other conditions.

At the municipal level, in general, the fundamental laws possess guidelines and procedures for carrying out plebiscites. In the fundamental law for São Paulo (SP) municipality, for example, in article 10 a plebiscite may be called before the discussion and approval of expensive public works or those which can cause a significant environmental impact. In this case, the Legislative and Executive branches should take the initiative to convene the plebiscite. However, the legislation does not specify the approximate value of the public works which may be the object of a public consultation, with the convening of the latter being at the discretion of the Legislative or Executive branches.

Article 44, II of the Fundamental Law of São Paulo provides for a citizens' initiative to request the town council to carry out the plebiscite on a subject of relevant interest to the municipality or district, through the manifestation of at least 1% (one per cent) of the municipal electorate.

### **3. Referendum**

The referendum was only recognized under Brazilian law with the 1988 Constitution and is regulated by Law 9.709/98 together with the plebiscite and the public initiative. According to the 2<sup>nd</sup> paragraph of this law, a referendum is called after the legislative or administrative act, and the people decide on its ratification or rejection. The differentiation made by the legislation is basically related to the timing: the plebiscite is convened before the legislative or administrative act, object of the consultation, whereas the convening of the referendum is afterwards. The National Congress has exclusive jurisdiction to authorize the referendum based on people's signatures. An important example of a subject of relevant national interest, which should have been submitted to a referendum, was constitutional amendment 41 (2003), which altered the rules of the National Pensions scheme. However, public consultation was not anticipated, and neither are there any signs that this might happen, which demonstrates how fragile the implementation of public consultation in Brazil still is.

In October 2005, Brazil held the first referendum in the world in which the population was consulted on disarmament. The Brazilian electorate voted, using electronic voting machines, about whether the selling of arms and ammunition should continue to exist in the country or, on the contrary, this commercialization should stop. The prohibition of the commercialization of arms was already part of the Statute of Disarmament (Law 10.826/2003), but this would only have become valid through the referendum. The result of the referendum was: 59,109,265 electors (63.94%) decided to vote NO, the commercialization of arms and ammunition will continue. The YES vote was the preference of 33,333,045 electors (36.06%).

At the state level, using São Paulo state as an example, the referendum is set out under article 20, clause XVIII, which defines that the Legislative Assembly has exclusive jurisdiction for its authorization. In article 24, the São Paulo state constitution opens an important door for extending the referendum by permitting that 1% (one per cent) of the state electorate request the Legislative Assembly to call a referendum. In this aspect, the São Paulo state constitution is more wide ranging than the Federal Constitution and Law 9.709/98, when it says that the prerogative for requesting a referendum also belongs to the citizens, that is, it is not an exclusive prerequisite of the Legislative Branch.

### **4. Public Initiative**

According to the Brazilian Federal Constitution (1988), the public initiative can be exercised by presenting the Chamber of Deputies with a law project, supported by at least 1% (one per cent) of the national electorate (about 1.2 million electors), distributed throughout at least five Brazilian states, with not less than three tenths of a per cent from each. The regulation of the public initiative is also set out in Law 9.709/98.

The large number of signatures needed and the distribution throughout the states are factors which make the use of the public initiative mechanism, as an instrument of democratic participation, more difficult.

In general, the projects of laws originating from the public initiative are presented as a motion or articulated exposition. The motion is presented to Congress through a simple text explaining the subject to be regulated. In the articulated exposition, a series of items is presented which will guide the parliamentarians in developing principles.

The state constitutions and the fundamental municipal laws also talk about the public initiative. Some states were more wide ranging, allowing their constitutions to be amended through public initiatives, as for the states of São Paulo and Rio Grande do Sul. Others have only adopted the clauses set out in the Federal Constitution.

An example of a public initiative project, which was successful and which happened in record time, was that regarding the buying of electoral votes (electoral corruption). The project was presented to Congress on the August 10<sup>th</sup>, 1999 and was approved on the 21st and 23rd of September, by the Chamber of Deputies and the Federal Senate respectively. Five days later Law 9.840 was in force, and decreed punishment for “the candidate who gives, offers, promises or hands over to the elector, with the aim of obtaining his or her vote, goods or personal advantage of any nature, including a job or public position, from the registration of the candidacy until election day”. The punishment anticipated is the annulment of the candidate’s mandate as well as a fine.

## **5. The electoral system and the democratic process**

The present Brazilian Electoral Code originates from Law nº 4.737 of 15th July, 1965, which established standards to guarantee the organization and exercise of political rights, principally those of voting and being voted. According to the Code, all power emanates from the people and will be exercised in its name by those chosen to hold a mandate, directly and secretly, among candidates chosen by national political parties, except in some cases of indirect elections regulated by the Constitution and in specific laws.

The Federal Constitution (1988) and the Electoral Code (1965) determine that electoral enrollment and the vote are obligatory for Brazilians who are older than 18; and optional for those who cannot read nor write, are older than 70, and those older than 16 but less than 18.

Government representatives are chosen by Brazilian voters in direct elections at three levels: 1) federal – executive: President of the Republic, legislative: senators and federal deputies; 2) state – state governor, legislative: state deputies; 3) municipal – executive: mayor, legislative: town councillors. In this form of government, the decisions taken at the federal level take priority over those at the state level, which takes priority over those at the municipal level.

The main attributes of public institutions are the drawing up, approval and application of regulations and laws, and the planning and implementation of programmes and services to the population. To do this, they can count on a legislative, judicial and executive infrastructure. The executive framework at the federal level is composed of the President of the Republic and the Vice-president, who are helped by diverse organs and entities, directly or indirectly, such as ministries and secretariats. In order to carry out programmes, governments establish priorities for the spending of public funds, drawn up in the Pluriannual Plan (PPA), and harmonizing long-term projects with the Annual Budget Law. The budget lays out what funds are to be used for government initiatives.

In the structure of Brazilian Government, regarding both the executive as well as the executive powers, the increase in ways in which society can participate in decisions of public interest, stands out. Among the shared or participatory managerial policies implemented in Brazil, the following are noteworthy: the participatory budget, managerial councils, committees dealing with watersheds, thematic conferences, plebiscites, public meetings and referenda. However, if compared to the size of Brazil's territory and population, the experiences of participatory management are rare and have developed mainly in the southern and southeastern regions of the country. In most Brazilian municipalities, politics by patronage, authoritarian and populist, is the rule, linked to changes in the parties and to the electoral mandate (four years).

Linked to the patronage of Brazilian politics and to the large social, economic and cultural inequalities, is the citizen's lack of knowledge of his/ her real participatory rights. "The advance obtained in the institutionalization of citizen's rights has still not been translated into the building up of the necessary capabilities for its real enjoyment" (ANASTASIA, 2006).

In many so-called "democratic" governments, participation comes down to including the population with the aim of ratifying decisions already taken, which does not guarantee the actual right of the citizen to participate but only to be consulted. In other cases, popular decisions on public affairs end up not being implemented because the implementation of collective decisions represents a big obstacle for governments, since it runs up against the weakness of political support and the lack of financial and human resources. Therefore, in spite of the fact that many areas for popular participation are of a deliberative character, in practice, they become tools for political manipulation and contribute to society not believing in democratic mechanisms.

The actual state of Brazilian democracy has historical roots going back to the beginning of colonization. There were many disputes involved in implementing democracy because for many years the predominant sectors of society were mainly responsible for opposing democracy and for resistance to social and political changes in the country.

The elections in Brazil came about with the arrival of the colonizers, who followed the Portuguese tradition of electing the administrators of settlements under their governance. The first election for local government happened in 1532, to elect the

Municipal Council of the settlement of São Vicente (SP) and they continued until the country's independence (1822).

Up to 1828, elections for Brazilian municipalities obeyed the Laws of the Kingdom of Portugal. At the beginning, the whole population had the right to vote. With time, however, the vote came to be the exclusive right of those who had the greatest economic power, amongst other prerogatives. The minimum age for voting was 25. Slaves, women, Indians and salaried workers could not vote.

The elections took place in four stages: the citizens of each parish, without any voting restrictions, nominated so-called "arbitrators", citizens who would choose the electors of the parish. These, in turn, would choose the electors of the district, who, finally, would elect the deputies. In 1822, the process changed to one of two stages: the citizens of the parish would choose their electors and these would nominate the deputies. In 1881, the Saraiva Law introduced direct elections.

Up to 1891, when the Constitution determined the separation between Church and State, the Church influenced the choice of representatives and those who governed in Brazil. During a certain period, one of the conditions for being elected a deputy was to be a catholic and some elections even took place within the churches themselves.

Apart from the influence of the Catholic Church, elections in Brazil suffered many interventions from governments during the Empire (1822-1889) and the Old Republic (1891-1930). In the Empire, the elections, whose rules were copied from the French model, were controlled by the Emperor through the Brazilian Secretariat for State Business, the presidents of the provinces and the rural oligarchy. In order to guarantee a majority for the government, electoral reforms were made on the eve of elections. All this generated innumerable possibilities for fraud. During the Old Republic, the "governors" policy" reigned supreme: the President of the Republic would support candidates indicated by the governors in the state elections and these, in turn, would support the candidate indicated by the President in the presidential elections. The process depended on the action of the colonels (big land owners), who controlled the electorate, gave support to the candidates and supervised the non-secret vote of the electors and vote counting. In this way, the elections almost always ended predictably.

The Proclamation of the Republic (1889) initiated a new period of Brazilian electoral legislation which was now based on North American models. The first electoral innovation was the elimination of the "pecuniary census" or "taxpayer vote" (where electors were selected according to their annual income).

The first Republican Constitution (1891) created the presidential system in which the president and the vice-president were elected by direct, national suffrage, with an absolute majority of the votes; gave the National Congress the job of regulating the electoral process for federal posts in the whole country, and to the states, legislation on state and municipal elections.

In 1916, Law No. 3.139 gave the Judiciary the responsibility for preparing the electoral rolls, which resulted in the first Electoral Code of Brazil and the setting up of the Electoral Judiciary (1932). This institution became responsible for the electoral rolls, the organization of the polling booth, the counting of votes, the recognition and proclamation of those elected, as well as regulating the federal, state and municipal elections in the country.

The Electoral Code introduced voting in secret, votes for women and the system of proportional representation in two simultaneous rounds. This code already anticipated the voting machine which only came into use in the 1990s.

Advances in electoral legislation were present in the 1934 Constitution. At the same time, in accordance with the Constitution, the President of the Republic (Getúlio Vargas) was elected indirectly.

The criticisms of the 1932 Electoral Code resulted in the promulgation of the second Brazilian Electoral Code (Law nº 48 of 1935), which substituted the first one without altering the conquests achieved up to then.

In 1937, Getúlio Vargas, supported by socially conservative segments of society, announced the "New Order" for the country, and the 1937 Constitution extinguished the Electoral Judiciary, abolished existing political parties, suspended free elections and established an indirect election for the President of the Republic, with a six year mandate. The Vargas era was marked by the dictatorship of the New State with the centralization of power and, therefore, by the absence of presidential elections, and also by interventions in the states, where administrators loyal to Vargas were nominated. This "New Order" was opposed by intellectuals, students, religious bodies and businessmen who fought for the redemocratization of the country.

At the end of 1945, the Vargas dictatorship ended and the country began a process of redemocratization. Presidential elections were reestablished within new standards defined since the 1930 Revolution. The Electoral Judiciary began to function effectively, and finally, women could actually participate in the elections. Between 1945 and 1964, Brazil had several presidents, but only Getúlio Vargas, Juscelino Kubitschek and Jânio Quadros were actually elected by the popular vote.

From 1964, Brazil was governed by the military who instituted a system of indirect elections, thus interrupting the process of popular participation in the choice of who ran the country, and they introduced presidential elections through an Electoral College. This was to make sure that the choice for president remained under the control of the military and those politicians who supported them.

The electoral legislation in the period between 1964 and 1985 was marked by a succession of institutional decrees and constitutional amendments, laws and decree-laws, with which the Military Government conducted the electoral process so as to conform to its interests, with the aim of establishing a system as anticipated by the 1964 Movement and of obtaining a majority favourable to the government. With this objective in mind, the Regime altered the duration of mandates, cancelled political rights, decreed indirect elections for President of the Republic, state and territorial governors, and for mayors of municipalities considered as relevant for national

defence and water stanzas, established “candidaturas natas” (automatic candidacy), straight ticket voting, sub-tickets and altered the calculation for the number of deputies in the House. This calculation was sometimes based, either on the population or on the electorate, thus benefiting states which were political newcomers in detriment to those which were traditionally more active, and, therefore, reinforcing the government’s discretionary power.

At the beginning of the 1980s, society began to mobilize for political changes which would result in a redemocratization of the country, culminating in the civil movement known as “Direct Elections Now”.

The first civilian president of the New Republic (1985) after the military regime, was also elected indirectly and gave the presidency to Tancredo Neves. He died before taking office and consequently his vice, José Sarney, assumed the presidency. In 1990, the first direct elections took place in Brazil since 1960. Fernando Collor de Mello was elected the first President of the Republic under the rules of the 1988 Constitution, which included complete freedom for political parties and a two-round election process. In 1992, Collor de Mello was accused of corruption and criminal activities, which resulted in his being removed from the presidency and having his political rights revoked for the next eight years.

The 1988 Constitution determined that a plebiscite be held to define the form (republic or constitutional monarchy), and the system of government (parliamentary or presidential), and determined that the president and governors, as well as those mayors of municipalities with more than 200,000 voters, were elected by an absolute majority or in two rounds of voting, if no candidate achieved an absolute majority in the first round. In municipalities with less than 200,000 voters, the heads of the Executive would be elected in one round of voting by a simple majority.

## **6. Actor strategies and the political processes**

Brazil is a country which became democratic while maintaining high levels of social, cultural and economic inequalities, and this can still be seen in the different characteristics of its immense territory, in the urban and rural areas, in the people who are intellectuals and those that can’t read or write, and in the political elites and the people. Thus Brazilian democracy developed with a gap between the different groups which make up the nation and their mutual ignorance.

The options defined in different situations of Brazilian politics resulted from preceding decisions and choices of the relevant actors, and this influenced the course of the political process to the point of limiting the range of possibilities in future scenarios, and therefore, the courses of action.

The political vices which originated from the colonization of Brazil are one of the main causes of the difficulties of implementing democracy in the country, since they stopped the development of institutions and of individuals capable of promoting democratic practices.

The political process during the Empire and the beginning of the Republic was marked by significant brutality against opposition movements and by conciliatory government actions to stop political conflicts. This blocked all and any social and political process, hindering the organization of political-party groups and popular demands. These actions were undertaken by two political groups: the Moderates and the Conservatives, who obstructed the action of a third political group: the “Exalted ones” (democrats – republicans). One example of these conservative strategies was the Independence of Brazil – a counter-revolutionary movement undertaken to stop the initiation of disputes favourable to the Republic and to suffocate democratic ideas and actions. Independence prepared the ground for various blows against national sovereignty by politicians who were used to Portuguese absolutism, and for the dismantling of actions by the political opposition

After 1889, private interests and political servility intensified, and were fundamental ingredients for material and political corruption and the stifling of the democratic process.

With the intensification of urbanization and industrialization in the 1930s, significant economic and social changes took place, but the oligarchies continued to stifle political reforms. Industrialization and urbanization revealed old and new social, economic and political problems which became challenges for governments, incapable of developing programmes which could contemplate all levels of society. This situation was ripe for military intervention in the government and this put a stop to the possibilities of developing a democratic society for two decades.

The military government in Brazil based itself on the foundations of the political institutions which the military operated under and on the model of economic development. Politically, it was a typical military regime in the sense that the Armed Forces, as an institution, started to run the country which resulted in the military institution also becoming an arena for disputing political power, and this resulted in consequences not only for the internal cohesion of the organization, but also for the whole political dynamics. However, it was a situation which maintained the mechanisms and procedures of a representative democracy functioning: Congress and the Judiciary continued to function even though their powers were drastically curtailed and various of their members expelled; the rotation in the Presidency of the Republic was kept; periodic elections were maintained, although under various types of control; and the political parties continued to function, even though party activities were drastically limited. This peculiar arrangement was largely responsible for successive political crises which accompanied the regime, and was characterized by alternate phases of repression and liberalization, permeated with political crises resulting from conflicts within the army and between these groups and the democratic opposition.

Regarding economic policy, with the exception of the first three years of government, when efforts were concentrated on the stabilization programme to contain the high levels of inflation, during the period of the military, the economy followed the so-called “Brazilian Miracle”, with a policy of stabilization and a model of import substitution which reserved for the state a still more important and active role. The policy of import substitution of capital goods and raw materials, sustained by public sector investments and foreign loans, was a successful strategy since it guaranteed

high levels of investment and made the experience of the authoritarian military regime a case of successful economic development. However, it was also responsible for instabilities and economic problems which had provoked the military intervention in 1964, and high inflation and economic stagnation reappeared with even more intensity, forming a background to the process of political transition.

Another important basis which gave support to the military government in power (1964–85) was a deliberate policy of modernizing communications. With the imposition of censorship, the modernization of the media was part of a strategy linked to the ideology of national security. One of the symbols of this project was the creation in 1965 of Embratel (Brazilian Company for Telecommunications), of the Ministry of Communications, and in 1972, of Telebras (Brazilian Communications PLC), responsible for coordinating the services of telecommunications throughout Brazil.

The military government also invested in political propaganda with the object of mobilizing society around a national development project which would legitimize the military regime in the name of administrative rationality and economic efficacy. The military used the power of images to communicate their proposals of Brazil as a world power. The publicity campaigns had an educational or civic theme.

With some exceptions, the project for modernizing communications significantly benefitted media businessmen with loans from government banks to buy imported equipment and for building projects. Besides this, the publicity from official institutions greatly benefitted the media, seeing that 30% of newspaper income came from government clients, which meant a considerable economic dependence on the state. The media businessmen were also benefitted with concessions for radio and television stations.

The onus of this support and these benefits were censorship and the repression of communications. Thus, the owners of the means of communication submitted themselves to censorship mainly because of their economic dependence on the state, and this may have functioned as a possible opposition. The owners of the means of communication did not form alliances to oppose the regime, instead, they attacked and criticized each other, thus blocking the formation of a common identity.

Prior censorship of the media, with censors located inside newspaper offices – which damaged the owners' authority and power – created conditions for the media to move away from the military and move towards the journalists who were fighting for press freedom. However, the behaviour of the newspapers was not homogeneous, some gave in to censorship pressures while others used creative alternatives to denounce the repression and lack of freedom.

Until 1970, a publication company was controlled by its owner with a possibility of total domination of the political slant and the news items. In the 1970s and 1980s, the power of communications' businesses acquired a further dimension: they were not in the hands of a single owner and they acted according to market principles and capitalist logic. The profile of journalists also changed due to the position of prestige

they had won from the public, attracting readers and an audience for the media. These professionals often held political opinions which differed from their owners.

The media and journalists used various strategies to denounce censorship, military oppression and the economic policies adopted at that time. The anti-establishment press, cartoons, economic editorials, the opinion pages and the soap operas were the means through which the government was criticized. The anti-establishment press was one of the most important channels for criticizing the economic model and human rights' violations.

The economic editorials exercised an important political influence since they started a campaign against the economic model which was used as a focus of opposition to the regime and to question the continuity of the military in power. This event provoked a response from other actors which, up to then, had not manifested themselves, such as the businessmen and the unions.

The transition from the military regime to democracy began in 1974 with the proposal of a slow and gradual political liberalization controlled by the authorities and which aimed to recuperate the legitimacy of the regime and the capacity of the state to make decisions. Press liberalization was included in the strategic points of this project, especially the written press. However, during the whole period of the Geisel government, the legislation which stifled freedom of expression continued, which encouraged self-censorship. During this period, there were advances and retreats in this area.

The political reconstruction of Brazil demanded the appearance of new political actors. The modernization of the economy during the so-called "economic miracle" (1968–1974) resulted in the emergence of associations of interests, linked principally to middleclass urban sectors, which grew strongly during this period. It was these sectors, in alliance with the union movement, which actively took part in demands for the end of the military regime. The manifestations of the church, of the unions, of professional associations, of the opposition parties and of the media, pressured the military government, and defended a return to democracy and gave support to the actions of the Geisel government in support of political freedom.

The 1974 legislative elections played an important part in the liberalization of the regime, and the media helped in this process. The opposition had free access to the means of communication which allowed an ample mobilization of the opposition party, MDB (Brazilian Democratic Movement), which achieved a significant victory over Arena, the government party.

Another decisive factor in the redemocratization of Brazil was the election of the democrat Jimmy Carter to the presidency of the U.S.A. in 1977. His foreign policy in defence of democratic principles, proposed that the U.S.A move away from those countries which did not respect human rights, and this greatly pressured the Brazilian government, since U.S. military cooperation was linked to the observance of these rights in Brazil.

At the beginning of the 1980s, the debate about the role of the state in the economy became central to those who opposed the regime. When they saw that economic policy tended to increase the participation of state enterprises in the dynamics of

development, the businessmen allied themselves to other sectors of society which questioned the permanence of the military in power. The participation of the businessmen in opposing the regime became apparent through the media, making greater advances in the redemocratization process possible.

With the end of the military regime, more competition between the three branches of the Armed Forces (Navy, Army and Air Force), surfaced, reducing the capacity of a combined military reaction. In spite of the military's influence on government having been reduced since 1985, with a tendency to decrease even more as the Brazilian democratic process consolidates itself, caution must be practiced regarding military actions in the future. The analysis of military performance in Brazilian Republican history, associated with the perception of a significant social inequality which still exists in Brazilian society, allows one to imagine that, with a worsening of social or economic crises, the tendency of military subordination may be changed.

It's worth stressing that in the 1988 Constitution the military guaranteed the maintenance of conscription, the control of civil aviation and the maintenance of the constitutional role of the Armed Forces as upholders of law and order in the case of civil disturbances.

The democratization which began with the restoration of the civilian government was not the result of a break with the old order. This implies that the reconstruction of the political system occurred through flexible arrangements and the interweaving of new and old practices and structures, and this combination molded the options and strategies followed by the principal actors of the political process. Observing the political system in Brazil today, it cannot be denied that we are dealing with a regime which is quite clearly a democracy. The Federal Constitution (1988) increased the right of the citizen to participate politically and introduced a series of original measures into Brazilian legislation, involving the defence of civil liberties. However, the latter are more "rights-to-principle" rather than "rights-to-use". It cannot be denied that problems exist regarding the "quality" of public opposition and citizen participation as well as the effective functioning of the process of democratic decision-making.

## **7. Effects and evolution of direct democracy**

In contrast to other countries, the building of the Brazilian state was oriented towards the maintenance of relationships which benefitted the political, economic and social elites. Instead of combating privileges which would establish the regime of rights, there were political arrangements which preserved the privileges of the few. The prevalence of patrimonial and paternalist characteristics and of conservatism in relations between the state and society is still very strong in Brazil. The decision about public agendas is linked to political patronage, complicating the consolidation of an organized and active civilian society, which fights for the building of relations of common rights for all, independent of the groups to which people belong.

The political apathy of Brazilian society can be included with this situation, the result of depolitization caused by neo-liberalism, the worry for immediate solutions and the enormous suspicion of the politicians, reflecting in the low level and low quality of citizen participation.

The participation of Brazilians in elections is due, without a doubt, to the fact that voting is obligatory. Compared to the size of its population and territory, the involvement of the Brazilian citizen in organizations and manifestations about the defence of public interests is inexpressive. In this context, the mere anticipation of legal measures in the Federal Constitution does not guarantee the effective implementation of popular participation which would support the legitimacy of democracy in public administration.

Despite this national situation, Brazil presently has around 27 thousand Managerial Councils, all functioning at the same level and making decisions, and hundreds of experiences of Participatory Budgets, principally at the municipal level, implemented in areas of democratic construction and they undoubtedly reflect a conquest of civil society. These areas need to be valued as areas built for citizens' participation, as a result of battles and conquests. They arose because the political system was incapable of absorbing the new collective actors of civil society who demanded a greater participation in the public scene. However, these spaces have a dimension exactly as areas for discussion and, therefore, reflect the relationships of various interests which are often not representative.

The simple creation and implementation of popular participatory areas in Brazilian politics did not mean a significant contribution for the democratization of the areas of power and for making rights universal. Brazilian society relegated the strengthening of organizations, of movements, of forms of representation at district level, of communities, to a lower priority so that the participatory mechanisms at the grass roots level really had a capacity to mobilize which would "empower" them in these areas of dispute.

The few popular participatory channels which exist are restricted to the executive branch of public administration. Participation should be extended to the judiciary and legislative branches. Brazilian inexperience in exercising citizenship in these areas is linked to the lack of a capacity of society to participate.

Another challenge for Brazilian democracy is the fragmentation caused by the multiplicity of areas for participation. The actual model of mechanisms created for popular participation greatly fragments the vision of the whole and the possibility for collective intervention. The number of Managerial Councils in many municipalities, some of which were founded by federal laws, others founded through the fundamental municipal law, hinders the effective representation of society. These mechanisms end up being used to present a democratic picture of the government without effectively having any decision-making capacity. The practice of participation often comes down to including the population with the aim of ratifying decisions already made by public authorities.

Democratic mechanisms need to be transformed in place of dispute and, in this case, popular participation can represent a loss of power and control of administrative actions of the public authorities, often meaning interruptions in the political process of development. .

The difficulty of practicing social participation in Brazil also includes the fact that the process, based on objectives and community priorities, is, necessarily, of a political nature which hinders the participation of the population due to the manipulation of decisions by opposition or government groups who know better how to use the proceedings and the dynamics. The collective interest is, in some cases, represented and expressed through self-nominated community leaders or who represent only small sections of the community. Besides this, the legal demands for guaranteeing society's participation in the whole process, use financial and human resources and cause delays in taking decisions, resulting in disbelief and the abandonment of the participatory area conquered.

The continuity of the participatory processes is gravely affected by government and party-political changes. The new administrations tend to interrupt the projects of opposing administrations which have a political impact, abandoning them or altering them significantly, so as to disfigure them, thus reducing the possibility that they may produce political dividends for their creators.

One of the biggest challenges of a proposed increase in participation is to guarantee the definition of the criteria of representation, in order to stop not only its manipulation by groups guided by special interests but also the possibility of its use by the public administration.

There are experiences of popular participation in really democratic administrations which merit note and which can be understood by other localities. Among these experiences are the Participatory Budget and the Municipal Sector Councils created in popular administrations, as for example, in Porto Alegre (RS). The analysis of these experiences, even those still little consolidated, showed they were positive for the growth of a participatory culture of society and, principally, in its qualification for the exercise of participation and the social control of public administration.

Participation in these areas awakens the citizen to public life, whether it be through acquiring basic information about the administration of his/ her locality and public policies, or by the appearance of new leaders who now take part in other areas of participatory management. Learning, knowledge and access to information appear as the principal positive result in experiences of shared management. On the other hand, participation also positively impacts the logic of governments which start to introduce in the public administration area, even if superficially, a sense of public responsibility, which often demands the implementation of strategic planning and administrative reform and the adjustment of the public administration to transparency, to publicity of its decisions and to social priorities.

However, the job of implanting and institutionalizing initiatives such as these in other localities in Brazil still meets some obstacles. Citizen participation in Brazil is considered a rhetorical excess, organized around sectors and related to managerial

and not structural questions. The democratic processes present in Brazilian politics are only to accomplish bureaucratic steps without any qualitative evaluation of their effects.

The discussions and public debates are substituted with automatic systems such as researching people's opinions and suggestions boxes, reducing participation to the theoretical level and transforming the role of the citizen into that of a consumer. In general, those governments which increase the areas of public participation manage to attract only a limited social segment, representatives of organized special interest groups, which stand out due to the lack of organization of civil society. Thus, a situation of bureaucratization of participation is created with practices of patronage in new forms, with party exploitation and the manipulation of participating institutions.

The adherence of civil society to democratic mechanisms is a long-term perspective if an effective and constant process of education is begun which strengthens citizenship and a participatory culture. Allied to this condition is the action of government which should create the necessary conditions so that the democratic instruments can be effectively taken up by the population. This means investing in capabilities, producing information - making it available in a democratic manner – and making managerial structures more and more answerable to society's demands.

The overcoming of the difficulties for implanting and maintaining participatory areas should be developed through a pedagogy of popular participation, facing a series of challenges in daily relationships with the population. The building up of an understanding of the global reality of the locality, which confronts the necessities to attend to immediate, unique demands often present in the processes of popular participation, is necessary.

Another important aspect to be considered in direct democratic mechanisms, is the need to adapt government talk and actions to the diversity of social subjects, respecting the limitations of understanding and recognizing popular common sense. Besides this, the systematic and continuous relationship with the population requires: a knowledge of the popular image of the government, of the figure of the governing institution and of the public services; the pedagogic confrontation of conflicts, through the expression of the interests in play and the stimulation of the forms of organization to face them, comes to mean a factor of growth in political education.

## **8. Political mobilization and ICTs (Information and Communication Technology)**

The use of Information and Communication Technologies (ICTs) in Brazil has been growing significantly especially with regard to the internet, even if it is exclusive. Most Brazilian experiences which aimed at exploring the communication potential of the ICTs for politics is restricted to the municipal sphere, since the social dimension of the town, the political unit which is geographically concentrated, reflects civic relationships sooner.

The political use of the ICTs in the contemporary democratic system of Brazil is varied, with greater or lesser emphasis on certain aspects of digital democracy and presenting different levels of possibilities for civil participation in the processes of political decision-making.

Most of the municipal experience using ICTs can be characterized by the emphasis on the availability of information and in the providing of public services. Therefore, it can be considered as a democratic instrument since generic government information circulates and improves the supply of public services. However, they are predominantly one-way instruments, meaning that the government provides information but does not allow feed-back from society.

In a smaller degree, cases can be observed in which the government uses the ICTs to sound out public opinion and makes use of this information to take a political decision. In these cases, the use of ICTs has a role close to that of a “channel of communication”, although the communication continues to be mainly one-way: the government does not create an effective dialogue with the civilian population, but emits signals to the public so as to receive some type of response, which doesn't necessarily mean that the opinions collected will be fully taken into account in all fields of political decision.

Specifically in relation to the participation of civilian society in decisions on the public agenda, it's possible to find in very isolated instances, information about the use of ICTs in the decision-making processes through the Participatory Budget and Municipal Conferences.

The Brazilian experience in Porto Alegre (RS) gives a positive answer to the question of the use of ICTs. The site for the [Orçamento Participativo](http://www2.portoalegre.rs.gov.br/op/default.php) (Participatory Budget) (<http://www2.portoalegre.rs.gov.br/op/default.php>) of Porto Alegre has various roles, including: increasing the divulgation of information about the Participatory Budget (agenda, guidelines, structure, etc), allowing the control and supervision of citizens' demands at a distance, and increasing the participation of society. In this case, the target is primarily the middle class, traditionally less present in the meetings of the Participatory Budget, since it lives in areas where basic infrastructure and services are good.

Another project of Porto Alegre's town hall, aimed at a distinct community, is the Telecentres, rooms with computer facilities in outlying city districts, where as well as learning to use the computer and the Internet (with the help of monitors), people can listen to music and involve themselves in other cultural activities.

There are similar experiences in other Brazilian cities, although sometimes they run up against serious financial difficulties, as in the case of the city of São Paulo (SP). The town hall is implementing a project of Telecentres, ([projeto de Telecentros paulistanos](http://www.prefeitura.sp.gov.br/servicos/cidadaos/cidadania/telecentros/index.php) (<http://www.prefeitura.sp.gov.br/servicos/cidadaos/cidadania/telecentros/index.php>), which are installed in spaces which were originally reserved for shops in public housing projects, and which are now abandoned or unused. In the 117 Telecentres installed in areas with the greatest digital exclusion in São Paulo courses are offered on learning to use computers, citizenship and the web.

The municipality of Ipatinga (MG) is another example of a public administration which uses ICTs for contacts with the population. Ipatinga established the Participatory Budget in 1989, but only in 2001 did it make available digital channels of communication for public participation (<http://opa.ipatinga.mg.gov.br/>).

The beginning of the process of electronic interactivity in Ipatinga's Extended Public Budget (OPA) had as an objective the approximation of the municipality's young people to decisions on the municipal budget, as well as increasing the number of participants in general, making the administration of public monies transparent and opening up access to information. Besides making requests, the population can, through the Internet, also accompany the progress of those public works projects defined as a priority by the OPA.

In 2005, Ipatinga set up the project e-Now, which allowed the public to participate through electronic channels. Besides the internet, requests could also be made through "Dial and Participate", a voice server where the population dials the number 0800-885-4000 and makes its requests in pre-defined areas. This means of communication does not permit requests which have not been included in the electronic service. Another improvement permitted by the partnership is the use of SMS, a message service on mobile telephones, advising the dates and places of the regional assemblies to be held in the OPA.

These two modes of ICT are only available for those regions chosen for experimentation for the project e-Now (3, 4, 5 e 7). Dial and Participate and the SMS server are paid for by the European Commission.

The participation of the population via the Internet was expanded to the whole municipality, including the countryside. The town hall made available 19 stands with computer terminals which allowed electronic access to OPA in the municipality, with 17 located in schools distributed in 7 district offices, 1 in the town hall foyer, and 1 in the Shopping Centre Vale do Aço. All the stands have monitors who are trained to help the population register and request public works and services.

According to the TRE – Regional Electoral Tribunal, of Minas Gerais, the Ipatinga municipality has an electorate of 156,016 people. The objective of participation established by the coordination of the OPA project was 5% of this electorate. However, according to information from the coordinators, this objective was not reached because the number of votes on the site up to July 5th, 2005, totaled 26,688, which may not be the same as the number of electors registered because each participant can vote in various requests and as many times as he or she wants.

Due to the low participation electronically, some schools used another method to increase participation. Paper forms were distributed to the students, to be filled in by their parents at home. With the forms filled in and returned to the schools, the monitors transferred the data to the OPA site, counting them as registrations done via the internet.

Among the weaknesses found in the electronically-operated OPA in the Ipatinga municipality (MG), were:

Participation less than expected. The use of paper forms was outside the context of electronic democracy. The possibility of bringing the population into contact with digital systems was frustrated by the need to use such an expedient. With the help of the monitor, the moment of registration could be a first contact for many people with the computer and the internet. It could be a moment to learn and be aware of a means to follow and supervise public actions electronically

Not keeping the computers in the schools is also one of the weaknesses.

The computers available were rented and were not available for the population to accompany the implementation and the priorities voted in the assemblies.

Some potentialities of electronic interactivity should be pointed out, including:

1. The increase in participation by young people. This was one of the objectives of the implementation of the electronic interactivity in the participatory budget.
2. A visible success of Ipatinga's OPA in 2004, already with interactivity in place, was the setting up of a factory to treat milk from the Tribuna district, in the countryside. Although it had no computers provided by the town hall, the countryside succeeded in convincing all the other regions to give up part of their budget quotas, thus demonstrating that the factory would bring benefits to the whole municipality. This is one of the results of public participation and of the debate taking part in the Municipal Congress of Budgetary Priorities.

In this area, it can be concluded that, although public decision-making is part of the political culture of some governments, the potential of ICTs is not actually being used to this end in Brazil.

According to research done by IBOPE in 2003, the number of potential users in Brazil (people who live in homes which have at least a computer with web access) is **20.5 million**; and **more than 42 million users (35.04% of the total) visited sites of the state and federal governments**, placing Brazil as world leader in this area in relative terms (followed by the government sites of France (31.2%), Spain (30.9%), USA (25.3%), United Kingdom (23%) and Germany (19%). The expansion of the number of potential users in Brazil was 43.5% in 2003 compared to the previous year.

The information presented by IBOPE demonstrates that a possibility for a greater and better use of the ICTs as a tool for political mobilization for direct democracy in Brazil exists, by transforming itself into an important instrument of interaction, of citizen participation, of information from politicians, from citizens, from governments and from political parties. However, what actually prevails are daily interactions between the political system with the "one-way" citizens. Despite the talk of modernization by governments, there are few significant advances in civilian participation which could promote relevant alterations in the political culture which exists today.

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