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Presidents and the multiparty system in Brazil: is coalitional presidentialism doomed to fail? President Dilma Rousseff's constitutional occupational accident and new challenges under Bolsonaro's government

Presidentes e o sistema multipartidário no Brasil: o presidencialismo de coalisão está condenado ao fracasso? O acidente constitucional de trabalho da Presidente Dilma Rousseff e os novos desafios sob o governo Bolsonaro

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Abstract: Taking as central threads the impeachment of President Dilma Rousseff in August 2016 and Jair Bolsonaro's presidency so far, the article analyses and assesses the Brazilian institutional design in the light of Juan Linz's assumption that presidential regimes with multiple parties are a fatal combination. The recent impeachment episodes might be viewed as evidence to that effect. The institutional set-up of the Brazilian constitutional and political system seems to result – as Linz predicted – in a biased use of the traditional political machinery which exists in multiparty presidentialism. But is it actually the set-up itself that is the trigger, or do the political dynamics and the actors involved in this set-up undermine the system? Considering more recent theories, this article takes a more encompassing view of Brazilian *coalitional presidentialism* and its overall resilience. Adopting a broader framework for our analysis, we distinguish between endemic, structural and non-structural deficits in the presidential and multiparty system in Brazil in relation to the operation of impeachment procedures. This helps us to identify the overall value and effect of constitutional corrective mechanisms and practices which try to address the problems of multiparty presidentialism in Brazil and sheds, we believe, a somewhat more optimistic light on the development of democracy in Brazil.

Keywords: Presidentialism. Multiparty system. Coalitional presidentialism. Impeachment. Brazil.

Resumo: Tomando como ponto de partida o *impeachment* da Presidente Dilma Rousseff em agosto de 2016 e o governo de Jair Bolsonaro até finais de 2020, o artigo analisa e avalia o desenho institucional brasileiro à luz da suposição elaborada por Juan Linz, segundo a qual regimes presidenciais com múltiplos partidos são uma combinação fatal. Os episódios recentes de *impeachment* podem ser vistos como comprovação desta suposição. A configuração institucional dos sistemas constitucional e político brasileiros parece resultar – como previu Linz – no uso tendencioso do maquinário político tradicional existente no presidencialismo multipartidário. Mas o gatilho para a suposta combinação fatal é essa configuração ou a dinâmica política estabelecida entre os atores envolvidos? Considerando teorias mais recentes, o artigo apresenta uma visão mais abrangente do presidencialismo de coalisão brasileiro e de sua resiliência geral. Adotando um enquadramento mais amplo para a análise, e tendo como referência os processos de *impeachment*, distinguem-se déficits endêmicos, estruturais e não estruturais do sistema presidencialista e multipartidário no Brasil. Esse enquadramento auxilia a identificação de mecanismos e práticas constitucionais corretivas voltados ao enfrentamento dos problemas do presidencialismo multipartidário brasileiro, bem como lança uma luz mais otimista sobre o desenvolvimento da democracia no Brasil.

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Palavras-chave: Presidencialismo. Sistema multipartidário. Presidencialismo de coalisão. Impeachment. Brasil.

Summary: 1 Overture – 2 Preliminary risk assessment of political institutions: is the Brazilian presidential system flawed? – 3 Presidential regimes through the lens of Juan Linz – 4 Brazilian presidentialism: a brief outline – 5 The impeachment of Dilma Rousseff – 6 Being aware of hasty conclusions: coalitional presidentialism – 7 The government of Jair Bolsonaro: an actual challenge to coalitional presidentialism? – 8 Conclusion: is coalitional presidentialism inherently impossible? – References

1 Overture

The impeachment of President Dilma Rousseff in August 2016, the second procedure of this type under the present Brazilian Constitution, reignited the debate on elements of constitutional engineering.¹ The ongoing political crisis faced by president Jair Bolsonaro seems to be yet another indication of flaws in the institutional set-up. Do these events prove, as Juan Linz predicted in 1990,² that presidential regimes with multiparty democracies are ill-fated in the long term? Are there inherent problems with this specific type of institutional design? Or are these events merely incidents in the dynamics of a political system trying to address the interaction between its institutions, their conjunctural challenges and their functioning?

The main aim of this article is to analyze and discuss the first hypothesis – the inherent flaws of multiparty presidentialism – by taking the recent impeachment of Dilma Rousseff as a central thread. We will essentially argue that although this episode does not seem to reflect favorably on multiparty presidentialism, it does not allow us to jump to any far-reaching conclusions. This impeachment case is a sharp reminder that (local) context matters and emphasizes the need to distinguish between conjunctural and structural elements. Though recognizing that some of the issues analyzed may be attributed to the institutional set-up of the Brazilian presidential system, this does not mean that the “recipe” as such is flawed; especially when considered against the backdrop of the apparent resilience of coalitional multiparty presidentialism in South America and other political systems around the world.³

To achieve a broader analysis, we will address President Bolsonaro’s government so far.⁴ Elected as “an outsider fighting against the establishment and the corrupted system”, Bolsonaro, who commenced his governing term by challenging the coalitional

¹ Limongi and others also recognize the importance of reopening this debate, see LIMONGI, Fernando; GUARNIERI, Fernando; FREITAS, Andréia. *The Presidentialization and Parliamentarization of Politics in Brazil: from Collor to Dilma*. *European Consortium for Political Research*, Colchester, 2015 (available at <https://ecpr.eu/Filestore/PaperProposal/cc27d5c6-8b4c-4148-8a61-178e23e0b031.pdf>).

² See LINZ, Juan, *The Perils of Presidentialism*. *Journal of Democracy*, Baltimore, n. 1, pp. 51–69, 1990.

³ For a similar statement on the historically contingent problems, see HOCHSTETLER, Kathryn; SAMUELS, David. *Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America*. *Comparative Politics*, New York, January, v. 43, n. 2, pp. 127-145, 2011.

⁴ The present article was concluded in December 2020.

presidentialism machinery, is being forced to change his strategy. This presents relevant material to approach the resilience of coalition presidentialism referred above.

Departing from these recent political incidents, we attempt to examine this institutional design and seek constitutional corrective mechanisms that might enable a more adequate functioning of multiparty presidentialism in Brazil. Our inquiry, focusing on Brazil, may provide significant clues for further research on this kind of political system, especially in identifying its possible positive contributions to governability and democracy. In other words: is coalitional presidentialism actually feasible?

2 Preliminary risk assessment of political institutions: is the Brazilian presidential system flawed?

The recent Brazilian impeachment drama raises questions that are commonly referred to as issues of constitutional or institutional engineering, the field of constitutional design.⁵ This approach is all about applying politico-logical and scientific insights concerning the scope and consequences of institutions⁶ (for example, presidentialism or parliamentarianism, constitutional review, authoritarian or democratic governance, proportional representation, coalition democracy etc.) when establishing such institutions.⁷ In short: which institutions arise from constitutional design and what works best?

This is currently a global issue: in the past 50 years, the number of independent States in the world has doubled; 55% of all constitutions date from after 1975.⁸ Half the world is literally “experimenting” with new constitutional and political systems in countries where, unlike the Netherlands, it is not possible, or at least less possible, to fall back on centuries of ingrained traditions. Taking this kind of engineering or design approach, what can we learn from the Brazilian impeachment episodes?

Two impeachment requests were formally admitted by the Chamber of Deputies under the current Brazilian Constitution and evolved within the Parliament.⁹ In 1992,

⁵ A great deal has been written about it. See e.g. SOUZA, Celina. *Constitutional Engineering in Brazil: The Politics of Federalism and Decentralization*. MacMillan Palgrave, 2014.

⁶ Used here in the social science meaning of the word, where institution means something like what Samuel Huntington referred to as a recurrent pattern of behavior. (Citing “stable, valued, recurring patterns of behavior”, in HUNTINGTON, S.P. *Political Order in Changing Societies*. New Haven: Yale University Press, 1973, p. 12).

⁷ See, for a few major works (and schools) in this area, e.g. LIJPHART, Arend, *Constitutional Design for Divided Societies*. *Journal of Democracy*, Baltimore, v. 15, 2, pp. 96-109, 2004. See also HOROWITZ, Donald L. *Conciliatory Institutions and Constitutional Processes in Post-Conflict States*. *William and Mary Law Review*, Williamsburg, v. 49, 4, 2008, pp. 1217-1219.

⁸ On this phenomenon, the spread of establishing and adopting constitutions worldwide, see VOERMANS, Wim. *Het verhaal van de grondwet: zoeken naar ons*. Amsterdam: Prometheus, 2019, especially pp. 20-24.

⁹ In fact, dozens of impeachment requests have been received by the Parliament under the 1988 Brazilian Constitution. However, the vast majority of them were not even accepted by the Speaker of the House. In

President Collor de Mello was suspended from office due to suspicion of involvement in a corruption scandal and subsequently resigned. This led to a debate about the purpose of a constitutional impeachment procedure and when it can be applied.¹⁰ That event apparently showed that the hurdle needed to be taken on the road to impeachment was not very high, and that impeachment could turn into a strictly political issue. The “over-politicization” of an impeachment procedure can seriously distort the balance of power in a presidential system which has a strong division of powers.¹¹ This kind of politicization, however, seems to be a trend that was set in motion in Brazil from the very start of this constitutional era.

The constitutional design might have allowed for biased politicization of impeachment procedures to develop. Does this mean the design is at fault? Not necessarily. The constitution sets out the rules, but the political actors set out how these rules are interpreted and consequently applied in a political, social, and economic context. When a new constitution is adopted and impeachment is immediately filed, this may lower the bar for initiating new impeachment procedures which are strictly politically motivated. In the case of Brazil, this institution (in the social science sense of the word) is even more powerful because the constitutional regime is young, without enough time for other institutions to develop in order to counterbalance the inadequate politicization of impeachment procedures.

From another perspective, one could also see in this episode – an impeachment process in 1992, considering the enactment of the Constitution in 1988 – a reaction of the “young” institutions profiting from the constitutional design in order to defend this very design and the legal democratic order. One might regard the system at play, experimenting with the checks and balances the new constitution carefully built

2017, President Mr. Michel Temer faced a formal procedure, but the request was rejected by the Chamber of Deputies. See AMAR, Vikram David, What We Could Learn from Brazil (and Vice Versa) About Presidential Impeachment Procedures (and Related Matters). *VERDICT* (April 22, 2016) (available at <https://verdict.justia.com/2016/04/22/what-we-could-learn-from-brazil-and-vice-versa-about-presidential-impeachment-procedures-and-related-matters>).

¹⁰ See ROSENN, Keith S. & DOWNES, Richard (eds.). *Corruption and Political Reform in Brazil: The Impact of Collor's Impeachment*. North South Center Press; Miami 1999 (see in particular Chapter 4 written by Fábio Konder Comparato). See also GERHARDT, MJ. Lessons of Impeachment History. The Constitutional Limits to Impeachment and Its Alternatives. *George Washington Law Review*, Washington, pp. 603-625, 1999; LEE, Youngjae. Law, Politics, and Impeachment: The Impeachment of Roh Moo-hyun from a Comparative Constitutional Perspective. *The American Journal of Comparative Law*, Oxford, v. 53, 2, pp. 403-432, 2005 (available at <https://doi.org/10.1093/ajcl/53.2.403>). See also, discussing the subject from various perspectives in the Brazilian context: GALUPPO, Marcelo Campos. *Impeachment: o que é, como se processa e por que se faz. (Impeachment: what is it, how do we process it, why do we do it)* Belo Horizonte: D'Plácido, 2016, especially pp. 37-43; DIREITO, Carlos Alberto Menezes. A disciplina jurídica do Impeachment. *BDJur*, Brasília, DF, 2011 (Available at: <http://bdjur.stj.gov.br/dspace/handle/2011/9109>).

¹¹ See also, in this regard, the classical study of Raoul Berger (on the US): BERGER, Raoul. *Impeachment: The Constitutional Problems*. Cambridge: Harvard University Press, 1973. In the case of impeachment, Berger puts forward that it should – as originally intended – be limited to criminal law offenses and only applied as a means of last resort (p. 5 and pp. 297-301).

and presented, especially in the political field inhabited by the executive and the legislature. Starting from this perspective, it does not seem possible to label the impeachments of Collor¹² and Dilma within the same category of “strictly politicized procedures” meaning negatively biased procedures. In contrast to Dilma, Collor was accused of being personally involved in corruption.¹³ In addition, Collor’s impeachment did not result in political unrest or instability. The vice president who assumed office, Itamar Franco, was followed by Fernando Henrique Cardoso, the “economy minister” (*Ministro da Fazenda*) who idealized and implemented “Plano Real” and brought about significant improvements in the Brazilian political and economic situation.¹⁴

This reasoning leads us to inquire: have the institutional flaws attributed to multiparty presidentialism ultimately distorted the constitutional goal of the impeachment procedure in Brazil, turning it into a biased and purely political weapon, or is there still room for alternative developments? Two significant questions are intertwined here. The first, mentioned above, concerns the institutional design of Brazilian presidentialism combined with a multiparty system: is it a fatal fate or an inevitable fate claiming to be managed? The second relates to the role and the purpose the constitution conferred on impeachment – is it a strictly legal institute or a legal-political instrument which plays a part in the equilibrium between the branches of the multiparty presidentialism?

In considering these questions, it is important to present Juan Linz’s conception of presidentialism.

¹² Collor’s impeachment process will not be examined here. There were certainly political issues added to his personal style and many other factors; the context was in many ways different from what Dilma faced. For an interesting analysis of Collor’s impeachment, see FIGUEIREDO, Argelina Cheibub. The Collor Impeachment and Presidential Government in Brazil. In: LLANOS, M., MARSTEINTREDET, L. (eds.). *Presidential Breakdowns in Latin America*. Palgrave Macmillan: New York, 2010, pp. 111-127. See also, among others and referring extensive literature, SALLUM JR., Brasílio, CASARÕES, Guilherme Stolle Paixão. O impeachment do presidente Collor: a literatura e o processo. *Lua Nova*, São Paulo, n.82, pp.163-200, 2011 (available at http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0102-64452011000100008&lng=en&nrm=iso); RATTINGER, Alexandra. The Impeachment Process of Brazil. *The University of Miami Inter-American Law Review*, Miami, v. 49, n. 1, pp. 129-166, 2018 (available at <https://www.jstor.org/stable/10.2307/26788345>). For an interesting analysis involving Collor’s impeachment and arguing more than confrontation is needed, see LIMONGI, Fernando; GUARNIERI, Fernando; FREITAS, Andréia. The Presidentialization and Parliamentarization of Politics in Brazil: from Collor to Dilma. *European Consortium for Political Research*, Colchester, 2015 (available at <https://ecpr.eu/Filestore/PaperProposal/cc27d5c6-8b4c-4148-8a61-178e23e0b031.pdf>).

¹³ For a comparison between the two impeachment procedures which occurred in Brazil and also a comparison between the Brazilian and the North American models, referring to extensive literature, see RATTINGER, Alexandra. The Impeachment Process of Brazil. *The University of Miami Inter-American Law Review*, Miami, v. 49, n. 1, pp. 129-166, 2018 (available at <https://www.jstor.org/stable/10.2307/26788345>).

¹⁴ For an interesting analysis, quoting relevant literature, see WEILAND, Kurt. The Brazilian state in the new democracy, *Journal of Interamerican Studies and World Affairs*, Cambridge, v. 39, n. 4, pp. 63-94, 1997-1998 (available at <http://biblioteca.clacso.edu.ar/ar/libros/lasa97/weiland.pdf>); HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York. January, v. 43, n. 2, pp. 127-145, 2011.

3 Presidential regimes through the lens of Juan Linz

Following the example of the United States, according to Fix-Fierro and Salazar-Ugarte, many countries in Latin America in the nineteenth century opted for a presidential model when setting up a system of government.¹⁵ After the period of decolonization that occurred throughout the 1950s and 1960s in many other quadrants and later following the fall of the Berlin Wall, many new States and democracies also followed that example.

In theory, presidential systems have good qualifications when it comes to their chances for political stability. A strong executive with its own mandate would be good for the balance between the administration and the political and legislative authority. On paper, presidential systems could be considered to a certain extent to be better than the various Westminster type of systems or parliamentary systems where, certainly if no strong and clear political blocks are present, interminable squabbling and political battles could weaken the foundations of the democratic institutions.

Resorting to Linz's conception can be explained by the importance his contribution gained in the analysis of presidential regimes. In his classic article "The Perils of Presidentialism" (1990), he defines the system as follows:¹⁶

In presidential systems an executive with considerable constitutional powers – generally including full control of the composition of the cabinet and administration – is directly elected by the people for a fixed term and is independent of parliamentary votes of confidence. He is not only the holder of executive power but also the symbolic head of state and can be removed between elections only by the drastic step of impeachment.

And then, when debating the ways in which a president can be removed from office, Linz offers this still rather topical assertion:

Even when polarization has intensified to the point of violence and illegality, a stubborn incumbent may remain in office. By the time the cumbersome mechanisms provided to dislodge him in favor of a more

¹⁵ FIX-FIERRO, Héctor, SALAZAR-UGARTE, Pedro, Presidentialism. In: ROSENFELD, Michael SAJÓ, Andrés (eds.). *The Oxford Handbook of Comparative Constitutional Law*. Oxford: Oxford University Press, 2012, pp. 628-649.

¹⁶ See LINZ, Juan, The Perils of Presidentialism. *Journal of Democracy*, Baltimore, n. 1, pp. 51–69, 1990. See also Presidential or Parliamentary Democracy: does it make a difference? In: Linz, Juan; Valenzuela, Arturo (eds.). *The Failure of Presidential Democracy*. Baltimore: Johns Hopkins University Press, 1994, pp. 3–90; ACKERMAN, Bruce. The New Separation of Powers, *Harvard Law Review*, Cambridge, v. 113, pp. 633-727, 2000; CHAISTY, Paul; CHEESEMAN, Nic; POWER, Timothy. Rethinking the 'presidentialism debate': conceptualizing coalitional politics in cross- regional perspective, *Democratization*, v. 21(1), pp. 72-94, 2014 (available at: <http://dx.doi.org/10.1080/13510347.2012.710604>).

able and conciliatory successor have done their work, it may be too late. Impeachment is a very uncertain and time-consuming process, especially compared with the simple parliamentary vote of no confidence. An embattled president can use his powers in such a way that his opponents might not be willing to wait until the end of his term to oust him, but there are no constitutional ways – save impeachment or resignation under pressure – to replace him.

Linz consistently explores the idea that presidential regimes suffer from inherent paradoxes, particularly related to the dual democratic legitimacy they present (the president and the parliament) and to the fixed terms in office, a crucial factor for political calculations. He also points out that the democratic principle is not capable of solving the conflict between the executive and the legislative branches. Since the president supposedly holds legitimacy to directly represent the will of the people, the conflict can escalate to pernicious levels. This institutional scenario would explain why presidential systems are less prone to fostering and maintaining democracy when compared with parliamentarism.¹⁷

In short, the situation would generate personalization¹⁸ and recurrent clashes between the legislative and executive branches. It would also, almost inevitably, lead to obstructions, oblige the president to use unilateral instruments of force or, in the end, engender time-consuming impeachment processes, accentuating institutional crises. Except for the United States, the author predicted a bleak future for the presidential countries.¹⁹

The so-called “Linz’s nightmare” gets even more dramatic in multiparty presidential regimes, in which the chances of having a president controlling the majority in parliament is extremely low.²⁰ To Linz’s mind, multiparty presidentialism

¹⁷ See LINZ, Juan, *The Perils of Presidentialism*. *Journal of Democracy*, Baltimore, n. 1, pp. 51–69, 1990, especially pp. 53-56.

¹⁸ As Linz explains: “Hispanic societies are inherently prone to *personalismo*” (LINZ, Juan, *The Perils of Presidentialism*. *Journal of Democracy*, Baltimore, n. 1, pp. 51–69, 1990, especially p. 55). Limongi and others argue that the real problem seems to be more a *presidentialization* – exacerbation of the president personalization of the executive – than presidentialism, concerning the interbranch clashes and crisis (LIMONGI, Fernando; GUARNIERI, Fernando; FREITAS, Andréia. *The Presidentialization and Parliamentarization of Politics in Brazil: from Collor to Dilma*. *European Consortium for Political Research*, Colchester, 2015 (available at <https://ecpr.eu/Filestore/PaperProposal/cc27d5c6-8b4c-4148-8a61-178e23e0b031.pdf>)).

¹⁹ It is interesting to note that the US effectively has a two-party system, which makes impeachment procedures more unlikely, especially successful impeachment procedures. It seems reasonable to argue that if in a two-party system a president is impeached, the president’s popular legitimacy would have already been diminished before senate’s “ruling” to impeach. After all, in that case, either the president’s party itself lost faith in the president, or the people would have massively voted on the other party during the president’s term. The problem of a dual popular legitimacy in a two-party system might be mitigated in a two-party presidentialism.

²⁰ As Negretto defined: “the underlying assumption is that party system fragmentation weakens the partisan power of the president, making legislative bargaining more complex and increasing the likelihood of

is a fatal combination, and this does not bode well for Brazil: the country fits the description. In his conception, political obstructions, grueling dilemmas, and conflicts are to be expected throughout Brazil's new constitutional history.²¹

The assertions held by Linz became a classical analysis of presidentialism and its conclusions have been endorsed by many scholars²² and confirmed by political episodes. Even now, these assertions form the backdrop to recent and contemporary criticism about the Brazilian constitutional design.²³ Nonetheless, dissenting voices can also be heard and shall be considered below to provide a broader view of the subject. At this point, a brief outline of the background to the system in Brazil seems necessary.

4 Brazilian presidentialism: a brief outline

The present Brazilian Federal Constitution (BC), relying on the principles of the rule of law and democracy, describes Brazil as a federal republic with a presidential system and a bicameral parliament. It also fosters a very fragmented multiparty political setting (Art. 17 BC). The president is directly elected every four years and heads the executive branch (Art. 76-83 BC). The legislative branch is exercised by the "Congresso Nacional" (National Congress), composed of two chambers (Art. 44 BC): the "Câmara dos Deputados" (Chamber of Deputies) which has 513 members who represent the people (Art. 45 BC) and are directly elected for a term of four years; and the "Senado Federal" (Federal Senate) composed of 81 members representing the federal States, who hold office for eight years (Art. 46 BC).²⁴

executive-legislative deadlock" (NEGRETTO, G. *Minority Presidents and Democratic Performance in Latin America. Latin American Politics and Society*, Cambridge, v. 48, n. 3, pp. 63–93, 2006).

²¹ See LAMOUNIER, Bolívar. *Estrutura Institucional e Governabilidade na Década de 90*. In: VELLOSO, João Paulo dos Reis (org). *O Brasil e as Reformas Políticas*. Rio de Janeiro: José Olympio, 1992. See also LAMOUNIER, Bolívar. *A democracia brasileira de 1985 à década de 90: a síndrome da paralisia hiperativa*. In: VELLOSO, João Paulo dos Reis (org). *Governabilidade, sistema político e violência urbana*. Rio de Janeiro: José Olympio, 1994. See LINZ, Juan, *The Perils of Presidentialism*. *Journal of Democracy*, Baltimore, n. 1, pp. 51–69, 1990; Linz, Juan; Valenzuela, Arturo (eds.). *The Failure of Presidential Democracy*. Baltimore: Johns Hopkins University Press, 1994, pp. 3–90; MAINWARING, Scott, *Presidentialism, Multipartyism and Democracy: the difficult combination*. *Comparative Political Studies*, Oxford, v. 26, n. 2, pp. 198–228, 1993; MAINWARING, Scott; SHUGART, M (eds.), *Presidentialism and Democracy in Latin America*. Cambridge: Cambridge University Press, 1997.

²² For example, Mainwaring seems to prefer a biparty presidentialism, pointing out the difficult relations between Executive and Legislative and the problems of building stable multiparty coalitions (MAINWARING, Scott, *Presidentialism, Multipartyism and Democracy: the difficult combination*. *Comparative Political Studies*, Oxford, v. 26, n. 2, pp. 198–228, 1993).

²³ See ACKERMAN, Bruce. *O Brasil Precisa de uma Nova Constituição*. *Correio Brasiliense*, Brasília (13/07/2020) (available at: https://www.correiobrasiliense.com.br/app/noticia/opiniaio/2020/07/13/internas_opiniaio,871622/o-brasil-precisa-de-nova-constituicao.shtml).

²⁴ At the moment, 24 parties have representatives in the Chamber of Deputies, and 16 in the Federal Senate (<https://www.camara.leg.br/deputados/bancada-atual>) (<https://www12.senado.leg.br/tv/programas/noticias-1/2020/02/veja-a-nova-composicao-das-bancadas-partidarias-do-senado>). It is interesting to

Brazil is the third largest constitutional democracy in the world, based on geographical size.²⁵ Despite some hiccups, it has been a relatively stable democracy since 1988. The journey to arrive at this position, however, was by no means smooth. Independent since 1822 from the former colonizer Portugal and an independent republic since 1889, Brazil cleared the way towards a democratic system but did so at the pace of the procession of Echternach, i.e., three steps forward, two steps back.

Defining the role of the president in the democratic-constitutional framework was – and still is – an equally difficult and arduous process, a true balancing act. After experimenting with a democratic republican system between 1889 and 1930 that in actual terms was not very popular, but more based on an agreement between traditional and old-fashioned oligarchies from São Paulo and Minas Gerais (Brazilian federal States), since then the country has experienced brief and alternating bouts of democracy and dictatorship.

Perhaps the most important figure in modern Brazilian history is Getulio Vargas, who was in power from 1930 to 1945 (and also from 1951 to 1954, when he committed suicide). He authoritatively fathered a new constitution in 1937 that held out until 1946. Under his first term, Brazil started out as a democracy but ended up as a system of semi-authoritarian rule with a popular underpinning. In 1946, full-fledged democracy was adopted through the enactment of a democratically debated and popularly endorsed new constitution, which held out until 1964. In that year, the military authorities seized power once again and established a military dictatorship as a check on the presumed emergent communism in the country. During that time, political and fundamental rights were suspended and even abolished. This dictatorial system remained in place until 1985 when, once again, via constitutional reform completed in 1988, re-democratization was achieved.

This third period of democracy continues today. Nevertheless, this does not mean that democracy has now become a wholly uncontroversial acquired asset. Brazilian democracy, like every living political system, is dynamic and susceptible to either consolidation developments as well as backsliding. The two mentioned recent impeachment processes – Collor's and Dilma's – illustrate this. More: during a large demonstration in São Paulo in March 2016, rallying for Dilma's removal of office, several banners were calling for military intervention – a situation not entirely unimaginable considering the country's history. Dilma herself explicitly referred to that fear in August 2016, by labeling the impeachment procedure against her a

point out that 33 parties are officially registered at the moment in Brazil (<http://www.tse.jus.br/partidos/partidos-politicos/registrados-no-tse>).

²⁵ Measured on that scale, Canada and the United States, respectively, are the world's largest democracies.

“coup” and asserting that in the long term it would have far-reaching consequences for the fundamental rights and democratic institutions in Brazil.²⁶

With its apparent unusual history, Brazil is a sort of textbook example of the rotation of Polybius’ forms of government: the country started out as a monarchy, later became an oligarchy and presently is a democratic republic.²⁷ Still, acquiring and maintaining the balance has proven to be difficult. To better understand the root cause of the unbalance and unrest (is it endemic, is it design-related, or does it merely reflect inequalities or conjunctural episodes in the wider Brazilian context?), it is necessary to take a closer look at the Dilma impeachment case.

5 The impeachment of Dilma Rousseff

5.1 Context

Dilma Rousseff was first elected in 2010, succeeding her fellow party member, the extremely popular President Luiz Inácio *Lula* da Silva (2003-2010). Presented as a solid governmental manager, she was chosen to maintain and develop the encouraging results the government – led by the Brazilian Workers’ Party (*Partido dos Trabalhadores* – PT) –, was achieving, particularly for the lower classes. Dilma started her term of government with very high approval rates;²⁸ she had inherited a heterogeneous coalition²⁹ and was rather successful in approving new statutes in Congress.³⁰ However, she would soon show she did not possess the same political abilities of her predecessor. She did not distribute ministerial portfolios

²⁶ Without disregarding the decisive national context that led to Dilma’s impeachment, it seems important to place this event within a broader context, in which increasing threats to the western liberal democracy model are visible. This trend is receiving attention and being analyzed, e.g. in MOUNK, Yascha. *The people vs. democracy: why our freedom is in danger and how to save it*. Cambridge: Harvard University Press, 2018; RUNCIMAN, David. *How democracy ends*. New York: Basic Books, 2018; RUNCIMAN, David. *The confidence trap: a history of democracy in crisis from World War I to the present*. Oxford: Princeton University Press, 2018; LEVITSKY, Steven; ZIBLATT, Daniel. *How democracies die*. New York: Broadway Books, 2018.

²⁷ Concerning the Polybius’ circle, it is worthy to observe that as part of the worldwide expanding populist belt, Brazilians freely and democratically (ochlocratically?) elected Bolsonaro, someone who openly stands for autocratic regimes.

²⁸ See POWER, T. Continuity in a Changing Brazil. In: CASTRO, Fábio de; KOONINGS, Kees; WIESEBRON, Marianne (eds.). *Brazil Under the Workers’ Party: Continuity and change from Lula to Dilma*. London: Palgrave MacMillan, 2014, pp. 10-35.

²⁹ For an interesting approach on the coalitions (similitudes and differences) through Fernando Henrique Cardoso, Lula and Dilma’s governments, emphasizing the role of the president in its management, see BERTHOLINI, Frederico; PEREIRA, Carlos. Pagando o preço de governar: custos de gerência de coalizão no presidencialismo brasileiro. *Revista de administração pública – RAP*, São Paulo, v. 51, n. 4, pp. 528-550, 2017 (available at <https://www.redalyc.org/articulo.oa?id=2410/241052472005>).

³⁰ For an empirical analysis of Dilma’s legislative success see RUBIATTI, B. de C.; PEREIRA, F. da S. Relação executivo-legislativo no presidencialismo de coalizão brasileiro: a agenda do governo Dilma Rousseff (2011–2016). *Temáticas*, Campinas, v. 27, n. 53, pp. 285-316, 2019 (available at <https://doi.org/10.20396/temáticas.v27i53.11611>).

proportionally³¹ among her allies and was personally not very keen on negotiating with party leaders.³²

The riots of June 2013 – that sparked from demonstrations on transportation ticket prices in São Paulo and suddenly turned into a wave of huge nationwide marches against corruption, police brutality, poor public services and excess spending on the World Cup– as well as the increasing deterioration of the economy had significant political consequences for Dilma’s presidency. These consequences were exacerbated by the consolidation of alleged political inability, leading to the progressive loss of support among the legislative branch and society.³³

In 2014, Dilma Rousseff was re-elected, narrowly beating Senator Aécio Neves, who was in favor of a more (neo)liberal agenda.³⁴ Brazilian analysts are almost unanimous in saying that the polarization caused by this election has never ended. The opposition, representing the traditional elites and gathered around parties such as PSDB (Brazilian Social Democracy Party) and DEM (Democrats), was clearly dissatisfied with the PT’s fourth victory in a row and with relevant points of its political agenda. Profiting from Dilma’s diminishing popularity, the growing economic crisis and the public disclosure of corruption scandals, the opposition made governability very hard to achieve from the very beginning of her new term, in January 2015.

Besides the growing willingness of significant legislative fringes – which inclusively used their power over the media – to create and disseminate an “ingovernability discourse”,³⁵ which would eventually turn out to be true, disapproval of Dilma within PT and its supporters began to escalate.³⁶ In the complex context of Dilma’s second term, trying to maintain the necessary political alliances, she made several concessions to the opposition, distancing her agenda from the social-oriented

³¹ This proportion is known as “coalescence”. See ROSE, Richard. *Electoral Systems: A Question of Degree or of Principle?* In LIJPHART, A., GROFMAN, B. (eds.). *Choosing an electoral system*. New York: Praeger, 1984.

³² See LIMONGI, Fernando; GUARNIERI, Fernando; FREITAS, Andréia. *The Presidentialization and Parliamentarization of Politics in Brazil: from Collor to Dilma*. *European Consortium for Political Research*, Colchester, 2015 (available at <https://ecpr.eu/Filestore/PaperProposal/cc27d5c6-8b4c-4148-8a61-178e23e0b031.pdf>).

³³ Some believe it was not the case of political inability, but the opposite: the consequences of consistent and serious behavior that did not accept the traditional political game Brazil was used to.

³⁴ In the deciding second round, Rousseff achieved 51.64% and Neves 48.36%. In 2017, Neves was involved in a notorious corruption scandal and, at this very moment, he is trying to keep his political strength alive.

³⁵ This political discourse on her political inability and the consequent ingovernability was not completely coherent with the facts long before the impeachment; Dilma had a coalitional basis and she had passed a significant part of her legislative agenda in the Congress. Nonetheless, this discourse grew to becoming so strong that it eventually led, in a broader context, to the impeachment. This incident may expose on a smaller scale what Wim Voermans identifies, the filters and emotions and beliefs that make up a “story” (VOERMANS, Wim. *Het verhaal van de grondwet: zoeken naar ons*. Amsterdam: Prometheus, 2019, especially pp. 321-322/343-345).

³⁶ BERTHOLINI, Frederico; PEREIRA, Carlos. *Pagando o preço de governar: custos de gestão de coalizão no presidencialismo brasileiro*. *Revista de administração pública – RAP*, São Paulo, v. 51, n. 4, pp. 528-550, 2017 (available at <https://www.redalyc.org/articulo.oa?id=2410/241052472005>).

platform presented in her presidential campaign. This alleged electoral swindle can be seen as another relevant factor in her failure to finish her term.

In 2015, a declared opponent of Dilma Rousseff, the deputy Eduardo Cunha, was elected president of the Chamber of Deputies. Although an almost untapped theme in the foreign media, this fact would become crucial for the ensuing events. Investigated for receiving bribes – he was later arrested and convicted – Cunha allegedly tried to reach an agreement with the government to save himself from lawsuits; in return, he would block the impeachment requests. As many other politicians shared the same risk, Cunha’s attempt was implicitly supported by a large section of the Parliament.³⁷ The agreement was not reached and might have been an important spark in triggering the impeachment process.

It seems important to briefly place this process within a broader context.³⁸ Dilma did not navigate under the same international or economic conditions as Lula and internally had to cope with the positive as well as the negative inheritance of the worn-out Workers’ Party consecutive presidencies. The then recent “*Mensalão* scandal” was frequently recalled in the light of new corruption accusations involving one of the most important State companies (Petrobrás), and within the development of the unprecedented “Carwash operation”.³⁹ In the midst of a serious crisis in the relationship with Congress, the opposition launched what became known as “*pauta-bomba*” (legislative bomb agenda), assuming a defiant leading role in the legislative political agenda-setting regarding the government. On top of this, the vice president exposed the content of a letter he had sent to Dilma, which was regarded as a withdrawal of his support and the opening of the door to the premature interruption of her term.

5.2 The accusation

The public budget of 2014 had been supposedly structured to mask the government deficit, which had been rising sharply. Rousseff was accused of so-called “fiscal pedaling”: an accounting maneuver to give the false impression that more money had been received than spent. The government failed to fund public and

³⁷ For an example of this explanation, see LIMONGI, Fernando. Impedindo Dilma. *Novos Estudos – CEBRAP*, São Paulo, pp. 5-13, 2017 (available at <http://novosestudios.uol.com.br/wp-content/uploads/2017/06/IMPEDINDO-DILMA-Fernando-Limongi.pdf>).

³⁸ For an interesting empirical approach, pointing out the influence of economic factors (including the GDP) on the parliamentary support of the coalition, see SILVA, Aline Melquíades. *Os ciclos do presidencialismo de coalizão e seus determinantes político-econômicos*, Revista Brasileira de Ciência Política, Brasília, n. 24, pp. 49-80, 2017 (available at <https://www.scielo.br/pdf/rbcpol/n24/2178-4884-rbcpol-24-49.pdf>).

³⁹ On the impact of the “Carwash operation” in Dilma’s decline, see HUNTER, Wendy; POWER, Timothy. Bolsonaro and Brazil’s illiberal backlash. *Journal of Democracy*, Baltimore, v. 30, n. 11, 2019, pp. 68-82, 2019.

private banks that managed public payments, including well-known social assistance programs like “*Bolsa Família*”, forcing them to finance the programs themselves without proper compensation. Dilma had also been charged of issuing, without Congress’ authorization, six unnumbered decrees in 2014 and 2015 to allocate funds to social programs.

The accusation of violation of fiscal responsibility and of annual budgetary law was accepted by Eduardo Cunha and the impeachment process got underway at the end of 2015. The economic and political contexts, as briefly mentioned, were much more complex than what would be dealt with within the formal procedure. The issue was centered on budgetary conduct: malicious manipulation of the numbers and circumvention of procedures according to some; quite usual and normal budgetary steering, according to others. Considering the process itself and its legal parameters, a constitutional question arises: was there an impeachable offense?

Albeit an extraordinary and controversial instrument, impeachment does have a constitutional basis and roots. It is a constitutional mechanism that allows the removal of a directly elected president from office, and to preserve the rule of law it must follow a legally defined procedure. The Brazilian Constitution states in Articles 85 and 86 that the president can be removed from office because of “*crimes de responsabilidade*” (crimes of responsibility or crimes of malversation).

There are substantial discussions concerning the legal nature of impeachment. Starting from its historical roots, it has often been understood, despite the constitutional denomination (crime), as a kind of political-administrative violation or infringement linked to a political sanction.⁴⁰ Triggered by Dilma’s case, a scholarly trend now asserts its penal or quasi-penal nature, considering its serious legal consequences, and defends the applicability of various guarantees developed and acquired in criminal law theory.⁴¹

⁴⁰ For an encompassing analysis, historical and comparative, also focusing on democratic stability under Brazilian presidentialism and asserting a political component to impeachment, see QUEIROZ, Rafael Mafei Rabelo. A natureza jurídica dos crimes de responsabilidade presidencial no direito brasileiro: lições a partir do impeachment de Dilma Rousseff. *epública - Revista Eletrônica de Direito Público*, Lisboa, v. 4, 2017. See also RATTINGER, Alexandra. The Impeachment Process of Brazil. *The University of Miami Inter-American Law Review*, Miami, v. 49, n. 1, pp. 129-166, 2018 (available at <https://www.jstor.org/stable/10.2307/26788345>).

⁴¹ See GALUPPO, Marcelo Campos. *Impeachment: o que é, como se processa e por que se faz*. Belo Horizonte: D’Placido, 2016. See CATTONI DE OLIVEIRA, Marcelo Andrade; BAHIA, Alexandre Gustavo Melo Franco; BACHA E SILVA, Diogo. Os contornos do Impeachment no Estado Democrático de Direito: historicidade e natureza da responsabilização jurídico-política no presidencialismo brasileiro. In: *Anuario de Derecho Constitucional Latino-Americano*, Bogotá, a. XXII, pp. 17-32, 2016. For a critical approach on this view, see: QUEIROZ, Rafael Mafei Rabelo. A natureza jurídica dos crimes de responsabilidade presidencial no direito brasileiro: lições a partir do impeachment de Dilma Rousseff. *epública - Revista Eletrônica de Direito Público*, Lisboa, v. 4, 2017.

Despite the controversies, on the one hand, the political component of impeachment cannot be disregarded⁴² while, on the other hand, within a rule of law framework, it must not be considered purely political (with no legal limitation).⁴³

In addition to these controversies, the essence of impeachment suffers from a general and vague wording. Acting in violation of the budget law is explicitly mentioned (Art. 85, heading and under VI, BC), albeit in rather general terms. Starting from this constitutional framework, it is up to the legislature by means of ordinary law to expand on this meaning, specifying the punishable acts and establishing rules of procedure and trial.⁴⁴

An old statute deals with the subject: Federal Law n. 1079, from April 10, 1950. This statute specifies the “crimes of malversation” (Art. 10, in particular, establishes budget infringements), explicitly requiring seriousness in order to punish an offense with impeachment. One could see, in an up-to-date theoretical perspective, that the Constitution holds a claim to proportionality linking the violation and its constitutional response.⁴⁵ From a legal perspective, this is what the impeachment

⁴² Traditionally defending its political nature, see BROSSARD, Paulo. *O impeachment*. São Paulo: Saraiva, 1992. The understanding in this article – relevance of political element – is similar to that found in QUEIROZ, Rafael Mafei Rabelo. A natureza jurídica dos crimes de responsabilidade presidencial no direito brasileiro: lições a partir do impeachment de Dilma Rousseff. *epública - Revista Eletrônica de Direito Público*, Lisboa, v. 4, 2017, especially p. 235.

⁴³ From another perspective, different from the current understanding of the Supreme Federal Court, focusing on the “overpoliticization” – political use of impeachment disregarding the applicable legal norms –, a relevant path to explore might be the role of the judiciary in controlling the lawfulness of the procedure; without invalidating legitimate political choices, their legal boundaries could be subject to control. Relying on the balance between the three branches, adequate light could be shed on a possible over-politicization of impeachment, looking for adequate institutional corrective mechanisms. This idea is beyond the aims of the present article, but should not be disregarded, including the perils it would bring. For a first approach, within the Brazilian context, see BUSTAMANTE, Thomas da Rosa de. Parecer Jurídico: O Processo de Impeachment e as Esferas de Autorização pela Câmara dos Deputados. Limites e Possibilidades de Controle Judicial. Belo Horizonte. *Empório do Direito blog*, 2016 (available at: <https://emporiiodireito.com.br/leitura/parecer-juridico-o-processo-de-impeachment-e-as-esferas-de-autorizacao-pela-camara-dos-deputados-limites-e-possibilidades-de-controle-judicial>); CATTONI DE OLIVEIRA, Marcelo Andrade; BAHIA, Alexandre Gustavo Melo Franco de Moraes; VECCHIATTI, Paulo Roberto Iotti. Supremo Tribunal Federal deve barrar ou nulificar impeachment sem crime de responsabilidade. *Empório do Direito blog*, 2016 (available at <http://emporiiodireito.com.br/backup/supremo-tribunal-federal-deve-barrar>). The reference to these works does not mean that we accept the criminal law nature of impeachment; the idea is to be aware of the possibility to control its legal boundaries.

⁴⁴ It is also important to consider the provisions of Articles 51 and 52 BC concerning the powers of Congress to admit and process an impeachment procedure.

⁴⁵ The development of this argumentation is beyond the scope of this article. Nonetheless it should be briefly registered. Since the legal-political offense can lead to a restriction in constitutional rights – the suspension of political fundamental rights – proportionality is demanded in order to render the restriction constitutionally adequate (on proportionality and constitutional rights see e.g. ALEXY, Robert. *A theory of constitutional rights*, Oxford, 2002; KLATT, Matthias (ed.). *Institutionalized reason: the jurisprudence of Robert Alexy*. Oxford: Oxford, 2012.) This request appears in the constitutional requirement of *seriousness* that must qualify the acts to make them impeachable acts. The evaluation is political. It must be made, however, within the constitutional boundary exposed. For a similar approach, interestingly referring to the procedure against Bill Clinton, see QUEIROZ, Rafael Mafei Rabelo. A natureza jurídica dos crimes de responsabilidade presidencial no direito brasileiro: lições a partir do impeachment de Dilma Rousseff. *epública - Revista Eletrônica de Direito Público*, Lisboa, v. 4, 2017.

discussion was all about: did Rousseff's alleged budgetary artificial interventions in 2014, which formally violated the letter of Federal Law n. 1.079/50, actually fulfil the seriousness requirement in order to fall within the legal concept of "*crimes de responsabilidade*", punishable by impeachment? Or do they – despite still being reprobable – lack the seriousness that is mandatory to trigger an impeachment procedure?

5.3 Procedure

According to the legal framework established by the Constitution and Federal Law n. 1079/50, the impeachment request must be presented to the Chamber of Deputies. After the initial acceptance of the request by its president, an investigation ought to be conducted by a special committee of 65 deputies. The floor of the Chamber of Deputies then has the power to admit or dismiss the accusation. If the accusation is accepted, for which a two-thirds majority vote is required, the president shall be tried before the Federal Senate (Art. 86, BC). The Senate, then, shall act as an ultimate referee.

On this occasion, the decision to consider the impeachment request in the Chamber of Deputies was taken by Eduardo Cunha in December 2015. The special commission, installed on 11 April 2016, first admitted the accusation by 38 votes to 27. Then, on 17 April 2016, after a tumultuous session, the Chamber of Deputies responded similarly, admitting the request by 367 votes to 137 and referring the case to the Federal Senate.

According to a decision taken by the Brazilian Supreme Court, the Federal Senate first needed to admit the formal accusation that came from the Chamber of Deputies.⁴⁶ On 12 May 2016, the Senate accepted it, and decided to suspend Rousseff's presidential powers and duties for up to 180 days (by 55 votes to 22). President Dilma Rousseff was removed from office and vice president Michel Temer assumed office as acting president. After a new procedure before a new special committee at the Federal Senate, senators finally decided, on 31 August 2016, by 61 votes to 20, to impeach Dilma Rousseff, definitely discharging her from the presidential office. Michel Temer then officially became president.⁴⁷

A peculiarity arose here. Although impeached, she was not sentenced to a disqualification from holding any public office for a period of 8 years – a sanction

⁴⁶ The decision taken by the Supreme Federal Court – ADPF 378 – can be found in <http://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=TP&docID=10444582>.

⁴⁷ For a critical view on the role of vice-presidents in the early departure of presidents, HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York. January, v. 43, n. 2, pp. 127-145, 2011.

established by Article 52 of the Brazilian Constitution.⁴⁸ This fanned a spark with the supporters of Dilma. Not banning her from holding public office was seen to be a confession by the Senate of the political character of the impeachment.

Following the reasoning developed in this article, it seems more plausible to cogitate of a biased, purely politicized or disproportional use of the impeachment. Its political character cannot be denied and may even turn out to be, as analyzed below, an important constitutional mechanism within multiparty presidentialism. The problem in Dilma's case does not lie in the political component alone; it also lies in a supposed lack of seriousness of the offense, which is a constitutional requirement for impeaching the president.

6 Being aware of hasty conclusions: coalitional presidentialism

Although the case apparently confirms the inherent problems of presidential regimes, especially in multiparty systems, some scholars gloss over this situation of political deadlock and crisis. In fact, a closer look warns us not to jump to hasty conclusions.

First, although institutional designs are critical features, they do not determine ultimate results. Institutions and practices usually evolve incrementally, sometimes quietly. Local actors are able to adapt rules and solve inherent problems. Original constitutional designs can be somehow subverted by practice. In a nutshell: local context matters.

Second, and perhaps as a kind of consequence of the first argument, a very important group of academics – including Paul Chaisty, Nic Cheeseman and Timothy Power in the UK, and Fernando Limongi and Argelina Figueiredo in Brazil – argues that the ability of presidents to form coalitions has meant that the anticipated “difficult combination” of multiparty politics and presidential systems has not proved to be detrimental to political stability.⁴⁹

Taking account of these dissenting or varied views on presidentialism, a more nuanced analysis can be achieved. It becomes important to differentiate conjunctural and structural elements, recognizing the role of (local) context and

⁴⁸ For an approach on this aspect – no suspension of political rights – of the decision, see QUEIROZ, Rafael Mafei Rabelo. A natureza jurídica dos crimes de responsabilidade presidencial no direito brasileiro: lições a partir do impeachment de Dilma Rousseff. *epública - Revista Eletrônica de Direito Público*, Lisboa, v. 4, 2017.

⁴⁹ See OXFORD UNIVERSITY. *The Coalitional Presidentialism Project Research Report*. Oxford, 2015 (<https://www.politics.ox.ac.uk/materials/publications/15239/ccp-research-report.pdf>).

various influential factors, as well as trying to identify constitutional corrective mechanisms and practices.⁵⁰

Focusing on the case of Brazil, according to “Linz’s nightmare”, political blockages were theoretically expected from the very beginning of the new constitutional history.⁵¹ Examining this setting from a political-institutional perspective and recognizing the perils of Brazilian presidentialism, Sérgio Abranches coined the concept of *coalitional presidentialism* in 1988,⁵² which is still largely accepted.⁵³ In general terms, the Brazilian model has become so different from its North-American inspiration that it constitutes a new type of presidentialism, built on a combination of heterogeneous federalism, proportional representation with open lists, a bicameral Parliament, a multiparty system and a strong minoritarian presidency.⁵⁴

Within the Brazilian institutional setting, dual democratic legitimacy (president and parliament) can be identified,⁵⁵ coexisting with a clear multiplicity of political parties, inadequate electoral legislation⁵⁶ and a very volatile ideological basis. As it is virtually impossible that the president is elected with a parliamentary majority, it becomes vital to build and maintain a majoritarian parliamentary coalition aiming at political support within the Congress in order to guarantee governability and

⁵⁰ POWER, Timothy. Optimism, pessimism, and coalitional presidentialism: debating the institutional design of Brazilian democracy. *Bulletin of Latin American Research*, Oxford, v. 29, n. 1, pp. 18-33, 2010, especially pp. 22-23.

⁵¹ See LAMOUNIER, Bolívar. Estrutura Institucional e Governabilidade na Década de 90. In: VELLOSO, João Paulo dos Reis (org). *O Brasil e as Reformas Políticas*. Rio de Janeiro: José Olympio, 1992; LAMOUNIER, Bolívar, A democracia brasileira de 1985 à década de 90: a síndrome da paralisia hiperativa. In: VELLOSO, João Paulo dos Reis (org). *Governabilidade, sistema político e violência urbana*. Rio de Janeiro: José Olympio, 1994; LINZ, Juan, The Perils of Presidentialism. *Journal of Democracy*, Baltimore, n. 1, pp. 51-69, 1990; Linz, Juan; Valenzuela, Arturo (eds.). *The Failure of Presidential Democracy*. Baltimore: Johns Hopkins University Press, 1994, pp. 3-90; MAINWARING, Scott, Presidentialism, MAINWARING, Scott, Presidentialism, Multipartyism and Democracy: the difficult combination. *Comparative Political Studies*, Oxford, v. 26, n. 2, pp. 198-228, 1993; MAINWARING, Scott; SHUGART, M (eds.). *Presidentialism and Democracy in Latin America*. Cambridge: Cambridge University Press, 1997.

⁵² According to Sergio Abranches: “Brazil is the only country which, as well as combining proportionality, a multisystem and an ‘imperial presidentialism’, organizes the Executive based on large coalitions. I will call this peculiar trait of the concrete Brazilian institutionality, for lack of a better alternative, ‘coalition presidentialism’ (p. 21-22)” (ABRANCHES, Sérgio. *Presidencialismo de coalizão: o dilema institucional brasileiro*. *Dados*, v. 31, n. 1, 1988, pp. 5-38)

⁵³ Sérgio Abranches revisited the idea 30 years later and brought to light some interesting new perspectives (ABRANCHES, Sérgio. *Presidencialismo de coalizão*. São Paulo: Companhia das Letras, 2018).

⁵⁴ For a relevant analysis of Brazilian coalitional presidentialism focused on the legal aspects and referring to vast and substantial literature, see SCHIER, Paulo Ricardo. *Presidencialismo de coalizão: democracia e governabilidade no Brasil*, *Revista Direitos Fundamentais & Democracia*, Curitiba, v. 20, n. 20, pp. 253-299, 2016; SCHIER, Paulo Ricardo. *Presidencialismo de Coalizão: Contexto, Formação e Elementos na Democracia Brasileira*. Curitiba: Juruá, 2017.

⁵⁵ According to Abranches, it is important to notice that the president is directly elected in a majoritarian national model; parliament following a sectorial model linked to the federal states, deputies by proportional vote and senators majoritarian vote (ABRANCHES, Sérgio. *Presidencialismo de coalizão: o dilema institucional brasileiro*. *Dados*, Rio de Janeiro, v. 31, n. 1, pp. 5-38, 1988).

⁵⁶ It is important to state that Brazilian electoral legislation has changed quite a lot in the past 20 years. However, the roots of the system have not been totally altered.

governance.⁵⁷ The need to deal with very fragmented and unstable political actors would jeopardize the president's political plans, making him or her dependent on broad parliamentary coalitions. The Brazilian design supposedly presents an element that leads to governmental instability.⁵⁸

Nevertheless, throughout the world as well as in Brazil (despite all the crises and the two impeachment processes that occurred over a span of 25 years), presidentialism has so far survived⁵⁹ and, in reality, different strategies and instruments allow for the fostering of the government economic and social agenda, bridging the difficulties in the relationship between the executive and the legislature and making the system viable.⁶⁰ This circumstance seems to defy, at least to a certain extent, the affirmation of the *perils of presidentialism*, inviting the construction of new perspectives.

Timothy Power and others present the *presidential executive toolbox*, which contains five key tools for constructing legislative coalitions and maintaining political support and governability: agenda-setting power, budgetary authority, cabinet management, partisan powers, and informal institutions.⁶¹ The agenda-setting power refers to the ability of the minority president to control the political-legislative picture and push the governmental agenda forward.⁶² Cabinet management – the distribution of relevant government portfolios among alliance members, which is frequently used in Brazil – also appears to be an important characteristic of

⁵⁷ See also ABRANCHES, Sérgio. Presidencialismo mutante. *Sérgio Abranches blog*, 2019 (available at <https://sergioabranches.com.br/politica/330-presidencialismo-mutante>).

⁵⁸ ABRANCHES, Sérgio. Presidencialismo de coalizão: o dilema institucional brasileiro. *Dados*, Rio de Janeiro, v. 31, n. 1, pp. 5-38, 1988.

⁵⁹ See CHAISTY, Paul; CHEESEMAN, Nic; POWER, Timothy. Rethinking the 'presidentialism debate': conceptualizing coalitional politics in cross-regional perspective, *Democratization*, v. 21(1), pp. 72-94, 2014 (available at: <http://dx.doi.org/10.1080/13510347.2012.710604>).

⁶⁰ See HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York. January, v. 43, n. 2, pp. 127-145, 2011, especially, pp. 127-145; CAREY, John; SHUGART, M. *Executive Decree Authority: calling out the tanks or filling out the forms?* New York: Cambridge University Press, 1998; FIGUEIREDO, Argelina; LIMONGI, Fernando. *Executivo e Legislativo na Nova Ordem Constitucional*. São Paulo: Ed FGV, 1999; FIGUEIREDO, Argelina; LIMONGI, Fernando. Presidential Power, Legislative Organization, and Party Behavior in Brazil. *Comparative Politics*, New York, v. 32, n. 2, pp. 151-170, 2000. See also LIMONGI, Fernando. A Democracia no Brasil: Presidencialismo, Coalizão Partidária e Processo Decisório. *Novos Estudos - CEBRAP*, São Paulo, v. 76, pp. 17-41, 2006 (available at: <http://dx.doi.org/10.1590/S0101-33002006000300002>); NEGRETTO, G. Government Capacities and Policy Making by Decree in Latin America: the cases of Brazil and Argentina. *Comparative Political Studies*, Oxford, v. 37, p. 531-562, 2004; SHUGART, M.; CAREY, J. *Presidents and Assemblies: Constitutional design and electoral dynamics*. Cambridge: Cambridge University Press, 1992. Finally, see RAILE, Eric, PEREIRA, Carlos, POWER, T. The Executive Toolbox: building Legislative Support in a Multiparty Presidential Regime. *Political Research Quarterly*, Salt Lake City, v. 64, n. 2, pp. 323-334, 2011.

⁶¹ RAILE, Eric, PEREIRA, Carlos, POWER, T. The Executive Toolbox: building Legislative Support in a Multiparty Presidential Regime. *Political Research Quarterly*, Salt Lake City, v. 64, n. 2, pp. 323-334, 2011.

⁶² Also referring to the agenda-setting power, see ABRANCHES, Sérgio. Presidencialismo mutante. *Sérgio Abranches blog*, 2019 (available at <https://sergioabranches.com.br/politica/330-presidencialismo-mutante>).

coalitional presidentialism. In addition, another significant characteristic seems to be the political ability or personal governing style of the president, which is apt to influence the government's ability to frame and cultivate political coalitions.⁶³

Starting from this theoretical framework, based on empirical data, the aforementioned group of Brazilian political scientists asserts that in practice Brazilian presidentialism behaves in some respects similarly to other Western democracies, including parliamentary democracies. Figueiredo and Limongi argue that presidents will possibly form governments as prime ministers do, affirming the viability of coalitions under presidentialism. Viewed in this way, presidentialism does not necessarily imply, for a minoritarian president in a multiparty system, lack of governability or legislative failure.⁶⁴

In sum, these scholars claim it is not appropriate to assert, *a priori* and in general, that multiparty presidentialism cannot survive or is incapable of fostering and maintaining governability and political stability.

Referring to recent Brazilian history, and acknowledging that local context matters, perhaps it is premature to state that Brazilian coalitional presidentialism has proven to be flawed. In fact, a detailed evaluation of the most recent impeachment episode could lead to the identification of circumstantial flaws, rather than serious structural deficits in the constitutional architecture. One relevant element in triggering the process that could be considered as a negative political bias in the procedure, is the lack of agreement between Dilma and key politicians who wanted to stop criminal investigations that would possibly lead to legal suits.⁶⁵ Nonetheless, as mentioned above, many different factors contributed to the events that led to the specific impeachment scenario which sealed the fate of Dilma's presidency. A purely political motivation that perhaps tainted the actual procedure is incapable of inevitably flawing the entire institutional design. In any case, this impeachment episode seems to demonstrate the resilience of negative aspects of coalitional presidentialism, something that deserves further investigation.

⁶³ PEREZ-LIÑAN, A. *Presidential Impeachment and the New Political Instability in Latin America*. Cambridge: Cambridge University Press, 2007, pp. 147-148. Especially about Collor, see SALLUM Jr., Basílio. *O Impeachment de Fernando Collor: Sociologia de uma Crise*. São Paulo: Editora 34, 2015.

⁶⁴ FIGUEIREDO, Argelina; LIMONGI, Fernando. *Executivo e Legislativo na Nova Ordem Constitucional*. São Paulo: Ed FGV, 1999; FIGUEIREDO, Argelina; LIMONGI, Fernando. Presidential Power, Legislative Organization, and Party Behavior in Brazil. *Comparative Politics*, New York, v. 32, n 2, pp. 151-170, 2000. Empirical data can also be found in research beyond the Brazilian context; see among others and quoting substantive literature, HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York. January, v. 43, n. 2, pp. 127-145, 2011.

⁶⁵ See LIMONGI, Fernando. Impedindo Dilma. *Novos Estudos – CEBRAP*, São Paulo, pp. 5-13, 2017 (available at <http://novosestudos.uol.com.br/wp-content/uploads/2017/06/IMPEDINDO-DILMA-Fernando-Limongi.pdf>).

The institutional design and its resilience are currently facing new challenges under the presidency of Jair Bolsonaro.

7 The government of Jair Bolsonaro: an actual challenge to coalitional presidentialism?

7.1 An actual challenge to coalitional presidentialism?

As hypothesized above, coalitional presidentialism is resilient and its key message – whoever tries to challenge it or is unable to deal with it cannot be part of the game – was put into practice against Collor and Dilma. The recent election of the far-right President Jair Bolsonaro was expected to challenge this framework.

At the end of 2018, Jair Bolsonaro won the Brazilian election, receiving around 55% of the votes and beating the PT's candidate in the second round.⁶⁶ Benefiting from the erosion of support for the center-left agenda and the legal battle against Lula and his allies, as well as from sympathy generated when he was stabbed during the campaign, Bolsonaro depicted himself as the outsider who would fight the “corrupt system”.⁶⁷ With an anti-PT agenda, he promised to reinforce an extremely liberal economic agenda and maintain a conservative approach regarding civil rights and the protection of minorities, adopting a highly controversial moral stance.

In addition, the economic crisis coupled with the “Carwash operation” (revealing a corruption scheme implicating hundreds of key politicians) led to further distrust of politicians and to political polarization. On top of that, there was the growing political power of new Pentecostal groups and a fear of multicultural democracy. Against this background, Bolsonaro claimed he would move away from the traditional political structures and procedures⁶⁸ and presented himself as someone who could communicate directly with the people.

⁶⁶ For an extensive analysis of Bolsonaro's rise to power and the start of his government, see HUNTER, Wendy; POWER, Timothy. Bolsonaro and Brazil's illiberal backlash. *Journal of Democracy*, Baltimore, v. 30, n. 11, pp. 68-82, 2019.

⁶⁷ For a brief background of Bolsonaro's political trajectory depicting him neither as an outsider nor as an insider see HUNTER, Wendy; POWER, Timothy. Bolsonaro and Brazil's illiberal backlash. *Journal of Democracy*, Baltimore, v. 30, n. 11, 2019, pp. 68-82, 2019, especially p. 74.

⁶⁸ ABRANCHES, Sérgio. Presidencialismo mutante. *Sérgio Abranches blog*, 2019 (available at <https://sergioabranches.com.br/politica/330-presidencialismo-mutante>). The author examines the political ideological rupture that occurred with Bolsonaro's rise to power.

Rising authoritarianism⁶⁹ and skyrocketing risks to the Brazilian democracy aside,⁷⁰ what is relevant to this article is Bolsonaro's alleged commitment to combat what he called the "old politics", i.e. the practices upon which the relationship between the executive and legislative branches had been based for 30 years.⁷¹ Bolsonaro has described almost all negotiations between the executive and the legislature, including those which involve political parties that are at the core of the minoritarian presidentialism toolkit mentioned above, as unfair, barely legal and frequently corrupt.

His discourse and the praxis "against the system" at the beginning of his term could indeed be seen to defy the logics of coalitional presidentialism. Bolsonaro initially did not share relevant government portfolios with other parties or political stakeholders; dividing ministries and other relevant government positions was not used to forge political coalitions. Instead, he shared the political power beyond any political party relevance, with members of the military forces, far-liberal Chicago-boys and ideological conservatives. The appointment of Sérgio Moro, the judge responsible for the "Carwash operation", to the Ministry of Justice, symbolized his strategy in the formation of the cabinet.

Additionally, at the beginning, Bolsonaro did not make any real efforts to build and maintain a larger congressional support base. Moreover, his small political party (PSL – Social Liberal Party), widely known as a group of people with a very fragile common agenda, imploded within months which diminished his legislative support even further.

Despite these aspects, being a minority president, Bolsonaro did not shy away from using the executive decree power, the so-called Provisional Measures (*Medida Provisória*, MP). In the first legislative year, the government issued 42 MPs, a number which does not significantly deviate from former presidencies. Not surprisingly, however, his legislative performance is much lower than his predecessors. Of the 42 MPs enacted in 2019, only 50% were finally approved and the remainder were rejected or expired. In contrast, in Lula's first term only one MP was not approved.

⁶⁹ For an interesting approach on Brazilian democratic decay, using relevant literature, see DALY, Tom. Populism, Public Law, and Democratic Decay in Brazil: Understanding the Rise of Jair Bolsonaro (March 11, 2019). This paper was prepared for the *14th International Human Rights Researchers' Workshop: 'Democratic Backsliding and Human Rights'*, organized by the Law and Ethics of Human Rights (LEHR) journal, 2-3 January 2019 (Available at SSRN: <https://ssrn.com/abstract=3350098> or <http://dx.doi.org/10.2139/ssrn.3350098>).

⁷⁰ This article started by recalling Juan Linz and shall recall him again. In *Breakdown of Democracy Regimes*, recently cited and unfolded by Levitsky and Ziblatt in *How Democracies Die*, he drafts a preliminary litmus test in order to detect the rise of authoritarianism. The new Brazilian president is fast on track to meeting some of those criteria, such as denying the legitimacy of political opponents – assuming opposition leaders as enemies (not adversaries) – tolerating and encouraging violence against critics, attacking media groups and courts etc.

⁷¹ It is important to state that a large number of political analysts does not see Bolsonaro as a representative of the new politics, but just the opposite.

The discourse claiming to keep the government far from the “dirty political game” might captivate electors and other audiences, but legislative results remain unconvincing. Despite an important victory on pension reform, other results suggest very low presidential ability to negotiate with key stakeholders in parliament and deliver legislative output. Bolsonaro’s legislative tactics and strategy are widely seen to be weak and stumbling; Limongi suggested that Bolsonaro has replaced coalitional presidentialism with “slouched presidentialism”.⁷²

In a nutshell, it seems to some extent correct to state that Bolsonaro has not been using the traditional minoritarian president’s toolkit as it was used in the last 30 years. However, in the course of time coalitional presidentialism has demonstrated its strength and resilience, particularly now that support for Bolsonaro has died down. To maintain political support, the use of political nominations increased at the second and third government levels. Recently, the president has also made efforts to build wider legislative support, approaching a large, relevant and non-ideological legislative group called *Centrão* (“the center group”).

7.2 New problems, old answers: accepting coalitional presidentialism to avoid a new premature interruption of term?

Political inability, widely acknowledged technical incompetence, growing pressure from rumors concerning possible family involvement in corruption schemes, inappropriate intervention in the Federal Police and misuse of social media all constitute a challenge to Bolsonaro’s presidency. In April 2020, Sergio Moro resigned and exposed serious disagreements with the president, viewed as a major political defeat capable of seriously undermining Bolsonaro’s political strategy.

On top of this, the outbreak of the coronavirus pandemic has revealed the most pernicious aspects of Bolsonaro’s presidency. The president’s personal behavior playing down the risk⁷³ of the disease is starting to put his popularity at risk. The absence of a consistent national policy to combat the spread of the virus is stirring up conflicts in the political arena, especially between the president, governors, and city majors. Clashes with the Supreme Court regarding government action – and, above all, government inaction – are becoming recurrent. In this scenario, the rapid

⁷² See LIMONGI, Fernando, *Presidencialismo de Desleixo: o modo Bolsonaro de governar*. *Piauí*, São Paulo, n. 158, 2019 (available at: <https://piaui.folha.uol.com.br/materia/presidencialismo-do-desleixo/>)

⁷³ RICARD, Julie, MEDEIROS, Juliano. Using misinformation as a political weapon: COVID-19 and Bolsonaro in Brazil. *The Harvard Kennedy School (HKS) Misinformation Review*, Cambridge, v. 1, 2, 2020 (available at <http://nrs.harvard.edu/urn-3:HUL.InstRepos:42661741>).

spread of the virus has turned Brazil into one of the most devastated countries affected by the pandemic, deepening the political and economic crises.

Cornered by all these circumstances, Bolsonaro has slowly started backtracking on his public appraisal of the military regime and his constant attacks on the judiciary and the democratic institutions. In order to shield his presidential term from an impeachment process and avoid further investigation and persecution for supposed legal offenses, his initial political attitude is changing, and he has started pursuing congressional support. Despite his promise to challenge political structures and practices, Bolsonaro may come to realize that his fortunes actually lie in surrendering to coalitional presidentialism.

In this context, it does not seem completely unreasonable to envisage that coalitional presidentialism will be the best path for Bolsonaro's government, possibly preventing radicalization towards an authoritarian trend as well as a premature interruption of term of office – via impeachment or legal action.⁷⁴ Coalitional presidentialism could serve, by virtue of its resilience, to guarantee the continuity of democracy and the maintenance of constitutional institutions. With so many variables at stake, only time will tell how Bolsonaro's government and the political situation in Brazil will unfold.⁷⁵

8 Conclusion: is coalitional presidentialism inherently impossible?

Juan Linz shook the fundamental faith of supporters of presidentialism with his article "The Perils of Presidentialism" in 1990.⁷⁶ Although his claims were immediately challenged on more or less theoretical-ideological grounds,⁷⁷ later studies confirmed to some extent the pattern he had foreseen: the presidential design was inherently less likely than parliamentarism to guarantee the level of representativeness and legitimacy required to sustain democratic governance.⁷⁸

⁷⁴ There have already been impeachment requests presented against Bolsonaro (<https://www12.senado.leg.br/noticias/materias/2020/05/21/humberto-costa-anuncia-pedido-de-impeachment-de-bolsonaro>), as well as legal suits in the Superior Electoral Court.

⁷⁵ The article was concluded in December 2020.

⁷⁶ LINZ, Juan, *The Perils of Presidentialism*. *Journal of Democracy*, Baltimore, n. 1, pp. 51–69, 1990.

⁷⁷ See HOROWITZ, Donald L. *Presidents vs. Parliaments: Comparing Democratic Systems*. *Journal of Democracy*, Baltimore, v., n. 4, pp. 73-79, 1990 (available at: doi:10.1353/jod.1990.0056.)

⁷⁸ Another sobering indicator for the sustainability of democratic systems, which one would probably rather not hear if one has total *faith* in democracy, is that democratic governance in countries with a GNP of less than 1,000 dollar per capita have a very small chance of survival (a probability factor of 0.12 which is an average survival chance of around 8.5 years). Consider that a democracy has never failed in countries that have a GNP higher than 6,055 dollar per year. Is this still true in 2016? How strong are the links claimed here? See PRZEWORSKI, A.; ALVAREZ, M.; CHEIBUB, J.A. *What Makes Democracies Endure?* *Journal of Democracy*, Baltimore, v. 7(1), pp. 39-55, 1996. The GNP of Brazil by the way lies somewhere between these extremes: around 3,402 dollar in 2016. See also, RIGGS, Fred W. *Presidentialism versus*

Bruce Ackerman and Perez-Liñán, among others, also shared pessimistic views concerning the chances of young democratic presidential systems to maintain political stability.⁷⁹ The latter, departing from the analysis of impeachment procedures in six Latin American countries, signaled a growing trend towards political instability: invoking and developing impeachment procedures against democratically elected presidents.⁸⁰

At first glance, the scrutiny of Brazilian institutional design fulfills the theoretical model presented by Linz and the impeachment events may fit the empirical observation made by Perez-Liñán, reinforcing the political disadvantages of presidentialism. It would be a Herculean task to build and maintain a working parliamentary majority aligned with the presidential policy agenda and legislative proposals; in practice the system would either suffer from paralysis or from instability.

Sérgio Abranches minutely depicted the (problematic) Brazilian political model using the following characteristics: a hyper-fragmented party system; a strongly centralized federal system; a president with agenda-setting power and broad discretion over budget and public expenditure; and a strong and independent controlling judiciary. In this model, on the one hand, the president depends on a wide parliamentary multiparty coalition, while on the other hand, the federal unities depend on access to the federal budget controlled by the president. This dual dependency results in a powerful system that fosters clientelism and corruption.

The main source of these political disfunctions, once again pointed out by Sérgio Abranches, can be explained by the challenges presented by the political process of forming and managing coalitions and bargaining for resources, which frame the coalitions and the legislative decisions. In addition to the obstacles these circumstances pose to political stability, they jeopardize governability and governance. The focus on resources hinders the achievement of substantive public policies and enhances the possibilities for broad business-political corruption chains.⁸¹ Following this analysis track, the institutional design would lead to crises, lack of governability, and political instability, possibly threatening democracy.

However, since the system has developed to become *de facto* the Brazilian coalitional presidentialism it would appear to be durable. Among the other alternatives,

Parliamentarism: Implications for Representativeness and Legitimacy. *International Political Science Review*, London, v. 18(3), pp. 253-278, 1997.

⁷⁹ ACKERMAN, Bruce. The New Separation of Powers, *Harvard Law Review*, 113(3) 2000, pp. 634-725.

⁸⁰ PEREZ-LIÑÁN, A. *Presidential Impeachment and the New Political Instability in Latin America*. Cambridge: Cambridge University Press, 2007. This trend has been corroborated in more recent studies. See e.g. certain authors In: LLANOS, M.; MARSTEINTREDET, L. (eds.). *Presidential Breakdowns in Latin America: Causes and Outcomes of Executive Instability in Developing Democracies*. Palgrave: Basingstoke, 2010. Pérez-Liñán asserts the need to re-evaluate the perils of presidentialism (PÉREZ-LIÑÁN, Aníbal. Democratization and constitutional crises in presidential regimes: toward congressional supremacy? *Comparative Political Studies*, Oxford, v. 38, n. 1, 2005).

⁸¹ ABRANCHES, Sérgio. *Presidencialismo de coalização*. São Paulo: Companhia das Letras, 2018.

the executive toolbox described by Chaisty, Cheeseman and Power sheds light on such a strong explanatory hypothesis. To sum up, and despite all the side effects, the system may work depending on the ability of the president to manage it. What is more, the system has become resilient.

This reasoning seems to understand the resilience of coalitional presidentialism as being the renewed resistance force of a vitiated model, the unviability of escaping from a biased use of the traditional political machinery made up within multiparty presidentialism. Coalition, in this setting, does not stand for alliances made with political purposes concerning common public “policy pursuit”; instead, it stands for “office seeking”⁸² or resource-oriented bargains. In other words: resilience refers to the vicious circle of spurious bargaining within the Brazilian political system.

Despite the merits and accuracy of many aspects of this analysis, it is possible to gloss over political deadlock situations, crises, the resulting powerlessness of the president and related ineffective administration. Timothy Power and others assert that these circumstances do not indicate institutional decay and they rely on factual evidence to argue that presidentialism with a multiparty system is viable even when confronted with conjunctural crises.⁸³

This more optimistic approach which has in mind an acceptable level of governability and the president’s capacity to foster public policies, however, does not authorize disregarding the perils pointed out by Linz and other authors. So the analysis may be broadened with contributions based on empirical data and on the collection of historical experience under presidential systems. In doing so conjunctural and structural challenges can be distinguished, and constitutional and practical corrective mechanisms to these challenges can be identified. Briefly, the idea is to conceive multiparty presidentialism not as a fatal fate, but rather as a challenging manageable fate.

In fact, it seems possible to sustain a somewhat critical appraisal of Linz’s too fatal depiction of the perils of presidentialism. Leiv Marsteintredet and Einar Berntzen, among others, confronted Linz’s conception by analyzing twenty interruptions in Latin American presidencies – not only impeachments – which had occurred in the third wave democracies in the region. They argue that these interruptions render presidentialism more flexible, making the two biggest perils of this kind of system less perilous –⁸⁴ the rigidity and the problems related to the dual democratic

⁸² “Policy pursuit” and “office seeking” are expressions used by Norman Schofield (SCHOFIELD, Norman. *Coalition Politics: A Formal Model and Empirical Analysis*. *Journal of Theoretical Politics*, London, v. 7(3), pp. 245-281, 1995). The analysis does not directly apply to the Brazilian model, but sheds important light on coalition formation and refers to substantive literature.

⁸³ See POWER, Timothy. Optimism, pessimism, and coalitional presidentialism: debating the institutional design of Brazilian democracy. *Bulletin of Latin American Research*, Oxford, v. 29, n. 1, pp. 18-33, 2010.

⁸⁴ Their empirical results can be summarized as follows: “twenty interrupted presidencies, only two ended in reversals to authoritarian regimes, whereas with respect to the undemocratic coup in Ecuador in 2000,

legitimacy –⁸⁵ and exposing “a changed practice within formal structures that have not changed”.⁸⁶

In a similar vein, Kathryn Hochstetler and David Samuels examine the various crises faced by presidents, trying to find out if they represent new perils of presidentialism or, on the contrary, if they expose movements of crisis and recalibration,⁸⁷ with few debilitating consequences. The authors deal with the greatest perils pointed out by Linz – democratic instability, unfinished terms, governance indicators, regime legitimacy and support – and, also relying on empirical data from the Latin American context, affirm that presidential challenges and crises do not permit the conclusion that they undermine support for democracy.⁸⁸

These dissenting analyses and reasoning make it possible to regard interruptions in presidencies which do not lead to profound debilitating crises not as complete failures of the system or regime, but rather as circumstantial crises of specific presidents and in specific contexts.⁸⁹ Premature interruptions of the fixed term are understood as pragmatic – but constitutional – corrective mechanisms which come into play in various situations when the president lacks legislative support, and usually requires media and/or popular manifestations grounds. The tendency

democracy was restored in a matter of five days. Seventeen interrupted presidencies did not result in democratic breakdown. These statistics warrant cautious optimism with respect to presidentialism and democracy in Latin America. Impeachment is a very cumbersome process and has succeeded in only three (out of five) cases. As Table 2 summarizes, the consequence of an increased use of impeachment is a flexibilization of a president’s fixed terms and a higher degree of horizontal accountability. Of the twenty presidential interruptions identified in Table 1, six were either coups or impeachments, but the remaining fourteen cases affect the very nature of Latin American presidentialism, the independent origin and survival of the elected institutions. The independent origin and survival are precisely the factors that Linz argues will lead to dual democratic legitimacy and rigidity, respectively. These fourteen cases of successful presidential interruptions may be understood as a flexibilization of the presidential fixed term and independence from legislative and popular accountability in between elections.” (MARSTEINTREDET, Leiv; BERNTZEN, Einar. Reducing the Perils of Presidentialism in Latin America through Presidential Interruptions. *Comparative Politics*, New York, v. 41, n. 1, 2008)

⁸⁵ MARSTEINTREDET, Leiv; BERNTZEN, Einar. Reducing the Perils of Presidentialism in Latin America through Presidential Interruptions. *Comparative Politics*, New York, v. 41, n. 1, 2008. See also HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York, January, v. 43, n. 2, pp. 127-145, 2011.

⁸⁶ MARSTEINTREDET, Leiv; BERNTZEN, Einar. Reducing the Perils of Presidentialism in Latin America through Presidential Interruptions. *Comparative Politics*, New York, v. 41, n. 1, 2008.

⁸⁷ The authors refer to Linz’s own words in his subtitle. HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York, January, v. 43, n. 2, pp. 127-145, 2011.

⁸⁸ HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York, January, v. 43, n. 2, pp. 127-145, 2011, especially p. 134. The authors assert: “With only seventeen cases for each model, these results are hardly definitive. Yet this exercise lends no support for the pessimistic hypothesis. Although the signs on the coefficients for “challenge” or “fall” are negative in three of four equations, they never come close to statistical significance. [...] In short, presidential challenges and falls do not have a uniformly positive or negative effect on popular support for democracy across Latin America” (p. 141).

⁸⁹ For Schier there is no coalitional presidentialism crisis in Brazil, only crises of specific coalitions (SCHIER, Paulo Ricardo. Presidencialismo de coalizão: democracia e governabilidade no Brasil, *Revista Direitos Fundamentais & Democracia*, Curitiba, v. 20, n. 20, pp. 253-299, 2016).

is that the legislative branch endures the crisis, while the executive branch faces momentaneous defeat, revealing a more flexible feature of the system – an “underappreciated equilibrating mechanism”,⁹⁰ which brings presidentialism and parliamentarism a little closer.⁹¹

Even impeachment procedures, known to be complex and traumatic, can be seen in a different light, requiring the reevaluation of the “linzian” perils of presidentialism. Aníbal Pérez-Liñán, who critically studied the growing trend of impeachments, concluded that the conflicts linked to presidential features which create more *interbranch confrontation* are now being solved within the constitutional framework and are resulting in less regime instability.⁹² He points to new challenges, since we are facing “stable presidentialism systems with unstable presidents”.⁹³

This argumentation is also supported by Leiv Marsteintredet and Einar Berntzen. Not disregarding the fact that impeachment procedures are caused by serious political crises and deadlock, they affirm that the way these conflicts are being dealt with exposes a growing “habituation to democratic rules and procedures necessary for democratic consolidation”. This consolidation would also be fostered, according to the authors, since the results of impeachments prove the enhanced power of the legislative branch in relation to the executive branch, demonstrating “increased horizontal accountability”.⁹⁴

Besides the study of the premature interruption of presidencies, a closer look from inside the institutions, focusing on the functioning relationships between the executive and the legislature, can reveal new perspectives for multiparty presidentialism. Empirical analyses of the Brazilian example have been shedding new light on the matter. Parliamentary internal rules (Regimento interno) and the recognition of the powers and importance of party leadership (lideranças partidárias, Colégio dos Líderes) substantially influence coalition management and, consequently, political stability and governability.⁹⁵

⁹⁰ HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York. January, v. 43, n. 2, pp. 127-145, 2011, especially pp. 127-130.

⁹¹ MARSTEINTREDET, Leiv; BERNTZEN, Einar. Reducing the Perils of Presidentialism in Latin America through Presidential Interruptions. *Comparative Politics*, New York, v. 41, n. 1, 2008. See also LIMONGI, Fernando; GUARNIERI, Fernando; FREITAS, Andréia. The Presidentialization and Parliamentarization of Politics in Brazil: from Collor to Dilma. *European Consortium for Political Research*, Colchester, 2015 (available at <https://ecpr.eu/Filestore/PaperProposal/cc27d5c6-8b4c-4148-8a61-178e23e0b031.pdf>).

⁹² PÉREZ-LIÑÁN, Aníbal. Democratization and constitutional crises in presidential regimes: toward congressional supremacy? *Comparative Political Studies*, Oxford, v. 38, n. 1, 2005, especially pp. 71-72.

⁹³ PEREZ-LIÑAN, A. *Presidential Impeachment and the New Political Instability in Latin America*. Cambridge: Cambridge University Press, 2007.

⁹⁴ MARSTEINTREDET, Leiv; BERNTZEN, Einar. Reducing the Perils of Presidentialism in Latin America through Presidential Interruptions. *Comparative Politics*, New York, v. 41, n. 1, 2008.

⁹⁵ RUBIATTI, B. de C.; PEREIRA, F. da S. Relação executivo-legislativo no presidencialismo de coalizão brasileiro: a agenda do governo Dilma Rouseff (2011–2016). *Temáticas*, Campinas, v. 27, n. 53, pp. 285-316, 2019 (available at <https://doi.org/10.20396/temáticas.v27i53.11611>); POWER, Timothy.

Last, but not least, one interesting observation should be made about the wider context in which presidential systems exist, which can play an important role in democratic (in)stability. Comparing Latin American presidential systems with European parliamentary systems does not seem entirely adequate to draw conclusions concerning an alleged greater ability of the latter to foster democracy;⁹⁶ this seems to have much more to do with other elements than with the institutional setting of multiparty presidentialism. In fact, it is reductive to simply tie democracy, political stability, socioeconomic performance to presidents' stability in office.⁹⁷

At this point, it is not difficult to realize how either pessimistic or optimistic views can get hyperbolized. As mentioned, our aim is to seek a more nuanced view on the subject.⁹⁸ Linz's fatal prophecy of presidentialism has not been fulfilled. Nonetheless, it is relevant to remain vigilant, investigating and fostering institutional and practical conditions required by governability and democratic stability.⁹⁹ This challenge may become particularly hard in a global context of backsliding democracy and growing populism, as witnessed at present in Brazil.

The broader analysis pursued might help in answering the questions presented at the beginning of this article; we hypothesized whether the impeachment procedures were signs of the fatal fate to which Brazilian coalitional presidentialism was, by its very institutional design, doomed. For the time being, these questions deserve mere preliminary answers – or clues to further investigation – subject to historical judgement.

Even recognizing the relevance of the constitutional design approach and the difficulties of maintaining a presidential regime with a multiparty system, it seems reasonable to assert that within particular contexts and in the course of time, constitutional designs can generate (un)expected evolutive side effects. Institutions

Optimism, pessimism, and coalitional presidentialism: debating the institutional design of Brazilian democracy. *Bulletin of Latin American Research*, Oxford, v. 29, n. 1, pp. 18-33, 2010, especially p. 92.

⁹⁶ "Empirically, scholars found that countries with parliamentary systems survived longer because they tended to possess other (noninstitutional) characteristics that strengthened democracy. For example, empirical analysis restricted only to developing countries found no relationship between regime type and democratic survival." (POWER, Timothy; GASIOROWSKI, Mark. *Institutional Design and Democratic Consolidation in the Third World. Comparative Political Studies*, Oxford, 30, 123-56, 1997)

⁹⁷ HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York. January, v. 43, n. 2, pp. 127-145, 2011.

⁹⁸ "While both the pessimistic and optimistic views find some anecdotal support among scholars, a more systematic exploration of the evidence suggests that although presidential challenges and falls are surely crises, their measurable effects are limited and ephemeral. Civilian-led challenges and falls pose minimal threat to presidential governance broadly considered, and instead represent a workable solution to the stresses of governing under the separation of powers." (HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York. January, v. 43, n. 2, pp. 127-145, 2011, especially p. 128).

⁹⁹ HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York. January, v. 43, n. 2, pp. 127-145, 2011, p. 134.

evolve and adapt through history and actual experimentation, which can create new functioning models and solutions,¹⁰⁰ influenced by local context and circumstances, rendering constitutional design not absolutely deterministic.¹⁰¹

The Brazilian institutional structure still has to ripen; political actors have to be given the chance to find each other in this arena developing renewed roles.¹⁰² Though, it is already possible to identify corrective mechanisms in the constitutional system. Considering Fernando Henrique Cardoso and Lula's presidencies, one is tempted to profile a more optimistic analysis of the Brazilian presidentialism.¹⁰³

Recently – departing from the brief scrutiny of Dilma's impeachment and Bolsonaro's government so far –, however, it could seem more plausible to surrender to a pessimistic approach. Brazil would be facing the setback and the resilience of the toolkit engendered within multiparty presidentialism, with mechanisms for office-seeking or resource-oriented spurious bargains. Coalitional presidentialism could be seen as one of the most powerful institutional outcomes the Brazilian Constitution has generated. It seems to be rather resilient when attacked.

Resilience of coalitional presidentialism has often been described in a negative way, the unescapable vicious circle of spurious bargaining within the Brazilian political system. The present reality in Brazil, at first glance, reinforces this conception. Nonetheless, a longer timeframe demands a more positive reading of this resilience, reassessing the premature ending of presidential terms and the reciprocal dependence between president and Congress.

To sum it up, it does not seem unreasonable to depict the impeachment procedure – aimed at extreme circumstances – as a corrective mechanism established within the Brazilian institutional design. The use of this corrective mechanism, which must remain exceptional, may improve profiting from gained political experience and the maturation of political institutions throughout time, guaranteeing that

¹⁰⁰ Emphasizing the potential of learning with experiences in presidentialism, see HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York. January, v. 43, n. 2, pp. 127-145, 2011, especially pp. 142-143.

¹⁰¹ Bertholini and Pereira, scrutinizing Brazilian political reality affirm that the president is not hostage to the institutional design, political success depends highly on his or her ability to manage the coalitions (BERTHOLINI, Frederico; PEREIRA, Carlos. Pagando o preço de governar: custos de gestão de coalizão no presidencialismo brasileiro. *Revista de administração pública – RAP*, São Paulo, v. 51, n. 4, pp. 528-550, 2017 (available at <https://www.redalyc.org/articulo.oa?id=2410/241052472005>).

¹⁰² Comparing Collor's and Fernando Henrique Cardoso's presidencies, Limongi and others expose these developing possibilities, they also point opposite outcomes of "personalization" (LIMONGI, Fernando; GUARNIERI, Fernando; FREITAS, Andréia. The Presidentialization and Parliamentarization of Politics in Brazil: from Collor to Dilma. *European Consortium for Political Research*, Colchester, 2015 (available at <https://ecpr.eu/Filestore/PaperProposal/cc27d5c6-8b4c-4148-8a61-178e23e0b031.pdf>).

¹⁰³ LIMONGI, Fernando; GUARNIERI, Fernando; FREITAS, Andréia. The Presidentialization and Parliamentarization of Politics in Brazil: from Collor to Dilma. *European Consortium for Political Research*, Colchester, 2015 (available at <https://ecpr.eu/Filestore/PaperProposal/cc27d5c6-8b4c-4148-8a61-178e23e0b031.pdf>).

presidential crises do not turn into regime crises and, most importantly, do not threaten democracy.

In the same vein, it does not seem impossible that the institutional setting at play, corroborating the necessary interactions between the executive branch and the legislative branch,¹⁰⁴ would gradually modulate coalitional presidentialism into a practice of formation and maintenance of coalitions based on shared public policies, goals and agendas, fostering democracy¹⁰⁵ and governability. Crises would not be inevitable, but solved within the system, according to the established rules.

These developments could even be regarded as the constitutional goal for this political system. Paulo Ricardo Schier, focusing on the legal aspects and investigating the historical roots that led to enshrining this institutional design in the present Brazilian Constitution, concludes that coalitional presidentialism is not an accidental outcome; it was intentionally structured to address specific Brazilian problems. Schier affirms that there is no margin for choice, no elected government may deny making coalitions; he explicitly argues that “coalitions are a constitutional imposition”.¹⁰⁶

In this sense, profiling a more optimistic understanding of this institutional design would lend resilience a positive meaning.¹⁰⁷ It would indicate the ability of the political system to withstand crises, dynamically, maintaining the conditions to guarantee democracy.¹⁰⁸

Without disregarding the theoretical and empirical warnings on the “perils of presidentialism”, as well as the actual populist threats to democracy, it may be

¹⁰⁴ It was briefly mentioned above and goes beyond the possible boundaries chosen for the present work, but the functioning of parliament in Brazil has already evolved; relationships between the executive and legislative branches develop counting on party leadership (“lideranças partidárias”, “Colégio dos Líderes”) and according to internal congressional rules (Regimento Interno).

¹⁰⁵ For an approach that explores the democratic virtues of coalitional presidentialism, see SCHIER, Paulo Ricardo. *Presidencialismo de coalizão: democracia e governabilidade no Brasil*, *Revista Direitos Fundamentais & Democracia*, Curitiba, v. 20, n. 20, pp. 253-299, 2016; SCHIER, Paulo Ricardo. *Presidencialismo de Coalizão: Contexto, Formação e Elementos na Democracia Brasileira*. Curitiba: Juruá, 2017.

¹⁰⁶ For a relevant analysis of Brazilian coalitional presidentialism focused on the legal aspects and referring to vast and substantial literature, see SCHIER, Paulo Ricardo. *Presidencialismo de Coalizão: Contexto, Formação e Elementos na Democracia Brasileira*. Curitiba: Juruá, 2017; SCHIER, Paulo Ricardo. *Presidencialismo de coalizão: democracia e governabilidade no Brasil*, *Revista Direitos Fundamentais & Democracia*, Curitiba, v. 20, n. 20, pp. 253-299, 2016.

¹⁰⁷ As Tom Daly puts it: “Only time will tell whether the story of Brazilian democracy becomes one of democratic resilience, but even then, there is a long road to travel to renew hope in democratic rule in the world’s fourth-largest democracy.” DALY, Tom. *Populism, Public Law, and Democratic Decay in Brazil: Understanding the Rise of Jair Bolsonaro* (March 11, 2019). This paper was prepared for the 14th International Human Rights Researchers’ Workshop: ‘Democratic Backsliding and Human Rights’, organized by the Law and Ethics of Human Rights (LEHR) journal, 2-3 January 2019, (Available at SSRN: <https://ssrn.com/abstract=3350098> or <http://dx.doi.org/10.2139/ssrn.3350098>).

¹⁰⁸ HOCHSTETLER, Kathryn; SAMUELS, David. Crisis and Rapid Reequilibration: The Consequences of Presidential Challenge and Failure in Latin America. *Comparative Politics*, New York. January, v. 43, n. 2, pp. 127-145, 2011.

useful to “seek for efficient secrets in the web of Brazilian political institutions”¹⁰⁹ aiming to see beyond the European parliamentary and North American presidential models and to draft new exploratory and explanatory narratives centred in the realities and contexts of young presidential democracies.¹¹⁰

Instead of envisaging coalitional presidentialism crises in an all-too-negative reading, it might be possible to contemplate evolving systems, struggling to mature and cope with a challenging manageable fate instead of a fatal one. By giving – and reverberating – this meaning to coalitional presidentialism, we “might create institutional facts that lead to an augmented reality of a constitutional” order and its practice. More than an exercise of hope, this analysis could reinforce a positive narrative on the resilience of multiparty presidentialism. If constitutions tell a story, let us engage in this permanent storytelling, this convincing process,¹¹¹ conceiving and depicting coalitional presidentialism in favour of constitutional democracy.

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¹⁰⁹ POWER, Timothy. Optimism, pessimism, and coalitional presidentialism: debating the institutional design of Brazilian democracy. *Bulletin of Latin American Research*, Oxford, v. 29, n. 1, pp. 18-33, 2010.

¹¹⁰ BERTHOLINI, Frederico; PEREIRA, Carlos. Pagando o preço de governar: custos de gerência de coalizão no presidencialismo brasileiro. *Revista de administração pública – RAP*, São Paulo, v. 51, n. 4, pp. 528-550, 2017 (available at <https://www.redalyc.org/articulo.oa?id=2410/241052472005>).

¹¹¹ VOERMANS, *Het verhaal van de grondwet: zoeken naar ons*. Amsterdam: Prometheus, 2019, especially pp. 349-360.

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