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Delegative Democracy Revisited

BRAZIL'S ACCOUNTABILITY PARADOX

Frances Hagopian

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In 1992, Fernando Collor de Mello resigned the presidency of Brazil to escape impeachment proceedings. Over the next two decades, Brazilian democracy grew stronger. Even as nearby countries were sacrificing either the liberal institutions of horizontal accountability or inclusive social policies, Brazil bolstered those institutions while also shrinking poverty, expanding services, and widening the social safety net. It did all this, moreover, without giving way to fiscal irresponsibility. The party system became more stable, with lower rates of electoral volatility and two anchor parties alternating in the presidency.

At the time of this writing in May 2016, however, that hopeful storyline has changed, and not for the better. A new impeachment crisis has gripped Brazil. President Dilma Rousseff has been suspended from office while she undergoes trial in the Senate. Angry crowds of demonstrators for and against her gather in city streets around the country, while the economy staggers under the weight of falling commodities prices and a yawning budget deficit, and the political class has been gravely wounded by its role in the massive Petrolão or Lava Jato (Car Wash) money-laundering scandal that has engulfed the country's largest enterprise (the parastatal oil giant Petrobras) and a number of big construction firms.¹

In one sense, the crisis is not a shock. After a long period of economic growth, Brazil is experiencing the most severe recession it has seen in decades. Job losses are widespread, and criminal investigations are revealing in infuriating detail how public officials—including members of Rousseff's own Workers' Party (PT), acting not merely for personal gain but on behalf of their party—had been rigging contracts to steal billions from a key source of national wealth. The scale of public outrage and mobilization is reminiscent of the end of the Collor presidency.

In another sense, however, the current crisis is different. The case against Collor was overwhelming: His own brother testified to the president's malfeasance. Rouseff, by contrast, has not been personally tied to corruption, and the case against her turns on a technical infraction of the Fiscal Responsibility Law. Even some of her opponents reluctantly admit that the case is not convincing. While it is hard to dismiss the political ambitions of her foes, who have lost four presidential elections in a row, as a factor, it is also true that two-thirds of the Brazilian public favors impeachment. Why are voters ready to see the ouster of a president to whom they gave a second term just two years ago? Why, given Brazil's great strides in building a more inclusive democracy buttressed by stronger institutions of horizontal accountability—which have been key to exposing the Petrobras scandal—are we witnessing such political turmoil? What underlies the current crisis?

The answer is that stronger horizontal accountability institutions and an expanded citizenship have paradoxically eroded the bonds of vertical accountability. Brazil's recent achievements in empowering accountability institutions and enforcement agencies and broadening sociopolitical inclusion have generated demands for political representation that the existing party system has not been able to meet. The work of judicial institutions now throws corruption (hardly a new phenomenon) into starker relief. At the same time, the stabilization of the economy and the expansion of access to social services and income support have made citizens less reliant on patronage and more demanding of local and national governments. Parties' older, patronage-based ties to voters have frayed, and parties now depend for their success on what political scientists call "valence voting." This term denotes voters deciding how to cast their ballots by making overall assessments of which parties deserve credit or blame for good and bad policy results, or which are most likely to bring about good government performance in the future on issues on which most people agree.

When times were good, the rise of valence voting alongside shallow partisanship was manageable. But hard times have laid bare problems. The yawning gap between institutional and policy success and the weakness of Brazil's institutional channels for representing various interests have left parties vulnerable in the face of public impatience with corruption, poor public-service provision, and the economic crisis. The parties' failure sparked two episodes of mass mobilization and protest over the last three years, and it has now landed the country in the most acute political crisis of democracy that it has seen in a quarter-century.

From Delegative to Liberal Democracy

Alberto Fujimori and Boris Yeltsin bothered Guillermo O'Donnell. He especially objected to the disturbing freedom from accountability that the Peruvian and Russian chief executives claimed in the early

1990s. Pursuing their own agendas, they circumvented or overrode their respective countries' legislatures—Fujimori closed Peru's Congress in 1992, while Yeltsin sent tanks to shell the Russian parliament in 1993—saying that voters had given them broad mandates to meet national emergencies. In O'Donnell's view, such cases of expansive presidential power resulted from the weakness of liberal institutions.²

Although O'Donnell cited Brazil as one of his original examples of delegative democracy, it was an ambiguous case. The label seemed more apt for his native Argentina. There, in 1989, the Congress had passed two extraordinary acts—the State Reform Law and the Economic Emergency Law—that literally “delegated” (handed over) to the president a host of powers to deal with the economic crisis that was then gripping the country. Newly elected president Carlos Saúl Menem was able to privatize state-owned enterprises and end subsidies without having to secure prior legislative approval. In Brazil, by contrast, major policy changes required arduous negotiations in Congress even though Collor used his constitutional decree powers as freely as he could.

The period of apparent presidential usurpation, moreover, was brief in Brazil. The legislative and judicial branches can and do check and balance executive power. Congress negotiates with the executive.³ In 2001, legislators even managed to place restrictions on presidential-decree laws.⁴ Courts have been active to the point of overturning major changes to election laws and the pension system while upholding civil unions and affirmative-action policies. Relatively autonomous institutions such as the Public Ministry (or MP, as the public prosecutors' office is called) are empowered to root out abuses, including political corruption. The MP has the budget, the staff, and the freedom of action to make its undertakings stick. The powers of prosecutors and judges grew in 2013, when a new act of Congress (Law 18.250) authorized them to offer plea bargains to potential witnesses in corruption cases.

Not only have Brazilian executives not encroached on the proper authority of other state institutions, but more remarkably still, the state's accountability-enforcement institutions have been actively investigating and prosecuting corruption. Though it took years, the main protagonists of the Mensalão (monthly congressional payoff) scandal—José Genoino and José Dirceu—eventually landed in jail. And the prosecutors who have been running the massive Operation Car Wash investigations have moved with impressive speed and tenacity: To date, 179 indictments have resulted in 93 convictions, and the Supreme Court has authorized the investigation of 48 current and former members of Congress. It is worth recalling, however, that the best horizontal-accountability institutions do not merely react to misdeeds but also *deter* them. For all their efficiency after the fact, Brazil's integrity-enforcement institutions did not prevent the gigantic corruption scheme whose repercussions are now turning the country upside down.

Moreover, when O'Donnell wrote of delegative democracy, he was not thinking solely of relations among branches of the state. He also had in mind situations in which flagging representative institutions opened the door to presidents making populist appeals. If the links between the citizens of a country and those who are supposed to represent them grow too weak, he warned, sooner or later a president will use this weakness to run roughshod over Congress, the courts, and other state institutions. What has become apparent of late is that Brazil's institutions of representation were not as strong as they appeared.

Social Inclusion and Citizenship

Brazil was long one of Latin America's worst cases of a country with "differentiated citizenship."⁵ Only half the adult population had a signed work card that made possible access to health care, pensions, and even protection from arbitrary arrest. In recent years, tens of millions of Brazilians have acquired, for the first time ever, meaningful opportunities to take part in national political, social, and economic life. In the first decade of democratic governance after the end of military rule in the mid-1980s, people who could not read finally won the franchise, but little else changed. A national healthcare system went essentially unfunded, pension benefits for noncontributors were minimal, and even as late as 2000, 17 percent of Brazilians were illiterate and only three in five had completed primary school.

In democracy's second decade, however, a fundamental shift took place. The Real Plan that stabilized the economy in 1994, plus state reforms undertaken in the aftermath of the 1997 Asian financial crisis, laid the basis for economic growth that would drive household incomes up and inequality down. Brazil's Gini coefficient (a number between 1 and zero, with 1 representing the most unequal distribution of income possible) fell from a high of .64 in 1989 to .54 in 2008. Near the end of President Fernando Henrique Cardoso's first term in 1998, hard-won reforms of the state's fiscal obligations made possible the expansion of health and old-age insurance during his second mandate. When Luiz Inácio "Lula" da Silva of the PT was elected president in 2002, his administration set about dramatically broadening social protection and distributive reform, reinforcing a safety net that increasingly covered the unemployed, the sick, and the elderly.

Given where Brazil started, its progress has been breathtaking. Poverty reduction has been rapid, secondary-school enrollment today is nearly universal, and a network of clinics and community health workers delivers primary care to underserved populations; more than 90 percent of those who seek treatment receive it.⁶ Thanks to noncontributory benefits, moreover, pensions are now available to most elderly Brazilians—as of 2006, more than 85 percent of people over 65 had been included.⁷ This is

the highest rate of pension coverage anywhere in Latin America outside Uruguay. Similarly, only Uruguay spends more of its GDP on social insurance, social assistance, and education and health care than does Brazil.⁸

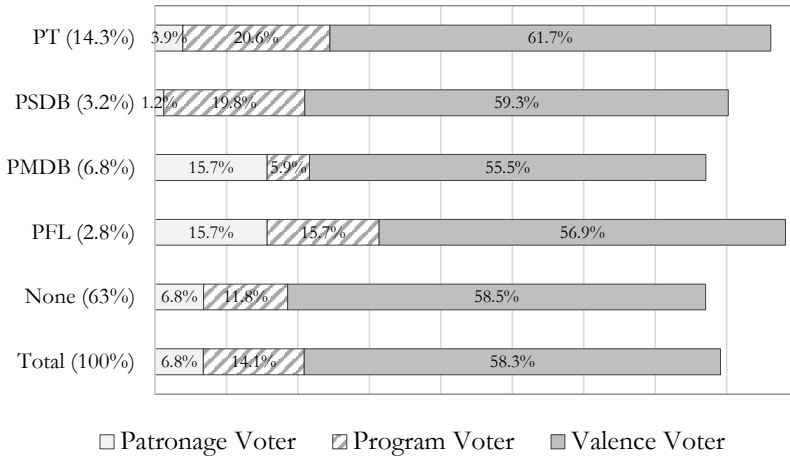
Patronage-reducing reforms helped to transform the nature of the Brazilian electorate. With universal benefits on tap, poor citizens had less need for the political machines that had long used control over state favors to buy votes.

These impressive results came at least in part from the decision of governments beginning in the mid-1990s to enhance social and welfare spending. But perhaps the most radical thing about the reforms—especially in the areas of health and education—was that they attached to federal transfers conditions that limited the ability of local politicians to squander the new funding. Education reform used actual enrollment (not school-age population) as the basis for calculating federal funds, and stipulated

that most of those funds should be spent on teachers, not patronage appointments. Constitutional Amendment 29, passed in 2000, mandated that states and municipalities would have to spend fixed portions of their revenues (12 and 15 percent, respectively) on health care.

The signature reforms that took place under Cardoso's Brazilian Social Democracy Party (PSDB)—including the privatization of certain large state-run enterprises—reduced the supply of traditional patronage, while the PT's expanded social programs sharply suppressed the demand for it. With the federal government giving conditional cash assistance directly to millions of poor families under tight enrollment rules and with improved transparency, people had less need to turn to politicians in order to get public benefits, and politicians had less leeway to tamper. The reforms had, in effect, cut the party-political middlemen out of a large realm of welfare and social-service provision.

These patronage-reducing reforms were important not only as stunning policy successes, but also because they helped to transform the nature of the Brazilian electorate. With universal benefits now on tap, poor citizens had less need for the political machines that had long used control over state favors to buy votes.⁹ Outright trafficking in voters' loyalties became rare, and even in the impoverished northeastern states the backs of the traditional machines were broken. What took the place of traditional clientelism? An analysis of the 2002 Brazilian National Election Study suggests that nearly three-fifths of the electorate became valence voters. In the cases of both the PT and the PSDB, a fifth of each party's self-identified backers said that their support was motivated by the party's program. By contrast, comparable shares of those who supported the Party of the Brazilian Democratic Movement (PMDB) and

FIGURE—PATRONAGE, PROGRAM, AND VALENCE VOTING IN BRAZIL, 2002

Source: Brazilian National Election Study, 2002.

Notes: Patronage voters vote for candidates in exchange for expected benefits; program voters vote in support of the ideas and policies that parties propose; valence voters vote on the basis of their assessments of which party deserves credit or blame for policy results or is most likely to bring about good government performance in the future.

Typologies of patronage voters and program voters are based on a factor analysis of six survey items. Program voters are interested in politics, regularly keep updated on politicians' activities, and consider a party's program to be one of the two weightiest things to consider in choosing a party to support. Patronage voters find it acceptable to cast a ballot for a candidate in exchange for material benefits such as food, building materials, or a wheelchair for a family member who cannot walk.

Figures in parentheses indicate voter self-identification.

Columns do not sum to 100 percent because partisans of other parties (9.9 percent of the total) are not included in the analysis.

Rows do not sum to 100 percent because voters who could not clearly be classified as program, patronage, or valence voters were omitted from the Figure.

the Party of the Liberal Front (PFL, now known as the Democrats) still sought patronage rewards. But more surprisingly, PT partisans were as inclined to reward policy performance as the nonaligned (see Figure).¹⁰ In this new political world, political parties earned credibility through governance.

These reforms of the last few decades have transformed Brazil. Democracy is more inclusive and participatory than ever before. Across the vast country, thousands of local councils deliberate on matters of local infrastructure spending, debate and inform healthcare policy, and can veto proposed land use. Brazilians sign petitions, participate in their communities, work on political campaigns, and attend neighborhood-association and party meetings at rates that are comparable to those found in Germany.¹¹

Citizen initiatives have also improved the integrity of the electoral process. In 1999, the Movement to Combat Electoral Corruption mobi-

lized more than fifty groups to pass a law that strips vote-buyers of their mandates. Eleven years after that came the Clean Record Law, which bans a politician convicted of corruption from again standing for office for eight years. Through social mobilization and state action, social rights and economic opportunities were extended to women, Brazilians of African descent, and the disabled. Quota laws have opened places in some government ministries and in federal universities for graduates of public high schools and Afro-Brazilians in proportion to their numbers in a state, and an antidiscrimination statute has tackled the subtler forms of social exclusion in Brazil.

Political inclusion also deepened support for and enhanced the legitimacy of political institutions. In the 2006 Latinobarómetro survey, 65 percent of respondents expressed some or a lot of confidence in the electoral court—the third-highest such figure in Latin America. In the 2001 survey, 71 percent agreed that “parties are necessary” (the second-highest in Latin America).¹² In the 2012 Americas Barometer survey, 87 and 85 percent of respondents, respectively, disagreed that it is justifiable for the president to shut down and govern without the Supreme Court or Congress—the primary institutions of horizontal accountability—when the country is facing hard times.¹³

In sum, as of 2012 Brazilian democracy had never looked stronger. Economic stability and social inclusion had laid the foundations for a more participatory and democratic political culture, stronger citizen attachment to the key institutions of liberal constitutionalism, and greater stability in the party system. Stronger parties ran on clear platforms with less reliance on clientelism, while a more sophisticated electorate made its choices based on parties’ ideas and performance. What went wrong?

The Broken Link of Vertical Accountability

Until 2013, Brazil’s party system looked—superficially at least—as if it had become more “institutionalized.” Although fragmented, it boasted stability in voting patterns and in the limited roster of parties that formed national governments. Yet as experts have insisted, this institutionalization was “uneven” and “thin,” and though parties contested policies, they lacked firm roots among voters.¹⁴ Scholars were not alarmed by this, however, because they saw in this pattern a way for presidents to mobilize congressional support among legislators unfettered by electoral commitments.

The first hints of brewing crisis came in June 2013. That month, São Paulo saw protests against a modest bus-fare hike. These soon mushroomed into an outpouring of grievances that brought millions into the streets across Brazil. Popular impatience with the low quality of public services in transport, policing, health, and education wore thin as public outrage with corrupt politicians exploded. The perception that high-

level Mensalão defendants had enjoyed impunity drove the defeat of PEC 37—a proposed constitutional amendment that would have curbed state prosecutors’ ability to investigate corruption.

Even in hard times, and with popular anger at the political class threatening to boil over, Brazilians find their democracy worth taking part in, and respect the institutions that safeguard it.

Despite the rise in program voting, most citizens still worried more about economic stability, public-service delivery, and social inclusion than ideology. As former president Cardoso has observed, they were turning out in the streets not on behalf of parties, but “on their own.”¹⁵ The electorate’s overall partisan-identification rate, after hovering for fifteen years around 50 percent, fell to half that number in 2015. The most serious losses were suffered by the PT.

Between 2013 and 2015, its self-identified partisans went from 31 percent of the electorate to just 12 percent.¹⁶

The crisis of representation that hit Brazil took scholars and political professionals by surprise, and has left them struggling to explain why and how party-to-voter linkages could have crumbled so fast and to such a great extent. The sharp drop-off in partisan identification came before the Car Wash scandal broke, so outrage at corruption cannot by itself be the cause. The blurring of programmatic differentiation among major parties does not seem to be the reason, either—that process had been ongoing since 2006.¹⁷

The timing of the early signs of crisis suggests that faulty government performance lies at the root of the turmoil. Valence voting gave huge opportunities to parties that did not dole out patronage—especially the PT and the PSDB—but it also raised the bar for their performance in office. With partisan identification so shallow, parties lacked insulation from their policy failures. Once citizens lost faith in “their” respective parties to represent them, they became likely to judge governmental performance as a whole more harshly.¹⁸ And so the model of representation—in which the governing party is held accountable not for implementing the policies that they propose, but for the “big picture” of growth, inflation, and service delivery, even when those things are beyond the party’s control—fell into crisis.

Brazil is experiencing a crisis whose root causes are political. A normal economic downturn—brought on by China’s economic slowdown and the Rousseff administration’s failure to respond quickly to rising inflation while distracted by reelection worries—has flared into something much greater. The proximate cause, noted by Marcus André Melo, may have been a tug of war between Rousseff and an opposition congressional faction that proved capable of disrupting the administration’s

delicate multiparty coalition.¹⁹ At a deeper level, however, the bonds of vertical accountability were more tenuous than they appeared. Placed under stress, the mechanisms of representative democracy gave out.

We can draw some important lessons from the Brazilian case. Fulfilling O'Donnell's aspirations, there was no trade-off between social inclusion and horizontal accountability. Brazil advanced social inclusion as dramatically as Bolivia, Ecuador, and Peru, and all the while Brazilian accountability institutions grew stronger and gained public support. Rousseff's allies have criticized leading prosecutors of late for press leaks and alleged "selective prosecutions," but most Brazilians still view these officials favorably, as foes of corrupt politicians rather than of majority rule.

Contrary to O'Donnell's fears, the current weakness of vertical accountability has neither given rise to a new populism nor led to a rerun of delegative democracy. Nor is it likely—given the current expectations of the Brazilian electorate—that Brazil's parties will return any time soon to the game of vying for poor citizens' votes by selectively distributing benefits, as their counterparts did in Chile for two decades, at a high cost to the quality of political representation in that country.

The protests of recent years in Brazil are a sobering reminder that democracies need representative institutions to reach citizens, to express their aspirations, and to translate their preferences into effective governing solutions. But the protests also offer a ray of hope: Even in hard times, and with popular anger at the political class threatening to boil over, Brazilians find their democracy worth taking part in, and respect the institutions that safeguard it. As Brazil looks forward, the onus is on its political parties to repair their broken links of vertical accountability.

NOTES

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2. Guillermo O'Donnell, "Delegative Democracy," *Journal of Democracy* 5 (January 1994): 55–69.

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6. By 2008, 68 percent of the total population (a figure that included 60 percent of those in the lowest income quintile) reported having seen a doctor in the last year (the same percentage as in the United States). From 1998 to 2008, the population served by community health workers doubled from 30 to 61 percent. Jairnilson Paim et al., “The Brazilian Health System: History, Advances, and Challenges,” *Lancet*, 21 May 2011, 1780–82.

7. Rafael Rofman, Leonardo Lucchetti, and Guzmán Ourens, “Pension Systems in Latin America: Concepts and Measurements of Coverage,” World Bank SP Discussion Paper No. 0616, October 2008, 17.

8. By 2005, Brazil was spending 16 percent of its GDP on social insurance, social assistance, health, and education. This was just shy of the 16.2 percent regional benchmark set by Uruguay. James W. McGuire, “Social Policies in Latin America: Causes, Characteristics, and Consequences,” in Peter Kingstone and Deborah J. Yashar, eds., *Routledge Handbook of Latin American Politics* (New York: Routledge, 2012), 201. By 2008, public spending on health and education was exceeding the OECD average.

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10. Another study based on 2002 surveys in the cities of Caxias do Sul and Juiz de Fora found that voters backed candidates for president and governor based on issues such as privatization and land reform, but in congressional races chose politicians who had delivered hospitals, schools, bridges, and roads to their districts, or who seemed likely to do so. Barry Ames, Andy Baker, and Lucio R. Rennó, “The ‘Quality’ of Elections in Brazil: Policy, Performance, Pageantry, or Pork?” in Peter R. Kingstone and Timothy J. Power, eds., *Democratic Brazil Revisited* (Pittsburgh: University of Pittsburgh Press, 2008), 107–33.

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17. Andrei Roman, “Protest Escalation,” (PhD diss., Harvard University, in progress).

18. Zucco, “Estabilidad sin Raíces,” 9–10.

19. Melo, “Crisis and Integrity in Brazil,” 53, 57.