

The Corrosion of Representative Democracy

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“Politics is far more complicated than physics,”
(Albert Einstein’s response when asked why man
was able to dominate the atom but not control it.)

THAT WHICH is called the “crisis of the Congress” would be more aptly called the crossroads of representative democracy. In these so-called “post modern” times, of a delirious “end of history” and a fascination in good and bad faith for “direct democracy,” based maliciously on elitist forums that dispense with social representation sustained by the universal vote, we witness an unparalleled offensive against Politics. Instead of social pacts, opened with the fine needle of negotiation and sewn with the course thread of public debate, new types of guilds are presented to coral the great issues and national decisions. From the start, however, as a premise of analysis on an important plane and not as an epitaph for the theme, it is essential to admit that our political system has carried various deformities for decades. A good portion of our difficulties, cultivated in the state apparatus, originate from anti-Republican practices, certainly nurtured since the days of colonization and the Empire. Unrepentant, they are hidden or exposed, attenuated or exaggerated according to the rhythm and temperature of the political struggle. The moralist zeal is product of a second need in this bazaar of interests.

In an article for the electronic journal of the Democrats Party (DEM), entitled “The Greatness of Politics,” I had the opportunity to show that certain criticisms that are presented as new are older than the problem:

There are few studies among us of the relationship between politics and public opinion as presented by the media, but in the case of the United States, there is an excellent work by an influential journalist, James Fallows, published in Portuguese by *Civilização Brasileira* with the title *Detonando a Notícia* [Breaking the News] and the revealing subtitle: *How the Media Undermine Democracy*. Fallows, then editor of the magazine *U.S. News & World Report* and now national correspondent for *The Atlantic Monthly*, addresses the “sensation of cynical distrust that threatens American politics.” With a philosophical tone, he reviews the discussions and disturbances that were particularly intense in the 1920s, heated by journalist Walter Lippmann

in *Public Opinion* (1922), and expanded by John Dewey in *Experience and Natureza* (1938). His principal thesis is that representative democracy, which was already hampered at that time by the speed of occurrence and promotion of events, would be threatened if its citizens did not become engaged. Currently, this deformity grows to the degree in which the essential figure of the voter is substituted by other forums and tribunes that appropriate their prerogatives of interference in public life.

Progressive sectors are accepting a diversionist debate, and are even getting trapped in it. In the background, a “crisis of Congress” is indicated, virtue is not opposed to vice, but the State to the market, in a political struggle locked either with polished ambivalence, or with corrosive virulence, but it is not important, in these times of molecular biology, that the wolf is a clone of the lamb, because it cannot disguise the nature of political struggle. Market here means the heralded ideological movement of the “minimum State,” which is nothing more than a dehydrated State lacking national interest and popular representation, and steered to the expanded reproduction of globalization. What interests us is understanding that the State, even as an instrument of subalternation of classes, is partially and necessarily aimed at the public interest, complying with its fundamental tasks, such as the reproduction of the labor force, by means of universal policies of social mobility, and thus is susceptible to the influence of the people in the group of institutions permeated by the inheritance of the arduously fought social struggles, and of the hard won conquests obtained with the goal of a human plentitude to which all could aspire.

A diffuse but transformative force is found in this movement, although an unbalanced one, with advances and setbacks, yet it is continuous, and acts towards the common good, and focuses, even if limited by the correlation of forces, on the construction of a truly sovereign and independent country, which is prosperous and free of the abject inequality that maintains large portions of the population in subhuman living conditions. The debate that the “crisis of the Congress” wants to impose is the agenda of the multilateral organizations, financed and guided by the wealthy countries, that leads to the confiscation of social struggles, through the implantation of forms, that are not so new, for disqualifying the State apparatus, and in it popular power, formally expressed in the Legislature, a tool of the objective conditions that overcome both the idealization as well as the manipulations of Politics.

If there is a “crisis in the Congress,” it is a crisis of autonomy and competence. The great reform to be made in the Legislature is to provide it with the true complete power that representative democracy establishes for it. This is the foundation stone of the reform of the Brazilian State. The Legislature is a power usurped by its counterparts. On one hand, as Limongi & Figueiredo (1999) demonstrate in *Executivo e Legislativo na nova ordem constitucional* [The Executive and the Legislature in the New Constitutional Order], “the Executive, in virtue of its legislative powers, commands the legislative process,

thus undermining the very strength of the Congress as an autonomous power.” On the other hand, there is increasing judicial activism that, even in the authorized case of the Electoral Courts, doted with normative power, violates the principal established in Article 2 of the Brazilian Constitution that determines the independence, although harmonic, of the branches of power of the Republic. The institutional jurisdiction of the Legislature has also been invaded, and in troubling dimensions of sabotage, by the movement that seeks to capture the dignity of the institution, highlighted by the challenges that are in fact condemnable, but unleashing blows that in essence are aimed not at the men but at the institution.

It is a tautology to note that the National Congress is not only the most scrutinized institution, but also the most criticized. It is the Pandora’s box from which Zeus with clay feet, ready to save Brazil with shortcuts that first serve their interests, extracts all the evils of national society. What other power, institution, sector, company, non-governmental organization, or whatever you may have, submitted to such a detailed and severe analysis, would not offer similar results? What to say of the “crisis of the press”? Of the University? Unlike Lot’s wife, the Pharisees did not look back, because they knew that they would turn to salt. Clearly, an equivalence of ailments does not exempt the Legislature from blame and scrutiny. But it should be first noted, for the purpose of analysis: that it is a transparent institution where everything is subject to verification and comparison; the debates, the negotiations and the decisions are public. Nevertheless, the Legislature has a very low power of dissuasion and no power for retaliation. It lacks the Executive’s power to nominate (and to make the budget), and it does not have the punitive power of the Judiciary. The first has generous funds for publicity and an elevated capacity to help business. The second has the prerogative of imposing civil and criminal sanctions to those who challenge it, and even to establish pre-censorship on the media.

This is the reason for the swiftness with which a synthesis of the composition of the Brazilian people is treated as if it was a foreign body in the nation. One has the impression that in the place of our real Congress, emanated from the people in all its aspects, certain critics want to enthrone a House of Lords. For these it is always opportune to cite an observation of the philosopher Álvaro Vieira Pinto. In the book *Consciência e Realidade Nacional* [Conscience and National Reality], a superb essay from 1960, he challenged the recurring nonsense that the Legislature needs to be cleansed of the imbecility of the sans-culottes and ennobled by the wisdom of the *best*, the good men, capable and pure who are nothing more than the organic intellectuals of the aristocracy. “Elections in democracy serve precisely to refute the aristocratic illusions, which consist in supposing that it is the best who do the best,” wrote Vieira Pinto (1960). It is within this “aristocratic illusion” that are strengthened the proposals for “political reform” and the false solutions of the closed list and of the district vote (see below). These are elitist measures that favor economic power and which

are presented to voters like a mirage that would guarantee election of the *best* and bring together representatives and the represented.

Debate of this “political reform” is on the agenda of the entire apparatus of the Brazilian State. Maliciously enthroned as the “mother of all reforms” – in a country in which, opportunely, not even the classic capitalist agrarian reform was realized – changes in the structure of political parties and elections is nurtured by proposals that deepen the democratic process, such as public campaign financing, but also includes ostensive traps, either new or revived, such as the optional vote, the barrier clause and the closed list. Despite the hiatus in democracy, we have a better electoral system than the critics with their special interests allege, and one that is more fair than the alternatives woven without regard for the interests of the people. Precisely for this reason, it is important to analyze the algebraic formulas that circulate in the market of tricks.

Optional Vote– this is a consolidated tradition that has taken on weight in a phenomenon underway that some call the “massification of politics.” Sociologist Leôncio Martins Rodrigues, in an interview with *Época* magazine in February 2007, noted that a large share of the electorate, the “modernized poor,” “expanded at the same time in which the clientelistic controls of the oligarchic clans that dominated sectors of the State apparatus got weaker and transformed municipalities and States into true family fiefdoms that guarantee them access to the federal government and public funds.” The optional vote would cause a deep depoliticalization of these voters, who would be stimulated to indifference by the torrent of discredit heaped upon politics. The “electoral market” would be restricted to those who “know how to vote.” It is worth noting that this so-called “massification of politics,” was already traced in the Vargas era. It is the exaltation of the popular government of President Lula and, in contrast, makes it difficult for the parties of the right or the far left to strengthen themselves under the current rules.

Closed List – Justified as a strengthening of the (large) parties, the closed list in reality first

Indicates an emphasis on internal bureaucracy. In parties in which the members are subject to a program, such as the Communist Party of Brazil (PC do B), there would be no change, but in the large parties, the closed list would be the casemate of the party bosses of the oligarchy. It is also important to unmask the chimera that the exclusive vote for a party would allow election of the best, the pure, the most capable: that is, of the etymologically sustained aristocracy supported by the “government of the best.” This is a bitter illusion. If the list does not include the big vote getters that shine in these parties – the radio, TV and circus stars, the athletes, the “sheriffs”, etc. – the aristocracy would not elect anyone. In this discussion of the vote for a list, it must also be considered that, taking the Lower House as an example, following the international

methodological standard, the Brazilian electoral system combines the distinction of the candidate with the general performance of the party. The voter votes for both. And the total number of votes for the party determines how many deputies (the most voted individually) it elects. There is, therefore, visible strengthening of the guild. For this reason, one of the most frequent criticisms of the current system of the open list, that the voter chooses one candidate and elects another, is a hoax to the degree in which this effect is complete in the closed list. Therefore, it is equivocal, as the Superior Electoral Court (TSE) determined, to consider that the mandate belongs solely to the party.

Barrier Clause – This is an authoritarian device destined to eliminate the minority representations in society. Article 13 of Law nº 9.096/95 determines that only that party that obtains “five percent of the counted votes, not including blank and null votes, distributed over, at least, one third of the states, with a minimum of two percent of the total of each one, will have a mandate.” As we know, this Article 13 was considered unconstitutional by the Federal Supreme Court (STF). Some want to increase the latter quota to 5%. The justification is that Brazil “has too many parties.” There are 30 parties registered in the TSE. The United States has 74, including two communist and two socialist parties. The parliamentary democracies of Europe also have dozens of parties. In Israel, a country with seven million inhabitants, nothing less than 36 parties contested the elections to the Knesset. In the elections of August 2009 in Afghanistan, where the freedom to organize is proportional to the intervention of the United States and to the good manners of the Taliban, there is one party for every million votes: 17. And, as in the large Western democracies, Afghanistan also permits independent candidates, in which the candidate is his or her own party. The district vote that is in use in most countries polarizes elections, annuls the small and we only hear of the strongest parties.

District vote – This is the triumph of economic power and the parochialism of politics. The effective deformities that affect Congress include that of combating the excessive division in parliamentary fronts that defend specific interests, groups or minorities, which, in some cases, support what or whom needs special protection, but, in many others, harms the interest of the majority or even of the nation. Although the party benches are statewide, the vocation of the Parliament is national. It is worth remembering the warning of the English conservative Edmund Burke (1729-1797) in his *Speech to the Electors of Bristol* in 1774:

Parliament is not a congress of ambassadors from different and hostile interests; which interests each must maintain, as an agent and advocate, against other agents and advocates; but parliament is a deliberative assembly of one nation, with one interest, that of the whole; where, not local purposes, not local

prejudices, ought to guide, but the general good, resulting from the general reason of the whole. You choose a member indeed; but when you have chosen him, he is not member of Bristol, but he is a member of parliament.

With restraints and patchwork of this type, we will make little advance in the effective improvement of the political system and in the democratization of the Brazilian State. We run the risk of indefinitely prolonging the fabrication of cyclical crises managed by the interests which they expose or repel. Far from being sincere interventions, they express the fleeting confrontation that the philosopher Karl Marx, in *The Eighteenth Brumaire of Louis Bonapart*, speaking of the French coup of 1852, saw as “antagonisms that periodically seem to work themselves up to a climax only to lose their sharpness and fall away without being able to resolve themselves.”

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