

Federal Responses to the Corona Pandemic: Brazil

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Federal response to the corona pandemic in Brazil has been characterized by an atypical lack of Union's coordination due to President Bolsonaro mismanagement of the sanitary crisis, which has led to a proactive behavior of governors and mayors. As a consequence, the country faces huge territorial inequalities related to the number of cases and deaths, as well as the percentage of the population vaccinated. Taking this fact as the main premise to understand the Brazilian response to the pandemic, the chapter is structured in six sections. In the first section, the authors demonstrate how the Brazil's health system, well established under a dual and cooperative kind of federation inaugurated by the Constitution of 1988, has had its performance highly affected by Bolsonaro's politics which included three ministerial changes in one year. In section two, the role of the Congress in exercising a counter-balance to the President's mismanagement of the corona pandemic was a strong mark of 2020, but the collapse of Manaus health system and its serious consequences in the beginning of 2021 turned the Congress – specifically the Senate – in a political focal point through an independent investigation committee that was created to find out what is behind the lack of timely federal response to the corona pandemic. In section three, state and municipal initiatives to fight against and prevent from the corona pandemic are analyzed, underlining some subnational initiatives through consortiums. In section four, the Supreme Court decisions against the President, favoring subnational governments, are highlighted as crucial to allow states and municipalities acting based on scientific sanitary measures. In section five, it is discussed how the failure of federal policies towards a responsible position in fighting corona pandemic has aggravated regional inequalities among the country. In section six, it is demonstrated that President Bolsonaro followed President Trump in denying science and promoting treatments without scientific evidences to combat corona pandemic, aggravating the pandemic situation mainly in regions where Bolsonaro has a stronger social and political support. Final remarks evaluate the international isolationism of Bolsonaro, the threat he represents to the world and the widespread claim to defeat him.

1 Brazil's allocation of powers and the health system

Brazil's federal system exists for more than a century, but the present federation was designed by the Constitution of 1988, which was drafted in the years 1987–88, following the end of more than 20 years of a military dictatorship.¹ Comprised by the Union, 26 states, the Federal District (Brasilia) and 5.570 municipalities, the three-tiered federation

1 Souza, Celina 2005: Federal Republic of Brazil, in: Kincaid, John/Tarr, Alan G. (eds.): Constitutional Origins, Structure and Change in Federal Countries, Montreal/Kingston.

is combined with a presidential regime (4-years mandate, one reelection allowed) and two legislative chambers – the House of Representatives (*Câmara dos Deputados*) and Senate (*Senado Federal*).

States and the Federal District have their own political and legal system, similar to the federal structure – state constitution, a governor (4-years mandate, one reelection allowed) and state representatives for a single state chamber (*Assembleia Legislativa*); the same applies to municipalities, with a municipal statute (*Lei orgânica do município*), a mayor and councilors for the city council (*Câmara dos Vereadores*). According to the Constitution of 1988, conflicts between federative entities can be settled by the Supreme Federal Court (*Supremo Tribunal Federal*), composed by 11 judges chosen by the President and approved by the Senate.²

The Constitution has fostered decentralization and recognizes political and administrative autonomy of states and municipalities, through a combination of dual and cooperative models of federalism. Article 23 encompasses a set of executive concurrent powers (Union-states-municipalities), such as health and social welfare, protection of the environment and natural resources, culture, education and science, housing and sanitation among others; and article 24 refers to legislative powers, including “health defense”.³

Therefore, the federal division of competences with regard to health is concurrent among the three levels of the federation and the Federal District. After the Constitution of 1988, a national health system (*Sistema Único de Saúde-SUS*) was built and has worked under federal coordination, having states and municipalities as their main executive managers.

1.1 A health system designed under cooperative federalism

The Ministry of Health is the national coordinator of the National Health System (*Sistema Único de Saúde-SUS*) and of the federal health policies (which are paramount and prevails over subnational policies). At the federal level, there is also the National Health Regulator (*Agência Nacional de Vigilância Sanitária-ANVISA*), an autonomous and technical agency that provides health surveillance in border regions, including ports and airports; approves medication and its protocol for use; and oversees health conditions at industrial, commercial and services establishments in cities and rural areas.

With the exception to some few federal hospitals (most of them are federal university’s hospitals), state hospitals prevail in public health system, while municipalities are responsible for the provision and management of primary health care (‘basic care units’) through municipal structures co-funded by the federal government.

2 *Lorenzini, Marco Antonio G. L./Rodrigues, Gilberto M. A./Zimmerman, Augusto* 2017: The Supreme Federal Court of Brazil. Protecting Democracy and Centralized Power, in: *Kincaid, John/Aroney, Nicholas (eds.): Courts in Federal Countries. Federalists or Unitarists?*, Toronto.

3 *Rodrigues, Gilberto M. A.* 2017: Concurrent Power and Local Interest in Brazil’s Federalism, in: *Steytler, Nico (ed.): Concurrent Powers in Federal Systems: Meaning, Making, and Managing*, Leiden/Boston, pp. 206–221.

With a federated structure, the Brazilian National Health System depends on the cooperation between the three levels of government. It has some institutional instruments for coordination, such as the Two-Party Inter-Administration Commission (which brings together municipal and state managers) and the Three-Party Inter-Administration Commission (involving all three levels of government). These management structures foster dialogue between the three levels of government, both within each state and in the federation as a whole.⁴

Despite the complexity of the governance system that structures the Brazilian National Health System, and the severe underfunding of the public health system, the SUS has been successful in expanding access to health services and reducing health inequalities throughout Brazil.⁵ However, this does not mean those challenges have been overcome; inequalities in health-care access and their outcomes persist and were clearly exposed in the pandemic crisis, exacerbating regional inequalities.⁶

1.2 A well-organized public system under attack by the President

When the Covid-19 pandemic began, the afore mentioned public health system that was well organized and had decades of experience and successful management in preventive measures regarding contagious diseases came under attack and was progressively dismantled by the President. After the dismissal of the first Minister of Health, Luis Mandetta, in April 2020, who refused to allow non-scientific treatments supported by the President, a second Minister of Health, Nelson Teich, stayed barely one month and left the government due to the same reason of his predecessor. Finally, an army general, Eduardo Pazuello, with no experience in public health issues, became the third minister of health and militarized the Ministry, replacing health professionals by militaries without no experience in this field.

Soon after general Pazuello took office as interim health minister (he was later confirmed in that function), even the national health data, which since re-democratization has been an important outcome of the public health system and have been produced by the Ministry of Health under scientific patrons and transparency, lost its credibility by the mass media, which reacted to that creating a consortium to collect information directly with state health departments. This new information system based on state authorities was

4 *Rodrigues, Gilberto M. A./Oliveira, Vanessa Elias de/Araújo, Marcelo Labanca C./Ferrari, Sergio* 2021 (forthcoming): Brazil and the Fight Against Covid-19. Strengthening state and municipal powers, in: *Steytler, Nico (ed.): Comparative Federalism and Covid-19. Combatting the pandemic*, London.

5 *Rocha, Rudi et al.* 2021: Effect of socioeconomic inequalities and vulnerabilities on health-system preparedness and response to COVID-19 in Brazil: a comprehensive analysis, *The Lancet Global Health*, Published Online April 12, 2021. [https://doi.org/10.1016/S2214-109X\(21\)00081-4](https://doi.org/10.1016/S2214-109X(21)00081-4) (26.07.2021).

6 *Lotufo, Paulo A./Jardim, Beatriz C./Silva, Gulnar A.* 2021: Aged-adjusted COVID-19 mortality in state capitals in different regions of Brazil. *Cadernos de Saúde Pública*, 37 (6) 2021. <https://www.scielo.br/j/csp/a/BsdNnmSRWrx9hZsx7CWb5Q/?lang=pt> (27.07.2021).

praised by the then President of the House of Representatives, Rodrigo Maia⁷, and since then became the main Covid-19 data source for the media and the public opinion.

2 While the President mismanaged the pandemic, the Congress tried to mitigate the crisis

The first measure regarding Covid-19 pandemic was an executive act, the Ordinance No. 188, published by the Brazilian Ministry of Health, on 3 February 2020, which marked the start of the state of emergency. Then federal legislative instruments took place with Law No. 13979 of 6 February 2020, which established the basis for a series of measures for confronting the Covid-19 emergency, among them isolation and quarantine, compulsory medical examinations, and restriction of movement within and into the country. A state of disaster was also declared by Legislative Decree No. 6 of 20 March 2020.

Besides the federal immediate action to face the sanitary crisis, the President has adopted a denialist posture and publicly downplayed the risk of the virus, spreading an anti-isolation message, which has had negative consequences to the citizens' behavior. Researchers have shown that municipalities that had strongly supported the President in the 2018 election hadn't agreed to adopt social distance measures and presented a higher number of cases than those in which the President had less support.⁸

Assuming his scientific denialism regarding the pandemic and the adoption of sanitary protocols, according to the WHO recommendations, the President not only threatened the population with his behavior, but also has challenged the Congress. In fact, the President of the House of Representatives, Rodrigo Maia, during the year 2020 (the last year of his presidential term) has played a counter balance role to the President behavior, leading the federal legislative to approve urgent measures that the President was not in favor to adopt, such as a financial support to the population which benefits the social isolation that were progressively approved by state governors and mayors.

2.1 The Senate's Parliamentary Investigation Commission

In Manaus – capital of the state of Amazonas, in the Amazon Basin – the health system collapsed and hundreds of people with Covid-19 died without oxygen, waiting for a bed in crowded hospitals, lacking timely support from the federal government.⁹ From that event a new Covid-19 variant emerged, the P.1., known as “Manaus variant”, which spread to other states and since then contributed to more infections and deaths in the whole

7 Camara dos Deputados, 08.06.2020. <https://www.camara.leg.br/noticias/667668-maia-elogia-consorcio-de-comunicacao-que-vai-divulgar-dados-omitidos-sobre-mortes-de-covid-19/> (27.07.2021).

8 Ajzenman, Nicolas/Cavalcanti, Tiago/Da Mata, Daniel 2020: More than words: leaders' speech and risky behavior during a pandemic, Centre for Economic Policy Research. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3582908 (26.07.2021).

9 Malta, Monica/Strathdee, Steffanie A./Garcia, Patricia J. 2021: The Brazilian tragedy: Where patients living at the Earth's lungs' die of asphyxia, and the fallacy of herd immunity is killing people, in: The Lancet. [https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370\(21\)00037-7/fulltext](https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370(21)00037-7/fulltext) (23.07.2021).

country.¹⁰ This happened in January 2021, and because of that outrageous situation, a group of senators from different parties decided to create an independent Investigation Parliamentary Commission (*Comissão Parlamentar de Inquérito-CPI*)¹¹ to identify who was responsible for that tragedy. The President tried to block that initiative, relying on his supporters in Congress, but failed. Officially created on April 27th 2021, the CPI of Pandemic¹² has been producing massive information and evidences showing the federal government did not act timely and accordingly in order to save lives (particularly in the Manaus case), mainly with respect to provide vaccines for the whole population.

The work of the CPI of Pandemic has gained growing importance and reputation with dozens of audiences that has helped to build a clear picture of mismanagement and even criminal behavior of the President and his advisers. It collected strong evidences of the President's responsibility in the pandemic mismanagement regarding the negotiations to buy vaccines with international pharmaceutical companies, such as Pfizer and Covaxin.

As a consequence, the presidential popularity has plummeted, as different polls have shown. The CPI of Pandemic is expected to issue a report that may propose to Congress the opening of an impeachment process against the President due to crimes of responsibility.

3 Without institutionalized intergovernmental relations mechanisms, some states and municipalities have worked through consortiums

Intergovernmental relations in Brazil have few institutional mechanisms, depending largely on *ad hoc* initiatives from the federal government, which have made Brazil's cooperative federalism model somehow fragile. Nevertheless, previous presidents in the democratic period have had political interest in developing dialogue and negotiation processes with governors (individually and collectively) and mayors (as well as with national associations of municipalities), and also have created public policies' designs that produce cooperation through resources distribution. The exception has been President Bolsonaro, who since the beginning of his mandate, in January 2019, avoided proposing any kind of dialogue with state governors, considering them as political rivals and even enemies.

Because the states and municipalities have to face a new situation in managing a pandemic, without the expected coordination and support of the federal government, some existent cooperation mechanisms were applied to deal with the challenges posed both by the pandemic and the President's opposition to follow sanitary protocols – which has produced a resistance from part of the population, as already mentioned. State and municipal

10 *CNN-Brasil* 2021: Covid-19: Variante de Manaus já está em pelo menos 12 estados brasileiros. <https://www.cnnbrasil.com.br/saude/2021/02/16/covid-19-variante-de-manaus-ja-esta-em-pelo-menos-12-estados-brasileiros> (04.08.2021).

11 The Parliamentary Investigation Commissions have similar powers to a Court and their presidents may arrest those who violate their rules, according to article 58 of the Constitution and Law 1579/1952.

12 Senado Federal, CPI da Pandemia. <https://legis.senado.leg.br/comissoes/comissao?codcol=2441> (27.07.2021).

intergovernmental consortiums were created and/or reactivated, representing the subnational effort to overcome federal inaction and the urgency of some regional demands.

3.1 State cooperation

In 2019, during the first year of his mandate, Bolsonaro rhetoric was clearly discriminatory against states and governors from the Northeast Region (composed by the less developed states of the federation, and where Bolsonaro had less votes than his opposer in the election's second round, Fernando Haddad). With a historic sense of regional identity, this region acts as a regional caucus in the Congress, and its governors use to negotiate and vote together despite their party affiliations. Facing an increasing marginalization due to President Bolsonaro's exclusive policies, those governors then decided to create a regional consortium to defend their state interests at national level.

When the pandemic began, the Northeast Region Consortium was already working in many issues. Dealing with the President's scientific denialism and far-right ideological rhetoric, the Consortium decided to create a Scientific Advisory Committee, composed by respected scientists who helped the governors to combat Covid-19 based on science and not in ideological criteria. This Committee was important in advising governors about the health measures needed to cope with the pandemic management, but it also had the challenge of confronting economic and political pressure from part of the private sector and civil society to ease social constraints.

3.2 Municipal cooperation

Brazil has a tradition in national and regional municipal associations as players in the defense and promotion of local interests at the national level. The three national associations – The National Confederation of Municipalities (CNM), the National Mayor's Front (FNP) and the Brazilian Association of Municipalities (ABM) have been very active in the last decades and played relevant institutional roles in participatory mechanisms related to urban policies and intergovernmental dialogue with the Union.¹³ Those participatory mechanisms were dismantled or depleted by President Bolsonaro, who excluded those associations from any federal consultation and decision-making process. During the pandemic, those associations stood in favor of the autonomy of municipalities in their battled over the adoption of restrictions to combat Covid-19.

Another mechanism successfully used by some municipalities were municipal consortiums among municipalities of the same metropolitan region. The most important case was the ABC Municipal Consortium, composed by municipalities of the São Paulo Metropolitan Region, the most industrialized and populated region in the country. The decisions taken by the seven municipal governments of the region consider the guidelines

13 *Rodrigues, Gilberto M. A.* 2020: Les villes sont-elles des unités constituantes dans le fédéralisme brésilien? in: *Mathieu, Félix/Guénette, Dave/Gagnon, Alain-G. (eds.): Cinquante Déclinaisons de Fédéralisme Théorie, Enjeux et Études de Cas*, Quebec, p. 443–451.

of the specialized monitoring system¹⁴ that was created to follow the pandemic evolution, which has the support of the Federal University of ABC.

4 A huge and systematic conflict between the president and state governors

Since the beginning of the pandemic, the President has assumed a negative leadership, denying science, diminishing the Covid-19 threat and refusing to promote protection measures, such as wearing masks and defining social isolation. The President eventually tried to block governors and mayors to follow WHO and PAHO¹⁵ recommendations, creating a deadlock in federative relations. Actually, according to Oliveira and Rodrigues (2020)¹⁶, the president went against the federation in his refusal to coordinate actions in order to combat the Covid-19 pandemic.

The lack of support from the federal government to state and local governments has led them to develop and increase paradiplomacy.¹⁷ They bought masks and equipment on the international markets, mainly from China, using their own structures and resources. The State of Maranhão, in the Northeast Region, imported respirators using a new international route and escaping from the formal federal procedures. The governor justified that with the emergency posed by Covid-19 and the absence of federal support.

As a consequence, governors – even without a national state committee or commission, began to decide individually or regionally to stand for science and eventually confront the President in his illiberal behavior.

4.1 Setting the conflict: the Supreme Federal Court took a side

In April 2020, the Supreme Federal Court defined that the Constitution allows states and municipalities to act without federal coordination and support, based on their autonomy in a shared competence. This decision was a response to a legal action filed directly in the Supreme Court by one opposition party (Democratic Worker's Party-PDT). This was a landmark decision that determined the possibility of state governors and mayors to take leadership in managing the pandemic, which became a trend without change since that.

In a series of constitutionality control measures related to the pandemic proposed by opposition actors, the president repeatedly lost the conflict with subnational governments. As Oliveira and Madeira (2021)¹⁸ have shown, the Supreme Court's judges have clearly demonstrated in their decisions their disagreement with the policy advocated by Bolsonaro to combat the pandemic.

14 Consorcio do Grande ABC, <https://coronavirus.consorciograndeabc.page> (27.07.2021).

15 In the Americas, the Pan-American Health Organization (PAHO) works as the WHO's regional branch.

16 Oliveira, Vanessa E. de/Rodrigues, Gilberto. M. A. 2020: Brazil and Covid-19: the President against the Federation, UACES Territorial Politics. <https://uacesterrpol.wordpress.com/2020/06/05/brazil-and-covid-19-the-president-against-the-federation/> (31.10.2020).

17 Rodrigues, Gilberto M. A. 2021: Paradiplomacia. Cidades e estados na cena global, São Paulo.

18 Oliveira, Vanessa E. de/Madeira, Ligia M. 2021: Judicialização da política no enfrentamento à Covid-19. Revista Brasileira de Ciência Política. <https://doi.org/10.1590/0103-3352.2021.35.247055> (28.07.2021).

4.2 *The lack of policy on vaccines and state governors protagonism*

The policy of immunization is national and under the federal government jurisdiction and supervision. Despite having a federal institute with great expertise in the field – the Oswaldo Cruz Foundation (Fiocruz), which signed an agreement with the University of Oxford (Oxford-AstraZeneca), the federal government failed to buy and co-produce timely sufficient vaccines for the population. The lack of timely decision to buy vaccines from Pfizer has been under scrutiny in the CPI of Pandemic, whose members have found not only mistakes in procedures but evidence of criminal acts, including corruption behind federal non-decisions over vaccines policy. Moreover, an agreement for 20 million doses of Covaxin was signed by the ministry of health with 50 percent higher prices than was offered by the Bharat Biotech laboratory from India three months before¹⁹. This and other irregularities during vaccines negotiations are being investigated by the CPI of Pandemic.

In that instable and unpredictable scenario, where the president was vocalizing scientific denialism and was openly against mandatory vaccination, governors embarked in a new fight for vaccines, seeking international suppliers. In this fight, the São Paulo state – the richest Brazilian state, with 47 million people (more than Argentina's population), was in the best position to make the difference with its direct connections with China.

São Paulo State is the only state with the capacity to produce vaccines. Its Butantan Institute has an international reputation and signed an agreement with Sinovac to buy vaccines and transfer know-how to produce them in São Paulo. Thanks to this agreement, the São Paulo State bought the vaccine CoronoVac and also was able to produce it with the active pharmaceutical ingredient (IFA) from China. Moreover, the Butantan Institute began to test the ButanVac, a vaccine manufactured in Brazil. Due to this set of initiatives, millions of vaccines were provided by the São Paulo state for its population and for other Brazilian states.

Governors had another favorable decision issued by the Supreme Court in December 2020, when it was recognized that vaccines are mandatory, and the authorities may adopt penalties against who refuses to be vaccinated (the use of force is not allowed, only social isolation measures).

The governors' dynamic in defense of science and of their own autonomous decisions was not exempt from ambitious partisan and electoral politics. This was especially clear in the case of the São Paulo State governor, João Dória Júnior. Governor Dória is a pre-candidate for presidential elections and a public opponent to President Bolsonaro. Considering that presidential election will take place in 2022, the way governors have dealt with the pandemic will undoubtedly be politically explored.

19 *The Economist* 2021: What does Brazil's vaccine scandal mean for Jair Bolsonaro?, 07.07.2021. <https://www.economist.com/the-economist-explains/2021/07/07/what-does-brazils-vaccine-scandal-mean-for-jair-bolsonaro> (27.07.2021).

5 Federal omissions and wrong policies against science

As explained above, the scientific denialism of President Bolsonaro's far-right and illiberal government was the main obstacle for Brazil to combat Covid-19 and overcome the danger of high level of infections and deaths. Brazil has a very well-structured national health system that was considered one of the most effective public health systems in the world and could be enhanced by a highly effective implementation of a national Covid-19 policy. However, states and municipalities had to fight against the federal government to defend their right and duty to protect their population in the midst of a sanitary catastrophe.

The failure of the federal action regarding the pandemic management triggered a series of criticisms to the Ministry of Health, but it was not enough to produce significant institutional changes. The Ministry of Health, which had undergone an intense change in its technical staff, since minister Pazzuelo took office, replaced experts by military personnel in several high-level positions and systematically refused to coordinate pandemic measures, leaving behind this task to the state governors. As a consequence, vaccination follows very different patterns in the various states, as does municipal coordination. This lack of federal coordination has increased the already high regional health inequalities.

6 Bolsonaro followed Trump's behavior and anti-scientific rhetoric

Ranking among the world's top three countries of Covid-19 infection and deaths since the WHO's declaration of pandemic, Brazil has been seen as a serious global sanitary problem. President Jair Bolsonaro was accused by the prestigious journal *Lancet* of being a world threat, and this was just when the pandemic was in its first stage, in 2020²⁰.

In fact, President Bolsonaro far-right foreign policy was aligned with President Donald Trump's positions since its very beginning²¹. That alignment followed Trump's positions regarding Covid-19 pandemic in denialism of the pandemic and of the vaccines. In the G-20 Annual Summit, hosted (virtually) by Saudi Arabia, President Bolsonaro defended the right of citizens not to be vaccinated and non-mandatory policies for vaccines. He was almost isolated in his position, which caused great concern in the international community.²²

20 *The Lancet* 2020: Covid-19 in Brazil: So what?. [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31095-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31095-3/fulltext) (04.08.2021).

21 *Rodrigues, Gilberto M. A.* 2019: El Trump del Tropic? Política exterior de ultraderecha en Brasil, Análisis Carolina n. 6, Fundación Carolina, Madrid. https://www.fundacioncarolina.es/wp-content/uploads/2019/04/AC-6.es_.pdf; *Berringer, Tatiana/Maringoni, Gilberto/Schutte, Giorgio (eds.)* 2021: As bases da política externa bolsonarista, Editora da UFABC, Santo André. https://editora.ufabc.edu.br/images/Livros/Bases_da_politica_externa_bolsonarista.pdf.

22 *Azzi, Diego Araujo./Marra de Sousa, Ana T. L./Rodrigues, Gilberto M. A. (eds.)* 2020: A Política Externa de Bolsonaro na Pandemia, OPEB, UFABC, FES, Santo André. <http://library.fes.de/pdf-files/bueros/brasilien/17340.pdf>.

Joe Biden's election and the vaccination measures he took when in office has had the effect of dampening Bolsonaro's anti-vaccines speeches, but the President continues to say he will not be vaccinated, disregard social isolation initiatives and, even worse, promote agglomerations.

7 Final remarks

The political situation in Brazil has aggravated the country's sanitary crisis within the Covid-19 pandemic. It was only after the Manaus tragedy in the beginning of 2021, followed by an enormous pressure by the public opinion, which caused the substitution of the general Pazuello by Marcelo Queiroga in the Ministry of Health, in March 2021, the federal government finally began to take serious actions to buy vaccines and adopt measures in line with scientific advice and the WHO. However, the cyclothymic rhetoric and systematic behavior of the President turned Brazil into a real threat not only for its population but also for other countries.

The surge of new variants and the spread of foreign ones makes Brazil a difficult sanitary scenario to control and manage. That explains why the international media is voicing a huge concern with the future of Brazil and – as *The Economist* published in June 2021²³ – the need to defeat Bolsonaro.

23 *The Economist* 2021: On the Brink. Special Report: Brazil. 5th June 2021.