

# GLOBAL INITIATIVE FOR FISCAL TRANSPARENCY

## Country Reports: Brazil

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## Executive Summary

Brazil is an international leader in designing institutions that promote participation and transparency. The Federal Constitution of 1988 incorporated important instruments of popular participation including mandatory universal suffrage, plebiscites, referendums, ballot initiatives, civil actions, collective security mandates, public policy management councils, conferences, and public hearings. Brazil is also known for innovations in public participation through the budgeting process, such as participatory budgeting. Importantly, many of these innovations first took place at subnational levels. The federal government adopted many of its participatory programs based on prior experiences at the municipal level.

Since 1995, Brazil has been governed by three Presidents who have sought to implement new policies and institutions that promote transparency and participation. President Cardoso (1995-2002) focused his reform efforts on transparency and greater federal influence regarding how states and municipalities allocate resources. Presidents Lula (2003-2010) and Dilma (2011-\_) focused much more

The institutionalization of these mechanisms includes the Transparency Portal (*Portal da Transparência*), the Transparency Law (*Lei da Transparência*), the Fiscal Responsibility Law (*Lei de Responsabilidade Fiscal*) and the Access to Information Law (*Lei de Acesso à Informação*). The last two Multiannual Action Plans (*Planos Plurianuais de Ação*) (2003-2007 and 2011-2015), created bodies for participatory planning through the Social Participation Forums (*Fóruns de Participação Social*) and the Inter-councils Forum (*Fórum Interconselhos*). Civil society organizations may also submit proposals and suggestions for amendments to the Budgetary Guidelines Law (*Leis de Diretrizes Orçamentárias*) through the Participatory Legislation Committee (*Comissão de Legislação Participativa*) of the House of Representatives and through public hearings convened by the Executive or the Legislature. As a result, the Brazilian government has been regarded by researchers, such as the Open Budget Survey, as a government that provides significant levels of information to its citizens. Brazil held the highest score in the Open Budget Index of 2012 in South America.

However, it is important to note that Brazil scored much lower on participation specific questions on the 2012 Open Budget Index. The federal government has made limited advances in both expanding citizen participation in the shaping of the federal budget and the monitoring of government spending.

## Section 1: Overview of Brazil

Brazil is an international leader in designing institutions that promote participation and transparency. The Federal Constitution of 1988 incorporated important instruments of popular participation including mandatory universal suffrage, plebiscites, referendums, ballot initiatives, civil actions, collective security mandates, public policy management councils, conferences and public hearings. Brazil is also known for innovations in public participation through the budgeting process (participatory budgeting).

The main developments in national policy over the last 15 years are:

- Increased transparency in public management
- Dissemination of public policies and conferences with civil society participation
- Institutionalization of deliberative formats
- Mechanisms for participatory planning

However, the existing mechanisms are still too weak to assert effective control by society of public finance. The available data is difficult to use and social participation mechanisms have insufficient influence over the budgeting process. Interactions between civil society and government are rarely centered upon public management and often exclusively adhere to government generated targets and conditions.

### 1.1 Constitutional and institutional key aspects

The Federative Republic of Brazil consists of 26 states and the Federal District-home of the capital- Brasilia. The country has a total of 5,568 municipalities which are the smallest subdivision of political and administrative units. The country has a democratic presidential political system in which the President represents head of both state and government. The President and Vice-President are elected by popular vote for no more than two consecutive four-year terms. The Presidency is comprised of ministries of state subordinated under government agencies, autarchy, foundations, public companies, and other bodies directly and indirectly controlled.

After the Federal Constitution of 1988, states and municipalities became administratively and politically autonomous as both are members of the Brazilian federation. State governors and mayors are sovereign authorities acting independently at each level of government. However, the federal government collects most revenues thereby empowering the allocation of public resources and centralizing conditions. Since 1988, Brazilian federalism has endeavored to decentralize to subnational governments various responsibility particularly in the shaping of

public policy. This transformation in federalism has redistributed financial and political reigns in favor of states and municipalities (ABRUCIO, 2005).

Electoral and Party systems:

At the federal level, Brazil has three different electoral systems:

a) Presidents, governors of states, and mayors are elected by an absolute majority system with the possibility of a second round run-off if a candidate does not receive more than half of the valid votes in the first round. The terms are for four years, and reelection is possible.

b) Senators are primarily elected for eight-year terms. Each federal state has three senators (81 senators total in the National Congress). There is no restriction against reelection. Although considered members of the Brazilian federation, municipalities have no representation in Congress.

c) Congressmen, state legislators, and city councilmen are elected by a proportional system for four-year terms with no reelection restrictions. There are 513 congressmen in the National Congress, and the delegation of seats is based on the population proportions in each state (there is a minimum of eight and a maximum of seventy deputies).

A multi-party system was formed in 1985 during the democratization of the country. In the 2010 National Congress, over ten parties were represented. However, despite high party fragmentation only two parties have elected presidents of the Republic (PSDB and PT) since 1994. In a subnational context, PMDB and PSD are also relevant parties. Coalitions are allowed in both the majority and proportional elections.

The transition to democracy:

The Brazilian military dictatorship lasted over two decades, and concluded with two key events: 1) the indirect election of a civilian president of the Republic (in 1985), and 2) the enactment of a new federal constitution institutionalizing various social rights (in 1988). The relationship between the state and society was fortified by the creation of mechanisms that enhanced direct participation. The transition is seen, not as a complete break from the previous system, but rather as a result of the coalition of political forces that culminated in new civilian government. From the perspective of political participation, this enshrined a renewal of collective action that facilitated in the development of an increasingly autonomous civil society- an aspect long dormant during the military regime. The result was an expanded scope of democratic struggle, moving beyond electoral representation and producing alternative modes of social organization and movement.

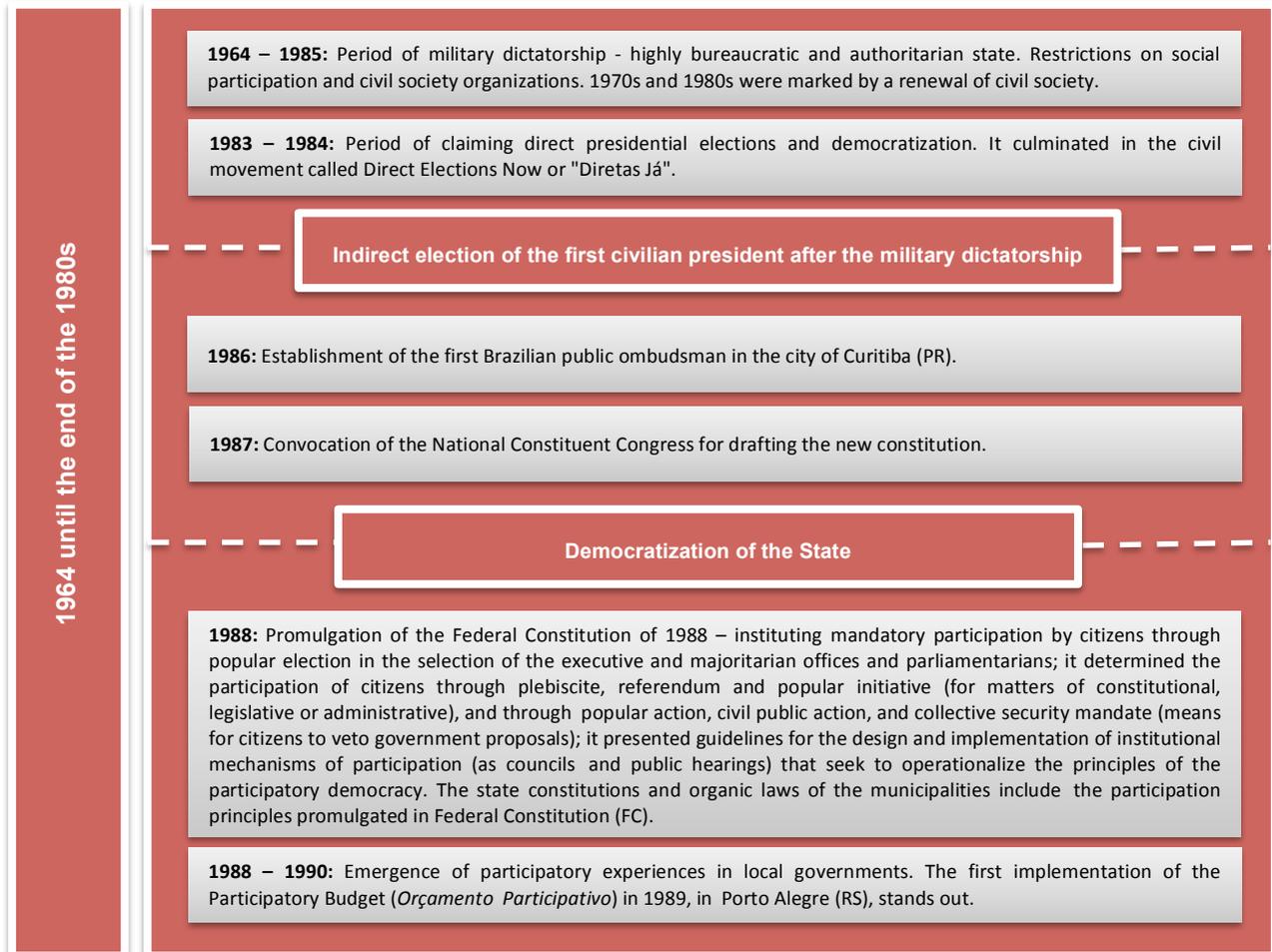
Unionization innovated through mobilization and strikes. The "new unionism" sought independence from the state and centralized forms of collective force. Results included the 1983 Single Central of Workers (*Central Única dos Trabalhadores*) historically linked to the PT or the Workers' Party (*Partido dos Trabalhadores*). The Catholic Church, through the Pastoral Land Commission (*Comissão Pastoral da Terra*), mobilized against the expansion of agricultural estates and land grabbing, and rural unions have multiplied (at the end of the 1970s union membership in rural areas was equivalent to that of urban workers: 5 million). In 1984, the Landless Movement (*Movimento dos Sem Terra*) emerged, furthering the organization of rural movements, prioritizing invasions to unused lands, and raising the issue of land reform in the country.

Motivated by the ensuing economic crisis in the aftermath of the military regime, popular movements expanded across the country. These movements have been motivated by inadequate urban policies (e.g., housing, transportation, etc.) and neglected public services such as health and education in urban areas. The Catholic Church and its Christian Base Communities (*Comunidades Eclesiais de Base*) play a prominent role in the organization of urban social movements (in 1985 there were about 80,000 organized Christian Base Communities across the country). They aim to increase the autonomy, organization, and emancipation of popular sectors. The direction of the Catholic Church, especially the CNBB, played an important role in sanctioning new institutions that favored action in critical social segments. In addition to the CEBs and the CPT, the Indigenous Missionary Council (*Conselho Indigenista Missionário*), created in 1972, also worked in capitalist expansion (agribusiness) areas.

Another avenue of civil society participation heightened post-dictatorship, was the establishment of Non-Governmental Organizations (NGOs). According to IBGE (2004), prior to the early 70s, 10,998 private foundations and nonprofit organizations had been created in Brazil. During the 1970s, over 32,858 entities were created. In the decade from 1981 to 1990, more than 61,970 organizations emerged. In the democratic period from 1991 to 2000, over 139,187 private foundations and nonprofit organizations were recorded. As democracy consolidated many of these entities became public service providers, forming partnerships and receiving public funds to develop their activities.

## 1.2 Participation in the democratic regime

Chronology of social participation in the Brazilian State:



1990s

**From 1990:** Institutionalization of public policy councils, thematic councils, and management councils in order to operationalize participatory ideals present in the FC/88. Examples:

- Law 8.080/1990: Regulation of the Unified Public Health System (*Sistema Único de Saúde*) and structuring of the councils and health funds;
- Law 8.069/1990: Creation of the Statute of the Child and Adolescent (*Estatuto da Criança e do Adolescente*) the public policy councils in the child and guardianship councils;
- Law 8742/1993: Creation of the Organic Law of Social Assistance (*Lei Orgânica da Assistência Social*), detailing and regulating the decentralized and participatory conception of the social care policy.

**1993:** A national plebiscite was held to define form and system of government, as stated in the FC/1988.

**From 1995:** Institutionalization of the dialogue of social movements and civil society. Examples: Solidary Community Program (*Programa Comunidade Solidária* (1995)), integrated to the Social Protection Network (*Rede de Proteção Social*), an advisory forum consisting of several civil society entities.

**1999:** The Law 9.784/1999 expects public consultations and hearings concerning matters of general interest. Unlike the hearings, public consultations do not take place in person, but through voting tools and distance collaboration, such as Internet and telephone.

2000s

**2001:** Creation of the Commission of a Participatory Legislative (*Comissão de Legislativa Participativa*) in the House of Representatives. Through this commission, society in any organized civil entity, NGO, union, association, professional association, may submit legislative suggestions to the House of Representatives. Creation of CLPs in the states and in some municipalities.

**2001:** Promulgation of Law 10.257, known as the City Statute (*Estatuto da Cidade*). One of its guidelines is the democratic management, through people's participation and representative associations of various segments of the community, in the formulation, execution, and monitoring of plans, programs, and projects of urban development.

**From 2003:** Expansion of municipal, state, and national conferences as one of the main arenas for dialogue between the government and civil society. They intend to discuss and deliberate proposals for public policy formulation, propose new government actions to make up the Multiannual Plan of Action (*Plano Plurianual de Ação*), and evaluate the policies approved in previous meetings. Also from 2003, a process of creation, redesign, and expansion of existing mechanisms of social participation around new rights and issues including gender, age, food security, urbanization, racial equality, and public transparency.

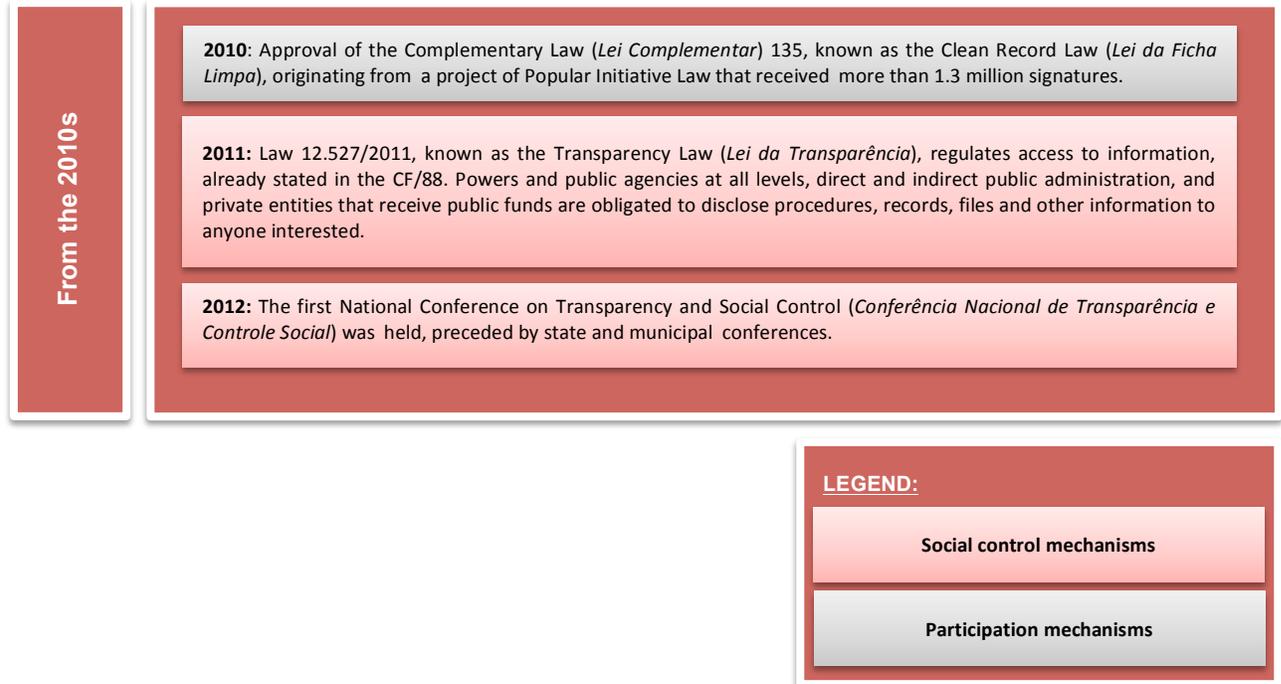
**2003:** Process of participatory construction of the Multiannual Plan (*Plano Plurianual*) 2004-2007, in the creation of a "negotiating table" or "roundtables" that produced important results for agreement and formulation of public policies.

**2004:** Emenda Constitutional Amendment 45/2004 brings a constitutional forecast to the creation of justice ombudsman for the purpose of receiving complaints and accusations against the judiciary.

**2004:** Creation of the Transparency Portal (*Portal da Transparência*), an initiative of the Union General Controllershship (*Controladoria Geral da União*) to ensure transparency in public management. Currently, states and many municipalities have a transparency portal.

**2005:** A referendum on banning the commercialization of firearms and ammunition was held.

**2009:** Creation of the E-Democracy Portal (*Portal E-Democracia*), a channel of virtual participation for society in various projects discussed in the House of Representatives.



### Institutionalized Participation: Using the Vote

In Brazil, **participation in elections** is compulsory for all citizens ages 18 through 70. Voting is optional for citizens outside this age range and the illiterate (Art. 14, § 1, FC/88). Formal participation in elections appoints the executive (mayors, governors, senators and president) and legislative positions (city councilmen, state representatives, and congressmen). Free and fair elections are organized by a well-funded branch of the judiciary.

There are three additional mechanisms of electoral participation: the plebiscite, the referendum, and the proposal of laws through popular initiatives. Plebiscites and referendums are queries made to the people in order to deliberate on relevant constitutional, legislative, or administrative matters.

A **plebiscite** is called prior to a legislative or administrative act and allows the people to decide by vote whether to deny or approve. Since 1988, there has been only one plebiscite held in Brazil. In 1993, the national electorate was convened to select the system of government to adopt in the country. The majority voted in favor of a republican regime and a presidential system which left the structure in place virtually unchanged.

A **referendum** is called after a legislative or administrative act to allow for its ratification or rejection by the people. The law supports the people's decision. This type of query is absolutely

binding- allowing/preventing the legal text or the administrative act to become Brazilian legislation. There has been only one referendum at the federal level held in the country to date. In 2005 a referendum banning the commercialization of firearms and ammunition was held. The majority of the electorate voted against the prohibition.

The **proposal of law by popular initiative** states that the population can present its own ordinary, or supplementary, bill to the national legislature provided it is supported by at least 1% of the national electorate spread over at least five Brazilian states (with a minimum of 0.3% of voters in each one of these federative units). Four bills by popular initiative have already been approved and enacted. The most important was the 2010 project known as Clean Record (*Ficha Limpa*) which made candidates who have had their mandate revoked ineligible for reelection for a period of eight years. The proposal also limited those who have resigned to avoid repeal and those who are convicted by a decision of a collegiate court.

### **Direct Citizen Participation**

During the 1990s and 2000s, Brazil greatly expanded the number of participatory venues, thus allowing citizens to engage in a wider range of policymaking venues. There are now four types of participatory institutions that allow citizens to engage in budgetary processes: Participatory Budgeting (mainly municipal), Public Policy Management Councils (Federalist in structure, from municipal to state to federal), Public Policy Conferences (Federalist in structure, from municipal to state to federal) and pluriannual budget planning (Federal, State and local).

Brazil's political system is one of a strong executive. The legislature can successfully block the executive but legislators face significant difficulty acting as equal partners in the governing process. In the decentralization and reform efforts of the past thirty years, there has been a greater emphasis on engaging citizens to improve governance. Most of the reform efforts have focused on bringing citizens' officials directly into programs housed in the executive branch.

#### Participating Budgeting:

Participatory budgeting is a year-long decision-making process through which citizens negotiate amongst themselves, and with government officials, in organized meetings over the allocation of new capital investment spending on public work projects. These projects include health care clinics, schools, and infrastructure. It is mainly adopted at the municipal level, although one state (Rio Grande do Sul) has adopted it at two different moments. Several hundred municipalities voluntarily adopted a participatory budgeting program in the 1990s or 2000s; between 2001-2004, upwards of 25% of Brazil's population lived in a city with PB (Wampler and Avritzer 2005). Participatory budgeting is the best-known participatory program outside of Brazil (Abers 2000, Avritzer 2002 and 2009; Baiocchi 2005; Goldfrank 2011; Nylén 2003; Wampler 2007). When PB is adopted, it is quite common for personalized adaptations to be undertaken in order to align rules with local conditions (Baiocchi et al 2011).

Our research and field of policy has benefited from careful tracking of participatory programs

since formal launch of PB in 1990.

Table 4  
PB programs over time  
Municipalities with at least 50,000 residents

Mayoral period	Total PB cases	Total municipalities	% adopting
1989-1992	11	448	2%
1993-1996	30	484	6%
1997-2000	63	495	13%
2001-2004	136	545	25%
2005-2008	126	575	22%
2009-2012	112	604	19%

Source: Spada and Wampler; Avritzer and Wampler 2008

Table 4, above, tracks the spread of PB between 1990 and 2012. Half of the PB cases were administered by Workers' Party governments, highlighting the centrality of the PT to the adoption of PB, as well as the willingness of other political parties to adopt this new program.

PB programs have successfully drawn low-income, undereducated citizens into leadership positions (Wampler 2007; Avritzer 2009; Baiocchi 2005; Baiocchi et al 2011). Evidence from Porto Alegre and Belo Horizonte also suggests that the majority of ordinary participants are from low-income households. Thus, the broader body of evidence demonstrates that PB programs are achieving their objective of inducing new actors into formal policymaking venues.

Aldemir Marquetti conducted pioneering research in this field. Marquetti drew from the city of Porto Alegre to demonstrate that public work projects selected through OP were being allocated to the poorest neighborhoods. Marquetti argues "an analysis of the 1990-2004 period shows that PB has a redistributive effect: the poorest regions received a greater number of public works and social services on a per capita basis. Priority was given to the poorest regions of the city in the distribution of public investments, which represents an important change in how the state acts, as well as the type of public policies adopted" (2009: 53). Marquetti's work thus demonstrates that PB can be used to allocate resources in novel ways.

To overcome the pitfalls associated with single-case studies, several studies apply quantitative analysis to large-N case studies. Research published by the World Bank shows that participatory budgeting is positively and strongly associated with improvements in poverty rates and the

percentage of houses with access to indoor plumbing and piped water (World Bank Report, 2008, pp. 86–92). Mike Touchton and I studied the impact of PB on a range of social and government performance indicators among cities with at least 100,000 residents between 1990 and 2008.

Our study of Brazilian municipalities shows a positive relationship between participatory budgeting and three critical aspects of any effort to improve well-being. First, our research connects the presence of PB to increases in healthcare and sanitation spending, an important first step in improving outcomes. Second, our research connects PB to decreases in infant mortality- an important outcome. Finally, our research identifies a potential explanation connecting healthcare spending to healthcare outcomes under participatory budgeting: the increased number of civil society organizations in municipalities practicing participatory budgeting.

In sum, the changes in spending priorities, in conjunction with the new institutional format, indicate shifts in basic governance. This evidence demonstrates what many proponents of PB have long asserted: PB programs change spending priorities and produce new forms of governance.

#### Public Policy Management Councils:

These are established at local, state, and federal levels of government in a variety of policy arenas. As of 2011, there were at least 65,000 municipal councils in existence (Barretto 2011). There are now at least 300,000 citizens elected to these positions; they are volunteering to be involved in these state-sanctioned policy-making bodies. It is probable that many of these councils performed at very low levels because the majority of the councils have been implemented in municipalities with less than 15,000 residents. Many councils are now required by the federal government as a condition for the transfer of federal funds.

#### Council Framework and Rules:

Distribution of seats: It is most often the case that government officials comprise 50% of the councils and that civil society comprises the other 50%. Civil Society is most often a combination of social movements, community-based organizations, and unions. There can also be limited representation for private companies and policy experts.

Fiscal Authority: Council members, typically, must approve the proposed budget within their policy arena. This gives them the authority to alter or, potentially, reject budgets proposed by mayors, governors, and presidents. We should note that the 50% composition of executive appointees on most councils means that this veto (rejection) is unlikely. Councils members must also approve the previous year's fiscal report without which the local government may not be

eligible to receive federal transfers. Finally, governments may need to reallocate resources among different budget lines.

Evidence on the impact of these institutions is limited, and, where it does exist, suggestive of limited influence on policymaking outcomes.

Table 5  
Public Policy Management Councils in Brazil

	1999	2006	2009	2011	Required
Education	5010	3760	4403	4718	Yes
Health Care	5425	5541 (2005)	5417	5553	Yes
Kids	3948	4622	5084	5446	Yes
Child Protection Services	3011	5167	5472	5521	Yes
Social Assistance	5036	5497 (2005)	5527	5527 (2009)	Yes
Fundef/FUNDEB	--	5372	5267	5462	Yes
Local Schools	5425	5541 (2005)	5417	4243	Yes
School Nutrition		5375	5466	5303	Yes
School Transportation		2165	2201	1367	No
Bolsa Família			3761		
Environment	1176	2039 (2004)	3124		No
Watershed		2829 (2004)	1428		No
Housing	439	979 (2005)	2373	2360	No
All Others	294 3	9141	10, 284	5 057	N o
Total	32,413	58,028	65,224	50,557	

Source: Munic 2011; Santo Barreto 2011: 225.

Table 5 demonstrates the explosion of councils over the past twenty years in Brazil. The number of councils doubled between 1999 and 2009. This increase was partially induced by the federal government in that fiscal transfers often require municipalities to have public policy management councils.

Table 6  
Voluntarily Adopting Councils

	None	One	More than 2	Total Municipalities
Less than 5,000	791 (61%)	429 (33%)	83 (6%)	1303
5001-10,000	641 (53%)	470 (39%)	101 (8%)	1212
10,001-20,000	627 (45%)	557 (40%)	215 (15%)	1399
20,001-50,000	333 (32%)	383 (37%)	327 (31%)	1043
50,001-100,000	50 (15%)	84 (26%)	190 (59%)	324
100,001-500,000	5 (2%)	26 (11%)	214 (87%)	245
More than 500,000	1 (2%)	1 (2%)	36 (96%)	38

The evidence in Table 6, above, clearly demonstrates that the voluntary adoption of councils is taking place in larger municipalities. There is a steady and consistent increase in the percentage of municipalities adopting more councils as the municipality grows in size. The evidence in these two tables indicates that medium and large municipalities across the country are voluntarily adopting participatory institutions.

In sum, this evidence demonstrates that mid-to-large sized municipalities are adopting a broad number of participatory venues. Adopting and building new democratic institutions is thus significantly related to the size of the municipality. The implication of this finding is that democratic institutions are being built in those cities where most Brazilians live.

National-level council system: One way to measure the extent to which public policy management councils are embedded in the broader interlocking system is to assess the degree to which councilors believe that they can positively affect other institutions. Brazil's Applied

Economics Institute, a government research center, administered a survey to national-level councilors that included three questions pertinent to the concept of interlocking institutions: (i) Capacity to influence the National Congress; (ii) capacity to influence the ministry in which the council is housed (e.g., national health council in Health Ministry); and (iii) capacity to influence other ministries. Most significantly, the survey results demonstrate that “Nearly 75% of the councilors believe that they have a ‘significant’ or ‘very significant’ impact on the relevant agency”(IPEA 2012. P. 47).

Table 7  
National Councilors’ perceptions of their influence on other institutions  
% reporting

	National Congress	Ministry	Other ministries	Civil Society Organizations
Social Policy	35	71	42	61
Human Rights	50	66	63	69
Economic Development	31	73	38	65
Infrastructure and natural Resources	32	88	39	56

Source: IPEA 2012 P 72 and 73

This data demonstrates that national councilors believe that their political engagement through the council has a positive and significant effect on the ministry in which they are inserted. The arena that the councilors perceive they have the weakest influence on is the national congress. In the Brazilian context of a relatively strong executive branch, this demonstrates that councilors’ perceptions are in line with the strategies employed by legislators. It is far more important for those interested in affecting policy and spending change to align themselves with the executive branch than it is to align themselves with the legislature.

We can also conceptualize institutions linked through the activities of specific individuals. Individuals are ligatures between federal, state, and municipal councils as well as between each level of government and the complementary institutional agencies. Evidence to demonstrate these linkages are few, but do exist. At the national level, evidence from a survey administered

by IPEA in 2010 among 737 of Brazil's national-level council members demonstrates that the overwhelming majority were currently serving on another council or had previously served on a council (IPEA p 23). In addition, 70% participate or had participated in another council, which indicates that the council members link different parts of the new participatory architecture. Finally, nearly 90% of the respondents assert that they have extensive contact with their bases (IPEA 2013: 3) This is additional evidence that demonstrates that the councils are linked in a broader spectrum of organization.

In sum, the evidence presented demonstrates that national health care councilors view themselves—and the councils—as being embedded in a broader policymaking environment. These councils are not isolated but are part of a growing fabric of interlocking institutions.

Participation in the legislature:

Within the legislative bodies, there are commissions of participatory legislation and public hearings.

The **Participatory Legislation Committees** are examples of society's participation in the Legislature. They are spaces for organized civil entities (NGOs, unions, associations, and professional associations- exempting political parties) to present their suggestions, technical advice, and amendments to law.

**Public hearings** are an open space for participation convened by any federal member to inform and speak about a particular policy or bill with the community. Examples include public hearings held by the executive and/or the legislative branch to discuss the budget or works with environmental impact, bids, administrative contracts, concessions, regulatory agencies, etc.

Finally, citizens may also participate through **ombudsmen** programs, which were created as direct communication channels between governmental entities and citizens to signal suggestions, comments, complaints, or evaluations of public services. It is this sector's responsibility to seek solutions to citizens' demands, to provide information and suggestions for improvement in agency operation, and to contribute to public policy formulation.

At the federal level, in addition to the Federal Ombudsman (*Ouvidoria Geral da União*), there are also ministerial ombudsmen (only the ministries of the Cities, does not have its ombudsmen).

Extra-Institutional Participation:

The primary informal channels of participation and protest, particularly in large urban centers, are **strikes** and **social mobilizations** (marches and campaigns organized by social movements).

In this realm the most common themes are **indigenous and environmental conflicts** as well as **actions of land invasion**.

The right to strike became effective in the Federal Constitution of 1988. According to the FIPE (2012), the frequency of strikes increased between 2008 and 2009, and numbers were maintained in subsequent years. In both years about 70% of strikes had propositional purposes, in that, their goal was the expansion of rights. The defensive strikes – in search of wages – represented around 45% of the cases.

According to the Pastoral Land Commission (*Comissão Pastoral da Terra*), conflicts in rural areas pivot upon land contestation, water rights, labor means, and production. In the past years, CPT identified that 37% of these conflicts (235 cases) involved landholders, 29% of the conflicts (185 cases) included the landless, and 12% the “quilombolas” or communities formed by direct descendants of former slaves. As IPEA (2012) highlights, rural conflicts remain serious with 880 incidents in 2001 (compared to 1,186 in 2010) involving more than 500,000 people.

There is a tendency toward the intensification of conflict over land and water control, according to IPEA (2012). This is due to the high volume of public and private resources funneled towards the North and Northeast. In the Amazon area, the construction of 11 hydroelectric plants has already been announced which include new railways and mining expansion. Thus, it is likely that manifestations in the field are going to assume a new face. The Movement of People Affected by Dams (*Movimento dos Atingidos por Barragens*), for example, mobilizes populations that live close to large hydroelectric plants such as Tucuruí and Belo Monte.

Claims for land and political recognition of ethnic identity are central to indigenous conflict. Indigenous movements also seek the improvement of health services and governmental assistance in the creation of rural educational systems.

The main developments in national policy over the last 15 years are:

- **Increased transparency in public management and social approach:** The initiatives to increase transparency in public administration are a mark of the period. Much of the legislation on public finance has institutionalized mechanisms for dissemination. The Fiscal Responsibility Law (*Lei da Responsabilidade Fiscal*) requires reports on revenues and expenses be published by the media. As was demonstrated by the 2004 creation of the Transparency Portal (*Portal da Transparência*) where data on financial execution can be downloaded. From 2003, the Federal Ombudsman (*Ouvidoria-Geral da União*), linked to the Federal Controllorship (*Controladoria-Geral da União*), became responsible for receiving, examining, and forwarding charges, complaints, compliments, suggestions, and requests for information regarding procedures and actions of agents, agencies, and

entities of the federal executive power. The Ombudsman has the responsibility of coordinating under the federal executive, as well as organizing and interpreting manifestations received and producing quantified indicators on the level of satisfaction of public service users within the executive, according to CGU.

- **Dissemination of public policy conferences with civil society participation:** 82 national conferences were held between 2003 and 2011 mobilizing more than five million people. Several policies were discussed concerning development, generation of employment and income, social inclusion, health, education, environment, women's rights, racial equality, land reform, youth, human rights, science and technology, communication, sexual diversity, culture democratization, urban reform, public safety, and local production arrangements.
- **Institutionalization of deliberative formats within social movements and civil society:** Since the late 90s, these communication channels have been stimulated. The first relevant experience was the program Solidary Community (*Comunidade Solidária*), created in 1995 and integrated into the Social Protection Network (*Rede de Proteção Social*), a consultative forum with civil society participation. Prior to 2002, there were councils with a civil society presence in areas as diverse as: Elderly Rights, Child and Adolescent Rights, Rights of Persons with Disabilities, Sustainable Rural Development, Health, Environment and Water Resources. After 2003, councils and forums for national public policy have expanded, encompassing: Economic and Social Development, Promotion of Racial Equality, Public Transparency and Corruption Combat, Discrimination Combat, Cities, Public Safety, Youth, Solidarity Economy, and Aquaculture and Fishery. In addition, roundtables were created with labor unions and dialogues with social movements. According to IPEA (2012), this new interface was the government's initiative in response to the demands of social movements. This kind of experience is new in the country, and there were three types of tables in the Lula government, varying in terms of theme, design and/or dynamic: Table of National Permanent Negotiation with the Public Servants (2003); Table of Minimum Wage Negotiation (2005) and Dialogue Table to Improve Working Conditions in Sugar Cane Plantation (in 2008).
- **Mechanisms for participatory planning:** Beginning with the preparation of the quadrennial plan for the period 2003-2007, 27 Forums of Social Participation in Brazil were performed. After that, the Inter-councils Forum (*Forum Interconselhos*), which is an advisory aspect in the preparation of the budgetary plan, was established as a space for social interaction. It includes the participation of representatives of national councils and representative entities. The Inter-councils Forum discusses a wide range of issues concerning almost any area of governmental action (FEDERAL GOVERNMENT, 2011).

## Section 2: Participation in national politics

Types of participation	Description
Project of popular initiative	Direct manifestation of the people in making ordinary or complementary laws.
Policy conferences	Used to define principles and guidelines in the evaluation of sectorial policies; propose changes to ensure universal access to social rights; give voice and vote to society; discuss and/or deliberate on participation forms, composition, and new assignments; evaluate and propose popular participation tools for implementation of guidelines and budgetary debate. Usually convened in a consultative or deliberative nature.
Participatory Legislation Committee of the House of Representatives	Society may present suggestions ranging from complementary and/or ordinary law proposals to amendments to the PPA and LDO- the main parts of the budget planning system.
Public inquiries	The Law 9.784/1999 creates this form of instructing the administrative process. This expedient is a matter of general interest with the intention of collecting third party manifestations in its pure form. The structure is not in person but consists of voting and distance collaboration via Internet and telephone.
Public hearings	They became an important part of the political process with the introduction of new law in the last 15 years concerning the environment, Statutes of the City, bids and administrative contracts, concessions and permissions of public services, telecommunication services, and regulatory agencies. When their conduction is mandatory and it does not occur, the governmental act has no legal effect. Even when compulsory, the public hearing is not binding and the administrator can justify the need, performance, or service as intended. Transparency is also assured through encouragement of public participation- public hearings are an essential part of the budgetary planning system (the LOA and LDO). The legislative process and the Public Ministry also make use of public hearings.
Work groups	Space for debate and the proposal of specific themes or the monitoring of a political process. May consist of strictly governmental groups (with social representatives as guests), parity groups, or majority civil society members. In general, they are created through a normative instrument that defines their goals, deadlines, and composition.

**Other forms of participation**

Meetings, convocations, and correspondence are not institutionalized spaces in which social organizations establish a face-to-face dialogue with government representatives. This space allows for interaction with specific groups, presentation of demands, negotiation, delivery of information, etc.

Even with all these participation mechanisms, Brazil's performance is moderate in its provision of opportunity for public participation in the budget. According to the "Open Budget Survey 2012," conducted by the International Budget Partnership, some indicators of public participation on budgetary issues were quite weak, while others were nonexistent.

## Indicators of public participation in the budget:

Requirement	Research result
<b>Formal requirements for public participation</b>	It exists, but can be improved
<b>Articulation of goals for public participation</b>	It doesn't exist
<b>Communication of the IAS on audit findings and the publication of audit reports</b>	It strongly exists
<b>Consultation process</b>	
<b>Mechanisms developed by the Executive for participation during budget planning</b>	Exist, but are weak
<b>Public hearings in the legislature on the macroeconomic framework of the budget</b>	Exist, but are weak
<b>Public hearings in the legislature on the individual budgets of agencies</b>	Exist, but are weak
<b>Legislative opportunities for public testimony during the budget hearings</b>	Exist, but are weak
<b>Mechanisms developed by the executive for participation during the implementation of the budget</b>	Doesn't exist
<b>Mechanisms developed by the IAS for the articulation of the audit agenda</b>	Strongly exist
<b>Followed process after query</b>	
<b>Feedback from the executive on the use of inputs provided by the public</b>	It doesn't exist
<b>Release of reports by the legislature over the budget hearings</b>	It doesn't exist
<b>Feedback of the IAS on the use of inputs provided by the public</b>	It doesn't exist

Source: Open Budget Survey, 2012.

## The Budget and Popular Participation:

Once the Fiscal Responsibility Law (*Lei da Responsabilidade Fiscal*) defined planning and transparency (§ 1, art. 1, Law 101/2000) as one of the main directions for public finances, popular participation becomes essential. Since 2009, public hearings are mandatory throughout the process of drafting, discussion of plans, budgetary guideline laws, and budgets themselves (Item I, art. 48, Law 101/2000). However, when analyzing the public hearings planned by the Joint Budget Committee of the National Congress (*Comissão Mista de Orçamento do Congresso Nacional*), it is clear that only some are open to the public - and even in these, the participatory channels are not fully binding.

Therefore, based on an analysis of the current legislation regarding the budget: a) there is a possibility of conducting public hearings but with no timetable formalized into its cycle, b) the deadlines for holding public hearings are exiguous vis-a-vis the period of project processing, c) public hearings are conducted mostly in seeking for clarification from the responsible ministers (Finance and Planning) rather than providing effective instances of participation.

Types of information extended to the citizenry:

In the current configuration of Brazilian government, two types of information are extant:

- a) One offered spontaneously to the public available through the Transparency Portal (*Portal da Transparência*), a government website coordinated by the Union General Controllorship (*Controladoria Geral da União*);
- b) Ones which are not available for consultation but can be accessed by the public through special applications legally guaranteed by the Access to Information Law- Law 12.527/2011 (*Lei de Acesso à Informação*).

In the **Transparency Portal**, there is information pertaining to the:

- Transfer of funds to states, municipalities, corporations, foreign countries, and/or individuals;
- Direct expenditures by the Federal Government;
- Budgetary execution and financial data on spending by the Federal Executive units;
- Expected revenue, generation, and dissemination by the Federal Government;
- Agreements signed in the last year briefly describing the objectives, dates, and amounts involved- since January 1st, 1996;
- Companies sanctioned by the public administration throughout the federation;
- Position, function, and status of servers and public agents.
- Entities that have their own public transparency pages;
- Projects and activities under the Federal Executive Power that are disclosed by the agencies on their respective home pages - Network Transparency.
- Transparency pages of states and municipalities on fund transfers received from the federal government and registration of agreements taken from the Transparency Portal.

Through the **Access to Information Law** (*Lei de Acesso à Informação*), citizens can request access to information regarding:

- Activities: information on policies, organization, and services of the public agencies;

- Documents: information on documents produced or stored in the agencies and those resulting from links to the administration, even when under the custody of an individual or a private entity linked with the administration, even after its completion;
- Audits: results of inspections, audits, and expense reports carried out by the internal and external control agencies;
- Programs, projects, and actions: information on the implementation, monitoring, and results of the agencies and entities programs including targets and indicators;
- Public property: information on the administration of public property, use of public resources, bids, and administrative contracts.

Information can also be gathered through direct contact with the ombudsman by service letters to some government agencies.

The Budget planning system:

Constitutionally, three laws are part of the Brazilian budgetary cycle: Multiannual Plan (*o Plano Plurianual*), the Budgetary Guidelines Law (*Lei de Diretrizes Orçamentárias*), and the Annual Budgetary Law (*Lei Orçamentária Anual*) (articles 165-170, FC/1988). This system is mandatory for all federal members (federal union, state, and municipal governments).

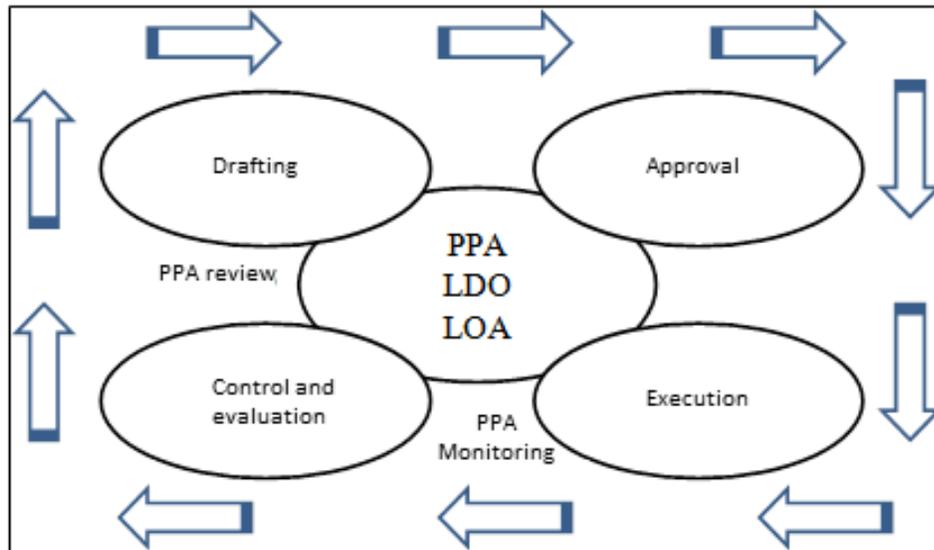
The **Multiannual Plan (Plano Plurianual (PPA))** is a four-year term drafted in the first year of the term of the Chief Executive (president, governor, mayor). The four years cover three years of the current president, governor, or mayor and the first year of their predecessor. The law contains guidelines, objectives, and targets related to capital expenditures and expenses with continuous programs.

The **Budgetary Guidelines Law (*Lei de Diretrizes Orçamentárias*)** records the goals and priorities for capital expenditures for the subsequent fiscal year. It aims to guide the preparation of the Annual Budgetary Law (*Lei Orçamentária Anual*), based on the planning signed at the PPA.

The **Annual Budgetary Law (*Lei Orçamentária Anual*)** establishes the expenses and revenues, according to the forecasts of tax revenues approved by the legislative branch at the end of the year prior to their implementation. If there is a need to increase the expected budget during the fiscal year, the Executive must submit a new bill requesting additional credit to the legislature. It is also possible to issue contingency decrees reducing the previously authorized expenditures.

The budgetary cycle starts with drafting, discussion, voting, and approval of the PPA. With a similar process sanctioned by the LDO and culminating in an identical series with the LOA. Budget drafting at the federal level begins in the executive branch with the Ministry of Planning, Budget, and Management playing an important role through its Department of Budget and

Finance. In this preliminary stage, each sectorial agency, budgetary unit, and administrative unit comprising the government structure prepares their budgetary proposals for consolidation by the department into a single document.



Source: Department of Budget and Finance

The general rules for the development of the budget are established by Federal Law 4320, which was enacted in 1964, before the process of democratization in the 1980s. As a result, the Brazilian budgetary legislation fails to mandate strong popular participation. Additionally, the operant logic of budgeting is based on expenditures rather than policy objectives. As a result, although the *Lei da Responsabilidade Fiscal* introduced mechanisms of transparency in the beginning of the 2000s, the budget logic continues to adhere to the design enacted under the dictatorial regime.

In the approval stage, the legislature receives the Annual Budgetary Law Project (*Projeto de Lei Orçamentária Anual*), which is reviewed primarily by the Joint Committee on Planning, Budgeting, and Control (*Comissão Mista de Planos, Orçamento e Fiscalização*), consisting of members of the upper and lower houses of the Brazilian Congress. The committee's duties include preparation of preliminary reports, the distribution of projects along thematic lines, amendments and approval, culminating in a final report from a joint vote of the House of Representatives and the Federal Senate (in the case of the Union). For subnational states the procedure is simplified, as their legislative branch is unicameral. After approval, the PLOA is sent to the Chief Executive for approval.

The public budget cycle is ruled by a series of norms directing constitutional arrangement to ministerial orders. Because it is a dynamic instrument of planning, public budgeting is part of the legislation that governs it, which is changed annually, such as the Budgetary Guidelines Law (*Lei de Diretrizes Orçamentárias*) and the Budget Technical Manual (*Manual Técnico do Orçamento*). However, these changes are gradual and often highly technical. They tend to incorporate private sector rules in the Brazilian accountability system. Annually, the federal government announces the budgetary information on its website at the Ministry of Planning, Budget, and Management, where the pre-budgetary document, the budget proposal of the Executive, and the approved budget can be accessed.

The annual and quarterly budgetary execution report is available on STN's website. Since the semiannual report is not required under Brazilian law, it is not available. However, other intermediate reports replace it (such as the summary report on budgetary execution and the fiscal management report). Data on the budgetary execution is required and available online to insure that its monitoring is almost in real time (usually D + 2).

According to the Open Budget Survey of 2012, the government of Brazil provides meaningful information to its citizens. Brazil received the highest Open Budget Index ranking in South America with 73 points in a classification system that ranges from 0 to 100 (average score of all countries surveyed was 43). Over the years, however, these results have stagnated. In 2010 the Brazilian IOA was 71 points, a decline from 2006 and 2008's 74 points.

Among the eight key documents of the organization<sup>1</sup>, only the Mid-Year Budget Review is available to the public (the Brazilian government doesn't prepare a revision document at the midpoint of the budgetary year). However, the document that receives the highest score in the survey is the Enacted Budget (*Orçamento Promulgado*), a document that authorizes the Executive to increase revenues, expenses, and incur debt. All other aspects may undergo improvements that would increase national budgetary transparency. According to the organization, "the Brazilian government has potential to further expand even more the budgetary transparency by introducing a series of short and medium term measures".

The Federal Constitution of 1988 establishes internal and external controls. Controls are utilized by the administration itself through internal agencies and submitted to the Chief Officer, usually in the form of internal audits or controllerships. The Union General Controllorship (*Controladoria Geral da União*) was created in 2003 as a federal executive mechanism, mainly as an auditing agency of the federal budget. The external controls are exercised by independent agencies with their own resources- Courts of Auditors (*Tribunais de Contas*). In the form of Judicial Courts (*Cortes Judiciais*) (articles 70-75, FC/88), supervision of accounting and financial aspects of government action occurs. The exogenous agencies follow the European

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<sup>1</sup> They are: a pre-budget statement, the budget proposal of the Executive, the enacted budget, the citizen budget, the reports through the year, the mid-year review, the end of the year report and the audit report.

continental tradition, adopting the eminently legal logic of action as opposed to the model of general auditing.

#### Legislative Power:

Budgeting is one of the most complex tasks relegated to the legislative branch and annually approved over power struggles and political bargaining. The participation of citizens and civil society organizations in the budgeting process under the federal legislative power can occur through: direct contact with legislators; sending legislative suggestions; participation in public hearings of the budget of the Joint Committee on Plans, Public Budgets, and Supervision (*Comissão Mista de Planos, Orçamentos Públicos e Fiscalização*); participation in the Participatory Legislation Committee (*Comissão de Legislação Participativa*); through the E-Democracy Portal.

In states and municipalities, citizens' participation depends upon the institutionalization of process into local law despite the minimum requirements introduced by the *Lei de Responsabilidade Fiscal*. In the subnational sphere, Audit Courts are supposed to insure adherence to federal law. However, sanction due to insufficient popular participation is administered.

Effectively, popular participation in controlling the budget is indirect, hindered by the traditional conception that monitoring its execution is a function of the legislature, and supported exclusively by the audit results of the Courts of Auditors (*Tribunal de Contas*). In following this logic, elected representatives become the gatekeepers of popular control. Neither organic law nor Courts of Auditors regulations compel popular participation or the formation of public hearings. Audit and preliminary reports issued by the Supreme Audit Institution of Brazil (*Tribunal de Contas da União*) are available on the institution's website.

As already shown in the "Open Budget Survey 2012" report, the Brazilian Legislative Power has moderate strength in budget oversight. The finding submits that "the legislative shall have full authority to change the budgetary proposal of the Executive, and the Executive must request the approval from the Legislative before transferring funds among administrative units and before spending supplementary budgets and contingency funds".

#### Judiciary Power:

There are few social control mechanisms that incur upon the Brazilian Judiciary. The National Council of Justice (*Conselho Nacional de Justiça*) would be the closest agency responsible for executing that function. Comprised primarily of members of the Judiciary itself, it is an imperfect control mechanism to say the least. Moreover, there are few positions chosen by

election, even if internal to the category. The positions that perform government functions respond to the logic of eligibility or nomination by a mixture of legal indication and seniority. The Judiciary Power is also audited by the Audit Courts in Brazil. Again, their control action is often ineffective.

Ways for citizens to block (veto) governmental proposals:

Among the possibilities for banning government proposals by citizens, there are: popular action, civic public action and the collective security mandate. Usually, they may be used after the budget proposal has been approved by the legislative branch. All are seen as legal resources available to society.

**Popular Action:** constitutional means for citizens to invalidate acts or illegal/harmful administrative contracts pertaining to public property viewed as preventative or repressive. Any person may file as a civil and political right. Another purpose is to correct administrative acts undertaken by the government. With this action society may intervene in administration and invalidate acts that damage economic, administrative, artistic, environmental, or historical properties- a possibility that was previously only given to higher state agencies. It doesn't support individual rights, only issues of social concern.

**Public Civil Action:** procedural tool to repress or prevent damage to the environment, consumers, goods, (artistic, historic, touristic) rights, landscape values, and violations of economic order-protecting diffuse, collective, and individual interests. It may be proposed by the Public Ministry, associations focusing on the environment or consumer protection, or by the Public Defender (*Defensoria Pública*).

**Collective security writ:** meant to allow easier access to justice by admitting that corporations protect the rights of their members and associates and to stifle multiple actions of the judicial power. It may be filed by a political party represented in the National Congress, by a union, a professional association, or a legally constituted association.

### Section 3: Studies of specific cases

#### 3.1 National Conference on Transparency and Social Control (*Conferência Nacional sobre Transparência e Controle Social*)

The first National Conference on Transparency and Social Control (*Conferência Nacional sobre Transparência e Controle Social*), held in 2012, was the first conference process nationwide dedicated exclusively to issues of social control, transparency, and the fight against corruption.

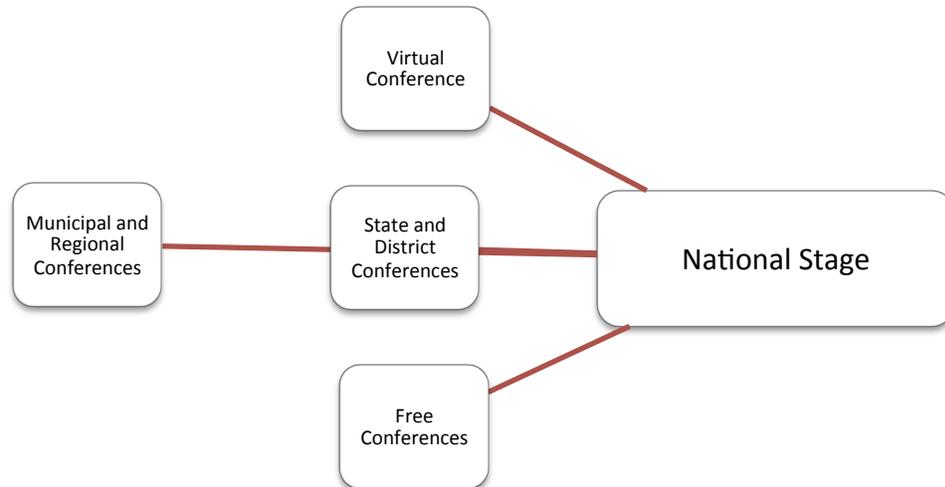
The conference aimed to "promote public transparency and encourage the participation of the society in the monitoring and control of public administration, contributing to a more effective and democratic social control" from the vantage point of four themes. I. Transparency and access to information and public data; II. Mechanisms of social control, engagement, and social capacity-building for the control of public administration; III. Performance of the public policies councils as instances of control; IV. Guidelines for the prevention and fight against corruption.

Convened by the federal government through a presidential decree<sup>2</sup> and organized by the Union General Controllershship (*Controladoria Geral da União*), with the direct collaboration of the General Secretariat of the Presidency (*Secretaria-Geral da Presidência da República*), its implementation was preceded by a series of preparatory conferences held between July 2011 and April 2011 in municipal, regional, state, and federal levels.

The Municipal and Regional Conferences aimed at submitting twenty guidelines/proposals and an election of delegates to the District and State conferences. They concluded conferences should be convened by the municipal executive and held at least ninety days prior to the corresponding state or district conference. In localities without a convocation of conferences by the subnational government, the possibility would exist of organizing a group of at least three institutions of civil society.

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<sup>2</sup> The first decree occurred on December 8, 2010, in the government of Luiz Inácio Lula da Silva, and expected the implementation of CONSOCIAL with the theme "The society in the monitoring of public management", on October 13 to 15, 2011. It was motivated by a petition drafted a year earlier and signed by 300 participants of the 1<sup>st</sup> National Seminar on Social Control (*Seminário Nacional sobre Controle Social*), an event sponsored by the CGU. The 2010 decree was revoked for a new decree on July 8, 2011, and signed by President Dilma Rousseff, setting the new date to be held: from May 18 to 20, 2012.



The preparatory stage directly mobilized more than 150,000 people. The national stage drew approximately 1,200 delegates.

**CONSOCIAL preparatory da stage.**

Preparatory stages	Number of participants
Municipal	83.684
Regional	26.123
Free	30.391
State / District	10.862
Virtual	2.690
<b>Total</b>	<b>153.750</b>

Source: Final report of the 1<sup>st</sup> CONSOCIAL

The objective of the district and state conferences was the selection of delegates and the submission of up to twenty proposals/guidelines to the National Stage. Open conferences are held by any group of people interested in the subject through April 8, 2012. Up to ten guidelines/proposals for the national coordination of the first CONSOCIAL were forwarded through a report submitted online, and the proposals were systematized in the guidelines/proposals book of the National Stage.

The virtual conference allowed for collective discussion in a virtual environment from March 19 to April 8, 2012. In total, it drew 2,960 participants across all Brazilian states including Brazilians living abroad. All the 150 discussed guidelines/proposals resulted in a set of eighty guidelines/proposals that were forwarded to the Book of National Stage Proposals (*Caderno de Propostas da Etapa Nacional*). In addition, ten people with active participation in the virtual environment were invited to perform as delegates on the National Stage.

In the National Stage, which was held between May 18 and 20, 2012, 60% of the elected or recommended delegates represented civil society, 30% represented the public power, and 10% represented the public policy councils. The number of state and district delegates that were participants of the National Stage was proportional to the population of states and the Federal District in the following distribution : 28 delegates represented the states of Acre, Amapá, Federal District, Mato Grosso do Sul, Rondônia, Roraima, Sergipe and Tocantins; 38 delegates from the states of Alagoas, Amazonas, Espírito Santo, Mato Grosso, Paraíba, Piauí, Rio Grande do Norte; 47 represented the states of Ceará, Goiás, Maranhão, Pará, Pernambuco and Santa Catarina; 56 represented the states of Bahia, Minas Gerais, Paraná, Rio de Janeiro and Rio Grande do Sul; 75 delegates represented the state of São Paulo.

The discussions of all preparatory stages and the National Stage were launched by the reading of a base text, prepared by CGU, in order to guide and qualify the discussion. This also served to highlight the main themes of debate in conjunction with applicable legislation and a summary of the current scenario. In order to choose the guidelines and proposals for the final report of the National Stage, an electronic prioritization system was harnessed. This prioritized agenda illustrated which guidelines/proposals received the most support by the conference participants.

The final result of the 1<sup>st</sup> CONSOCIAL was the consolidation of eighty proposals/guidelines with at least ten priorities in each thematic area. The final document of the conference process was intended to subsidize the creation of a National Plan on Transparency and Social Control (*Plano Nacional sobre Transparência e Controle Social*), transforming the proposals into public policies and bills for legislation. With this outcome in mind, the final report of the 1<sup>st</sup> CONSOCIAL was forward to the public authorities of the three levels of government. Those involved were also committed to mobilization around thematic areas through the dissemination of conference results, the expansion of networking facilitated through the conference process, and the possibility of developing a monitoring system around the implementation of the proposals of the 1<sup>st</sup> CONSOCIAL.

### **3.2 Social Control for the Bolsa Família Program (*Instâncias de Controle Social do Programa Bolsa Família*)**

The Bolsa Família Program (PBF)<sup>3</sup> is a program of conditional income transfers to families in poverty and extreme poverty situations. Established in 2003, the PBF was to replace other income transfer programs. It currently serves more than 13 million families with monthly incomes per capita of less than R\$ 140.00. It has a total cost of approximately R\$ 23 billion

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<sup>3</sup> Created by Law 10.836 (2004) and regulated by Decree 5.209 (2004).

which represents less than 0.5% of the Brazilian GDP<sup>4</sup>. Families are monthly beneficiaries of financial aid which is contingent upon education, health, and social care for qualification. These requirements include a minimum school attendance for children and young people up to 17 years old, an updated vaccination schedule with records of development/growth of children up to seven years old, prenatal monitoring of pregnant women and nursing mothers, and a minimum frequency in the activities of the Socio-Educational Service Program for the Eradication of Child Labor (*Serviço Socioeducativo do Programa de Erradicação do Trabalho Infantil*) of those children and teenagers up to 16 years old who were withdrawn from child labor.

According to a booklet prepared by CGU (2010), "there is no individual privilege in the selection of the families. The selection is made in an automated way by the Federal Government and takes into account the information of the national database of the Single Registration for Social Programs (Cadastro Único para Programas Sociais), as well as the estimated number of poor families in each municipality."

The PBF management is decentralized and shared, as shown below:

**Management of Bolsa Família Program in the different levels of government**

<b>Level</b>	<b>Responsible person/department</b>
<b>Federal</b>	National Department of Citizenship Income, in the Ministry of Social Development and Fight against Hunger ( <i>Secretaria Nacional de Renda e Cidadania</i> , no Ministério do Desenvolvimento Social e Combate à Fome).
<b>State</b>	Inter-sectorial coordination/collegiate with representatives in the areas of Health, Education, Social Care, Planning, and Labor.
<b>Municipal</b>	Municipal manager appointed by the mayor.

In addition, the PBF management also requires civil society participation. The program expects the "establishment or designation of a social control instance responsible for monitoring the

<sup>4</sup> Data provided by the National Income and Citizenship Department (*Secretaria Nacional de Renda e Cidadania*), the Ministry of Social Development and Fight Against Hunger (*Ministério do Desenvolvimento Social e Combate à Fome*), in a presentation entitled "Recent Innovations in the Bolsa Família Program and Impacts on Overcoming Extreme Poverty," made for the International Technical Panel on Conditioned Income Transfer Programs in Latin America (*Painel Técnico Internacional sobre Programas de Transferência de Renda Condicionada na América Latina*).

actions of the program" when a municipality decides to formally join the Bolsa Família Program<sup>5</sup>. Such instances are municipally established through the creation of a specific council or the assignment to a pre-existing council in the municipality. They must: a) be continuously operational with rules and procedures regulated by publicly available decrees, b) be formed on a parity basis pulling an equal number of representative advisers from government and civil society, c) have counselors representing the diversity of institutions and agencies in the municipality thereby ensuring the participation of representatives from social care, education, and health areas *inter alia*, d) work autonomously and independently.

The advisers who are the government representatives are appointed by the local executive power, and the civil society advisers are elected through public consultation<sup>6</sup>. Even though there is no payment to the advisers for the activities developed on the council, their function is considered a relevant public service. The advisers are, therefore, public agents and their actions should be guided by the principles of public administration (legality, impersonality, morality, publicity, and efficiency).

Overall, the Social Control Instances of PBF (*Instâncias de Controle Social do PBF*) are responsible for monitoring the execution of the program by verifying proper registration and benefits to these families; access to public services in health, education, and social care for their assistance; stimulation of activities aimed at the emancipation of the beneficiary families; contributions to the supervision of actions promoted by the MDS and by the Public Supervisory Network (*Rede Pública de Fiscalização*).

The assignments of the ICS also include:

- Single Registration (*Cadastro Único*): conducts periodic visits to areas of concentrated poverty, associations, unions, and churches in order to educate the population about its function; evaluate the strategies employed by the municipality in identifying, mapping, and registering the poorest families particularly home visits; evaluate the dissemination strategies of registration; identify situations of barred registration and, in conjunction with local government, propose routes to overcome; verify the storage of registration forms for a five-year minimum as per law; periodically check the amount of registered families to consider new families that meet the income criteria; evaluate the information updating strategies held by the council.
- Benefits Management: identify families enrolled in the Single Registration (*Cadastro Único*) who have not benefited from the PBF; upkeep of benefits to the management (blocking, unblocking, cancellations, reversal of cancellations) of the PBF via

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<sup>5</sup> Ordinance 246 (2005).

<sup>6</sup> Normative Instruction 1 (2005).

- consultation with the System of Benefits to Citizens (*Sistema de Benefícios ao Cidadão*); verify correct procedures.
- Management of conditionality: work in partnership with health, education, and social care councils of the municipality to ensure that each are offered by the public power to the families of PBF; monitor the records for conditionality and evaluate impediments to honoring obligations; encourage families to keep information current (change of address, school, etc.); encourage the promotion of purposes of conditionality and mobilize families around their commitment.
  - Promoting opportunities for the development of families: encourage – in the city, state, or federal district – the extension of public policies that favor the emancipation and sustainability of the beneficiary families of PBF; make the beneficiaries aware of the importance of their participation in opportunities for economic and social insertion offered by the public power; evaluate the results of family participation in developmental action; identify the potential for self-created programs or integration with federal and state programs; target highest need areas.
  - Accompaniment and supervision of the PBF: follow the supervision procedures guided by the MDS and by the Public Supervisory Network of the PBF (*Rede Pública de Fiscalização do PBF*); follow-up on complaints and target solutions; notify the city manager and the Public Supervisory Network Supervision of the PBF (*Rede Pública de Fiscalização do PBF*) of any problems in its implementation.
  - Promotion of social participation: encourage community participation in PBF execution; contribute to the formulation and dissemination of information to civil society; promote the existence of the council and the importance of its actions.

### **3.3 Inter-Council Forum of the Multiannual Plan (*Fórum Interconselhos do Plano Plurianual*)**

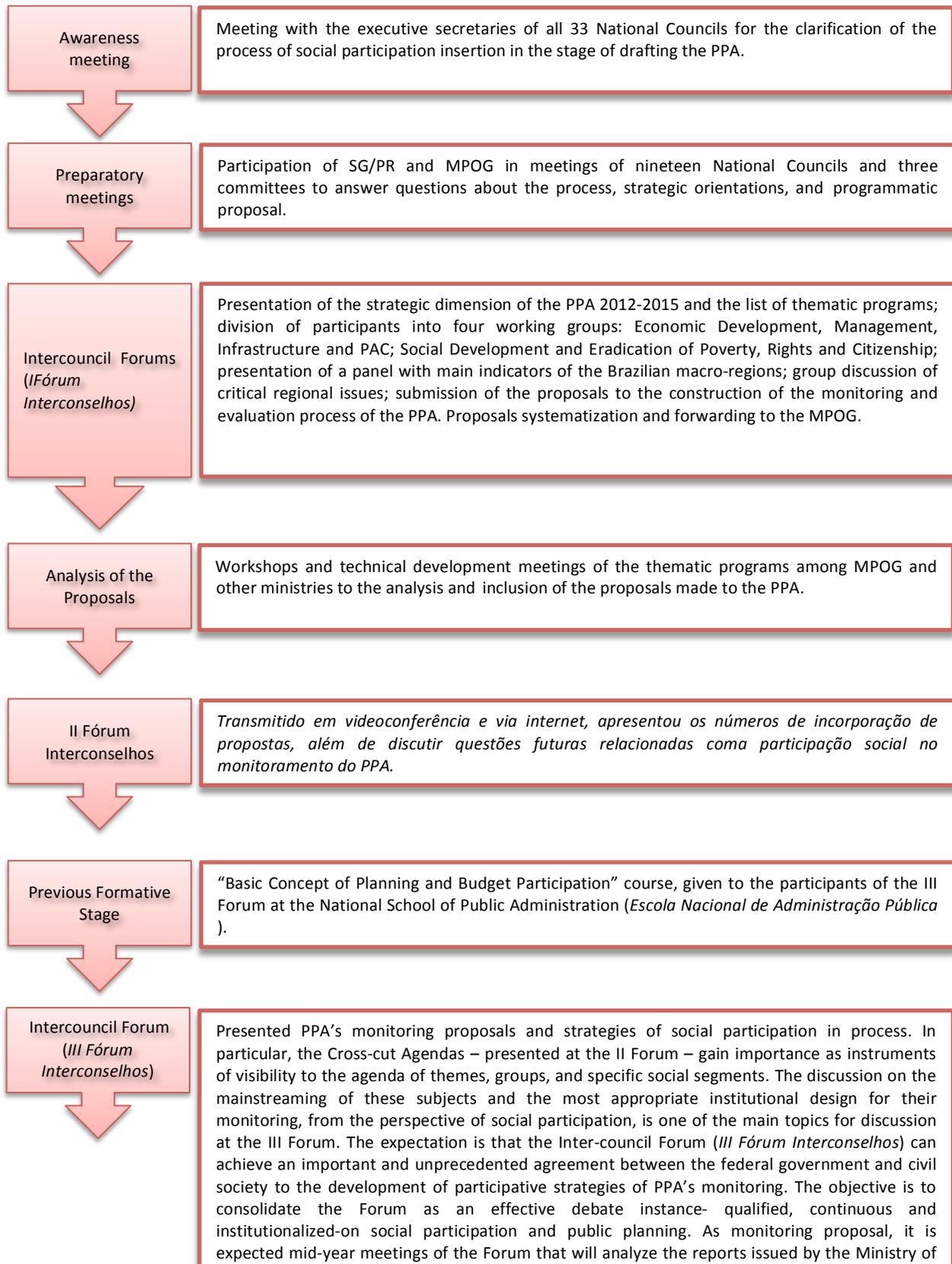
The Inter-Councils Forum of the Multiannual Plan (*Fórum Interconselhos do Plano Plurianual*) 2012-2015 happened in three stages throughout the year of 2011. It was formed by civil society entities and nongovernmental representatives who are members of the national councils and commissions and was convened by the Ministry of Planning, Budget and Management (*Ministério do Planejamento, Orçamento e Gestão*) and the General Secretariat of the Presidency (*Secretaria-Geral da Presidência da República*). Its objective was the promotion of social participation in the drafting of the Federal Multiannual Plan (*Plano Plurianual*<sup>7</sup> Federal).

The Inter-council Forum (*I Fórum Interconselhos*), held in May of 2011, gathered 300 participants with the aim of presenting civil society contributions to the drafting of the PPA 2012-2015. The Inter-council Forum (*II Fórum Interconselhos*), convened in October of the same year and broadcasted by videoconference and internet, presented to the participant councils the number of proposal incorporations in the text of the PPA bill sent to the National Congress.

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<sup>7</sup> The Multiannual Plan (*Plano Plurianual*) is an instrument of government planning that establishes guidelines, objectives, and goals of the public administration effective from the second year of a majority mandate until the end of the first year of the following term. It was laid down in the article 165 of the Federal Constitution of 1988 and regulated by Decree 2.829 (1998).

### Stages of the Inter-councils Forum (*Fórum Interconselhos* ) to the drafting of the PPA 2012-2015



Finally, the Inter-council Forum (*III Fórum Interconselhos*), held in November 2011, aimed at achieving a pact between the federal government and civil society in order to promote the participative monitoring of the PPA. The intention was the institutionalization of continuous debate on social participation and public planning (including also the social participation in other government planning instruments, such as the LDO and LOA).

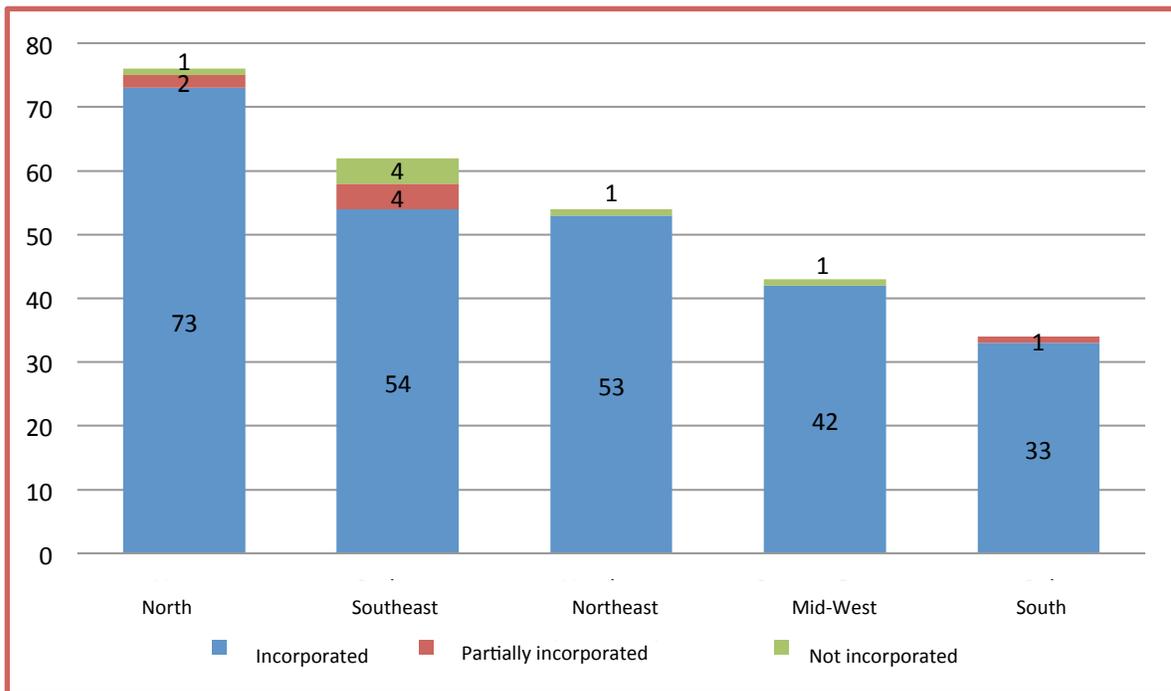
At the Inter-councils Forum (*II Fórum Interconselhos*) a response was presented to the contributions from the Inter-councils Forum (*I Fórum Interconselhos*). In the end, of the 629 developed proposals, 485 (77.10%) were fully incorporated in the PPA 2012-2015 bill, 123 (19.6%) were indirectly incorporated and only 21 (3.3%) were not incorporated, as shown below.

**Use of the proposals of the Inter-councils Forum (I Fórum Interconselhos) in the PPA  
2012-2015 bill**

	Incorporated		Partially Incorporated		Not Incorporated		Total	
	F	%	f	%	f	%	f	%
Strategic Dimension	363	82,9%	60	13,7%	15	3,4%	438	100%
Tactical Dimension	122	63,9%	63	33%	6	3,1%	191	100%
Total	485	77,1%	123	19,6%	21	3,3%	629	100%

Source: Lucia Falcon 's presentation at the Inter-councils Forum (II Fórum Interconselhos).

Out of the 269 regional proposals developed at the Inter-councils Forum (*I Fórum Interconselhos*), only 14 were not fully incorporated in the PPA 2012-2015 bill, as shown in the graphic below:

Use of the regional proposals of the Inter-councils Forum ( *Fórum Interconselhos*) in the PPA 2012-2015 bill.

The proposal to increase social participation in the formulation of the PPA is valid given that this planning instrument had a budgetary increase of 116% in its last three versions<sup>8</sup>, which is also relevant considering that the current plan in force has delegated more than half of its budget to thematic programs in the social area (equivalent to a total of approximately \$ 2.6 trillion reais). Of note, one of the most highlighted aspects in the previous document was the need for inclusion across race, gender, ethnicity, generational, sexual orientation, heritage, and location in all programs, goals, and initiatives of the PPA. This observation indicates the strong presence of social movements in the forum and a defense of diversifying interests.

In the preliminary report of the 1<sup>st</sup> Inter-council Forum (*Fórum Interconselhos*), however, it is possible to find three highly relevant criticisms of the event. One pertains to the preparation time for the query, as it was generally regarded by participants as insufficient. Another complaint was leveled at the amplitude of the plan's goals. Fully recognizing that larger objectives are important in long-term monitoring, working within such broad goals hinders more explicit, focused positions. Finally, the presentation of data through an exposition without opening to debate hindered further discussion<sup>9</sup>. These facts may have been decisive to the low percentage of

<sup>8</sup> The established figures to the last three plans, reviewed by the IPCA of July 2011, were: 2.5 trillion reais (PPA 2004-2007); 3.9 trillion reais (PPA 2008-2011); 5.4 trillion reais (PPA 2012-2015).

<sup>9</sup> It is worth noting one of the observations made during the session of the Inter-councils Forum (*Fórum Interconselhos*) related to the excessive state interference in the process. In the words of one

participants (15%) who said they were in full agreement with the sentence: "The Forum has met my expectations".

Other relevant points observed in the evaluation report referred to the methodology employed. Approximately one quarter of the participants strongly agreed with the following sentences: a) "the objectives of the Inter-councils Forum (*Fórum Interconselhos*) were clearly defined" (26%); b) "the presented contents were consistent with the proposed objectives" (22%); c) "the language used in the materials (presentations and texts) was easy to understand" (27%). Although the percentage increases considerably when it includes the "partially agree" option (62%, 56% and 70%, respectively), the previous percentages indicate the need for a methodological readjustment. On the other hand, 89% of participants said they felt motivated to participate in another Inter-councils Forum (*Fórum Interconselhos*), indicating that despite not meeting majority expectations, a willingness remains to participate continually in discussions of this kind.

#### Section 4: Results

In Brazil, especially after the Federal Constitution of 1988, it is clear that the various initiatives of citizen participation in public policy are providing significant improvements in public administration. A real effort by the government is evident in making public administration more conducive to social participation and transparency. Building on the Fiscal Responsibility Law, which introduced democratic standards in the budgetary system, more significant improvements were launched due to the increased availability of data on public spending and the approval of the Law on Access to Information (*Lei de Acesso à Informação*). New spaces for virtual participation (such as public consultations and the E-democracy Portal) also represent an important advance in enabling social participation.

However, there is still a great need to establish mandatory targets and enhanced monitoring of procedural outcomes. Participation in the development of the budget has not translated into full oversight of resources or results. Many mechanisms of participation are still voluntary, rendering limited and restricted promulgation of participatory spaces. All too often the result is limited effect in binding public management decisions.

In other cases, requirements (as in the case of some public policy councils) do not guarantee the efficacious participation of citizens. Many spaces are created and maintained exclusively to comply with the conditions of governmental programs for the transfer of funds, but fall short of effective mechanisms for participation. In public hearings held by the committees of both houses

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participant, "the preparation is not participatory. (...) We don't even know who is working in the Ministry's actions" (Miguel Lobato; National Council of Cities).

of the Congress (such as the CMO and CLP) often citizen participation is passive. In addition, the Brazilian government's budget is a complex and highly technical issue understood by few in public administration and almost unknown by the majority population. The result is important issues like defining the budget end up with restricted accessibility, privileging those engaged with enormous power.

Very often the demands of civil society are sent directly to the House of Representatives. The preference for the direct channel (instead of the open channel of public hearings) does not allow for the expansion of proposals through deliberation and debate. Also, there is no control by the citizens of how many direct suggestions are actually approved and become amendments. Therefore, it is not possible to gauge the effectiveness of participation.

Regarding participation in the National Legislative, it is clear that the encouragement of political participation is something that still hinges upon the political interest of the rapporteur of the budgetary process and other members of the Budget Joint Committee (*Comissão Mista do Orçamento*). Once stimulated, there is a team of highly qualified budget technicians capable of responding to the directions of deputies and senators. However, the focus of the parliamentarians is more on extrapolating amendments from the political bargaining between the executive and the legislature than in promoting popular participation. The temporal issue also hinders public participation, as analysis of the bills pertaining to the budget is relatively short, jeopardizing the creation of a calendar for public hearings. It is necessary to establish mandatory participation by law (for example, the case of São Paulo and the Municipal Organic Law, which requires the completion of two public hearings and the Municipal Chamber to discuss the budget). This seems to be a way to ensure an enclave for participation free from a reliance upon the political interest of parliamentarians.

Until today, the greatest achievements on the issues of transparency and social control in Brazil occurred through the creation of coalition networks. The networking seems to minimize the shortages and achieve more effective results. Some good examples of this include the approval of the Clean Record Law (*Lei da Ficha Limpa*) - in which volunteers CNBB, OAB and the Movement Against Corruption in Brazil (*Movimento de Combate à Corrupção no Brasil*) achieved a record number of signatures from Brazilian citizens - and the 1st CONSOCIAL, to which the various entities, associations, and civil society institutions were able to gather a significant number of participating citizens in the preparatory stages.

The various participative conferences and councils are marked by great variation in both the results achieved and the instruments of social control. In a more general way, this variation can be explained by factors that include:

- a) **Different levels of mobilization and organization of the sectors involved in the councils and conferences.** For example, the public health movement is one of the most organized since the 70s, reflected by a strong presence in the participation forums of the sector.
- b) **Scale of participation processes.** Instruments of direct participation in the municipalities, such as the Participatory Budget (*Orçamento Participativo*), tend to have a greater presence

in society and be more effective than mechanisms of broader scope such as those established at the federal level.

- c) **Political culture and historical associations.** In regions where previous experiences of social organization were strong, such as Recife and Porto Alegre, budgeting processes became strongly rooted in the relationship between society and state.
- d) **Decision-making character of participatory forums.** Deliberative characteristics of the forums tend to encourage more participation in contrast to processes that are more consultative. For example, public hearings tend to be less attractive than conferences on policy.
- e) **Decentralization.** More decentralized mechanisms generate a greater possibility for participation and exert influence on public policy directly as in the cases of the Councils and the Participatory Budget (*Orçamento Participativo*).
- f) **Type of public policy in debate.** Traditional policies such as health, social care, and education generate greater mobilization than more diffuse rights like gender or sexual preference issues.
- g) **Amount of available resources.** Policies with greater resources (e.g. health) mobilize more than those less portioned (e.g. sports).
- h) **Level of public appeal with the electorate.** Policies such as education have more appeal than actions in the culture area, for example.

Traditionally, participation was an agenda of left-wing politics. However, the discussion of transparency and social control has expanded across partisanship in response to increasing pressures for governmental accountability by civil society organizations and the population in general. International pressure encouraging the promotion of transparency and social control is also significant.

Clearly, citizen involvement in the political sphere is bound to political culture, and Brazilian society demonstrates enhanced political maturity. In general, Brazil has seen an expansion of civil society organizations open to participation with no ties to political parties or unions; greater encouragement in the development and improvement of civil organizations with the creation of new participatory arenas; institutional incentives, laws, and rules favorable to participation; examples of social movements that obtained benefits through pressuring political representatives; continuous publicity by the formal media of actions concerning public policies; greater public debate on the issues of transparency and social control.

Nevertheless, greater social participation does not seem to have had an immediate effect on the bureaucratic machine. Even though the processes of social participation have evolved since the 1980s, these initiatives generally do not include mechanisms of administrative modernization to ease social participation and enhance interaction with bureaucracies (technical or street level). Thus, civil servants - here understood as the state bureaucracy - are still characterized by a bureaucratic profile because they: a) require society to adjust to the existing rules; b) adopt technical language that makes laymen communication more difficult; c) have difficulty in the acceptance of socially defined policy priorities; d) devalue and abstain from policy forums.

On the other hand, public servants who are public administration leaders tend to be friendlier to social participation and value these instances. The growth in public policy conferences over the last ten years of the federal administration precipitated this environment. Therefore, there has been a dual role of public servants in the everyday life of the administration- the classical bureaucratic logic negatively restricts the participation processes, but, in the logic of policy formulation, leaders tend to value the participatory mechanisms of society. Thus, there is a gap between the elitist, bureaucratic, and patrimonial logic typical from the state formation in Brazil and a process that seeks to "politicize" the public administration with greater social participation.

All things considered, landmark successes in social participation come from the following points:

- **Previous organization of the society and/or social segment.** For example, in the areas of education and health, in the absence of prior mobilization and sectorial organization it was unlikely that councils and conferences were representative and able to effectively pressure the public power. In the experiences of the Participatory Budget (*Orçamento Participativo*), the existence of community associations autonomous from political parties helped to mobilize the population, especially in outskirt areas, as occurred in Recife and Porto Alegre.
- **Limited co-optation of social movements.** In places where parties and governments were not able to co-opt social movements, autonomous participation in public policy without a loss of political identity was maintained, as seen in the urban social movements in the housing area with homeless workers and the Single Central of Slums (*Central Única de Favelas*). In such cases, social movements keep their ability to criticize and request from governments.
- **Respect the autonomy of policy instances and collegiate.** In Brazil, governments tend to co-opt members, thereby reducing legitimacy. The classic case occurs when mayors manipulate the indicators or elections of representative councils- stripping their capacity to monitor public policies. Changes in majority composition rules of certain forums are also seen.
- **Institutional rules of policy arenas.** The rules of the game tend to favor or discourage the presence of legitimate actors from participating. For example, guardianship councils have counselors who can be elected and paid, which stimulates the "competition," despite poor working conditions. In another example, the area of public safety, councils in municipalities are very rare (just over 10% of the cities). In this case, even with the possibility of decentralizing resources, the greatest responsibility was left to state governments which reduces interest in this type of local popular participation.
- **Volume of resources involved and universality of politics.** Areas with higher amounts of resources tend to mobilize more actors with diverse interests, increasing "competition" and participation. The most typical cases are health and education. The opposite example can be seen in sanitation and local development, two areas usually undervalued by the federal government. As a result, councils dealing with these issues are very rare or, if they exist, involve a conglomeration of interests.
- **Awareness of the segments involved.** Certain issues, like the environment, mobilize actors in a more cross-sectional way than merely partisan lines making policy more "palatable" to the middle segments and less prone to disputation. This may be one of the main reasons why

channels for popular participation on environmental policy are the most well organized in the Brazilian municipalities after social policies.

- **Decentralization of resources.** The greater the extent of decentralization, the greater the possibility of control and resource use. One example is the provision of school meals since, as municipal councils are the sole charge, they are responsible for managing 100% of resources allocated. Decentralization, however, still faces the challenges of patronage and clientelism. In many cases it has even been associated with their increase. However, its role in stimulating the creation of participatory instances is pivotal, especially in social areas, since the end of the dictatorial government.
- **Political will of governments.** Although the active presence of society is vital, if governments do not offer acceptable working conditions, if they do not incorporate the decisions of councils and conferences into policy making, and if government is not open to dialogue, the efficacy of popular participation is eroded. This is a key variable as governmental action is still necessary in mobilizing political and economic resources.
- **Improving fiscal language.** Enhancing understanding of fiscal issues is a prerequisite to dialogue. Similarly, simplifying fiscal language can be a route of access for popular participation, increasing transparency, and honing the effectiveness of participation. For example, the Brazilian budgetary planning system seems to be one of the most important cases in which "technicalities" of language significantly inhibit society's ability to participate.

## Section 5: Conclusions

- ✓ Popular participation has been steadily increasing around well-defined social policies, since the Brazilian democratization in the 80's, with the introduction of laws requiring organization at all levels of federation and around a multiplicity of issues.
- ✓ Political councils and conferences exist in all levels of federation (municipalities, states, and federal government).
- ✓ The forms of participation are strongly influenced by federal legislation which regulates the existence and the operation of policy councils that supervise federal funds received by the subnational governments. Thus, the design and operational rules of each public policy are key factors for consideration.
- ✓ Institutional innovations, such as the Inter-councils Forum (*Fórum Interconselhos*) implemented in the federal PPA for the 2012-2015 period, are recent in terms of conceiving crosscutting and intersectional participation.
- ✓ There are only a few popular initiative laws in Brazil. The study of this subject is relevant to increasing direct participation of society in national policy and the institutional mechanisms that can stimulate this type of action.
- ✓ Referendums and plebiscites are still unusual experiences in Brazil after 1988, which are also used to evaluate the conditions, issues, and possibilities of using direct participation resources.
- ✓ Audit Institutions lack popular participation, and accountability is still weak since control of the budgetary execution is only up to representatives. Channels that allow public participation are very rare.
- ✓ Public hearings and consultations should strive to be effective mechanisms of social participation and not simply formal means in fulfilling legal requirements which limits reach and generate loss of legitimacy. An agenda dedicated to constructing a National Policy of participation should be encouraged and widely discussed with civil society. An example of some cities that held conferences to discuss their strategic direction (such as Vitoria and Porto Alegre) and the debate with the Inter-councils Forum (*Fórum Interconselhos*) could be expanded in order to help construct the national system of participation.

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