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Studies about the Quality of Democracy in Brazil: The Inter-institutional Accountability Dimension

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Abstract: The quality of democracy in Brazil can be analyzed and studied through seven dimensions based on Leonardo Morlino's thought. It follows that the intellectual effort made in this article is centered on 'Inter-institutional Accountability Dimension'. The studies' objective is to describe and analyze the sub-dimensional levels of inter-institutional accountability by focusing on the Legislative relations with the Executive; the decisions of the Supreme Court; the Ombudsman and the General Audit of the Union, the Plural and Independent Information and the Bureaucratic Decentralization Models. In this context, we will examine the current political context of the country and seek to confirm the existence of a high level of inter-institutional accountability in Brazil in comparison with other Latin American Countries. Thereby, we will make proposals for improving the situation.

Key words: Democracy, Accountability, Legislative Relations, Role of Laws; Supreme Court.

Resumo: A qualidade da democracia no Brasil é possível ser analisada e estudada através de sete dimensões segundo o pensamento de Leonardo Morlino. Assim o esforço intelectual desenvolvido neste artigo principalmente a Interinstitutional Accountability Dimension, cujo objetivo

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é o de descrever e analisar em nível de subdimensão focando as relações do Legislativo com o Executivo; as decisões da Corte Suprema; Ombudsman & Controladoria Geral da União; as Informações Plurais e Independentes e os Modelos de Descentralização Burocrática. Neste contexto, iremos estudar o momento político brasileiro e realizar propostas para o desenvolvimento de cenários, onde vamos tentar confirmar a existência de um elevado grau de Interinstitutional Accountability em comparação com outros países da América Latina.

Palavras-chave: Democracia, Accountability, Relações Legislativas; Papel das Leis; Suprema Corte.

1. Introduction

The present work is the study of the quality of democracy in Brazil and is based on the seven dimensions of Leonardo Morlino's thought that analyzes the movements underscoring democracy as the construction of sovereignty and power of the national State, mostly the participation and compromise of organized civil society.

The essence of this intellectual effort is the attempt to understand the extent institutions endeavor to advance democracy by reinforcing the role of the Brazilian State and Society. The research was conducted through available documents online and by using topic-based descriptors available in electronic media, data base and specialized bibliographies.

The study's objective is to propose a succinct historic outline of democracy and correlate the principal democratic facts of the Brazilian state with popular participation in the construction of this phenomenon. On concluding the research, we will emphasize the importance of historic facts in the validation and understanding of the actual moment under which we will testify, above all, the inconsistency of reason and national political perception that distorts the exercise of democracy by the people.

Democracy based on the etymology of the word means *demo* (people) and *cracia* (government), that is government of the people. Thereby, democracy can be understood as the system whereby the people of a country can participate in public life. There are various mechanisms that enable this participation amongst which are: elections, plebiscite and referendum.

In a democratic process, people have liberty of expression and manifestation of opinion. This type of government is a practice in different nations of the contemporary world and Brazil is constructing with much sacrifice a democratic polity that has received commendation from the international political system.

It is worthy of note that the Brazilian democratic process has been extolled through different publications by national and international researchers, showing that since the country's discovery different models of government permeated the control of the country.

The Brazilian State, within an extensive period of the 17th century, experienced an imperial system of government during which the Emperor, Dom Pedro II, showed no faith in federalism due to his considering the country as bearing weak institutions and the people as having no educational knowledge to the point that the Emperor used this in his favor to personally allocate investment resources between the Provinces (BRAZIL, 1987).

Even the imperial period, despite being considered important for the implementation of the economic and social system, contributed little to the structuring of the administrative and the political system that the Brazilian state constructed (BRASIL, 1987).

With respect to events at the time the Republic was proclaimed on 15th November, 1889, Dom Pedro II was deposed and Brazil became a Federal Republic with the promulgation in 1891 of the Republican Constitution, written by Rui Barbosa and anchored on Civil Liberties, the

separation of the church from the State and the reaffirmation of the construction of Brasilia, defended by a Federal Representative from Santa Catarina, Lauro Muller. The construction of a new capital for the country was discussed. It was not the first time the proposal for the construction of a new capital was presented as a strategic matter for the consolidation of the Brazilian geopolitical space, as referenced by the Patriarch of Independence, Bonifácio de Andrade and Silva in 1824.

Regarding the evolution of the recent republic, the biggest bottleneck was the fragility of the military movement. Deodoro da Fonseca, leader of the coup d'état and proclamation of the Republic, was unable to bear responsibility for a democratic system and staged a second coup, this time by shutting down the Congress and centralizing power under his personal control.

The political system that followed was thereby denominated 'Old Republic' that spanned from 1889 to 1930 (BRASIL, 1987). Starting from 1930, on projecting himself to national political power as the leader of the revolution that ended the oligarchic epoch, Gétúlio Vargas, in the period between 1930 and 1934, upheld the reformist flag of the State.

The second phase of his government that corresponded to the period between 1934 and 1937, Getúlio Vargas, then elected President through indirect elections, became the government leader committed to the liberal democratic project (BRAZIL, 1987).

From 1946 and for a period of 18 years Brazil had five Presidents with different traits and the Brazilian state experienced a bit of democratic model that became undermined by the military circle of rules during the period between 1964 and 1985, of which was marked by extreme social repression and political persecution.

As from 1985, Brazil enters a new republican phase with civil governments that became plagued by faulty economic plans, and after 29 years the first direct elections of a republican president was realized.

Based on the evolutionary succession of events as delineated by historians, the observation about the existence of the Brazilian state, in terms of its evolution and politico-administrative autonomy, is that it has as undercurrent the different movements through which social representation, at certain moments, was participative and, at others, marginalized, making it impossible for the people to exercise the rights to plainly experiment and experience citizenship anchored on high quality democracy. This means involving the people in a participative and transparent democracy, crafting clear horizons that open-up possibilities for sustainable social wellbeing, education and health facilities across the social strata and rising hope for a new and increasingly democratic Brazil.

2. Legislative-Executive Relations

The entire process involving Legislative-Executive relations in Brazil was marked by the constant search for understanding and respect between the different powers of the Brazilian polity, following Secondant de Montequieu's thought.

In relation to politics, its evolution was marked by conflicts, but in most of the different periods the constant feature has been solidarity and mutual respect.

Still, it could be affirmed, following Vaconcelos' (2011) salient remark in his book about *Pure Democracy: History and Updates about Political Reform, Government Theory and Practice*; that life in Brazil became complex as time went by, characterizing principally the end of natural democracy due to the emergence of social discrimination, leading to inequalities: accumulation of goods and landed properties by a minority and scarcity for the majority.

Following Molino, with respect to substantive dimensions:

The substantive dimensions: liberty and equality are the values that more completely interpret the democratic ideals, and being so they are situated at the epicenter of a normative definition, if not, it is necessary that we analyze their activities within certain limits. In many occasions, Dahl (1971), Marshal (1950) and various authors have evidently shown the essential rights that must be promoted in a democracy so that high levels of liberty and equality can be achieved.

For a better understanding of this movement, a well-known example is the *Ianômami* indigenous group of which first was a tribe that lived harmoniously well with nature, and afterwards practiced female infanticide, probably related with natural causalities and phenomena, leading to shortfalls in female population, search for women in other tribes and polygamy with social differentiation between members of the same tribe.

In effect, governance movements such as gerontocracy (government exercised by the elderly) and shamanism (government exercised through magic or supernatural powers) became dominant, making political, social and economic democracy to weaken in the most basic Brazilian communities.

With these movements, declares Vasconcellos (2011), the society went through a negative impact of group homogeneity, making a dominant type of power to emerge. This provoked a sentiment of fear in the people subjected to domination so much so that they ended up working under

imposing orders instead of exercising their duties through feelings of mutual cooperation.

Together with this behavior there arose a social division that became relevant to the decisional power of the society under which theocracy gradually substituted for natural democracy with decisions being made by individuals having the power to appeal to and communicate with divine entities (VASCONCELOS, 2011).

With this domination of society by kings and clerics, Vasconcelos in his book; *Pure Democracy: history and updates of political reform, theory and government practice*, highlights the emergence of new facts such as war and slavery that would add to the accumulation of income for some and scarcity of goods for others, thereby provoking more differences between groups, in terms of the most and less privileged, and generating conflicts, mostly between the legislative and executive powers.

3. Constitutional Court, Federal Supreme Tribunal (FST) and the Democratic Process

In the beginning of the VI Century b. C, with the flourishing of pre - Socratic philosophy in Greece, two principles: eunomy and isonomy, directed political as well as social organization, mostly, that of the ruling council, under which the rulers were obliged not to act based solely on their volition but through rules, and all persons, including foreigners and slaves, were considered equal (VASCONCELOS, 2011). Based on the learning acquired from philosophers, the people progressed towards social wellbeing through the participation of diverse political movements, with the effect that, in 338 b. C, the proposal to free all slaves and emancipate all strangers was presented in the People's Assembly.

It is important to point out that these movements were taking place in a society where traditional monarchy predominated; dominant rules were

established alongside the exploitation of its human kind and Greece culture expressed millenary concepts, making it difficult for the people to accept the reforms desired by the philosophers (VASCONCELOS, 2011).

As Vasconcelos (2011, *op cit*) remarked, for the moment, democracy was reintroduced and from a technical point of view, three procedures exercised unfavorable influence vis-à-vis the protection of citizens; they are the discourses, sometimes demagogic, that preceded decision making – the decisions of the Courts were made at the same time issues were presented and discussed at the tribunals, and decisions were upheld based on 'yes' or 'no' method.

Democracy during this period was progressively implemented in various city states of Greece, and after two centuries the Macedonian generals ended up dissolving this democratic method with this phase culminating to the installation of the Roman Empire that debarred any manifestation of democracy.

In Brazil, Courts were established from 1808 with the arrival of Prince D. John VI and they went through improvements over the 1st & 2nd reigns. The current model became consolidated in 1891 and was improved upon the promulgation of different constitutions, culminating to the 1988 Citizen Constitution.

4. Ombudsman, Magistracy and the Union's General Audit (UGA) of Democracy

A new era emerges when the military leant to interfere in the evolutionary process of democracy; an act traceable to Ancient times with frequent reappearances in the Middle Age. Subsequently, and based on the illuminist philosophy, there emerged the opportunity for the people to reassume the democratic movement, for example, through the 1789 French Revolution.

The instrument that made possible this new phase of the history of civilization in the democratic movement was the Constitutional Law of 1793, of which, *inter alia*, and according to Vasconcelos (2011), established a sovereignty without limits; Universal Suffrage (vote); Direct Elections, made through Assemblies that met without convocation in fixed periods and monitored the acts of its representatives; annual Renewal of mandates for legislatures and the subjection of the Magistracy to extreme mobility.

Thus, according to Vasconcelos (2011), a modern public representation was created in conjunction with its representative democracy that spread all over the country based on the Machiavellian model.

We can cite Schedler (1999) in his inquiry:

“Ombudsman and Audit Courts: what are the formal and informal powers and if and to what extent ombudsman is actually politically controlled? Provide an evaluation from 1, politically controlled ombudsman with weak powers, to 5, independence of ombudsman that carry out effectively his powers. Please, if there are, single out specific exceptional features. Moreover, what are the formal and informal powers and if and to what extent audit court is actually politically controlled? Provide an evaluation from 1, politically controlled court with weak powers, to 5, independence of court that carry out effectively his powers. Please, if there are, single out specific exceptional features.

In this context, we can cite also the collaboration of Atila Vinicius de Carvalho Pessoa e Carlos F. Dominguez Avila (2013) in which the authors

show the pathways to analyzing the advantages and disadvantages of the democratic process situation in a determined political moment, thereby suggesting five theoretical models: elitist or competitive elitist, pluralist, legal, participative and deliberative; evidently tracing their strong and weak points, as well as the different threats and opportunities of each model to the exercise of citizenship in a democratic context.

The advantage of proceeding to the theoretical study of the democratic process, taking as departure point the range of alternatives suggested by Leonardo MORLINO, reposes on the consolidation of the different strategic visions that will be made available to the State and organized civil society, of which, integrated and thinking as one entity, can project new pathways for the consolidation of plain democracy which will emerge as a high quality Instrument; that reads ACCOUNTABILITY.

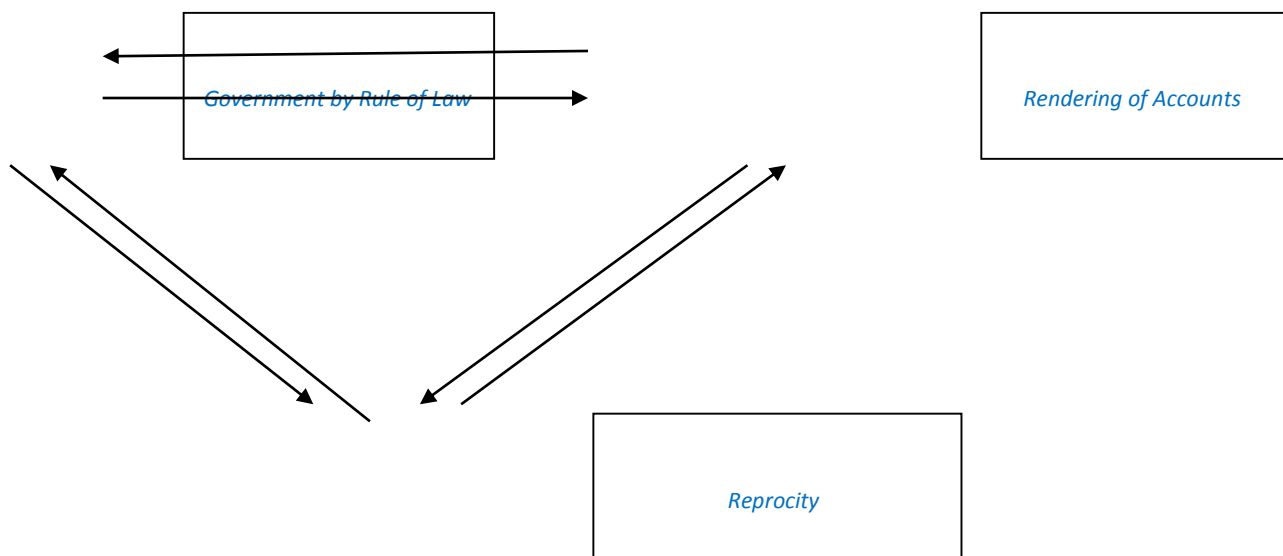
The result is peaceful coexistence with peace and harmony, having at the disposition of the society an efficient and transparent Ombudsman, Magistracy and General Audit Control.

Following Morlino:

The partial conclusions that can be extracted from this process are at least three: one to each underlined question. The empirical definition of the dimensions is deduced from the manner they are connected recipocally: the rule of law in its various aspects must be concretely exercised through accountability; an effective accountability permits the improvement of the legal system and also its respect; the rule of law is an essential premise for responsiveness and, in turn, it is an important precept for achieving a prudent accountability. Thus, it constitutes a triangular source with diverse

dimensions of consistency and significance, as shown in Figure 1 Graph”

Fig. 1: MORLINO – Democratic Quality: Connection between Procedural Dimensions and Result



Inter-institutional Accountability

General definition:

In order to reinforce the idea of “Inter-institutional Accountability”, we can turn to Schedler’s (1999) *Conceptualizing Accountability* as a more precise definition, that is:

“Inter-institutional accountability is the obligation of elected political leaders to ‘account’, to be responsible, to answer for their political decisions to other institutions or collective actors that have the expertise and power to control the behavior of the governors (SCHEDLER, 1999). Schedler (*op cit*, p. 17) suggests that

accountability has three main features: information, justification, and punishment/compensation.

The first element, information on the political act or series of acts by a politician or political organ (the government, parliament, and so on), is indispensable for attributing responsibility. The justification refers to the reasons given by the governing leaders for their actions and decisions”.

Following Álvaro Moises (1989), the history of modern democracy was founded on Maquiavel’s postulates in the beginning of the modern, under which he argued that nothing in the history of humanity results from natural order; that is, the world of humans is the continuous construction by humans themselves. That is, modern democracy by its birth assumes the form of representative democracy that upholds in the first place political representation through which representatives must turn their attention to attending the interests of the nation and not the particular interests of the former.

Cabral Neto (1997) draws attention to this study (whose author is considered one of the principal theorists of modern democracy) in which Montesquieu defended in his book *The Spirit of Law* that “The people are very good in choosing, but very bad in governing” (MONTESQUIEU, *data, apud* NETO 1997).

The point made explicit in his postulates is that the people needed representatives that could make choices and decide in their place. However, Cabral Neto (1997) declared in his studies that the representative system never existed in the sense that the representative state had always rendered account to the administrative state.

Cabral Neto (1997) went on to emphasize that Rousseau, on declaring in his postulates that the adoption of social contract is indispensable to legitimate all social forces in the society, infers that the civilization which

nurtures human relations produces a conflictive essence in these relations (ROUSSEAU, *data, apud* NETO 1997).

Thus, to Cabral Neto (1997), the state is not only the government but also a politically organized community that has as its most important and sovereign function the expression of the general will, that is, the principal axis of his theory is that participation has an educative character.

Following this thought, Cabral Neto (1997), in his studies, describes the limits of democratic representation and establishes, as the fundamental axis of the realization of this model, popular participation.

In this form, Cabral Neto (1997) affirms that the practice of direct participation by the population needs to be reconstructed in accordance to the present moment so that democracy can be guaranteed to its fullness.

Cabral Neto (1997) states that modern democracy depends on three factors: “the limited power of the majority”, electoral procedures and the transmission of power to the representatives and highlights in his article that based on Sartori, elections emerge as a qualitative instrument, later being substituted by quantitative democracy.

5. The Union Accounting Tribunal (UAT), Democracy and Society

The UAT is an organ responsible for monitoring all political and economic actions that express the need for supporting the development and practice of democracy in Brazil, that is, true democracy, adapted from the modern and transparent model and observed under high quality political practices that result to social wellbeing (CABRAL, 1997). We share with Cabral Neto (1997) in his declaration that political democracy must be associated with the reduction of social inequality and that the significance of democracy remains incomplete when it is associated uniquely with the expression of governability under which UAT constitutes an organ that promotes equilibrium in the decisional democratic process.

In the compliment to his theory, Cabral Neto (1997) recalls that such conditions are tied to the socioeconomic conditions of social representation involved in the democratic process; what it consequently suggests is that on taking into consideration the increase in the electorate, the quality of this former must be considered in relation to political conscience, its socioeconomic and political level that provides a greater participation of political decision, of administrative control processes and the exercise of its actions together with the leaders of the Brazilian state.

5. 1. Public Accounts – Political Democracy and Wellbeing

The discussions that help to formulate the thought about Brazilian democracy, describing above all, its socioeconomic differences, edify a society with high level of democracy. Thus, the societies that follow the rules defined mostly by the elite make political participation difficult, principally those of the more disorganized representations.

This panoramic has undergone great substantial alterations, above all in relation to public accounts, principally starting from the 1988 Federal Constitution that incorporated normative elements for the effective execution of public accounts, of which has been responsible for the political evolution and wellbeing of the society.

In this respect, we can draw from O'Donnell's (1994) observation that due to the legacy of slavery the Brazilian society experienced different situations in which (1) the bourgeoisie failed to adapt themselves to the civilizing experience that could have enabled them to interact and negotiate with the emergent classes and (2) public accounts where operated to benefit the elites. By implication, this failure led to difficulties in various aspects of social and political life and provoked gaps in consensus, principally, in social differences.

In corroboration with Cabral Neto's (1997) insights, the civilizing experience phenomenon must be seen by the society as the construction of the instruments for supporting political democracy, including the effort for democratizing social relations and the role of the Brazilian state for the welfare of all citizens.

5. 2. Public Accounts and New Pathways to Democracy

Let us present the principal historic facts, as described by various authors, which give support to the Brazilian state's democratization and its reflexes on the perfection of public accounts, pointing out principally the aspects described in the Federal Constitution of Brazil that represented the instruments for delimiting the principles of sovereignty and legitimacy of our citizenship.

The principal movements of this historic period can be thus represented in two movements of unique importance:

- The Constitutionalist Revolution of 1932: The federal government in 1932 ceded to the pressures provoked by conflicts and convoked without planning the Constituent National Assembly, with the participation of innumerable oligarchy representatives, and organized civil society that had only 40 members elected by the legally recognized labour union representatives, the liberal professional associations and public functionaries.

This fact in the history of Brazilian democracy was legitimated by class representation and based on the creation of the 1932 Electoral Code there emerged important democratic improvements for the country, as recorded by Auad in his studies:

The Electoral Justice system was created with the responsibility for coordinating the process of realizing and computing elections in Brazil, and electoral citizenship was extended to women – Celina Guimarães Viana,

from the city of Mossoró in the state of *Rio Grande do Sul*, became the first woman to vote in Brazil.

In 1935, the second code was promulgated through Law N° 48, which in the actual sense did not alter by any measure the postulates of the preceding law. Historians emphasize the fact that during the period between 1964 and 1985, when the Brazilian state was governed by the military regime, no legal or illegal forms of participation in important political decisions of the country occurred, principally with regards to electoral legislation. This provoked in the Brazilian society of the time sceneries of fear and repressions.

In 1964, a new period of dictatorship began. It was only in 1984 did the process of democratic transition begin, and through indirect elections, the first civil President assumes the Presidency of the Republic.

In 1988, with the promulgation of the Federal Constitution of Brazil (FCB), the then President of the Constituent Assembly, Federal Deputy Ulysses Guimarães, declared:

“The Constitution wants to change the individual to citizen ... only is a person citizen when he or she earns a just and efficient salary, reads and writes, lives [well] and has medical care with medicine, leisure when resting (WELFORT, 1992). In the face of this affirmation, the Brazilian state convokes the society to experience the expression of the participation, and by so doing construct a new path for the society. It is through the 1988 FCB that the democratic principle of the Brazilian Judicial Order in one unique paragraph of Article 1° of the 1988 Federal Constitution appears consecrated on disposing that “all powers emanate from the people that exercises it through its elected representatives in the terms of this Constitution” (BRASIL, 1992).

The new *Magna Carta* represents the attempt to create the political conditions and institutions for the society to intervene through elections and

in the established representations about the destiny of the society (MOISES, 1989).

In his works, Álvaro Moisés points to the fragility of the political transition line and the commencement of democratic consolidation, but enumerates the important aspects of the consolidation of the process:

“The removal of the authoritarian residuals; the beginning of the legal execution of political rights; and the establishment of minimum laws, agreed upon by the majority, for guaranteeing ample participation in the processes for forming the government (MOISÉS, 1989)”.

Alvaro Moisés went on to register the fact that the inauguration of the civil government was permeated by economic problems legated from the military government. He highlighted still the following problems: the external debt, the galloping inflation, the public deficit leading to the build-up of intolerable social pressures, making the process of social construction and the quality of the democratic process more difficult (op cit).

Under this context, Álvaro Moisés lists the factors that aggravate the confidence of the population in relation to politicians, representative institutions, especially, the legislature and in relation to the constituent's proper activities. As consequence, there emerges a representation crisis that does not only affect political prestige but also the expectation of the population in relation to this new social party movement (MOISES, 1989).

This lack of confidence phenomenon is being diagnosed in various moments through newspaper research that revealed in 1988, based on reports by *Folha de São Paulo Journal*, that 53% of those interviewed declared lacking or not having any information about the new Constitution; this indicates in the research sample the disinformation about the facts shaping the history of Brazilian democracy (MOISÉS, 1989).

It is worth highlighting that democracy in Brazil is driven by the principle of representative democracy that must be exercised jointly by freely elected representatives of the people and, as much as possible,

directly, by the citizens. In the history of democratization in Brazil, the State has experienced six direct elections for President, of which five of these are accompanied by legislative elections at the federal level, and for state executive and legislative positions. Apart from this, at the federal level, the country was governed by the *Partido da Social Democracia Brasileira – PSDB* (Brazilian Social Democracy Party) from 1994 to 2002 and by the *Partido dos Trabalhadores – PT* (Workers Party) from 2003 till present (2016). This representative context generates competitions between parties and can increase the awareness of popular participation.

Despite the predominant feature of democracy, the Brazilian State, at the federal sphere, has realized progressive actions to improve the life quality of the Brazilian population, thereby reducing poverty and inequality between rich and poor (RENNÓ et al, *data*)

For the fulfillment of this expectation about life quality, we emphasize that, based on relative studies, the FCB/1988, by establishing institutional reform, principally about the financing of social policies, defined a reformist agenda, characterized by a universalist conception about social rights, with the redistribution of income and democratic justice through effective public management. Hence, the mobilization of various sectors of organized society is necessary to bring together social and labour movements, Non Government Organizations, research entities and the bureaucratic sectors (SARTORI 1987).

It follows that the democratization of Brazil in the new Republic is being constructed through pillars, not only of the instruments that guarantee the execution of a pluralist agenda, but principally based on rights that edify popular sovereignty, of which has as one of the objectives the supervision of public accounts as proposed in 1988/FCB and disposed in Article 14, verses I to III:

“Popular sovereignty will be exercised by universal suffrage and by direct and secret vote having equal value to all, and, under the terms of the law, through: Plebiscite; Referendum; Popular Initiative”.

The consolidation of sovereignty over the last decades in Brazil puts us as one of the most advanced democracies in Latin America and it is in the balancing of public accounts, directly supervised by the society, that Brazil is being consolidated as a modern democratic nation.

5. 3. Means of Communication, Plural and Independent Information in Democracy

The evolution of Brazil in these areas is something remarkable, being that all the advances were made based on the precepts of the 1988/FCB that instrumentalize, through its postulates and before any other thing, the universal suffrage with direct and secret vote having equal value to all, thereby, opening up a vital space for technological modernization and confident information. Some authors in their studies define this national political moment as a majority's victory that attends to the aspirations revealed by the manifestation of the people wills to choose its leaders based on direct or indirect votes that generate trustworthy, plural and independent information.

On considering the importance of vote to generate a new democratic model, consolidator of transparency in the means of communication as provided for in the FCB/1988, through Article 14, voting turned obligatory for adults above 18 years and facultative for illiterates, elderly persons (70 years or above) and adolescents above 16 and less than 18 years (BRASIL, 1988).

The FCB/1988 yet establishes the criteria for citizens to acquire the right to be voted for, such as: Brazilian nationality; full exercise of political rights; electoral registration, electoral residence in particular geographic

area, party affiliation and minimum age of 35 years for the position of President, Vice-President and Senator; 30 years for Governor and Vice-Governor; 21 years for Federal, State and District Representatives, Local Government Chairpersons and Peace Judges; and 18 years for Councilors.

The Brazilian society since 1988 became informed about the different mechanisms of renovation and manifestation of democracy and, above all, about interactions with the various communication channels that informed the people about the benefits of Plebiscite, of which following history authors, Plebiscite “consists the consultation of public opinion for deciding political and institutional questions, not necessarily of a normative character”. The consultation is made before its legislative formulation, authorizing or not the realization of the measure in question.

The promulgation of Rule N° 9.709/90 establishes that plebiscite could deal with matters of accentuated (high) constitutional relevance, administrative or legislative, with the possibility of being used to approve or not normative acts. This instrument has been applied in the Brazilian state in January 1963 for popular manifestation concerned with the system of government (presidential or parliamentary). The outcome of the plebiscite pointed to 80% of the vote favorable to presidential system, of which despite popular will was not put in practice due to the fact that the Fundamental Reform undertaken by João Goulart prompted fear over communism and eventually a military coup followed.

In this context, the authors describe Referendum as “a consultation of public opinion for obtaining public opinion for the approval of legal or constitutional norms related to relevant public interest”. The consultation is made after approving the normative project and consequently can approve or reject it. These authors also affirm that the most significant difference between plebiscite and referendum is that in the former popular consultation is made before the law is elaborated and in the latter popular consultation is made after the law is formulated to enable its ratification

It is only in the FCB/1988 that referendum became legitimated in the Brazilian judicial framework. It is regulated by Law N° 9.709/98, together with plebiscite and popular initiative. The Means of Communication, Plural and Independent Information are different institutes in a democracy that cannot be befuddled. In a democratic environment, they constitute important modern and advanced instruments for social, political and economic development, consequently, they result to the people's wellbeing and peaceful coexistence.

6. Modes of Decentralization, Federative Pact

Professor Pinto Ferreira of the Federal University of Pernambuco defines a popular democratic initiative as a process of decentralization through which certain percentage of the electorate can propose the restructuring of changes in all constitutional or legislatives levels, under the signature mark of formal petitions that will be authorized by the Legislative Power or electorate as a whole.

In conformity with the Brazilian Federal Constitution: popular initiative is an excellent mode of decentralizing power and must be exercised by presenting to the House of Representatives legal bills minimally subscribed to by one percent of the national electorate spread across at least five federated states with no less than three decimal percent of the electorate of each of them (Art. 61, § 2º, FCB/88).

It was after ten years of promulgating the Brazilian constitution that the infraconstitutional law about the procedure for the realization of popular initiative became promulgated

Concerning this issue, the law establishes in Article 13, §§ 1st and 2nd
:
§ 1st: The popular initiative bill must be circumscribed to only one issue.

§ 2nd: The popular initiative bill cannot be rejected due to faults in its format, being the duty of the Chamber of Deputies, by its competent organ, to provide for the correction of eventual improprieties in legislative procedure or formulation.

By pointing to the judicial aspects of the applicability of popular participation, the lacunae concerning those questions that must be object of consultation are worth highlighting:

With regards to the example of this lacunae, the authors point to the 2nd Article of the 9.709/98 Law that “plebiscite and referendum are consultations formulated for the people to deliberate about matters of accentuated relevance, of a constitutional nature, legislative or administrative.”

Based on this understanding, it appears inevitable that it is the unique competence of the congress to deliberate about the significance of the expression “matter of accentuated relevance”, for being an expression loaded with subjectivism.

The authors express in their studies, and with regard to the understanding of this law, that it is the competence of the National Congress to convoke popular consultation. Apart from the fragility of this mechanism and the gap between legislation and practice, some examples are referred to by the studies, even though in a timid form and without much clarity about the significance of changes, of which constituted the highlight in the convocation of the population in 1993, during which the expected participation of Brazilians did not fully occur. As publicized by the press at the time, many Brazilians, in their act of voting, were unable to differentiate between parliamentarism and presidentialism.

With the promulgation of Law Nr. 8.930/94 that renewed the formulation of the 1st Article under Law N° 8.072/90, the list of horrendous crimes without bailing rights and devoid of pardon or clemency, was amplified to include qualified homicide.

In 1999, a legal bill was promulgated as a result of popular manifestation that came about through the campaign against electoral corruption and of which gave rise to Law N° 9.840/99, authorizing the electoral justice commission to tighten up measures against vote purchasing.

With regards to the referendum, the Brazilian state can forge a Federative Pact; however, following studies by various authors, there is yet to be in practical terms the utilization of this instrument. There is the expectation by popular movements about the utilization of this instrument with the approval of the Disarmament Code that provides for this possibility as disposed in Art. 28 of the FCB/1988:

The commercialization of fire arms and ammunitions is banned throughout the national territory, except for those entities as provided in Article 6 of the Law. As a unique Paragraph, this disposition, to become effective, will have to depend on endorsement through popular referendum, set to be realized in October 2005.

It is worth highlighting that this movement collides principally with the fragility of the judicial framework that did not provide a continuous understanding and directives with regards to this popular consultation. The listed examples, despite being timid, are salutary about the Modes of Decentralization and Federative Pacts through which the society can participate in the construction of state sovereignty and in the expression of citizenship. However, it is indispensable that on ending this historic cutout of democracy in Brazil, contextualizing it under the mechanism of popular participation of which by applying the mechanics of popular participation, the people are fomenting the consolidation of high quality democracy.

Hence, participation in political decision processes at the macro or micro levels of government is the proactive attitudes for attaining citizenship with quality of life between the people.

7. Conclusion

All the intellectual effort in this article is aimed at showing some of the advances of the quality of democracy in Brazil, made through decades with enormous sacrifice in two generations.

But the main importance of this popular undertaking rests mostly on the security of liberty and pacific coexistence of individuals and groups in a country so plural in terms of gender and race.

It is important to point-out that we chose the method of idea construction without pretensions to exhaust the topic of the study, which in turn is based on the work of renowned researchers. We verified that the construction of democracy is not a onetime process but a dynamic and evolutionary one that counts on the effective participation of diverse segments of the society.

Also, we pointed out that the Brazilian democratic process is relatively new, when compared with the era of slavery and flagrant disrespect of human rights in the various periods of the history of Brazilian State.

It is worth upholding that the democratic construction of the Brazilian state has as its principal actors political parties, labour unions, political associations, grass root communities and the free press that coordinates and expresses popular sentiments in terms of its desires, thereby sustaining representative democracy and popular participation.

The history of democracy in the world and in the Brazilian State depicts representative democracy as a government model that best represents the people's desire; however, in practice, this type of democracy

has not been as responsive as expected due to lack of confidence in its original conception, in Brazil and in the world.

We perceive through the pertinent literature about this theme that the Brazilian State still coexists with the sad reality of perennial poverty that serves patronage and clientele interests, through which the people are induced to exchange their votes for money. Hence, politics as power relations is reduced to bargains with the people who are coerced to remain silent amid threats by political strongmen.

This distortion observable in the different sceneries of social representations disavows the sovereign nature of public policies and impedes the improvement in the quality of life of certain segments of the society.

This scenery interferes directly in governability and provokes discontinuity in the process of building citizenship, principally of those marginalized or less favored segments of the society. Following Leonardo Molino:

Finally, a reflection about the enunciated central conditions shows that, to effectively realize those conditions, it is necessary to have a democratic civil society that is participative and endowed with cultural and economic conditions. This same civil society, without obstacles, can feel weakened by the phenomenon of immigration and consecutive presence of cultures profoundly distinct, of which can lead in turn to the emergence of impulses and demands for self protection that limits the rights of non citizens, this way investing also in the substantive demands of democratic quality.

The Brazilian society knows little or nothing about the mechanisms of popular participation such as constitutional rights. Possibly, this derives from deficiencies in educational knowledge that continue as one of the great sources of dissatisfaction in the development of the Brazilian state.

We believe that it is only by inaugurating public policies accessible and benefic to all social segments, with education constituting the basics for democratic practices, that it will be possible to contemplate the provisions of the 1988 Federal Constitution of Brazil; making it possible to fulfill its basic postulates: the sovereign obligations of the State and the rights to popular participation.

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