

## Participatory Democracy in Brazil: constitutional guarantees, innovations and challenges

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Participatory governance is characterized by efforts that make democratic institutions more inclusive, breaking with minimalist visions of participation that restrict political action to voting and treat democracy as merely a method for forming governments. In this context, it is worthwhile to consider how Brazil's trajectory of expanding social participation, initiated by the constitutional guarantee of liberties and rights, stimulated the creation of institutional participatory mechanisms.

In Brazil, social pressures to expand participation did not limit democratic expansion to merely the electoral process. Experiences with participatory governance, triggered by the 1988 Constitution, enabled the creation of public spaces and forced the reconfiguration of relations between the state and society. This phenomenon arose from a historical context in which social demands were not met by state action and created opportunities for democratic innovations.

This article aims to present the evolution of social participation in Brazil through a historical overview of constitutional guarantees, since these comprise the foundation of the institutional structures necessary for participatory governance. The role of social movements in Brazilian democratization is also emphasized, recognizing the innovations and challenges (generated by the diffusion of public spaces) that accompany new social and political practices.

### The evolution of social participation in Brazilian constitutions

Brazil began its constitutional period immediately after the independence in 1822 through consecrating principles of the French-inspired liberal State, thus restricting the legal field from infringing on civil liberties. The historical path that followed reaffirmed individual rights and liberties with strong North American influences, especially with regard to the federal model of government. The path then progressively shifted from the liberal state to the social state through inspiration from various constitutions, especially the Portuguese constitution and its stance on Democratic Rule of Law (SILVA, 1999).

Brazil's first constitution emanated from its colonial independence from Portugal in 1822. This document expressed extensive political and administrative centralization and established a monarchy as the form of government. It was drafted by a group of intellectuals summoned by the emperor and ultimately instituted in 1824. This constitution established an open and indirect voting system, which condoned coercion during elections. Furthermore, the indirect voting system withheld the majority of

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The new Egyptian constitution: experiences and challenges

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the population from decision-making, as the right to vote was granted only to men above the age of twenty-five with a specific annual income.

During the period of this constitution, there were innumerable popular uprisings before the federalist-republican forces achieved victory and proclaimed the republic. Promulgated by the federalist-republican regime in 1891, Brazil's second constitution adopted a federal model, nationally incorporating three separate branches of government and a constituent congressional body. Presidentialism was adopted as the new system of government, given that political disputes were concentrated among regional oligarchies (BALEEIRO, 2001). Violence and fraud during elections remained frequent because voters were enlisted and elections organized by local leaders. The vote became direct but remained open, the income standard was removed, and the minimum age lowered to twenty-one years; however, voting rights remained exclusively male.

In 1930, a revolution occurred in opposition to the dominant oligarchies. The intention was to eliminate the abusive supremacy of local leaders over the population, a practice that had been in place for several years. A constitutional assembly was convened and a new constitution released in 1934, which retained presidentialism and federalism while also strengthening central power (POLETTI, 2001). Notably, this new text furthered the rights of the individual (including those of social and labor) and adopted electoral laws that recognized female voting rights. Additionally, general elections were carried out through use of secret ballots. The direct election system remained in place and the minimum voting age was lowered to eighteen years of age. Furthermore, aspects of the text allowed for a developing view that appointment of delegates to the congressional House of Representatives could be conducted by professional organizations, to the benefit of opening individual participation further.

A state coup in 1937 gave Brazil its fourth constitutional transition. In its wake, trade associations were restricted, requiring government authorization for unionization. Forms of demonstration, such as strikes, were also prohibited. The constitution established the National Economic Council, composed of representatives for laborers and employers, to foster discussion of policy and settlement of labor disputes. Nevertheless, since unions were controlled by the government, collective opinions were not taken into consideration (COSTA PORTO, 2001). The fourth constitution also established the legal instrument of general referendum as a forum for popular consultation on national matters (such as state divisions and legal issues of heightened public interest). Although the constitutional text should have also been subject to consultation, it was not.

Following the end of World War II, Brazil sought to reconstruct its constitutional order. Along these lines, a constitutional assembly was tasked with reinstating the democratic principles put forth in the previous constitution of 1934. Consequently, a new constitution was enacted in 1946, which reestablished federalism and ceded more responsibilities to municipalities. As a result, this text reaffirmed the need for balancing separation of powers between the three branches of the national government (BALEEIRO & SOBRINHO, 2001). Freedom of partisan organization and union association became constitutional guarantees. Moreover, the new constitution upheld the institution of national referendum and returned to direct participation in general elections.

Increasingly apprehensive about the social agenda held by the state, Brazilian elites and the nation's military allied for a State coup in 1964. During the historic wave of Latin American dictatorships, the

country received another new constitution in 1967. The text extended the influence of the executive power over the legislative and judiciary, and yet again weakened federalism through the political and administrative centralization that was regarded as indispensable in addressing alleged threats to national security (CAVALCANTI, BRITO & BALEEIRO, 2001). Countless individual rights were restricted and the freedom of association was eliminated in order to avoid popular protests. Other regressive alterations, such as the dissolution of the National Economic Council and the return of presidential appointment through indirect election would, in turn, foster a rise in political manipulation and government misconduct.

In the midst of the political liberalization initiated at the end of the 1970's, countless social movements gained strength and pressured for a new constitution. As a reaction against the authoritarian government, the constituent assembly drafted a text that met the aspirations of liberty and social justice. Enacted in 1988, the current constitution strengthened the federation, propelled administrative decentralization while amplifying the recognition of fundamental rights (TÁCITO, 2005).

In this text, the state is founded on the Democratic Rule of Law, which values citizenship and popular sovereignty. Voting rights were established for men and women above the age of sixteen. The 1988 constitution also established forms of social participation in governance, particularly through policy management councils. Furthermore, referendum and plebiscite mechanisms were established for consultations on state divisions and legal matters, and a public initiative was created for the drafting of legislative proposals.

In a nutshell, Brazil's political trajectory is marked by the transition's liberal and social constitutions, as well as by the clear movement between authoritarian and democratic ideals. For Brazilian constitutional law, political rights were subject to suffrage and eligibility conditions. With regard to democracy, we emphasize the expansion of social participation in recent years. The voting restrictions expressed in the first constitutions were replaced in recent constitutions by more social inclusion in political decisions. Thus, the initiatives and proposals to expand social participation remained timid until the enactment of the 1988 constitution.

### **Social participation in the 1988 Constitution**

The 1988 Constitution was explicit in the expansion of social participation. The text incorporated social demands for freedom and inclusion in the political arena, thereby creating space to experience participatory democracy. Various devices were implemented to expand political rights, especially related to administrative decentralization, as well as incorporating citizen and civil society participation in the management of public policies.

A number of articles in the constitutional text include provisions that promote participatory governance. With regard to the structure of participation, the 1988 Constitution outlined principles and directives such as the citizenship as the foundation of the democratic state (articles 1, 5, 8, 15 and 17), social duties in collective issues (articles 205, 216, 225, 227 and 230) and the exercise of popular sovereignty (articles 14 27, 29, 58 and 61), but also established social participation as a form of governance (articles 10, 18, 37, 74, 173, 187 and 231).

With respect to the institutionalization of participatory mechanisms in public policy, administrative decentralization with participatory management particularly stands out in the domains of social security (art. 194), health (art. 198), social welfare (art. 203) and education (art. 206). Furthermore, the 1988 Constitution established social participation as a required component of collegiate bodies, be they policy management councils or others (articles 89, 103, 130, 124).

The establishment of social participation as a constitutional guarantee allowed participatory governance experiences to emerge in new areas of governmental decision-making. The formalization of participatory mechanisms in public policy resulted from intense disputes over the parameters of democratic practices, which allowed the emergence of new political actors and the recognition of a new type of citizenship (DAGNINO, OLVERA & PANFICHI, 2006).

### **Social movements in the struggle for democratic rights**

In Brazil, increased social participation in the democratic sphere was stimulated by the return of popular action to the political scene (DAGNINO, 1998). At first, decisions remained concentrated in the hands of the political elites, especially with regard to institutional changes, but eventually popular mobilization was successful in promoting and lobbying for the incorporation of democratic practices in public administration.

During the dictatorship there were pockets of civil resistance, which although harshly repressed, constituted the basis for political liberalization and democratic reconfiguration. Social organization took on a clandestine form, whether as armed conflicts, partisan organizations or as civil associations. These parallel activities, often supported by illegal political parties and sectors of the Catholic Church, increased social capital and thus offered new perspectives for the political practices of social movements (DOIMO, 1995).

Propelled by worker strikes that inaugurated an era of trade unionism in Brazil, new leftist political parties were created. Trade unions sought autonomy from the state and constructed their agendas based on the parties that tried to break with the elitism of Brazilian politics. The movement for direct elections was another milestone reached in the democratization process and generated intense popular mobilization.

The popular movement struggle was centered on claiming access, inclusion, participation in the national political system (DAGNINO, 1998). This struggle resulted in a confrontation between the *status quo*, centered on elite interests, and the inclusion of new political actors that reclaimed social and political rights. The entrance of new actors in the political arena introduced a dispute over democratic parameters, which altered the relation between state and society. This new relationship developed especially participation through institutional channels, and participatory governance experiences.

### **Innovations and challenges of participatory governance**

The administrative decentralization promoted by the 1988 Constitution was an institutional advance that allowed various experiences with participatory governance. These experiences include public policy councils wherein state and civil society representatives approve or review government action

over delineated areas of interest. Councils introduced new actors to the political arena and the participation of citizen representatives balanced that of the government's.

In addition to management councils, participatory budget experiences stand out in municipal management. This is a broader process for defining public policies, because it does not merely lump representatives together in a council, but rather encompasses the interested population from a certain neighborhood and generally focuses on investment decisions in public works. Participation takes place at various levels through representatives and allows interaction between political actors and the monitoring of state actions.

Another achievement of decentralized governance is the consideration of drainage basins as administrative units in the nation's water resource system. This alteration challenged the fragmented vision of governance that isolates agencies responsible for policies and distances them from the wider population. Also, a new regulation on environmental protection areas stimulated coordinated action among municipalities, states and the federal government, generating co-responsibility in the management of public goods.

Recently in the urban context, social participation gained force through drafting a city planning tool. Involving multiple economic, social and political issues, the participatory management of urban space presents an operational challenge. Moreover, participatory governance of urban areas could affect municipal administration because policies designed for a given sector must correspond with the overall planning of urban space.

Also noteworthy is the recent progression of federal initiatives. Councils have been reformulated and created, ombudsman services established, public consultations promoted and conferences held, with the intention of extending social participation to the drafting, monitoring and evaluation of public policies at the level of the federal government. The complexities of nationwide implementation of public policies, as well as the absence of state apparatuses to cultivate participation, challenge the continuity of those initiatives.

A general outline of the ongoing initiatives in Brazil does not enable us to predict the potential gains and challenges to implementation of participatory processes. However, it is possible to perceive that the institutionalization of these practices recognizes social participation as a right. The following elements of democratic innovation stand out: amplified interaction between political actors, transparency in governance, redistribution of financial resources, reconfiguration of the federative pact, and co-accountability for the management of public goods (SOUZA, 2008).

Participatory governance experiences also face countless challenges. The existence of democratic practices, as promoted by the constitution, does not guarantee increased participation and effectiveness of constitutional principles. Thus, the consolidation of these experiences depend on overcoming institutional, technical, cultural, social and political difficulties such as: an under-empowered civil society, an unclear role in government representation, isolated government bodies, excessively technical language in discussions, detachment of the legislative power, lack of information and motivation for participation, and insufficient structures to promote participation (SOUZA, 2008).

## Final remarks

Brazilian experiences with participatory governance, under pressure from social movements to expand participation and democratic rights, have brought about innovations and revealed challenges. One must recognize that the path towards amplifying social participation in Brazil, despite inherent discontinuities and contradictions, has enabled social actors to recover access, inclusion and participation in the political system.

In Brazil, the struggle to ensure social rights coexists with the recognition of political actors and with the diffusion of public decision spaces, which together promote democratic innovations. The Brazilian experience furthers the current debate on democracy because of the controversial nature of this coexistence. Redefining the relationship between state and society requires reflection on the meaning of participation in various historical, cultural, political and social contexts.

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