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Veröffentlichungsversion / Published Version

Arbeitspapier / working paper

Empfohlene Zitierung / Suggested Citation:

Contipelli, E. (2016). *Brazil: a short guide to comprehend its current institutional crisis*. New York: IndraStra Global.
<https://doi.org/10.6084/m9.figshare.2176312>

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THE PAPER | Brazil: A Short Guide to Comprehend Its Current Institutional Crisis

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Abstract:

In this article we analyze the current institutional crisis in Brazil, from the perspective of contemporary politics. This had caused the paradigmatic inversion of the Cooperative Brazilian State formula, framed originally by the Constitution, in particular, by dismantling the state monopoly of oil exploration and transferring it to the private sector. We also discuss the impact of these changes in the reviews conducted on the political and electoral systems to specifically create an institutional model that would offer an equitable representation of the population from all the regions across the country, facilitating greater transparency of the parliamentary activities and promoting well-defined distinctions among the coalition parties and clearly highlighting their ideological and political stances. Ultimately, all the considerations indicate the necessity of overcoming the contradictions present in the current Brazilian institutional model. This model clearly defines the constant tension between the guarantee of social rights and the implementation of a state management formula, and demands a means of reconciling the various interests and political ideologies present in the Parliament to obtain the essential approval for the changes urgently required to promote the progress of the country, as well as for political reform.



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Key Words: Brazil, Institutional Crisis, Constitution, Political Reform

1. Introduction

Brazil occupies a prestigious place on the global scene, not only because it ranks fifth in the world in terms of land area and population, but also due to its progressive economic expansion. It has recorded an impressive 4 % per year GDP growth on average through the first decade of this century.

The World Bank (2014) has rated Brazil 7th in the world's economy, based on its escalating economic success. Brazil possesses companies that exert a significant impact on the larger world, like Petrobras, the world record holder for oil exploration, and Embraer, among the world's largest aircraft manufacturers. Brazil has also slowly and systematically consolidated its role as a regional leader, as a member of the trading bloc MERCOSUR and is actively working on strengthening BRICS, a group of emerging powers including Brazil, Russia, India, China and South Africa, in their efforts to reconfigure the new world order and gain a share in the power with the US and the wealthy Western European countries, at an international level.

Besides the high economic growth rate and intense action in international planning, the Brazilian political stability enabled them to win the honor of hosting the 2015 World Cup and 2016 Olympic Games in Rio de Janeiro. This accomplishment induced great expectations among the population regarding the positive reflections that these major events would involve, especially with respect to the high possibility of infrastructure improvement across the country. The development of the essential public services sector would enable the country as a whole to overcome the grave problems related to the social differences that continue to plague Brazilian society.

The discovery of significant resources in Brazil, Pre-salt in particular, the essential pre-requisite for oil, can catapult the country to the status of a world power in the production of natural hydrocarbon resources. This will elevate the prestige of Brazil and promote keen interest at the international level, creating an environment conducive for further economic development.

Lula, the great and popular Brazilian leader, wisely capitalized on this conducive economic and international environment, chiefly supported by the establishment of a comprehensive social assistance system, propelled by the “Bolsa Familia” program, which provides the government of the Workers Party a political base of electoral support, mainly among the poorest social classes. Lula thus carried his successor, Dilma Rousseff, forward to success in the presidential elections, in two consecutive terms, and defined the direction of Brazil’s growth.

However, the focus shifted under President Rousseff, mainly because of the failure to meet the population's expectations regarding the further promotion of the public policies required to correct the inequalities that afflict the country; it was also due to the excessive expense involved in hosting the World Cup, with a total disregard for the majority of the population who suffer from a dire lack of adequate health, education and other essential facilities; and finally, due to the established war between the member-states of the Brazilian federation over dividing the financial benefits from the exploration of Pre-salt. It is these events formed part of an intricate strategy involving political and institutional Brazil, facilitating a better understanding of the happenings in the country today and the challenges to be faced in the new Dilma’s presidential term.

The present article aims at analyzing the reformation process of the original ideological bases that facilitates framing the current Brazilian Constitution as a social model and its multiple programmatic provisions that deal with the constant tensions among the limitations of political power and the determination of a joint guarantee of collective rights. The methodological approach will be based on the institutional aspects that characterized the Brazilian Constitution and the role of the political personalities involved in its deconstruction process, concerned in particular with the oil royalties and political reform.

Therefore, this study will be done in three sections. The first focuses on the study of the conversion of the structural options originally conceived by the current Brazilian Constitution from a welfare state characterized by its rigidity and completeness to the managerial state which was based on the New Public Management. This had been institutionalized by the former Minister Luis Carlos Bresser-Pereira during the government of Fernando Henrique Cardoso and followed by the successive Presidents (Lula and Rousseff). This historical moment was featured by Constitutional Amendments and complementary laws attempting to reduce and implement the logic of the private sector in the public administration, generating strong competition among the public entities, specifically the member-states.

In the second section, we will analyze the incident of the payment of the royalties on the oil extract from Pre-salt and the way this situation is linked to the institutionalization of the New Public Management in the Brazilian political scene, generating dissatisfaction among the governments of the federal unities and the population as well that regularly protested against the corruption scandals involving the major authorities of the Workers Party.

The current institutional context of Brazil with the recent presidential election and the proposal of a political reform are discussed in the last section. In the presidential election, the dispute between two different projects in the country became clearly evident: one project from the Social Democracy would consolidate the New Public Management, considerably reducing the role of the state; the other, from the Workers Party proposed that intervention and social policies were the means for the development. The election results with a narrow margin of difference between the two principal candidates clearly highlights the division of the country and the confrontations based on regions and class. Right now, Dilma has to focus her efforts to regain the trust and unity from those divided sectors of the country, especially, with an assurance to realize political reform and attempt a historic

claim of the population as re-democratization, a tough task considering the restrictive constitutional structure and the opposition to be faced in Congress.

It becomes significant to emphasize that an overview of the literature concerned will be done during the course of our study, dealing with the topics in each section, to clearly present the general ideas and concepts that assess the debates on the current Brazilian Institutional Crisis.

2. The Institutional Problem

The Brazilian Constitution of 1988 originated from the historical process of restoration of the democracy after a long regime of military dictatorial government. This document treats a series of topics in detail to consolidate and institutionalize a new propose of social structure, especially, with the establishment of a series of positive actions that greatly impact the tasks of the public entities.

The 1988 Constitution was a more detailed description of all the Brazilian Constitutions when approved, containing 245 Articles, with 70 in the Chapter on Transitory Constitutional provisions. With further constitutional amendments, the Constitution was expanded to 250 Articles in the constitutional body and 94 in the transitional constitutional provisions, quite similar to the issues in the Indian and South African Constitutions. The inclination to constitutionalize the important issues can be therefore considered as partially due to the uncertainties resulting from the changing political regime in those three countries. In the case of Brazil too, it seems to reflect a reaction to the prior regime devices and constitutional constraints. That inclination to constitutionalism culminated in a constitution that regulates not only the principles, rules and rights - individual, collective, social and political - but a wide range of significant public policies as well; it therefore, had a bearing on intergovernmental relations, because of the tilt to the decentralization of some public policies .

These rights involve establishing guidelines for governmental action to foster socio-economic intervention together with the inclusion of multiple programmatic provisions and a title on Social Order that has a relevant impact on its structural proposal. It is characterized as a cooperative model which includes several tasks on the constituencies in their legislative, administrative and financial powers.

Thus, the current Brazilian Constitution can be recognized as a formal, promulgated, rigid, analytical, and social context, involved in the consolidation of democracy, protection of the provisions constituting a state model and several other issues that determine the positive actions by the public power towards transformation of social reality having a significant impact on the concept attributable to the federal system, owing to the requirement of constituent units concerning the tasks involved in their respective fields of competence in autonomy with adequate supply of public goods and services for a specific population.

However, the issue must be considered from the historical and institutional perspectives, with the paradigmatic inversion of the Brazilian State formula originally conceived by the Constitution. Constructed on a patrimonial model, it is characterized by strong intervention in the economic and social orders, to produce a state of managerial character, which ignores the more concrete public policies and positive actions, and promotes them through regulatory agencies for management of their implementation. This type of investment arises from Constitutional Amendment n. 9, 1995, which breaks the state monopoly on oil exploration and authorizes its relegation to the private sector. Thus, one of the main consequences of this constitutional change is that Petrobras no longer enjoys sole responsibility for oil exploration, although the central government possesses the option to also contract private companies, engaging such services by paying royalties to the Public Power.

It is true that, once the Constitutional Reform is appointed, the depletion Welfare State proposed by the constituent power of 1988 to give way to the New Public Management will commence, i.e. a State model will emerge built on typical market mechanisms, incorporating fiscal adjustment and efficiency as the fundamental guidelines, establishing true professionalization of the democratic rule of law .

Luis Carlos Bresser-Pereira, economist, was nominated Minister of Federal Administration and State Reform and became the mentor of these changes when the model was adopted during the tenure of Fernando Henrique Cardoso, the President of the Brazilian Social Democracy party. In his scripts, Bresser-Pereira shares the ideas that inspired this proposal of "reconstruction" of the country by adopting the New Public Management. He argued that the changes intended to affect the public administration, converting its bureaucratic services to a management and accountable activity to benefit the citizens and Institutions with the Constitution amendment in three basic aspects: taxation, social security and state monopoly that would reduce the State power and enable its financial recuperation.

Therefore, this model was consolidated with the publication of the 1998 Constitutional Amendment n. 19 that had been projected to impose a major State Reform, by attempting to introduce the logic of the private sector into the Public Administration Plan and National Privatization Plan (Law n. 9,491 / 97). Its main objectives include the reorganization of the strategic position of the state in the economy and focuses on the "transfer to private enterprise activities unduly explored by the public sector".

This process is correlated with a series of other laws, including those concerning Public-Private Partnership (Law n. 11,079 of 2004) which increases the delegation of such matters wherein the Public Power originally competes for the private initiative. It then permits instituting a new model through which private companies are engaged to perform the public services works for which they are remunerated by the government or by a combination of rates and public resources.

In fact, the development of this management model further intensifies the competition among the member-states to increase their fiscal capacities and consequently earn a higher financial income. This had already been the subject of historical disputes with taxation of the ICMS tax movement of goods. A type of Brazilian VAT had been introduced by the 1988 Constitution based on the competence of the member-states, triggering a fierce fiscal war among the component units of the federation. It is precisely in this context that the query on royalties from oil exploration arises.

The central government implemented reforms have consequently raised the open competition among member-states in offering fiscal incentives and economic benefits to the big companies. In fact, this behavior demonstrates a chronic structural problem of the Brazilian reality dealing with the asymmetric regional development that refers to the limitation of resources and incapacity to generate the wealth necessary to sustain the investments in order to solve the inequality crisis in the poorest parts of the nation. In this political context, the competitive game of the financial incentives and capital attraction of the big companies were the solution for the member-states to generate labor, encourage local production and create a continuous net of new investments, increasing the citizens' income and the fiscal capacity in their territory .

Further, the initial intentions of a consolidated Social State formula originally provided for the Constitution are more distinct with the clear renunciation of interregional coordinated policies, as the case of the abolishment of the development federal agencies in 2001, making the establishment of an ambience of mutual cooperation between the various government levels difficult, in order to generate an integrated action and effective communication in the intergovernmental relations.

Another example of the absence of political will to promote cooperation among the various levels of government can be verified in the arrangement of a single paragraph of Article 23 of the Brazilian Constitution, which authorizes the Federal Government to publish supplementary laws in order to establish rules for cooperation among the states for balancing the development and

national welfare.

The situation prevailing is that until date, the law was not complemented in a way that permitted the implementation of consistent intergovernmental relations related to the precept and concept of cooperative federalism determining the territorial organization of power in the current constitution .

3. Oil Royalties

The recently discovered oil reserve called the Pre-salt layer occurs on a strip extending from the Espirito Santo region to Santa Catarina. It has placed Brazil among the world's largest oil producers, and is likely to raise its expressive potential to 500% of the current production, which involves, reviewing the criteria for payment of royalties for exploration.

In Brazil, the financial resources from the oil royalties collected were shared among the central government (47.5%), United-members (22.5%) and municipalities (30%) producers or to stop refining facilities and offer assistance for production. As oil is claimed as a national heritage, a review of the criteria for distribution of the royalties was given, wherein it would be shared among all the constituent units of the federation: all member-states (30%); all municipalities (30%) and the Union (40%), which received an expressively favorable vote in the Chamber of Deputies. In such a situation, the member-states like Rio de Janeiro and Espirito Santo, the oil producers, lost considerable financial income in the poor deal regarding the royalty payment.

The question in discussion concerned the method of preventing another federal war tax among the different levels of government by regulating the profits from Pre-salt in order to distribute their benefits to the entire country without hurting the just expectation of the producing member-states and municipalities. Once again, it is possible keep the issue of judicial security and the endemic instability of the Brazilian Constitution in focus, as the allocation of the benefits from Pre-salt affects the vested right of the public entities and their financial resource expectations in order to accomplish their duties towards the citizens.

Thus, the expressive payments of royalties by the private agents for oil exploration after the discovery of Pre-salt induced an institutional crisis that dominated the Brazilian political scene during the first term of the Rousseff government, because of the strong disagreements between the member-states values on the financial income distribution. This issue raises the question of who owns the right to keep those values. Is it the member-states where the oil exploration occurs? Or should those resources be addressed to the central government for fair redistribution among all the member-states in the federation, to promote homogeneous national development?

Simultaneously, we encountered a troubled political environment, characterized in particular, by a series of corruption scandals involving public authorities connected with the Workers Party and the escalating cost of groceries due to the construction of the stadia for the World Cup. This instigated widespread revolt among the Brazilian population, resulting in the outbursts of huge popular protests across the country with loud demands being made for better living conditions and social utilities.

Finally, in light of the prevalent situation, as well as with the issue of oil royalties, the government, therefore, anticipating the upcoming World Cup and international attention being focused on Brazil, is desperately seeking to use impact measures to control the popular pressure. It is launching, as proposed, a referendum for the development of a policy reform to curb corruption. Currently, it has been archived as a key item to resolve the social issues, that the funds raised through the oil royalties would be diverted for the improvement of education and health.

Reeling under such enormous social pressure, the Rousseff government adopted Law No. 12,858 of 2013, which allows the allocation of the revenues accruing from the oil royalties for education (75%) and health (25%). Rousseff, in his speech that marked the passage of the law, affirmed that it was "an investment that needs to be done. No concentration of resources. There will be future investment and that these resources are being invested for the future of the Brazilian people." Today, Brazil's total investment in education corresponds to 6.1 of the GDP and the resources from Pre-salt resources may amount to a total of 112 billion reais (about 38 billion Euros) in a decade. Nevertheless, she emphasized that such rules would apply only to the new contracts which would need to be signed by the central government; therefore, the prior deals would continue to be controlled by the state governments, which will not participate in the new proposal.

However, the Brazilian people constantly remember the expenditure, of more than 120,000 million reais (corresponding to 40,000 million Euros), incurred for the World Cup, while the vast majority of the population continues to struggle for existence in poverty and with a monthly minimum salary that does not amount to even 300 Euros. Therefore, the plan proposed by the central government to lower the claim of the population has failed to please anyone. On the one hand, it has failed to address the problems concerning the realization of social rights and an enormous amount of public funds continue to be utilized for the payment of the costs of the World Cup or disappearing through the channels of institutionalized corruption that have plagued the country from very long ago; on the other hand, the governors of the state-members involved in the oil exploration arena, as well as the other factions of the federation are unhappy with the decision of the Central Power, because of the loss of significant resources for public works, especially during an election year.

4. The Political Divide in the Country

Reflecting upon the political mistakes made during his first mandate, the popularity of President Rousseff was rapidly producing a high degree of political instability, especially at a time when the presidential elections were being held in October 2014.

The polls for a second round of the presidential elections in Brazil revealed a tie between the current president and the candidate of the Workers Party, respectively, Dilma Rousseff and Aécio Neves, the candidate of the Brazilian Social Democracy.

Per the opinion of several specialists, the current scenario of Brazilian politics was a true classic confrontation, in which the dispute was a combination of the last four elections. The conflict was polarized, showing on the one hand, the moderate left, charismatic leader and ex-President Lula da Silva, and on the other hand the conservative center-right former President Fernando Henrique Cardoso, and with an unprecedented fierce dispute in the box.

In fact, Neves and Rousseff presented two competing projects for the economic and social development of the country. According to the analyses of Steen Fryba Christensen and Marie Kolling, Neves proposed a market-oriented project focus on the economic openness, tax reductions and strict budgets as the means to reduce the role of the state and renewed economic growth. On the other hand, Rousseff proposed a key role of the state to manage economic growth using public banks, expanding social policies and promoting universal social services and rights .

The pre-election debates featured a series of personal insults and accusations. During these arguments, the candidates appeared to be more concerned with denigrating one another than about presenting plans and solutions for the future of a great country that urgently needs to focus on and deal with the prevailing serious social crisis.

In that context, the Social Democrats tried to prove their support for the continuity of the social programs consolidated by the Workers' Party, such as the Bolsa Familia program, in an attempt to win the confidence of the poorer social classes; however, the Workers Party sought to improve its image especially in the field of entrepreneurship. They proposed more open participation in this sector in their administration of political action.

Under such conditions, it became clearly evident that the disputes between the candidates were focused on the votes. They even revealed the concentration of the sociopolitical centers present in Brazil: the lower income estimate for the maintenance and expansion of the social programs of the voters and their rents were valued more than the economic policy of controlling inflation, the "specter" that has almost consistently haunted all Brazilian governments since the '90s .

Ultimately, unlike the first round in which Marina Silva was named a possible candidate to dispute the second round, the election results confirmed the prediction of the polls, viz., a closely fought Presidential choice between the final winner Dilma (51.64%), who emerged victorious over Aécio (48.36%), by a narrow 3% margin.

Therefore, with the new and difficult, victorious Dilma Rousseff at the helm, the Workers Party celebrated "tetra championship" in Brazil for its 16 years in Presidential power (two consecutive terms each of Lula and Dilma). The consolidation of their supremacy occurred in the new democratic environment, which emerged only after the adoption of the 1988 Constitution.

However, the time appears to be more conducive for action than for celebration, because Dilma now encounters the daunting task of meeting the expectations of the electorate, to basically support the policy development and social programs, while at the same time reconciling the interests of the defeated party, which includes almost half the Brazilian population . According to its X-ray, the election results of the member-states include the richest regions of Brazil, the south and the southeast in particular, (the latter region except for the member-states of Rio de Janeiro and Minas Gerais surprisingly, form the political nest of Aécio Neves, who recently suffered defeat).

As anticipated, several personalities and many defeated politicians expressed, on social networks and in the news, their discontent and desire to leave Brazil. In fact, a few of these public expressions of intolerance were disclosed in a manner quite unlike any prior, in the recent history of democracy in the country. This action fostered an atmosphere of discrimination and animosity between the northeast and southern regions as the voting behavior was distinctly divided along regional and class lines . Meanwhile, Dilma delivered her winning speech passionately inviting the realization of a dialog among the various social sectors and political forces to provide amenable conditions of governance in the country, focusing the discussion back on the much needed political reform.

4.1. The Dreamed of Political Reform and its Institutional Problems

Once the government was signed in, all that followed was only talk regarding the necessity for political reform. Although it may appear paradoxical, ever since the current Brazilian Constitution was enacted there was a demand for specialists to review the political and electoral system, and in particular to create an institutional model that would achieve equitable representation of the population from all parts of the country, facilitating greater transparency of the parliamentary activities and well delineated demarcations among the coalition parties in their ideological and political stances.

To understand the concept of political reform, Fernando Henrique Cardoso, during his tenure, recognized the need for a constitutional review of the political system. However, he signed the responsibility for implementing it to the Congress, justifying his attitude on the principle of the separation of powers and the no executive interference in matters which properly came under the responsibility of the legislature, almost as if they were not included under the general interests of the nation. Lula da Silva, in his first speech as President of the Republic, also promised a comprehensive political reform, which he failed to deliver.

Following the passionate and popular demonstrations of 2013, in response to the innumerable cases of corruption that had stained the government of the Workers Party and the earlier mentioned absurd expenditure incurred for World Football, Dilma responded to the population with a plan that included a series of strategic actions. They involved the transfer of the values gained through the oil royalties to the education budget (as mentioned earlier in this study) as well as conducting a popular consultation regarding the implementation of a reform policy, a proposal that was poorly received by the Congress, and a set of institutional and constitutional obstacles to legitimate fulfillment.

The current Brazilian Constitution is considered a rigid model in terms of the process of mutability, where Constitution reform requires the completion of a separate process through the adoption of constitutional amendments; this is far more serious in relation to the other existing standards for changing the constitutional norms. This process requires greater political effort in overcoming the required formalities for its realization when compared with that for infra-constitutional rules, for example, the proposal of initiation restricted to certain authorities and institutions, qualified quorum of three-fifths in each House of Parliament by a vote of two shifts, and the impossibility of representation of the project in the same legislative session (Article 60, CB).

It must be recalled that the current Brazilian Constitution goes much further in terms of perishability, possessing an immutable core of values which are unalterable by the laws of constitutional reform, called 'immutable clauses', which has inspired some jurists and experts to classify it as hyper-rigid. The provision of paragraph 4 of Article 60 of the Brazilian Constitution, where the stony clauses correspond to the immutable core provisions of the current Constitution which protect its essence, represents the material limits that are willingly expressed to be altered by the basilar structure of the current law.

Another relevant aspect with reference to the current type of Brazilian Constitution is that it is classified as analytical, in terms of size. This implies the choice to enjoy full freedom on certain issues, in directing and running according to the discretion of the below-constitutional legislature.

The repercussions of this normative architecture are that on one the hand, stagnation of the possible steps of transformations are deemed necessary for the development of the institutional organizational structure based on self-evaluation. This makes it important to recognize factors that need to be maintained or changed in order to update and adapt to the demands of the new socio-economic inclinations in the public interest for the establishment of serious working systems.

Such aspects directly impact the conditions of governability of the country. While they bring greater security to the political institutions, on the one hand, on the other it makes for an overly rigid and plastered Constitution, formally exhaustive in its content. Some possible constitutional requirements for flexibility must be included, to constantly adapt to the changes required by a society historically disadvantaged by the inertia and ineptitude of the state apparatus, as was the situation in Brazil. This is precisely where the main points of political reform are woven in.

As the chief proposals of political reform, we emphasize the following subjects: the means to finance the candidates, as they would no longer be funded by private parties or receiving donations from companies that need further consideration regarding the political actions directed to enhance their interests; the electoral system, with the possibility of implementation of district voting to enable the electorate to have closer and greater control of the politicians ; no continuity of substitution in the Senate, disallowing the non-voters from being elected to assume Senatorial status (17 of the 81 Senate seats were occupied by alternates); so-called "temporary marriages", that is, temporary coalitions made by political parties lasting only for as long as the electoral litigation, including proposals to reform the electoral coalitions that have an extended mandate valid for all elected politicians as a means of declaring the end of political pragmatism. Such prevalent practices jar the confidence of the Brazilian citizens.

Interestingly, all these subjects are included in the Brazilian Constitution, implying that they are protected by content stiffness. They are all treated in great detail in many passages from the text, thus hindering the government from working towards achieving the necessary favorable votes for the adoption of the laws crucial to constitutional reform.

Besides, some experts argue that the political and electoral systems are smothered by the concept of 'immutable clauses', and once any proposal is included under the values protected by the provision that guarantee "universal direct suffrage, secret and periodic". Thus, the Brazilian republican budget and the broad interpretation criteria would be considered unchangeable; therefore, the non-approval and even the non-application of political reform by the Congress would be justified.

Already, several voices have been raised requesting the convening of a Constituent Assembly to discuss political reform. In June 2013, Rousseff was considered in a sense, a calling for a referendum to authorize the establishment of a Constituent directed specifically towards the implementation of political reform.

The realization of this popular consultation through a plebiscite would pose another problem for Dilma, because the power to authorize and convene are under the exclusive competence of the National Congress, which has already been expressed, in particular, through a significant bloc of parliamentarians, with great power, relative to their possible embodiment. This difficulty forces Dilma to raise the possibility of political reform submitted to the referendum through merely a plebiscite, but through a referendum itself. This implies that under Brazilian law the difference between plebiscite and referendum involves a temporal aspect, that is, the referendum in the plebiscite occurs before the adoption of the law, while the referendum by popular participation is given by the Congress after the adoption of the law. The last referendum was held in Brazil in October 2005, to decide on the marketing of firearms, which, according to the Brazilian Superior Electoral Court, can be regarded as the world's most popular consultation, involving the participation of about 125 million citizens.

Therefore, political reform is presented as one of the vital points of Dilma's new government to administer a dose of reliability to the government institutions in the country. This will prove that the political class has an ideology and a project for the future evident not only on the occasion of the elections, including the proposal of party loyalty which prevents the indiscriminate change of parties during the parliamentary mandate. Besides, a political-electoral reform would be a significant opportunity to rectify the mechanisms of representation with respect to the historically disadvantaged groups by the current system, such as the blacks and Indians, promoting a balance between the social and political relations in the country.

At any rate, the difficulties of realizing this reform are very evident, mostly by the lack of political will by the Congress. According to the results of the last elections it was characterized by fragmentation and conservatism, which will necessitate a massive political effort by Dilma and partners to negotiate with the two Houses of Parliamentarians, in the face of the drop in support of the government. However, some parties with significant representation in the House, like the PMDB, hold government policies while they also hold political office, revealing once again the type of political practices prevalent in the country: a total lack of commitment to an ideological line or even a serious project to build the state.

This potential tension and continuous negotiation process between the government and the Congress commenced immediately after the election or at least without giving Dilma even breathing space after her intense onslaught against the Social Democracy. She had repealed in the House of Deputies, Decree n. 8,243 / 2014, which proposed the National Policy for Social Participation, involving the institutionalization of consultation by popular councils and governing bodies before taking decisions on the conduct of public policies to increase the management of public interests. The victorious opposition argued that the government intended to minimize the role of the legislature, instigating some of the more conservative and uninformed to condemn it as an attempt to establish communism in the country. This was unbelievable as the Workers Party in its 16 years in

power had already irrevocably proven that it is a left to right movement.

Currently, the Congress approved the "Mini Political Reform", Law n. 13,165 of 29 September of 2015 that aims to reduce the cost of the electoral campaigns, simplify the administration of the Parties and encourage female participation in the political scenario. The controversial point was the question regarding the financial support of the electoral campaigns by the companies from the private sector that was declared unconstitutional by the Brazilian Constitutional Court. According to the Tribunal, the presence of the economic power in the electoral campaign generates an imbalance dispute among the candidates and is opposed to the ideas of republicanism and democracy. This decision came at the right moment for Rousseff who was justified in refusing the disposition regarding the donation of private companies without confronting Parliament. Now, Rousseff needs more than ever all the political sustainability to approve measures that allow her to be maintained in the Presidency, considering the imminent risk of impeachment that she has suffered.

Conclusions

Thus, the present agenda in Brazil cannot be described as a moment of joy for the people, with the culmination of the World Cup, which will be remembered for the shameful 7 x 1 loss of the Brazilian national team to Germany in the semifinals, as well as for a series of social protests, corruption and primarily a political and institutional crises. These have greatly increased the existing tax war among the member-states of the federation in the face of a state model that desires no further entry into the economic or social order, initially set up by the Constitution, but as conversely, increasingly moving away from meeting the real needs of society.

The endemic Brazilian institutional crisis has been precipitated by the coexistence of two orders in its constitutional structure, one that refers to the construction of a Welfare State and the other that highlights the concept of New Public Management. It is evident that during the period of re-democratization of the country, the Central Government appears to be inadequate to handle this situation, generating high levels of dissatisfaction among the multiple social sectors.

This is the great challenge Rousseff faces: To overcome the contradictions entrenched in the Brazilian institutional model evident in the constant tension between the guarantee of social rights and the implementation of a state management formula. She will need to find a way to reconcile the various interests and political will present in Parliament to get the approval for the institutional changes urgently required to promote the growth of the country as well as political reform.

Defining the beneficiary of the exploration payment for Pre-salt can illustrate this institutional crisis as the increase in the competition among the public entities and the discontentment of the population with the corruption scandals involving important politicians of the country, rekindling the historical claim for a political reform that would guarantee due and equal representation and participation for whole social classes and regions and transform the democracy into something concrete in Brazil.

All of these considerations culminated in the conclusion that political reform can only be realized with the decisive participation of the civil society, which yet again must hold the reins of the country in the absence of the state. This must be accomplished as in the bill of initiative, the popular "Clean Record", which had been attended by over 1.6 million citizens to pressurize the Chamber of Deputies and the Senate to pass a legislation on this subject (Complementary Law 135/2010), which prohibits politicians convicted of collegiate decisions to participate in elections. This reinforced the ideals of morality and integrity stipulated in the Constitution. Meanwhile, the massive participation by the citizens reveals that the current requirement of the Brazilian people is a 'No corruption' government and one that is committed to ensure the bright future of the country.

Therefore, if we can define in brief the ideology prevalent in Brazil, it is a clearly split "left" and "right", as revealed by the final result of the presidential election in the country, President Dilma Rousseff really needs to conduct several talks with the victorious and defeated, in a race to reassure society, take firm steps to set the country on the move and consolidate the hegemony of the Workers Party in power, building up the image of her possible successor in policies. It looks like, for Dilma, the Olympics has already commenced.

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Cite This Article:

Contipelli, E. "THE PAPER | Brazil: A Short Guide to Comprehend Its Current Institutional Crisis" *IndraStra Global* 002, no. 02 (2016) 0037, <http://www.indrastra.com/2016/02/PAPER-Brazil-Short-Guide-to-Comprehend-Current-Institutional-Crisis-002-02-2016-0037.html> | ISSN 2381-3652| <https://dx.doi.org/10.6084/m9.figshare.2176312>

EndNotes:

2. O'NEILL: 2001.

3. SOUZA: 2006.

4. The New Public Management aims to fundament the public sector in the concept of efficiency by modernization and offer its services by implementing private sector practices. According to Michael Barzelay (2001), in one of the references in the literature regarding this subject, the citizens are considered the consumers who need to be satisfied by the public servers which engage in a competitive and entrepreneurial spirit. The discretion of the public administration is the basis of the New Public Management that provides the consumer the choice among the public services that attempt to improve the necessities available and also the right to opt out of the service delivery. Besides Barzelay, other reliable references for the study of the New Public Management include the following authors: FAIRBROTHER, Peter. *Politics and the State as Employer*. London: Mansell, 1994; OSBORNE, David and GAEBLER, Ted. *Reinventing Government*. Reding, Mass, Addison-Wesley, 1992; POLLIT, Christopher. *Managerialism and the Public Service*. Oxford: Blacwell, 1993.

5. BRESSER-PEREIRA: 2001.

6. DULCI: 2002.

7. BERCOVICI: 2013.

8. Several scholars discussed the problem regarding the role of the member-states and municipalities in the new regulation of the benefits of Pre-salt and the method of harmonizing the intergovernmental relation inside the Brazilian federation. Fernando Facury Scaff, for example, defends that the oil extraction and its profits belong to the central government, which owns the right to decide the manner of sharing the benefits from it (SCAFF: 2014). Another point concerning the respect of the vested rights of the producers, member-states and municipalities with the accomplishment of the current contracts until its natural extinction and the protection of their just expectation by permitting them considerable financial participation in the distribution of the Pre-salt profits (HIRSCH and GOES: 2013).

9. HABEL: 2013.

10. CHRISTENSEN, Steen Fryba and KOLLING, Marie: 2015.

11. THE ECONOMIST: 2015.

12. In her report on the Brazilian's election, Jill Langlois related that, post victory, Rousseff's speech was focused on fighting inflation and improving the field of the fiscal responsibility as she attempted to regain the trust of investors, who are anticipating more action than talk. Dilma knew that she would have a long and demanding list of things to be done and that she needs to find a "way to bring the business-minded population that voted for the opposition to the side of her target voters – some 40 million who were pulled out of poverty by her party over the last decade – in order to create a more united Brazil that trusts where she is taking the country" (LANGLOIS: 2014).

13. CHRISTENSEN, Steen Fryba and KOLLING, Marie: 2015.

14. CONTIPELLI: 2014.

15. The Brazilian Constitution adopted an hybrid political system based on part representation and part participation, but the problem is that a combination of these two formulae are disposed in an incorrect proportion through the constitutional structure as they are unable to guarantee the due expression of the pluralism and the heterogeneity of the political actors present in the country. One example is the case of the proportional elections that cause distortions in the representation among the different regions. The districts coincide with the member-state and the representation is established in minimum and maximum parameters which indicates the subrepresentation of the most populous and rich regions and the overrepresentation of the less populous and poorest regions affecting the principle of political equality among citizens and territories (ANASTACIA and NUNES: 2007).

16. Kurt Weyland, in his book *Democracy without Equity: Failures of Reform in Brazil* (1996), reveals that the process of redemocratization has brought very little redistributive changes in the social structure of the country as the elites retained most of their enormous power throughout the political transition. The persistence of this dominance is due to the absence of collective actions, external dependence of the hegemonic powers and, especially, the institutional obstacles which included the political system that is fragmented and generates the coexistence of multiple independent organizations that claim to represent the same social status making the convergence of forces impossible.

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AIDN0020220160037/ INDRASTRA / ISSN 2381-3652

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