

**POWERS AND ROLE OF PRESIDENT IN BRAZIL  
SINCE 1988**

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## **CERTIFICATE**

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*Dedicated to my  
Mom & Pintoo Bhaiya*

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## PREFACE

One of the most enduring feature of Latin American Politics is undoubtedly the presidentialism, that is the executive-centered political process. No doubt, the office of the president continues to exercise powers and prerogatives far more than those that have been stipulated in the constitutions. Source of great political stability and symbol of authoritarianism, the all-powerful presidency in Latin American countries, as historians have argued, is the product of political experiences during and in the aftermath of independence. Historical experiences apart, such that bred *caudillismo* and included the centralist and bureaucratic traditions of Spanish and Portuguese rule. Political scientists and sociologists too have concluded that notwithstanding the far-reaching changes in the form of urbanisation, industrialisation, spread of political parties and democratic participation in the twentieth century, presidentialism remains an enduring feature of Latin American politics.

Brazil is no exception to this region-wide political phenomenon. Rather, it has been one country that has endured presidentialism for long and interestingly, at the same time, also produced serious constitutional and political efforts to limit the powers and role of the presidency.

Brazil witnessed the rise of presidency during the Getulio Vargas period when he played with the system at his own comfort. Even the constitutions which were promulgated in 1934 and 1946 did not prevent the president using imperial

powers. Successors at Vargas like Kubitschek, Janio Quadros and Joao Goulart also circumvented the rules of the game. When military came to power after coup in 1964 there was an immense rise in the presidential powers. Though from the first half of seventies guided liberalisation had begun but there were several authoritarian steps which did not allow liberalisation to gain pace.

By the end of seventies when Joao Figueiredo came to power liberalisation process gained momentum. There were certain factors which gave impetus to the liberalisation. By the end of seventies and in the beginning of Eighties when economic crisis gripped Latin America armed forces in Brazil decided to return to barracks. Before leaving political space for civilians armed forces wanted a time bound programme for their return. A programme which was guided by armed forces itself. Liberalisation process eventually culminated in the form of election for the post of president in 1985. Tancredo de Almeida Neves came to power but unfortunately he died before taking oath of the office.

Jose Sarney vice-president elect took the oath of office. To bring out Brazil from the financial problems he declared various programmes. Meanwhile he also took the decision for a Constituent Assembly. The Constituent Assembly had 559 members. Besides discussing various other issues, it discussed about presidential powers, and rule. President's right to issue decree was also discussed. Above all there was unanimity among the scholars to limit the president. Finally in 1988 the constitution was adopted.

Against this background monograph is a modest exercise to analyse the rôle

and powers of president after the adoption of 1988 constitution. Attempt is also made to describe the legislature-executive relation in the post 1988 period.

The chapterisation scheme followed in the monograph is as follows:

The introductory Chapter deals with how and why the powers and functions of the military presidents increased between 1964 and 1974. The Chapter is divided into two sections. The first section traces the traditions of centralisation of powers and their concentration in the hands of the presidents under various constitution and political arrangements in the period preceding the military coup of 1964. The second section details the various initiatives military presidents took to concentrate powers in their hands.

The Second Chapter deals with 'decompression' and *abertura*. It is divided into three sections: the first section details the changes and developments that took place during the presidencies of Geisel and Figueiredo. The second section describes the election of 1982 that set the stage for transition to a civilian rule. The last section briefly delineates the factors and changes that prompted the transition.

Third chapter deals with the presidency of Jose Sarney, Constituent Assembly, characteristics of 1988 Constitution and fall of Jose Sarney. It is divided into four sections. First section discusses about the presidency of Jose Sarney, about his policies to stabilise the economy. Second section deals with the Constituent Assembly and with various issues which came up for discussion in the Assembly. Third section describes the prominent characteristics of 1988 Constitution. And last



section tries to trace various factors which led to the fall of Jose Sarney.

Fourth Chapter deals with the election of Fernando Collor de Mello, his policies of privatisation and his impeachment by the Congress. It also sheds light on the presidency of Itamar Franco.

Fifth Chapter deals with the election of Fernando Henrique Cardoso as president in 1994. It also describes about Cardoso tactics to deal with the Congress. Chapter also discusses about the re-election of Cardoso in 1998, decrease in his popularity and about emerging trends in Brazilian politics.

last Chapter is the concluding Chapter in which attempt is made to give a summary and conclusion of the preceding chapters.

## CHAPTER I

### Introduction

In the current debate on the transition to and consolidation of democracy in Latin America, apart from whatever be the social and economic factors, several distinct political factors are also the focus of scholarly attention. These include, for instance, the authoritarian legacies and traditions of the past, weak and divided party system and the special prerogatives of the armed forces which most democratic constitutions have ensured. Another political factor of considerable importance are the functions and powers of the presidents -- as enshrined in the constitutions and as exercised in reality. Latin American democracies are presidential democracies; and it is increasingly witnessed that either presidents are functioning in an authoritarian and autocratic manner or, at times when they are challenged by legislatures, the entire political system gets paralysed. Admittedly, it is not simply the failure of separation of powers and checks and balances; a fragmented party system and the presence of powerful political actors such as private business, organised labour, church etc. continue to shape the powers and functioning of the presidents.

Powers and functions of the president in Brazil is an important and worthwhile subject of study. The 1988 Constitution has provided for a direct election of the president and great care has been taken to balance the presidential powers with the legislative privileges. At the same time, the constitution has at

great length elaborated the powers of the states in consonance with the federal principle of division of powers; and, as well, the jurisdictions of municipalities. In reality, the tensions between the executive and the legislature were evident even before the 1988 Constitution was promulgated. After twenty years of military rule (1964-85), when military presidents concentrated and centralised powers, the first elected government headed by Jose Sarney in 1985 found its powers questioned by the legislature as well as the political parties. Was it on account of the indirect election of the president?; was it due to the fact that president Sarney had no mandate to be president as alleged by his opponents?; or there were some other reasons. Be that as it may, Sarney had found himself questioned and stymied whereas the predecessor military presidents had exercised larger and more effective powers under the military constitution of 1967. Even after the 1988 Constitution was promulgated, there was no discernible change in the powers and role of the president. The first direct elections brought Fernando Collor de Mello to the presidency in 1989. However, he had a weak party to back him and small representation in the legislature to carry his policies. Charges of corruption and aggrandizement however brought his presidency to an end in 1992; and once more, the vice-president succeeded to the presidency. Itamar Franco had to face an assertive Congress during the remaining term of the president. The elections held in 1994 brought Fernando Henrique Cardoso to the presidency. His ability to work out coalitions supporting his policy initiatives in the Congress, the severe economic and political crisis the country faced or whatever be the other factors brought the

presidential domination back to Brazilian politics. It has not been easy; yet President Cardoso has succeeded more than his predecessor civilian presidents in exercising executive leadership, initiate major politics of economic reforms and resorting to legislation by decrees. An important change that he could persuade the Congress and the political parties to accept was the re-election of the president which enabled him to win once again the presidency in 1998.

The present monograph makes a descriptive and analytical study of the powers and functions of president in Brazil since 1988. The present introductory Chapter deals with how and why the powers and functions of the military presidents increased between 1964 and 1974. The Chapter is divided into two sections. The first section traces the traditions of centralisation of powers and their concentration in the hands of the presidents under various constitutions and political arrangement in the period preceding the military coup of 1964. The second section details the various initiatives military presidents took to concentrate powers in their hands. Interestingly, the military regimes maintained some kind of an electoral-political process for most of the period of military rule. The military regimes initiated the process of 'political liberalisation' called 'decompression' and *abertura* -- aspects which have been considered at length in the second chapter.

### **Survey of the Presidency in Brazil**

The traditions of strong presidents in Brazil are attributed to the inheritances of monarchy that lasted till 1889, role of military in the establishment of the First

Republic in the same year, and the processes of political and economic changes that brought to power, Getulio Vargas in the 1930s. In between traditions of *continuismo* and *personalismo*, that is, prolonging one's term of office beyond the constitutional limits and emphasis on the person of the presidency rather than on the office, to say nothing of *machismo* that is, strong, manly authority are also put forward as responsible for the emergence of strong presidencies not only in Brazil but also in the rest of the Latin America.

As against these traditions, significantly the constitutions and the entire political process at the same time made repeated efforts to check and curb the powers of the strong executives. The monarchy in Brazil itself was not based on absolutist foundations. Rather it was a limited constitutional monarchy from 1824 to 1889 which included a parliamentary system. In practice, however, the kings Dom Pedro I and Dom Pedro II were so powerful that the parliamentary system never worked and was dropped after the 1889 revolution that abolished the monarchy. From then, a presidential system was instituted.

An elected Constituent Assembly had produced Brazil's first republican constitution in 1891. Rui Barbosa, the principal author of the constitution had provided for a federation of twenty states and a directly elected president who was empowered to intervene in the states in case of threatened separation, foreign invasion, or conflict with other states. Suffrage was restricted to literate adult male citizens which meant fewer than 3.5 per cent of the population voting in any

presidential election before 1930; and only 5.7 per cent in 1930 elections. The first President, Deodoro da Fonseca was elected by the Constituent Assembly itself along with the Vice-President Floriano Peixoto who was a top-ranking army officer. Soon the Assembly sitting as legislature however clashed with the president over his financial policies and repeated interventions in state governments. He resigned in less than a year and was succeeded by the vice-president who tenure saw assertions and revolts by provincial governments and forces. By the time, Brazil elected its first civilian president in the person of *Prudente de Morais* in 1894, the system had lapsed into a highly decentralised pattern with powerful landed and commercial interests entrenched into various provinces and regions of the country.

New social forces and the thrust for economic modernisation had marked the ascendance of Getulio Vargas to the presidency in 1930. The success of Vargas and the forces he represented became evident during the Constituent Assembly of 1933-34. The new constitution, the second for republican Brazil, was not startlingly different from the first one. State autonomy however was reduced; for instance states could not tax goods shipped inter-state. Yet it continued with the bicameral legislature, which was to be directly elected, as was the president except the first one who was Vargas himself. Some nationalist measures appeared for the first time placed restrictions on foreign ownership of lands and alien participation in professional occupations such as law and medicine. The modest nature of these constitutional changes confirmed the simple fact that the Revolution of 1930 had

grown out of elite infighting and continuous tension between centralisation and state autonomy. The Constituent Assembly's most important act was to elect Vargas as the first president with a four-year term under the new constitution. Polarisation of political forces and an atmosphere of heightened political mobilisation and violence especially in view of the forthcoming elections of 1928 gave to Vargas and the military, perfect opportunity to request the legislature a "state of siege" which revoked normal constitutional guarantees. Armed with emergency powers, Vargas cracked hard on the so-called 'left' forces. On 10 November 1937, Vargas took to the radio and announced the text of yet another constitution to the nation -- a constitution that became the basis of military coup that had taken place the same day. The same day, the Congress had been dissolved and Brazil had entered the period of *Estado Novo*. Vargas had appointed himself to another presidential term that was to last until the elections scheduled for 1943. When 1943 arrived, Vargas announced that the war time emergency precluded elections. He remained president until October 1945. *Estado Novo* was a highly centralised apparatus which enabled Vargas to pursue policies of economic change and modernisation with the help of his technocratic and bureaucratic advisors. It was time when federal government began assuming a more aggressive role in the economy creating many public enterprises and a new labour law that facilitated state control over the labour unions. These arrangements gave the federal executive a mechanism for controlling the economy, impose censorship on the media and resort to torture and repression

of the opponents.

*Estado Novo*, admittedly, is a very complex socio-economic and political phenomenon in the history of Brazil. Changes in all walks of life were immense and deep. Vargas had begun changing his position in view of these processes of changes and a global thrust towards democracy, as Second World War came to an end. Under pressure from the constitutional faction of the military and popular, especially, labour mobilisation against him, Vargas refused to resign and was ultimately declared deposed by the armed forces in October 1945.

Elections for a Constituent Assembly had been called long before the deposition of Vargas and when held in December 1945 proved to be among the freest in Brazil's history. With a newly elected president, General Eurico Dutra in office already, the Constituent Assembly began drafting a new constitution. The 1946 constitution very much resembled the 1934 constitution with great push towards decentralisation that gave powers to the states and a charter of freedoms and liberties of the individual. Assertion by the provinces, heightened partisan mobilisation and conflict and intra-elite bargains and confrontation were characteristics of the period after the 1946 constitution was adopted. Vargas returned to the presidency in the elections held in 1950 on a moderate somewhat populist platform -- only time he acceded to the presidency with a popular mandate. The party line-up within the Congress also forced him to maintain a more moderate position which became increasingly untenable in the wake of growing



economic crisis in the early 1950s. As would happen on several other occasions with several other presidents, it was an anti-inflation stabilisation programme that earned the president the wrath of both the powerful business elite and the labour. Finally, evidence of corruption in the presidential palace proved Vargas' undoing. As would be examined in the next section, military played its role of *poder moderador* to the hilt in the period from 1955 until the coup of 1964.

Care-taker regimes had governed Brazil until the 1956 inauguration of Juscelino Kubitschek who governed the country with great moderation and succeeded to an extent in reducing the political conflicts; and even surprisingly completed his term. He did mollify the military with new and large budgets; kept party alliances within the Congress loyal to his policies; and avoided implementing austerity measures that were being demanded by the International Monetary Fund in 1959. He would leave some of these problems to be faced by the next President, Janio Quadros. With broom as his election symbol, Quadros had promised to sweep away the corruption. Quadros inherited the problems from Kubitschek which the latter had avoided facing during his tenure. Quadros resigned in August 1961. The reasons have never been known; however, it is speculated that he never expected the Congress to accept his resignation. On the contrary, he hoped that the Congress will vest him with increased powers which he was demanding. Quadros was succeeded by the Vice-president Joao Goulart. The conservative military elements and the private business, both, suspected his brand of populist rhetoric and policies.

The military was in no mood to agree to Goulart's succession to the presidency. But the 'legalists' among the officers argued in favour of observing the constitution. A compromise was reached. The Congress created a parliamentary system in which Goulart was the president but was obliged to govern through a cabinet accountable to the Congress. It was an unworkable hybrid, designed to reduce the powers of the president. The new president assumed his diminished powers in September 1961 and promptly started a campaign to get the parliamentary innovation repealed. January 1963 brought success when a plebiscite restored the full presidential system. It was an ill-starred presidency since Goulart's first task was to deal with inflation and a balance of payments crisis. Both problems were now more intractable than before. There were other serious problems too including military's distrust of the president. As military revolt began spreading in the country, on 1 April 1964, the leader of the Congress, in Goulart's absence, declared the presidency vacant. Although his action lacked any legal basis, Congress acceded to the action. Into the power vacuum, moved the military and its civilian elites justifying the coup as a constitutional act under the 1946 constitution. The legality of the military act would remain debatable for quite sometime as after installing the leader of Congress as interim president, military junta declared Castello Branco as the president of the republic.

In short, presidency in Brazil in the past more than one hundred years has remained reposed most often with extensive powers. Periodic attempts to limit the powers of the president in favour of the provinces and occasionally in defence of

the democratic ideals of individual liberties and freedom indicate the continuous struggle between forces of centralisation and decentralisation and authoritarianism and some democratic freedom. Also one notices that the party-line composition of the Congress and the president's ability to carry the congressional majority were important even during the periods of strongest presidency. One important feature of the military presidents after 1964 was, therefore, the reduction of the role of the Congress. While Congress was retained for most of the period of military rule, it was totally subjected to presidential domination; and so were state governments to the control of the federal government.

As has been noted earlier, concentration of powers in a centralized presidency was a key feature of the political process under Getulio Vargas. The 1946 constitution had reposed extensive powers in the office of the president. Party configuration and the alliances between powerful regional and economic interests and groupings had shaped the presidency in the post-Vargas period. Most attempts to check and limit the powers of the president during the period of Juscelino Kubischek and Janio Quadros produced to the contrary a serious political crisis.

The upshot of the decade-old crisis and conflict was the military coup of 1964. Brazilian military assumed the reins of powers ostensibly to stem the political rot, using its powers that had been enshrined in the 1946 constitution. What apparently was meant to be a temporary and transitory phenomenon of military intervention turned out to be a two-decade of military rule in Brazil. Described as bureaucratic-authoritarianism, military rule in Brazil was characterised by a set of

economic and political policies that came in sharper relief as compared to other Latin American countries where military regimes were established during the 1960s and the 1970s. A very large body of scholarly writings have analysed bureaucratic-authoritarianism as a response to the 'crisis' of the 'delayed dependent capitalist' development in Latin America. Other writings particularly those focussing on military withdrawal and the transition to civilian rule have, besides, also looked into the conjunctural factors.<sup>1</sup>

### **Characteristics of the Military Regime and the Ascendance of the Presidency**

Brazilian army was a major pillar of support to the monarchy during the nineteenth century. Once the monarchy was abolished, its political status and role became even more prominent. Since the transition from monarchy to republic in 1889 did not bring an immediate overflow of popular forces, the republic had emerged as a continuation of an elitist, oligarchic rule dominated by powerful regional interests. It was in the wake of the high-tide of regionalism in Brazilian history that the military began asserting its position as the 'moderating power'. Successive constitutions since have recognised armed forces as being the guardian of the republic and as *poder moderador*. As has been noted in the previous chapter, military, using its inherent role as *poder moderador*, had intervened in 1945 to

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<sup>1</sup> James Molloy, ed., *Authoritarianism and Corporatism in Latin America*, (Pittsburgh, Pennsylvania: Pittsburgh University Press, 1977), Luciano Martins, "The 'Liberalization' of Authoritarian Rule: Brazil" in "Guillermo O'Donnell, Phillippe C. Schmitter and Laurence Whitehead, eds., *Transition to Authoritarian Rule* (Baltimore: John Hopkins University Press, 1989), pp.72-94.

replace Vargas and facilitated the inauguration of the Second Republic with the retired General Eurico Gaspar Dutra becoming president in January 1946. In September 1946, Brazil had a new constitution which among others had two important features: the constitution though included guarantees of free elections and civil liberties, it preserved the greatly enlarged executive built by Vargas and retained the many centralized institutions of the *Estado Novo*.<sup>2</sup>

Secondly, the constitution also recognised the moderating powers of the armed forces. With the election of Dutra, there began the so-called 'second' phase of democracy in Brazil. Vargas returned to the presidency in 1951 with the armed forces keeping a watchful eye on the electoral-political process. That the 'moderating power' had enabled the armed forces to influence and shape the political process there is no doubt. Given the context of heightened partisan conflict and political mobilisation after 1951 election of Vargas further consolidated the political role of the armed forces. If it was the possibility of a military coup that brought to a tragic end the Vargas' presidency, it was the military's willingness to play its 'moderating role' that made the elections of Juscelino Kubitschek and Joao Goulart as president and vice president respectively in 1955; and again in 1960 the election of Janio Quadros to the presidency with Joao Goulart once more filling the position of vice-president. Quadros' running battles with the Congress, removal of consumer subsidies, praise of Soviet Union and support for Fidel Castro of Cuba

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<sup>2</sup> Jose Maria Bello, *A History of Modern Brazil: 1889-1964*, (Stanford, California, Stanford University Press, 1966).

brought Charges of eccentricities and incapacity of the president to govern. Quadros resigned from office in less than a year. Goulart aroused opposition from powerful military congressional groups and many others. He was allowed to assume presidency only after a compromise had been worked out. The compromise provided for the post of a prime minister -- an office designed to share some of the presidential powers with Goulart.

Events that precipitated the 1964 coup overthrowing Goulart have been described in the previous chapters. What, however, is significant is that for the next twenty odd years, military regime would revise the constitution with Institutional Acts and decrees and sometimes these gave the national executive *carte blanche* in the restructuring of the government and in the proclamation and implementation of all types of policies. In the early days of the coup, there was a difference of perception within the armed forces. Some, including Army Chief of Staff, General Humberto Castelo Branco, regarded the military intervention as a mere transition to another, more reliable civilian president while many other officers as well as a large number of civilian supporters favoured a longer period of a strong "apolitical" government.

This military regime differed from previous regimes -- both military and civilian -- in several respects, including importantly, the restructuring of the political authority; content of the public policies and the mode of their formulation; and a larger role of the state in the economic development process.

The military regime began with a series of Institutional Acts and decrees which together conveyed the regime perception, according to which the Brazilian society had not yet reached the stage of economic and social development where it could afford the practice of "true democracy". Economic development, as envisaged by the regime, constituted the precondition for the establishment of social structures out of which 'stable and democratic' institutions would evolve in the future. In short, authoritarian practices constituted the route to achieving the democratic ideals of the 1964 'revolution'.<sup>3</sup>

With "true democracy" as its eventual goal, a series of changes, that were introduced between 1964-74 period, are of significance: (i) institutions of the state were reorganised establishing a virtual dictatorship of the federal executive over the federal legislature and judiciary and state administrations. Alongside, fundamental rights and liberties were abrogated and corporatist channels for the representation of interests were either suppressed or controlled. (ii) There were changes in the structure of the authority too, as armed forces, acting as an institution, took direct control of the major functions of the government. This led to the abolition of many corporatist practices of the past which had allowed controlled inclusion and representation of varied societal interests, importantly, organised labour. Repression and strengthening of the 'internal security', for instance, through an expanded intelligence network were seen as necessary to secure compliance of all and sundry

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<sup>3</sup> Alfred Stepan, ed., *Authoritarian Brazil: Origins, Policies and Future* (New Haven: Yale University Press, 1973).

with the policies of the regime. (iii) In a major initiative to change the rules of the political game, direct election of the president was abandoned; so was importantly, the pattern of intra-elite consensus which had been the tradition since the proclamation of the republic in 1889. Greater focus came to be placed on economic performance through bureaucratic and technocratic solutions. Such a perception led to changes and modifications in the electoral rules and those governing party organisations in order to diminish political competition and keep the political process under state control. (iv) As decision-making was increasingly centralised, state role in the economy expanded in terms of laying down policies of economic growth, export promotion, and limited welfare measures.

Within two days of the coup, the president of the Chamber of Deputies, Pascoal Ranieri Mazzilli was installed as the interim president of the country. Among the first few acts, interim-president Mazzilli had signed on 7 April 1964, was a congressional bill calling for immediate elections. Besides, Congress had also refused to grant sweeping powers to the military. After the refusal from the Congress, the chiefs of army, navy and airforce constituted themselves into a Supreme Revolutionary Command, and purged the Congress of unwanted elements.

On 9 April, 1964, the Supreme Revolutionary Command issued the first in a series of Institutional Acts, which allowed the retention of the 1946 constitution. The Institutional Act gave authoritarian character to the greatly expanded powers of the executive. The Act conferred upon the president the power to propose amendments to the constitution, which the Congress was obliged to consider within



thirty days. Only a majority vote, as against the two-thirds vote stipulated in the 1946 constitution, was needed for approval. On financial matters, Congress was totally emasculated. The president got the right to submit expenditure measures which the Congress had no right to change.<sup>4</sup> Even power to declare siege without congressional approval was granted to the president. President even got the right to suppress the political rights of the perceived opponents of the regime.

Importantly, the Institutional Act had also decreed that the election of the new president to replace Goulart and of the vice-president would be by an absolute majority of the Congress. Significantly, it had also decreed that election would take place within two days of the promulgation of the Act; accordingly on 11 April, 1964, General Humberto Castello Branco, the leader of the 31st March coup, was elected president.

Article X of the Act abrogated the political rights of key opponents of military regime which included former president Goulart, six governors and more than 40 members of the Congress, plus some 300 other individuals who were active in political life. With the help of Article VII, which gave the president the power to expel any person from the civil service without regard for any existing legislation guaranteeing employment, President Castello Branco came to assume absolute

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<sup>4</sup> The military government used the absolute powers to administer the economy to implement an economic stabilisation programme with a view to control inflation and improve the balances of payments situation. The orthodox economic programme prepared by the planning minister Roberto Campos became the cornerstone of the economic policies of the military government.

dictatorial powers.

In July 1964, president's term of office was extended through a constitutional amendment up until 15 March, 1967. Within about a year of the coup, military regime began the process to restructure the political process by regulating the party system. On 15th July 1965, two laws dealing with elections and political parties were announced. With the help of these laws, the number of political parties was reduced by increasing the minimum requirements that parties had to meet to gain or maintain legal status. Significantly, electoral alliances were forbidden. All these reforms were an attempt to deal with one of the problem perceived by the military as most debilitating in the pre-1964 era: the weak and diffused multiparty system. It was hoped that these reforms would introduce some coherence into the political party system.

Military regime of Castello Branco also passed on ineligibilities law with the objective to preclude the candidacy of several prominent antiregime politicians in the upcoming state election.

President Castello Branco issued Institutional Act No.2 that further increased executive control over the legislature and the judiciary. Besides, the Institutional Act No.2, finally established military authority over the civilian bureaucracy. It determined that only the president could create new position in the civil service. Institutional Act No.2 further weakened the Congress by reducing the time allowed

to Congress to consider legislation before it became law automatically.<sup>5</sup>

With the help of Institutional Act No.2, president increased the number of judges in the Supreme Court. Under the Act, President of the Republic reserved the right to nominate all federal judges. Supreme Military Tribunal was also reorganised. It was stipulated by the Act that civilians accused of crimes against national security were to be tried in military courts. Institutional Act No.2 gave as well the right to the president to declare a state of siege for 180 days. It also established the supremacy of the federal executive over the state governments. The Act gave right to the president to intervene in the states of the federation. The intervention could be on the pretext of execution of a federal law and in order to prevent or punish the subversion of order. Under the Act all existing political parties were abolished and their registration cancelled. It also excluded from judicial competence all acts of the Supreme Revolutionary Command.

At first political parties were seen as unnecessary or nuisance and, thus, the thirteen that existed were abolished. Eventually the military saw the need to promote a more popular image. With the help of Complementary Act No.4 of November 20, 1965, military regime under Castello Branco ensured the emergence of two political parties. One was a government sponsored entity, the National Renovating Alliance (ARENA) and the other 'official' opposition group, the Brazilian Democratic Movement (MDB).

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<sup>5</sup> Institutional Act No.2 as quoted in Riordan Roett, "Brazil: Staying the Course", *Wilson Quarterly* (Washington, D.C.), vol.7, Summer 1983, p.54.

Institutional Act No.3, issued on 5 February 1966, replaced the direct election of state governors with selection by state legislatures. Institutional Act No.3 also eliminated the election of mayors of all provincial capital cities, who, henceforth, came to be selected by the governors of the states.

A large number of complementary acts were issued in order to implement or elaborate the Institutional Acts.. Complementary Act 23 was particularly very notorious. It confirmed the growing centralisation of powers in the hands of the military and strengthened the determination of the government to allow little, if any, organised opposition to its plans. Complementary Act No.23 was one such measure, that decreed the recess of the federal Congress until November 22 1966 after the scheduled elections. The reason advanced for the recess was that there was a group of 'counter-revolutionary' elements within the Congress whose objective was "to disturb the public peace and upset the coming election of November 15, thus compromising the prestige and the authority of the legislative power...".<sup>6</sup> Thus a precedent had been established by the executive to silence the Congress.

On 7th December, 1966, a new Institutional Act was issued. Through this Institutional Act, an extraordinary meeting of the Congress was convened to approve a new constitution for the country. The new constitution represented the "institutionalisation of the ideas and principles of the revolution". The new constitution further strengthened the executive power and weakened any hope of

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<sup>6</sup> Riordan Roett, *Brazil: Politics in a Patrimonial Society* (New York; Praeger Publishers, 1984).

opposition groups to use the constitution to justify opposition to the regime. Succeeding the moderate Castello Branco was General Artur Costa e Silva who was elected by the National Congress, and was inaugurated president on 15 March, 1967. During the first year of Costa e Silva presidency, forces against the military regime sought to assert themselves. Attempts were made to bring all opposition forces at one platform. In the forefront of opposition of the regime was Carlos Lacerda, former governor of Guanabara. Lacerda had signed a pact with former president Goulart to put a brave front against the military regime. However, fissures soon erupted in the front. By early 1968, the movement to form a united front in opposition to military regime had collapsed mainly on account of mutual suspicion among the leaders. In the meantime Lacerda's political rights had been cancelled and the moving force behind the front fell into silence.

In the meantime, within the regime, a debate between those who supported a 'moderate', semi-constitutional policy favouring limited civilian participation and the 'hardline' nationalists who argued for military preeminence in all matters, intensified. The president, himself, was in favour of a more moderate line; the leading proponent of a rigorous, nationalist development policy, carried out by the military, was the Interior Minister, General Alfonso Albuquerque Lima. Amidst the debate, Institutional Act No.5 was issued. The Act stated that "the revolutionary process unfolding could not be detained". It was a victory for 'hardliners'. 'Moderators' gave way to more repressive policies, political activities were curbed, labour protests repressed and unpopular economic measures were adopted. The Act

gave power to president over all legislative bodies. Now president was empowered to recess the national Congress, legislative assemblies and municipal councils. The legislative bodies would convene again only when called by the president. In addition, the president could decree intervention in the states when in the national interest and without regard to any constitutional restrictions. He could also suspend political rights of any citizen for ten years and cancel electoral mandates without regard for constitutional limitations.

On December 13, 1968, with the Complementary Act No. 38, military regime decreed the recess of the Congress. Now the remains of democracy were thrown into oblivion. It would be a period of outright military rule without the inconvenience of elected, civilian interference. Military regime further tightened its control over judiciary when it issued Institutional Act No. 6. Through the Institutional Act, the constitution of 1967 was amended and it was stipulated that the Supreme Court would consist of 11 judges to be nominated by the president. With the help of Institutional Act No.7 military regime further regulated the functioning of legislative assemblies and municipal councils of states. Later on Institutional Acts No.8, 9, 10 and 11 were issued.<sup>7</sup> All of the Institutional Acts confirmed the assumption of supreme legislative powers by the military regime under Costa e Silva. By the middle of 1969, military was comfortably in the driver's seat. It was reflected when president Costa e Silva fell ill. Within forty

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<sup>7</sup> Ibid.

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eight hours of the president's illness, Institutional Act No.12 was issued. The ministers of the navy, the army, and the airforce promulgated the Act "in the name of the president of the Republic... temporarily impeded from exercising his functions for reasons of health"<sup>8</sup>. Obviously, the military had decided against the constitution. Under the 1967 military constitution Vice-President Pedro Alexixo, a civilian from Minas Gerais, was next in succession. The Institutional Act No.12, relatively short in length, rather stipulated that the military ministers would act on behalf of the president; that the previously published institutional and complementary acts would remain in full force; and that all the acts and complementary acts would be beyond judicial purview.

By October 1969, it had become clear that the president was unable to discharge his duties. The country confronted the task of selecting its fifth chief executive in the 1960s. Vice-president could be a choice but military was against him. Considering all the circumstances the high command of the armed forces - that is, the three service chiefs - promulgated the Institutional Act No.16. With Constitutional Act No. 16, the position of the president and vice-president of the Republic was declared vacant. By precluding the constitutional succession of the civilian vice-president, the military prepared the way for the creation of a more rigidly authoritarian government to succeed Costa e Silva.

After lots of discussion among three chiefs, General Emilio Garrastazu

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<sup>8</sup> Ibid.

Medici was selected by the ruling ARENA; the opposition MDB did not offer any nomination. On 5 October 1969, Medici and Rademaker were elected for the post of president and vice-president respectively. With Institutional Act No.17, Medici was now empowered to silence those who were opposed to his nomination. Also, the Act gave the new president means of imposing military will of the armed forces in general without having to resort to other forms of coercion or intimidation.

Before Medici's inauguration, Constitutional Amendment No.1 was passed. The amendment, among other changes, further reduced the power of the Congress; size of the Congress was also reduced when the criterion for the number of seats was changed from population to registered voters. The size of the new Chamber of Deputies was reduced from 409 to 243; and of the state assemblies were reduced from 1,076 to 672 seats; and the centralized control of the Chief Executive over the introduction of new legislation, especially money bills, was confirmed. The amendment was carried in order to provide the new Chief Executive with all the powers required for governing and controlling the nation. The Constitutional amendment paid dividends. In the indirect gubernatorial elections of 3 October 1970, ARENA candidates were elected governors in all the states except federal chamber and in the Chamber of Deputies and Senate, ARENA won an overwhelming majority.

After the consolidation of internal security, Medici paid attention to development. Keeping this in mind, government announced its programme of national integration. Complementary programmes in the overall national integration



effort were also announced. The programmes were PROTERRA and PRODESTÉ. Programme of social integration was also announced by Medici.<sup>9</sup> The programme provided an opportunity for the working class to share in the national income through the participation fund. Medici also announced various programmes to maintain the economic growth rate between 8 to 10 percent, to create a modern, efficient and technological economy and to continue planning for a higher level of social integration.

In his efforts to create a better economy, Medici did not forget about political control. To control the states he announced that the elections for state governors would be indirect. He tightened the press censorship and issued new directions to preclude criticism of economic policy, comments on political liberalisation and amnesty for prisoners, and speculation on the presidential succession were announced.

The takeover of the government by the military as an institution along with the fact that the general-president and a mandate from the armed forces, to whom alone he was accountable, have led some analysts to argue that there was a fusion between the military and the power. As a result, presidents were absolute in dispensing policies. It is obvious that things were not so simple.

The preceding discussion indicates that the accountability of the military

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<sup>9</sup> PROTERRA (Programme of Land Redistribution and Stimulation of Agriculture and Cattle Activities in the Northeast and North) and PRODESTÉ (Programme for the Development of the Centre-west).

presidents applied mostly to the areas covered by the 'national security' doctrine. Ordinary decision-making or the formulation of public policies in general were not part of president's accountability to the armed forces. Secondly, the accountability of the government to the armed forces to some extent was also offset on account of the hierarchical order of the armed forces. Thus, the power resources at the disposal of the president along with his possible qualities of statesmanship tended to increase his personal autonomy from the armed forces.

This had, atleast, two important consequences: not only there was a tendency for power to be concentrated, there was also a strong personalization of power within an essentially bureaucratic power structure. This gave the incumbent president and his political-military entourage--the so-called *grupo palaciano* -- considerable freedom of manoeuvre. The personalization of power was an important feature of a highly bureaucratic authoritarian regime. At the same time, it carried seeds of internal crisis within the military elite. The division between the hard and soft liners for instance increased over the period and came to be established along policy-oriented issues and personality clashes. In the end such divisions within the armed forces also came to revolve around the question of succession. Costa e Silva's illness saw a brief period of experiment with a collegial executive when the three services chief had assumed all presidential powers collectively.

### **Dynamics of the Liberalisation Process**

Besides the general economic difficulties that Brazil had begun facing in the

wake of the rising cost of imported energy inputs and the resultant problems in balance of payments situation that led to ever-rising external borrowings, the military regime in the mid-1970s was also faced with internal crisis of governance. Growing factionalism within the armed forces and the spread of politics into rank-and-file necessitated a gradual disengagement of the military from politics. A worse problem was that the repressive policies pursued during the Costa e Silva regime had greatly expanded the powers and role of intelligence agencies: and it were precisely these 'hardline' elements that were now opposed to any political liberalisation. Also the regime had to begun distancing itself from specific interests, especially the business elite, in view of growing economic difficulties. Some of these developments necessitated the beginning of some sort of electoral-political process, though at the same time, it also implied further control and personalization of presidential powers.<sup>10</sup>

By the middle of 1973, debate over the possible successor of Medici had started. Putting an end to all debate and controversy, Medici announced his choice of the president of the Republic. That was the General Ernesto Geisel. The inauguration of General Ernesto Geisel as the fourth president of revolution took place on 15 March 1974.

Second phase of military regime in Brazil started with the inauguration of president General Ernesto Geisel. Committed to the legalist tradition of Castello

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<sup>10</sup> Alexandre de S. C. Barros, "Back to Barracks: An Option far The Brazilian Military", *Third World Quarterly*, vol.7, January 1985, p.63.

Branco, he was committed to liberalisation of the authoritarian apparatus. The liberalisation which was directed from the political apex of the system would change Brazil. Geisel chartered a course of liberalization that won increasing support from all sections of Brazilian society including the armed forces.<sup>11</sup>

Expressions such as *distensao* and *decompressao* gained political currency implying relaxation and an easing of repressive controls. President Geisel himself in a speech to the cabinet stated that he would "welcome sincere movements towards gradual but sure democratic progress" and "more participation from responsible elites and from the people in general with a view to arrive at a "basic consensus".<sup>12</sup>

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<sup>11</sup> Geisel in order to implement his liberalisation program formed a team. That team comprised of General Golbery do Couto e Silva, a disciple of Castello Branco and a key architect of the coming liberalization. General Joao Figueiredo, was chosen to direct the National Intelligence Service (SNI). His selection by Geisel was to ensure that SNI would operate as a professional agency. To deal with economy Geisel chose Mario Henrique Simonsen, a well known economist and banker, who became the Finance Minister. The last member of the team was Joao Paulo de Reis Velloso who was appointed as Planning Minister.

<sup>12</sup> Quoted in Brian Lovemen and Thomas M. Davies, Tr. ed.

## CHAPTER II

### **'Decompression', *Abertura* and the Transition to Civilian Rule**

As has been discussed in the previous chapter, military presidents after 1964 deliberately pursued a policy that increasingly endowed the presidency with omnipotent powers. Admittedly, there were several chinks in the process: growing divisions and differences within the military junta; increasing involvement of rank-and-file servicemen in the day-do-day politics, evolving domestic political scenario marked by rising opposition, periodic ability of the truncated Congress to check the authoritarian presidency, and prospects of declining economic performance after 1973. Whatever may be the factors, the military regime headed by president Ernesto Geisel began a process of 'decompression', later named as *abertura* during the presidency of Joao Figueiredo. The present chapter deals with subject of military presidents -- their functions and powers -- and the process of military-directed 'liberalisation' from 1974 until the accession of a civilian president in 1985. The chapter is divided into three sections: the first section details the changes and developments that took place during the presidencies of Geisel and Figueiredo. The second section described the position of both Geisel and Figueiredo in the liberalisation process until the elections of 1982 that set the stage for transition to a civilian rule. The last section briefly delineates the factors and changes that promoted the transition.

## **Process of 'Decompression' and *Abertura***

True to his exhortations, Geisel administration introduced such measures that enabled "more participation" of the electorate. These included: maintaining the electorate as the basis for representation; expansion of the membership of the Chamber of Deputies from 310 to 364 seats; access to the television network to all the candidates for campaigning at the state level and freedom to campaign openly in elections.

The Congressional elections held on 15 November 1974 saw the opposition MDB make major advances by winning 16 of the 22 Senate seats and electing 172 members to the Chamber of Deputies. Critics of the regime particularly regarded the results of the 1974 elections as a kind of plebiscite on the 1964 military revolution indicating that the regime had lost support.

While civilian sectors appeared to be satisfied with the outcome of the elections. President Geisel had to contend with the hardliners within his regime who viewed electoral politics as the cause for corruption. In other words, the Geisel government vacillated between the paradoxical situations of authoritarianism and a slightly liberalised political process. On one hand, Geisel directly challenged the hardliners by dismissing General Eduardo d. Avila on charges of torture and death of a journalist; on the other hand he issued *Pacote de Abril* (April Package) which included a number of repressive measures like indirect gubernatorial election, prohibiting access to television etc. On 1 December 1977, President Geisel made

an unexpected announcement stating that the time had come to proceed with liberalisation through a series of reforms. In June 1978, the government lifted press censorship which had been in existence since the 1964 military takeover. Congress, at the behest of the government also began considering issues involving liberalisation importantly, the abolition of the Institutional Acts, restoration of *habeas corpus* and political liberties, creation of new political parties and limitations on the chief executive's power to adjourn Congress. Giesel, however, made it emphatically clear that he would not accept any changes in his April Package. The new National Security Law of October 1978 was passed. It replaced Institutional Act 5. It gave the impression that the liberalisation was indeed controlled from the top. On 15 October 1978 after a vigorous nation-wide campaign Joao Figueiredo-Aureliano Chaves team was voted into office as president and vice-president by the electoral college. The election campaign played a significant role in legitimising the Geisel and Figueiredo regime's "commitment" to the political opening and liberalisation.

In 1978 General Joao Figueiredo and Aureliano Chaves were sworn in as president and vice-president of Brazil. During his nation-wide presidential campaign, Figueiredo gave the impression that come what may, liberalisation would continue. True to his exhortations, the new president announced various measures including political amnesty for various leaders who were in exile. After their return to Brazil, they involved themselves in the political activities. Another remarkable

development took place in the form of restoration of *habeas corpus*. Press freedom, restrictions on television and radio diminished. The government had also decided in favour of direct elections in 1982. Amidst all such decisions Joao Figueiredo faced trouble from both left (workers) and right (land owners).

In April 1980, the government confronted organised labour in Sao Paulo once again. After massive strikes government intervened and arrested various labour leaders. Lula (Luis Inacio da Silva) was the most important. Repressive measures taken against the left pleased hardliners in military. After the left it was right which posed trouble for Joao Figueiredo regime. Kidnapping of Dr. Dalmo Dallari of the University of Sao Paulo law faculty, explosion outside the Rio centre, a convention hall in Rio de Janeiro in 1981 posed serious threats to Figueiredo because it was taken as the ploy of military. Figueiredo confronted a delicate and potentially serious situation. If he pushed for an investigation and prosecution, he would face a direct challenge from the conservative members of the military leadership. If he ignored the incident, his credibility was at stake. Political leaders rallied around the president and met with him in Brazil. After a desultory investigation, the case was declared closed. The cautious decision not to confront the military was viewed as a judgement by Joao Figueiredo about his level of support in the armed forces and his desire to continue to proceed with liberalisation.

There were difference within the military leadership over the Rio centre incident and process of *abertura*. Due to these differences, General Golbery



suddenly resigned in August 1981. The resignation of Golbery gave a shock to the regime. Another shock received by the political system in the form of heart attack to the President Joao Figueiredo. After heart-attack military hardliners attempted to strike back and to insure military successor for Joao Figueiredo. After lot of confusion and debate it was Vice-President Aureliano Chaves who assumed the presidency. Supporters of *abertura* warmly welcomed the decision. Aureliano Chaves worked with great efficiency.

In late 1981 President Figueiredo returned to the palace. He was determined to push a crucial phase in the process of authoritarian liberalisation. He initiated a series of electoral reforms called "counter reforms" by many in the opposition. In June 1982 General Joao Figueiredo took another important decision in the form of a call for constitutional amendments. The amendments were passed over opposition objections. The most important changes were as follows: the number of federal deputies increased from 420 to 479; the power of Congress to call itself into session was restored; the presidential election in the electoral college was to be held on 15 January 1985 (moving it from October 1984); future constitutional amendments were to require a two-third vote of Congress; the time after which government legislative initiatives became law automatically was set at 10 successive sessions of Congress; and each state will have six state deputies in the electoral college.

The constitutional reform was another measure of security for the government in the November elections. The constitutional amendment proved to be

beneficial for government and it became more difficult for the Congress to amend the constitution.

In November 1982, elections took place. In the elections for governors, government party won in 12 states, the opposition party now called Brazilian Democratic Movement Party (PMDB) a total of 9, and the Workers Democratic Party (PDT) one. The government carried a majority of state assemblies and PMDB was placed second.

When Congress was convened in March 1983, government found that Congress wanted to play its part in the decision-making process. Lack of majority for government made it more difficult to function. Now government attempted to build an alliance in the Congress with smaller parties to give a working majority to the government. In a bid, government concluded an agreement with small PTB (Worker Party) in 1983. In exchange for support for the government, the PTB extracted a promise from the government to overhaul existing wage legislation to give slightly high paychecks to a majority of Brazil's workers. The agreement was received with great hostility by the hardliners because they argued that it would be hazardous for the economic growth of the country. Under pressure for IMF, a new wage package was offered which was unacceptable to PTB. Finally a compromise formula was worked out acceptable to a wide range of political interests, both government and opposition. Government finally learnt the lesson that it could not

carry the Congress with mere wish.<sup>1</sup>

In such an atmosphere a new debate started over the succession of Joao Figueiredo. After the constitutional amendment the indirect election by the electoral college was scheduled for January 1985, and the inauguration of the new president was to take place on March 15 of that year. The college would be made up of 686 voters. Voting members of the college were the 479 members of the Chamber of Deputies 69 federal senators and 138 state assembly members.

The electoral college which was formed after the 1982 election was suitable for military in respect of the presidential succession. With a government majority in the electoral college the chances of an opposition victory seemed remote during 1983. By November 1984 due to the ascendancy of Congress and economic crisis, support for military in the electoral college dwindled considerably as also its credibility in the eyes of the public.

Fissures had also developed among the ranks of military over the choice of candidate. Paulo S. Maluf, former governor of Sao Paulo, took an early lead but he was unacceptable to Figueiredo because he had defeated Joao Figueiredo's personal choice for governorship. Interior Minister Mario Andreazza, a retired army officer and a former cabinet member in the government of president Medici, emerged in 1983 as Joao Figueiredo's unannounced choice to defeat Maluf. The third candidate, also unannounced, was incumbent Vice-President Aureliano

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<sup>1</sup> Thomas C. Bruneau, "Consolidating Civilian Brazil", *Third World Quarterly*, (London), vol.7, no.4, October 1985, pp.978-9.

Chaves. After a lot of debate Paulo S. Maluf's name was announced as Social Democratic Party (PDS) candidate. By 1984, Pressure was increasing for direct elections. In April 1984, in an agitated all-night session, the Chamber of Deputies defeated a proposal which would have set direct election for November 1984 elections. Amidst the demand for direct election all opposition parties were trying to unite behind a single candidate. After discussion between parties a decision was taken to form a PMDB - Democratic Alliance. Tancredo Neves was chosen as a opposition candidate.

Initially Tancredo Neves was in favour of direct election for president post but when he saw more and more electoral college members were supporting him, he agreed to the indirect election. On 15 January 1985, the electoral college met to choose Tancredo da Almeida Neves and Jose Sarney as the president and Vice-president respectively for a six year term with 70 percent of the electoral votes.

### **'Liberalisation' Process and Military Presidents**

Whatever the factors that may have triggered the process of political liberalisation -- growing economic difficulties after 1973, change in the correlation of political forces, or accumulation of difficulties and differences over a period of time which were inherent in the military rule -- in the end, the decade-long process could be said to have moved along an identifiable pattern. Admittedly, the liberalisation process moved along a contradictory pattern. Every concession by the regime or conquest by the opposition was immediately qualified by the imposition

of alternative authoritarian controls. And this explains, why the regime retained control of the liberalisation process for so long. It needs to be reiterated therefore that military presidents, Generals Ernesto Geisel and his successor Joao Figueiredo, maintained a firm grip and left a personal stamp on the entire process.

The suspension of press censorship and the November 1974 legislative elections, held eight months after the inauguration of the Geisel government, had initiated a new political course. In spite of the fact that state governors were elected by an indirect vote, that there was no political amnesty, and that Institutional Act No.5 was still in force, the 1974 elections were fresh since 1966.<sup>2</sup> Enjoying free access to the media, the main opposition Brazilian Democratic Movement (MDB) had campaigned extensively and succeeded in getting 16 out of the 22 elected Senate seats and 160 seats in the Federal Chamber of deputies which was 34 per cent of the seats. Securing 37.8 per cent of the popular votes, MDB victory was a warning signal to the regime control over the process.

Geisel administration had moved in immediately to keep control over the liberalisation process. One, regime control over the new legislature had to be maintained; and secondly, check the progress of opposition especially in view of the municipal elections that were due in 1976. The first objective was attained through the maintenance of institutional controls over the legislature and use of Institutional Acts to administer exemplary punishment to five congressmen from the

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<sup>2</sup> Riordan Roett, *Brazil: Politics in a Patrimonial Society* (New York: Praeger Publishers), 1984, pp.151-165.

opposition. The second goal was attained by imposing new rigid controls over electoral campaigns over the radio and television. The Falcao Law -- named after the then interior minister -- severely restricted the political campaign for the municipal elections. As a result, the government party, that is comfortably won the 1976 municipal elections (3176 mayors to 614 for the opposition) and therefore guaranteed the government a majority in the electoral college which elected a new president in 1978. In other words, the rules of the game were changed to curb the opposition progress.

The third election under Geisel government was to be held in 1978, for the entire Chamber of Deputies, two-thirds of the Senate and for the first time since 1966 for the governors of the state by direct vote. This is what the military constitution of 1969 had stipulated. But again, the rules of the game were changed. Geisel government reverted to repressive tactics to check the opposition, which buoyed up by the electoral results of 1976, had begun resisting government's repressive policies. The Church, the media and the professional organisations started voicing protests against the repressive acts of the government. Geisel government was faced with a double threat: that of losing its authority over the military bureaucracy especially the so-called 'hardliners'; secondly, of losing control over the liberalisation process. The first threat was curbed through temporary restrictions over the military apparatus controlled by the 'hardliners' and the second, by using Institutional Acts No.5 to introduce new rulers for the

electoral and political game, for the second time in two years. Congress was put in recess and a package of political changes, which came to be known as *Pacote de Abril* (April 1977) was promulgated through a presidential decree.<sup>3</sup> The main innovations were as follows: The government would appoint one-third of the Senate (the so-called 'bionic' senators) in order to guarantee its control of the upper house, irrespective of the electoral outcomes, there by making any change in the regime by legislative procedures impossible; state governors were once more to be chosen by indirect elections the criteria regulating the number of federal deputies and the choice of municipal delegates to the electoral college would be changed in order to diminish the political weight of the more industrialised regions. Seats would be allocated in proportion to total population rather than to registered votes; and under the second Falcao Law, campaign restrictions for municipal elections were extended to all elections involving popular vote. Interestingly the first 'Falcao Law' had restricted electoral broadcasts to the presentation of name, the number, the photo (on TV) and the *curriculum vitae* of each candidate contesting municipal election.

Thus by the end of 1977, liberalisation process was back to from where it had started in 1974; and Geisel administration had also succeeded in neutralising its opponents within the military bureaucracy. New controls were put in place to substitute the strict controls of the by now abrogated Institutional Act No. 5:

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<sup>3</sup> In view of the continuing defiant attitude of the opposition, the Geisel administration took a giant step away from political liberalisation by decreeing a series of measures on April 15, 1977 to prevent civilian opposition from grabbing power in the foreseeable future. These measures collectively came to be known as "*Pacote de Abril*".

incorporation into the current legislation of the regime's so-called 'safeguards' (national security, labour strikes and press laws), and introduction into the constitution of a provision barring from judicial review any act of the regime since 1964 covered by the 'laws of the exception', such as Institutional Acts. Through these measures, Geisel government, once again, set the course of liberalisation process. The president also succeeded in imposing his successor, General Figueiredo, inspite of the unrest it caused within the armed forces, indicating the growing difference in the higher echelons of the armed forces. The Figueiredo government was inaugurated in March 1979 for a six year term. In his inaugural speech, Figueiredo pledged to "make of this country a democracy". He continued with the pattern of limited and calculated concessions but with strict control being maintained over the liberalisation process. However, Figueiredo was more successful in opening channels of communications and dialogue with the parliamentary and extra parliamentary opposition than his predecessor. He was even more tolerant to political protests and labour strikes; though the regime would resort to tough measures if protests threatened to get out of control. This happened to major labour strikes in 1978 which were subsequently broken by the government.

Notwithstanding the slow and controlled process, opposition political forces however remained more optimistic about presidential commitment to democratisation. The architect of the liberalisation process, General Golbery who was retained by Figueiredo as his main political counsellor conceived of new



initiatives to push forward the liberalisation process: one, the military regime had never wanted to get embroiled in fact, would never allow it in the first place-in any electoral dispute with the opposition.<sup>4</sup> That regime was the dispenser of liberalisation on its terms and conditions, there was to be no mistake or misgivings about. To avoid any polarised situation between the supporters and the opponents of the regime-which the existing two party system was likely to produce-a multiparty system had to be allowed which would include a more 'trustworthy' opposition party.

Following this plan, a general political amnesty was announced to 'normalise' the political situation. It was hoped that with the return of the exiles, there would be fragmentation in the opposition forces. The two party system was abolished and a new more complex multiparty system was announced. The municipal elections scheduled for November 1980 were postponed to 1982. One more, direct elections for state governors that were scheduled for November 1982 were agreed to by the regime. Executive domination over the legislature was however to be maintained as Figueredo government vetoed two major attempts by the Congress to regain some of its lost powers.

By the middle of 1980, the profile of new party system was taking shape. A 'trustworthy' opposition party, the Popular Party (PP) was created from elements belonging to the MDB which itself had undergone change and was now called

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<sup>4</sup> General Golbery exercised overwhelming influence on the process for a fairly long period of time.

Brazilian Democratic Movement Party (PMDB). Some of the dissident elements from had also joined the Popular Party (PP) itself was rechristened as the Social Democratic Party (PDS). Some influential labour leaders, intellectuals and progressive sections of the church came together to form the Workers Party (PT). Old style populist leaders under the leadership of Leonel Brizola came together to form the Democratic Workers Party (PDT). By the end of 1981, the above-mentioned five parties and the Brazilian Workers Party were provisionally registered.

The initiation of party activities and the complex procedures required for their formation, for instance that parties should have held conventions in at least one-fifth of the municipalities in at least nine states, had the unexpected consequences of reactivating political life and rapid spread of the belief that this time around, liberalisation is irreversible. The two main opposition parties namely, the PMDB and the PP were also expecting to increase their share of popular votes in the elections due in November 1982. There was the possibility that the two together could even muster a majority in the Congress. With PP being closer to the government, the two together even expected to negotiate with the government the choice of the next president in 1984. Such optimism however received a major setback towards the end of 1981 when it was revealed that military 'hardliners' were possibly behind some of the terrorist acts against the opposition forces; and that President Figueiredo himself had decided to cover up the whole affair. General

Golbery who is credited with having scripted some of the major liberalisation measures under both Geisel and Figueiredo administrations also departed from his position leaving the entire process and the prospects of liberalisation in jeopardy.

During the illness of Figueiredo in 1981, the military had accepted for the first time the idea that a civilian vice-president might exercise the function of the presidency. Party maneuvers within the Congress, and opposition to some of the regime initiated legislations however were seen as opposition defiance of the executive authority of the president. The alliance between the PMDB and the PP to contest the 1982 elections, with prospects that the government party may lose a large number of state governorships constituted a serious set-back to the controlled process of liberalisation.

Figueiredo administration responded strongly to these perceived threats in the form of *Pacote de Novembro* (November 1981) imposing new restrictions on political and electoral activities. All electoral alliances among parties were forbidden; each party was obliged to present a complete state of candidates (councillors, mayors, federal deputies, senators, and governors); and voters who chose candidates not belonging to the same party slate (for instance, a councillor from one party and a senator from another) would have their vote invalidated. In concrete terms, these laws forced competition between the four opposition parties, to the advantage of the sole governing party. It was also an indication of government's resolve not to lose control of the electoral college which would

choose Figueiredo's successor as president in 1985.

One of the consequences of *Pacote de Novembro* was to disable the PP which forced it to merge once more with the PMDB. What was clear from the new rules was that liberalisation remained a regime controlled process which Figueiredo and Golbery had been directing despite some dissidence from the military 'hardliners'. In the end, it was an executive-initiated process in which the parliamentary opposition despite having made some electoral and political gains since 1974 was still at the receiving end. Up until 1982, any hope of changing the regime through the congressional majority had fallen flat. Military regime though was losing its social support bases particularly of the private business; opposition was unable to gain new grounds.

Certainly there were other factors including the activation of civil society and a deepening economic crisis, but that the situation had become largely polarised between the supporters and opponents of the regime became clear after the general elections held in November 1982, for state governors, one-third of the Senate, the Chamber of Deputies and municipal offices. The results indicated that the liberalisation could be maintained at its slow pace.

To summarise the entire process of liberalisation, the military regime began conceding and restoring civil and political rights; channels of interest representation were also reestablished; and there was a gradual incorporation of the principle of election in validating the authority of the government. But at the same time,

authoritarian controls were institutionalised in order to contain the exercise of such rights and political functions within the limits imposed by the executive authority. These limits were extended or narrowed according to the evolving political situation, presidential preferences and personality and the intensity of the demands made by the strategically placed groups and the media. Opposition to the regime had to accept certain non-negotiable items such as that military bureaucracy could not be called to account for its arbitrary actions performed in the name of the 'revolution'; forces that were opposed to regime's vision of the society and politics would not find representation; and opposition forces could not aspire to govern before the "work of the 1964 revolution" was completed. Liberalisation in short meant adoption of certain formal democratic institutions but simultaneously it also meant the exclusion of consensuses concerning the rules of the political game, political accountability of the rulers, right to full representation, and alternation in power. In sum, the liberalisation allowed the predominance of the military presidents in matters of both control and change in the political process.

### **Elections of 1982 and Transition to Civilian Rule**

The elections of November 1982 however had introduced some new elements in the political situation. For the first time since 1965, governors of the 22 states were elected by direct vote. In spite of the restrictions on electoral alliances etc., opposition parties won ten of the governorship-nine by the PMDB and one by PDT. The four opposition parties namely, the PMDB, PDT, PT, and PTB together

garnered 48 percent of the popular votes as against the government PDS' 36.6 percent. As a result, the government party lost its majority in the chamber of deputies. Although, thanks to the complex legal restrictions, the government party (PDS) retained its majority by 38 votes in the electoral college that was to choose the president. Opposition parties together had only a slender majority in the legislature to pass new laws affecting the electoral game; for instance, introducing direct election for the president. Constitutional amendments required two-third support of both the houses, and the government party had a large majority in the Senate, thanks to the 'bionic' senators introduced in 1977.

Even so the 1982 elections helped to create a new political situation. Opposition parties had made major gains in more populous and industrial states; greater representation in the legislature made Congress more assertive vis-a-vis the executive, with even the government party showing some autonomy of the armed forces; and opposition party governors in the states were conscious of state rights and jurisdiction. These developments encouraged the demand for direct election of the president including from the PDS.

As these developments were taking place, the eruption of a severe financial and economic crisis and secondly, the exposure of corruption in higher echelons of Figueiredo government directly weakened the regime's ability to keep its control over the liberalisation process. In a crisis situation, president Figueiredo himself was unable to exert firm political leadership which only made the matters worse.

These factors combined to exacerbate the regime crisis. To an extent, Figueiredo's economic programme had also been blamed for the worsening of economic crisis and it was presented as another example of regime's growing inability to handle critical situation. With recessionary conditions in world economy and the country experiencing slower economic growth the higher oil import bills, the Geisel administration had opted for opposite solution-a highly ambitious economic development programme without regard to the cost and stress it would have. The Figueiredo administration with Delfim Neto once again as the minister of planning continued with policies that increased both the internal debt and external borrowings at rates which eventually proved to be very high. By mid-1982, the export-led development strategy pursued by the military regime had stood exposed and discredited amidst a severe economic crisis. Acceptance of IMF-prescribed conditionalities to get new loans and the exposure of corruption in high places further compromised the position of Figueiredo. As happened in several cases of military withdrawal, internal rifts, dissensions etc. within the regime began surfacing. The inability of Figueiredo and his style of functioning further contributed to the general slide. The regime was giving conflicting signals on both the economic and political crisis. Even the ruling PDS came to be divided over the future course of political liberalisation. Soon civil society also came into its own to build new pressures. Business began publicly expressing its loss of confidence in the regime policies. Social unrest began spreading in view of the harsh economic

situation. Opposition parties with many of their own as governors were reluctant but forced to take responsibility for harsh economic measures.

Consequently, economic dimension also began increasingly shaping the course of political developments. It were not the correlation of political forces that affected the liberalisation process. Certainly, when the economic crisis began deepening, many of regime supporters lost faith in the ability of the regime to steer clear both the politics and economy from the crisis path. It was within the context of limited choices both economic and political that the "slow, gradual and secure", process of decompression began accelerating.

The Geisel administration managed to convince the civilians that it was serious in its intention of liberalising the regime. Decompression later began to be called *abertura* (opening). It was a serious move but few believed at that time that it will advance. President Geisel once declared that *abertura* was supposed to be slow, gradual and safe. Ultimately this meant that the process, as well as its pace, was to be controlled by the government, so as to avoid both the possibility of a return to the previous situation, with the radical right regaining power or the excessive gains by the left.

For his term, Geisel had at his disposal the exceptional powers granted by Institutional Act No. 5. He used these, mostly to bring more liberalisation, but in an authoritarian way. By the end of his term Geisel had revoked the Act so that his successor could start his term without such a heavy negative political inheritance.



Some of the powers granted by the Act were maintained but in a softened form, and they were contained in the emergency measures which could be issued by the government to take care of situations in which the government felt it might lose control of the political process.

General Joao Figueiredo continued with the process of *abertura*. Under the auspices of his government, an amnesty law was passed which freed people imprisoned for political crimes. He allowed the return of all people who had been exiled or who were living underground.

Early in 1984, an obscure federal deputy had introduced a bill proposing a constitutional amendment which would turn the indirect elections for the presidency, which the government felt confident it would win, into a direct elections. Many known politicians like Vice-President Aureliano Chaves started to campaign for direct elections. The government party split, and hardliners in government started putting enormous pressure on Congress and politicians to prevent the approval of the constitutional amendment, which came to be known by the name of the deputy who prepared it: *Dante de Oliveira* Amendment:

The amendment was defeated in the Congress but it served greater purpose. It upsets the Figueiredo government plan to win the election. Secondly, the amendment split the government ranks. Thirdly the amendment mobilised millions of Brazilians in support of '*diretas Ja*' (direct elections now). Furthermore, the campaign for direct elections gained support from all sorts of otherwise

conservative persons, including business men, bankers and even some military officers themselves.

Senator Marco Maciel and Vice-President Chaves together with ex-PDS president Jose Sarney formed the crucial liberal front as a dissident bloc of the PDS. In August 1984, the liberal front was formalised into Democratic Alliance. In the meantime, most of the opposition started to coalesce around Tancredo Neves, governor of Minas Gerais. Finally the battle lines were drawn. The contest was between the PMDB- Democratic Alliance candidate Tancredo Neves and Paulo Maluf. Initially, Tancredo Neves was in favour of direct election but when he sensed that more and more electoral college members were rallying around him he agreed for indirect election.

On 15 January 1985, the electoral college met to choose Tancredo da Almeida Neves and Jose Sarney as the president and vice-president respectively for a six year term with 70 percent of the electoral votes. After winning elections in a speech in Vitoria, Espirito Santo. Neves "Unveiled" his plans for a "new republic", designed to strengthen legislative powers, respect local and regional authorities and scale down the powerful federal presidency.

Despite all the preparations it was not to be the Tancredo Neves would wear the presidential sash. Days before the inauguration, Neves was hospitalised and it was the vice-president Jose Sarney on whom the mantle fell.

Tancredo Neves was the man history had prepared for this task. He was firm,

but smooth, obstinate, but with a great sense of realism. He was a man of vast experience and had lived Brazilian politics intensely. He had friends and contacts, and inspired trust in all areas-among the military, the clergy, the politicians. He threatened no one. His project was the future to rebuild institutions and reconstruct the economy, using a conservative and ecumenical viewpoint, without rancor and armed only with conciliation.<sup>5</sup>

The next man in command was the vice-president elect Jose Sarney. He himself admitted that he was the man in coalition, who represented a group of liberals who had broken with the old order and had joined others to end the regime of force and implant a state of law. Amidst questions about who would take over? About the role of military about presidency of Jose Sarney? On 15th March at 3.12 a.m Senator Jose Freqelli, president of the National Congress, told Sarney:

"Senator Sarney, prepare yourself to take the oath of office as president today at nine O'clock in the morning. We will go ahead with everything as planned. You will take the place of Tancredo Neves. Everything has been settled, including all constitutional and political problems. President Figueiredo has made only one proviso. He does not wish to transfer the presidential sash to you personally. But this will not really be important. He will not be present at the ceremony. The one

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<sup>5</sup> Jose Sarney, "Brazil: A President's Story", *Foreign Affairs*, (New York), Vol. 65, November 1986, pp.101-17.

essential point is for us to get through this crisis.<sup>6</sup>

Thus Jose Sarney entered presidential palace along with presidential sash, he also received Brazil with largest foreign debt, as well as the greatest internal debt. he also inherited deepest recession, the highest rate of unemployment, an unprecedented climate of violence, potential political disintegration and the highest rate of inflation ever recorded in country's history 250 per cent a year, with the prospect of reaching 1000 percent.

To eradicate political ills of the country the main objective of the new government was a constitutional amendment that convoked the National Constituent Assembly, to be elected in November 1986, together with the state governors and state legislators. It was hoped that when the new constitution is adopted, political democracy would be fully consolidated and there would be guarantees for civil, political, economic and social rights.

After 21 years of military rule, Brazil returned to civilian rule on 15 March 1985. Scholars have viewed transition to democracy in Brazil differently. Scholar like Riorden Roett see transition as a work of negotiations and bargaining of the elite sections of society. According to this section of scholars military rule was largely exclusionary. Popular representation or participation was either not tolerated or was minimal under military rule. Politicians, labour leaders, intellectuals, members of the business community and gradually the Church all were

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<sup>6</sup> Jose Sarney, "Brazil: A President's Story" *Foreign Affairs*, vol. 65, November 1986, pp.101-117.

marginalised. Concentration of power within the military and the bureaucracy had begun to deprive these elites from their position. As long as the economic miracle dominated the Brazilian society it was impossible for these forces to challenge the arbitrary powers of the authoritarian government.

Scholars like Riorden Roett and Scott D. Tollefson have put forward generally factors that were related to the economic performance of the regime in the 1970. When in the mid seventies economy started faltering, various elite groups like civilian politicians and labour leaders fearing further marginalisation reacted sharply. A kind of coalition of regime opponents came up comprising of labour leaders, Church, regime opponents within the government and opposition parties.

Each section of elite had its own grudge against the authoritarian military regime. Labour class was disgruntled because it suffered most of the restriction and repression by the authoritarian government. The loosening of corporatist controls have brought to the fore, what came to be known as 'new unionism'.

The militancy of labour movement in Brazil brought to the fore charismatic labour leaders like "Lula" (Luis Inacio da Silva). Lula and other spearheaded a system-challenging series of confrontation with the regime that unleashed societal protest against the authoritarian state.

Other member of coalition which facilitated the downfall of military government was the Church. The new role of Church encompassed a greater commitment to social change and to coalition building through political action in

order to achieve a new status for the Church as well as more just Brazil. The new commitment of church was reflected during the auto workers strikes in the 1970s and 1980s. When the Bishops of ABC area (The acronym is taken from the first initials of three communities in which there is a high concentration of industrial families) backed by the Cardinal Archbishop of Sao Paulo and other Church leaders crossed arms with the unions to stand together against the regime policies. Commitment of the Church to societal change and its support to labour union strengthened their resolution to work toward a common goal.<sup>7</sup>

New social reformers and old-style politicians also came together because of the common threat they perceived. They thought that with the growing pace of authoritarian regime they will be further marginalised and lose all that they have over the allocation of needed benefits in the eyes of their clientele. Above all they were scared of losing their status of elites.

Forced by their own compulsion, by the end of the 1970s, the coalitions of civilian elites were willing to support President Giesel in his efforts to curb the armed forces and institutionalise the process of liberalisation.

There is another section of scholars who feels that it was military which had initiated democracy in Brazil. These were the contradictions and dilemmas within the military which had forced it to initiate the liberalisation process. According to this set of scholars in the first half of Eighties, the most common question which

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<sup>7</sup> Thomas C. Bruneau, "Church and Politics in Brazil: The Genesis of Change", *Journal of Latin American Studies* (Cambridge) vol.17, part 2 (November, 1985), pp.271-93.

was asked by the military officers was, "where do we go from here?" Military was the most important political actor in Seventies and first half of Eighties. Within the military, some had kept pointing that civil society was not yet mature enough to hold direct elections for the presidency later in 1984. If elections were held government would certainly loose. The defeat of government would certainly 'pour down to drain all the efforts of their revolution'<sup>8</sup>. Among professional soldiers, there were those who saw a need to get out of politics soon, since they felt that their direct involvement in government for a little over twenty years was creating problems for the military as a professional body. They felt that political repression of which the military have been in charge the accusations of corrupt behaviour, the economic crisis and lack of credibility which the government has been facing were all responsible for the degradation of the public esteem of professional military officers.

On the other hand the myth of the sacredness and infallibility of the state which had prevailed for such a long time among Brazilians, civilian and military was reversely eroded. Now it was the view of common man that when state makes mistakes they tend to be enormous, their impact was felt by everybody, and the price was distributed unequally with the heaviest burden falling upon the ones who were not responsible for the mistakes, and who could afford the least to pay for them

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<sup>8</sup> Alexandre de S. C. Barros, "Back to Barracks: An Option for the Brazilian Military", *Third World Quarterly*, vol.7(1), January 1985, pp.63-76.

For many years, before coming to power, the military had claimed they were the representative of public morality, uncontaminated by inefficiency, corruption and all they considered typical of civilian elite. Professional soldiers, in power in Brazil for more than a decade had to take some of the blame for the deteriorating economic situation and instances of corruption. This was one of the most serious problems armed forces faced. Military was faced with a kind of an identity crisis. On the one hand, there was the temptation to go back to barracks; on the other, there were risks which were perceived as involved in this option.

Another kind of a debate had started among the military officers about their role. The task of internal defence, to the degree that it was practiced during the 1960s and the 1970s was regarded by many officers as resulting from a typical situation, which was to be abandoned as soon as what was perceived to be a very serious threat was overcome. Thus, for many, if not most, officers a permanent policing mission was not acceptable.

Those officers, who maintained a professional orientation in the traditional sense-gearred towards external defence for the most part, never been involved in a foreign wars and had a very slight chance of ever being in a foreign war. This was so because at the time, the doctrine of the Brazilian armed forces considered the possibility of occurrence of three types of conflicts. First was a nuclear holocaust where Brazil had to play no role. The second scenario involved regional wars in South America. The third possibility involved infiltration of some kind endangering



the internal security of Brazil itself via internal subversion. In reality this was the main preoccupation of the Brazilian military and the greatest deployment of Brazilian military forces was to occur in this situation during the late 1960s and early 1970s. In spite of this third possibility professional elements in military managed to maintain their position that the military must leave the political scene for politicians and return to their professional military tasks as soon as conditions allowed.

In conclusion, the circumstances and the context as well as the factors and forces that triggered the process of liberalisation and eventually paved the way for transition to civilian rule are complex. The Chapter has given an overview of both the context and forces that shaped the liberalisation under military rule and the process of transition to civilian rule. Whatever, however, is clear is that military presidents -- Ernesto Geisel and Joao Figueiredo both -- maintained a firm grip often leaving their personal stamp on the liberalisation and eventual democratisation of Brazil. This is not to deny the important role of political opposition both within the Congress and outside.

The next Chapter describes the civilian presidency of Jose Sarney; the constitution of 1988 -- its formulation and main provisions and presidency of Sarney in the last two years of its tenure.

## CHAPTER -III

### Transition to Democracy and the Constitution of 1988

#### Presidency of Jose Sarney

No gainsaying, beginning of the redemocratisation was essentially an opening through elections. As has been described in the earlier Chapters, electoral competition was never totally suppressed. At least with the beginning of liberalisation process in the mid 1970s, the opposition Brazilian Democratic Movement (MDB) had begun making steady progress in terms of its presence in the state and federal legislatures, and eventually at the level of state governorships. The regime controlled process of political liberalisation made a slow and torturous progress towards holding of direct elections for various elective offices. The electoral results of the November 1982 elections coming in the context of a deep financial and economic crisis and eruption of incidence of corruption in the higher echelons of the regime considerably weakened the position of the regime and capacity of president Joao Figueiredo, though, the president still retained the right to veto any initiative from the Congress. This was evident in 1984 when despite massive popular support for the *diretas ja* (direct election now), Joao Figueiredo successfully killed a proposed constitutional amendment demanding that President Figueiredo's successor be directly-elected. The emergence of a new party of the Liberal Front (PFL) and its alliance with the PMDB (ex-ARENA) was reassuring for the military regime that a moderate opposition candidate could be elected

president by the same rubber-stamp electoral college that had ratified the previous five military presidents since 1964. Capitalising on his image as a moderate politician and skillful negotiator, and on the popular climate in the wake of the *diristas ja* campaign, Tancredo Neves was elected president in January 1985, thus marking the formal transition from military to civilian rule after a gap of twenty one years.

The victory of Tancredo Neves especially in the largest cities of Brazil indicated that the military regime had reached the dead-end but civilians had not as yet arrived. The opening through elections meant that civilians were part of a complex game and opposition to the military had to remain within certain limits. The rebirth of democracy in Brazil thus coincided with vastly repressed demands, a worsening economic environment and political arrangements and alliances that were temporary. The President-elect Tancredo Neves could have perhaps kept political arrangements in place. His sudden demise however saw Vice-President-elect Jose Sarney, long time congressional supporter of the military and a new comer into the opposition ranks, become the first civilian president.

Sarney's choice as Tancredo Neves's running mate was a typical ticket-balancing operation, meant to attract the PDS (ex-ARENA) votes in the electoral college and ultimately to soften the transition in the eyes of a few 'hardliner's over whom Sarney might have some influence. After almost a year in office, largely ineffective and beleaguered by the economic crisis, difficulties to his credentials

were compounded by the fact that he had never been a major national politician, that he remained under the moral constraint of working with a cabinet chosen by the deceased Tancredo Neves, and that whatever popular support he might have expected to enjoy by virtue of being the first civilian president was completely eroded by growing inflation and mounting labour pressures. Key opposition leaders including Leonel Brizola of the Democratic Labour Party (PDT) and Lula (Luis Inacio de Silva) of the workers Party (PT) were openly suggesting that Sarney should regard himself as head of a transition government, paving the way for new presidential elections after two years. Worst still, serious constitutional ambiguity threatened Sarney's term of office. Under the 1967-1969 Constitution, enacted under the military regime and still in force, he was entitled to a six year term, but the legislature to be elected in November 1986 would be invested with full constitution-making powers and would thus have authority to change Sarney's term. Whether or not it would do so was primarily a political decision, that is a function of its own future composition, as determined by the 1986 elections, and of Sarney's standing at the time it convened. Moreover, the opposition to Neves-Sarney was still intact in the person of Paulo Maluf who was military's favourite candidate in 1985.

The Cruzado plan enacted in February 1986 dramatically changed the situation removing the ambiguities and weaknesses that had until then characterised the Sarney presidency. An anti-inflationary programme, Cruzado plan hinged on

a generalised price and wage freeze. Wages were frozen however only after a generous bonus was granted. Money supply was increased in the belief that prices have stabilised. Government's fiscal policy was also relaxed, responding to the political need to sustain the fragile alliance of the PMDB and PFL. The Cruzado plan thus generated a boom in consumer demand and produced an eight per cent growth in 1986. The plan ended in early 1987 with a price explosion, after price freeze was finally relaxed following the November 1986 elections.

The Cruzado plan was thus a spectacular political move which saved the Sarney presidency. His modest and ineffectual stature now gave some credence to the office of a civilian president. Sarney's popularity soared as consumer demand soared with Cruzado plan. Soon he began to be described as perhaps the most powerful president in Brazilian history. The political dividend coming from the Cruzado plan can be gauged by the fact that almost nine months after when the impact of the plan was tapering off, PMDB still managed to score a massive landslide in the November elections winning 22 out of 23 governorships and an absolute majority in both houses of the Congress.

Sarney's popularity fell as abruptly as it had soared. With suspension of price freeze and a new wage indexation clause, inflation hit hard the Brazilians. The elected congressmen sitting as a Constituent Assembly never had the leadership of the president. Busy, fighting to prevent approval of a parliamentarist proposal (which would have abruptly ended his presidency) and preserve at least a five year

term, Sarney exerted no influence at all on the economic substance of the constitution. Lacking a stable and a minimally cohesive party structure, Congress fell into a highly decentralised and volatile approach, fully reflected in the long and detailed text that was finally adopted on 5 October 1988. It reflected particularly in the clauses dealing with economic issues some kind of a paternalistic welfarism, nationalism and state interventionism -- goals that were soon to be jettisoned or subverted through political manipulation and use of presidential decrees.

Subsequently, other plans, freezing both wage and price also failed, for instance, the Bresser plan of mid-1987; and the so-called summer plan of early 1989. There was no way inflation could be controlled. As a result, Sarney's last year in office was merely devoted to holding the line on the federal government's cash deficit and maintaining the domestic financial markets under minimal control by means of high real interest rates. With presidential elections scheduled for November 1989, and the near certainty that the incoming government of Fernando Collor de Mello would implement a kind of shock treatment, inflation had soared to new heights at the end of the Sarney administration, reaching 80 per cent a month in February and March 1990.

### **The Constituent Assembly**

The Constituent Assembly which served simultaneously as the nation's parliament elected in November, 1986, convened in March, 1987, to undertake the complex task of drafting a new constitution. Much of the first year of deliberation

was spent in the drafting process. Thousands of articles and amendments were prepared for debate. But the issue which dominated the Constituent Assembly was the presidency. Constituent Assembly debated the role of the president currently blessed with nearly imperial powers and privileges. The 559 members of Constituent Assembly were interested to boost the swap of Congress especially as a monitor of government spending.<sup>1</sup> The power of president to issue decree was also debated. The most important topic which emerged as the most emotional and difficult issue for the Constituent Assembly in 1988 was the presidential term.<sup>2</sup> Issue of switching over to parliamentary system was also debated. Other issues which came up for discussion were concerned with land reforms, ownership of mining companies, higher interest rates charged by banks etc.

The 559 delegates to the National Constituent Assembly in order to draft a new constitution came from all political parties. Out of these 559 delegates the PMDB controlled 307 delegates, while 133 came from PFL, 26 delegates came from PDT (Democratic labour party of former governor Leonel Brizola) 19 from the PTB, 7 each from the PCB (Brazilian Communist Party), the PCDOB (The revolutionary pro-Albanian Communist Party of Brazil), and the remaining from

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<sup>1</sup> Times, London, 15 November 1986.

<sup>2</sup> Riordan Roett, "Brazil's Transition to Democracy", Current History, Vol.88, March 1989, p. 117.

other minor parties.<sup>3</sup> On the surface, the Democratic Alliance of the PMDB and the PFL gave Sarney and Guimaraes an impressive margin with which to push any constitution through the Assembly. But in reality, this hardly proved to be the case. PMDB in itself was divided between left and right. Left was represented by 137 delegates coming from the original MDB (Brazilian Democratic Movement).

During the debate and discussion nationalist elements appeared to have had the upper hand until the late 1987 formation of a grand coalition of the center, composed of assembly members from various parties. The coalition called "*Centrao*" in Portuguese struck down many extreme nationalist draft articles.

When all the proposed articles were put to vote, issue of presidential term drew the greatest attention. As Sarney was completing his third year in office, it was yet to be resolved whether his term would be for four, five or six years. The dominant party, the PMDB (Brazilian Democratic Movement Party) also known as the "Partidao" or "big party" failed to come to grips with this issue at its national party convention in mid-August.

When Sarney became president, he stated that he would honor the four-year term commitment made by the late Tancredo Neves during the presidential campaign in 1984. Once securely in office, however, Sarney began to advocate a five year presidential term and later on, was pushing for a full 6 year term. While

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<sup>3</sup> EUL-Soo Pang, "The Darker side of Brazil's Democracy", Current History, Vol.87, January 1988.



majority of PMDB wanted weakening of presidency. The Democratic Alliance, the marriage between the PMDB and the PFL had never flourished and debates in the National Constituent Assembly had further stifled consensus and unity.

Sarney, in order to get five-year term, used whatever the prestige and influence the presidency was left with, to garner support. The leaders of the armed forces also lobbied strongly for a five-year term, to prelude early election and the possible selection of some one like the former governor of Rio de Janeiro state, Leonel Brizola. In late March, the Assembly voted against national public opinion which favoured a parliamentary system and a four year term of office for the chief executive and voted for a presidential system with a five year term for future presidents. Again with heavy pressure from the presidency and the armed forces, the Assembly decided in early June to give president Sarney a five year term, voting 328 to 222. In determining the presidential term *Centrao* played a vital role. In the struggle for 5 year presidential term powerful state governors, the commanders of the armed forces, influential business leaders and a conservative block in the National Congress had stood behind Sarney.<sup>4</sup>

After the vote on the presidential term, Sarney and Guimaraes went increasingly in different directions. Guimaraes, who presided over the Constituent Assembly wanted a "progressive" constitution as the platform for his own presidential candidacy. Sarney opposed the reforms; the higher welfare and labour

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<sup>4</sup> International Herald Tribune April 20, 1988.

benefits and the increased shares of tax revenues aligned to states and municipalities embodied in the new constitution made federal finance unmanageable. Guimaraes preferences prevailed but at the cost of making Brazil's economic management more difficult.

During the debate, the question of presidential decree powers were also discussed. Most of the members advocated abolition of the decree power. Finally, the Constitution of 1988 snatched the decree powers from the hands of president, which had often been used by military presidents to bypass Congress and push through legislation.<sup>5</sup>

Eventually, on 5 October 1988 Brazil promulgated its new constitution, the result of seventeen months of hard work by 559 members of the Constituent Assembly elected in November 1986. One of its main aims was to give Brazil a fresh start and a new impulse towards full democracy by removing the burdens of the repressive legislation imposed by the military backed regimes between 1964 and 1985.

### **Main Features of the 1988 Constitution**

From 1964 to 1985, the military regimes had revised the constitution with Institutional Acts and decrees which often gave the presidents near blanket powers in the restructuring of the government and in the proclamation and implementation of all types of policies. Among others, significant was the power to levy taxes

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<sup>5</sup> Times of India, October 1988, New Delhi.

which made state governors and city mayors comply with the decisions and instructions of the federal president. Control over national legislature and the way party system was restructured were the other measures that concentrated powers in the hands of the military president. It was this excessive control exercised by the president that enabled the military regime to keep a tight control over the process of liberalisation that began in the mid-1970s.

The 1988 Constitution sought to reverse the trend towards centralisation of powers in the federal government at the expense of the states and the municipalities and concentration in the hands of the military president at the cost of the legislative and judicial wings including as well as the political parties. As has been described in the preceding chapter, liberalisation process tended to further concentrate these powers in the hands of the president, contrary to popular expectations. The 1988 Constitution stipulated a federal structure with much greater freedom and powers to the states and local administrations. At the same time, it has given Congress much greater powers than ever before and besides, guaranteed civil liberties, labour rights, and social benefits. Its proclamation in October 1988 abolished the authoritarian charter of 1967. It provided for a popularly elected president which Brazilian electorates did in November 1989, for the first time since 1960. Other democratic and progressive features of the constitution include the right to strike, lowering of the voting age to sixteen, abolition of censorship and larger jurisdiction

including in financial matters to the states and municipal governments.<sup>6</sup>

There have been several other provisions that have made the critics argue that the 1988 Constitution is 'utopian' and impractical. For instance, the massive external debt of the country will have to be debated by the entire Congress, and the president and minister of finance could not alone negotiate the rescheduling of the external debt payments. The constitution also stipulates the conditions under which foreign investments could be allowed. It also reserves for national entities the right to explore and extract new sources of oil and minerals; and the nearly 500 foreign companies in these sectors were given four years to adjust.

The Constituent Assembly opted for a presidential form of government after a good deal of debate on how to check and balance the powers of the president. It provided that the president elected through direct elections will hold office for five years. He is made accountable and in some instances subordinate to the Congress. Congress comprising of a Chamber of Deputies and a Senate can sanction the president, alter the national budget, and determine international treaties.<sup>7</sup> However there is some ambiguity as to how Congress would be able to check the president, or vice versa.

A similar ambiguity surrounded the role of the military as the guarantor of the constitutional order- the old *poder moderador*. Though armed forces retain their

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<sup>6</sup> Source, 1988 constitution.

<sup>7</sup> Juan de Oxis, "Brazil on the Tightrope Toward Democracy", *Foreign Affairs*, Vol. 68, No. 4-5, 1989, pp. 127-143.

traditional claim of being ultimate arbiter of political life in Brazil. Several other issues that have remained on the national political agenda in the present century have not been resolved at all. For instance, land reform has not been touched upon by the constitution. This has often brought criticism from the left political parties and leaders that the constitution protects large private landowners.

In a bid not to fully please or irritate all Brazilians, the constitution has touched upon all kinds of subjects in details. With a total of 245 articles, it became one of the most detailed constitution of the world, with many of its provisions so totally impractical. Among these is an article that set a ceiling of 12 per cent on interest rates. Perhaps it was some of such impractical or short-term provisions that made the Constituent Assembly stipulate that constitutional amendments in the first five years of the constitution could be passed with a simple majority of the Congress. On the crucial issue of taxation, the constitution opted for decentralisation (revenue sharing), further weakening the central government at a moment, when inflation was threatening to get out of control.

Traditionally, legislation has often emanated from the presidency. All the previous constitutions had provided for the executive initiative in the enactment of laws; and there have not been many instances where presidential initiatives have been turned down by the Congress. The 1988 Constitution tried to balance the situation by giving the Congress initiative in legislative matters and by denying the president the former wide powers of issuing decrees. In the same spirit, the

constitution had abrogated the presidential power to dismiss the legislature as had been done several times in the past.

### **Fall of Jose Sarney**

Jose Sarney took a number of decisions to put Brazil back on track by announcing policies of social welfare; in the political sphere by announcing new measures for political party, electoral laws etc, and in the economic sphere, by the Cruzado plan, a combination of price freeze and currency reform. Subsequently, other plans also however failed to check the inflation.<sup>8</sup>

As the prospects for success of the Cruzado plan I and II completely dissipated. President Sarney had to change his economic team in April 1987, for the third time since March 1985. To replace a recalcitrant Dilson Funaro as finance minister, he chose Luiz Carlos Bresser Pereira. The appointment of Bresser as finance minister was marred by the tussle between president and the Congress. President was willing to give the post to his old time friend who was a young businessman and having no knowledge about economy. He was also new to the party. The president of the PMDB, Ulysses Guimaraes, who also chaired Chamber of Deputies mobilised PMDB against the choice of Jose Sarney. Jose Sarney was embarrassed and forced to appoint Luiz Carlos Bresser as finance minister.<sup>9</sup>

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<sup>8</sup> Peter Flynn, "Brazil and Inflation: A Threat to Democracy", Third World Quarterly, Vol. 11, July 1989, pp. 50-66.

<sup>9</sup> Christian Science Monitor, May 21, 1987.

President Sarney made another attempt to stabilise the economy. A new plan called as *Plano Bresser* was announced in June 1987. *Plano Bresser* called for a 90-day freeze on prices and wages; it forbade automatic wage adjustments and accelerated the devaluation of Brazil's currency, the Cruzado in order to stimulate exports.

The plan was not a total failure, although the freeze on wages was unpopular, the other measures worked. Exports began to increase, so that, by July Brazil had accumulated over 1.4 billion dollar in surplus. Inflation seemed to fall and began to stabilise under the Bresser Plan. President Jose Sarney also ordered finance minister Bresser and his economic staff to come up with a plan that would reduce the public deficit, but would not result in the firing of any functionaries. Unemployment was something that Jose Sarney was unable to handle. As a way of compromise, government economists recommended a tax hike of between 10 and 15 percent, hitting hardest middle income groups.

By December 1987 there was a dispute between the president and finance minister over tax reform. The two disagreed on a proposal to tax capital earnings-interest, profits and dividends. The minister had sought new measures to cut the budget deficit that, in 1987, serpent 6 percent of GNP estimated at about 300 billion dollar. The proposals included politically remitive measures like raising taxes for the middle class and the wealthy, cutting spending and eliminating some inefficient state-run companies.

New finance minister Nobrega entered office in early 1988 with the same hopes as his predecessors- to curb inflation, cut the budget deficit, stop unnecessary public works spending and hold the line on public sector wage increases. He failed to accomplish any of these goals by the end of 1988. The cause was primarily political. The plan for a three-month freeze on the wages of federal civil servants and the armed forces in order to reform the pay system and reduce inflationary pressure was rejected by the president and the cabinet as too costly in political terms; later on president reluctantly agreed for 2 months freeze.

By July, 1988, it was clear that the wage freeze had done little to halt inflation. By October 1988, the inflation rate had reached 27.2 percent, the highest monthly rate ever recorded in Brazil. The annual inflation rate for 1988 was openly predicted to be higher than 900 percent. Amidst non-agreement between finance minister the president and the Congress to reduce inflationary rate, the need for a social pact was discussed.<sup>10</sup> The social pact called for 26.5 percent monthly limit on price increases for 94 basic items and state sector services during November 1988. The Social pact was met by widespread skepticism inflation in November was higher than the agreed to amount, and December figure was expected to be as much high. By the end of 1988, there was a fear for hyperinflation and a collapse of the economy.

Role of Congress also had created problems for Sarney administration.

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<sup>10</sup> Peter Flynn, "Brazil and Inflation a Threat to Democracy", Third World Quarterly, Vol. II, No. 3, July 1989, pp. 50-65.



PMDB leadership openly came up against Sarney. The rift which had erupted between Congress and president during president's attempt to get a five year term had further widened. A senior Senator of Sarney's PMDB commented that "Sarney seem to have lost the will to govern".<sup>11</sup> In the new constitution, on several provisions proposed by Jose Sarney were struck down by the Congress. Jose Sarney confronted the Constituent Assembly in July charging that Brazil would be ungovernable and would suffer "permanent political and social instability" if the draft constitution were approved. In a strong rebuff to the president, the Assembly did approved its latest draft.

By the end of 1988 inflation rose around 1000 percent. Economy was in shambles. It was felt that Jose Sarney has become an increasingly isolated and irrelevant actor in national politics. The only major political figure without a legitimate mandate, the president appeared dissociated from the tasks of governance. His rating in opinion polls had plummeted and his inability or unwillingness to make tough decisions had earned him the disdain of the country's politicians and its voters. Brazil throughout 1988 and 1989 remained in turmoil. The only way that was supposed to be left was presidential elections. Brazilians hoped that new president would be able to give them respite from their problems.

The grounds for 1989 presidential elections were prepared. It was a historic election because it was a direct election taking place after a long period of thirty

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<sup>11</sup> International Herald Tribune, February 16, 1987.

years. Lula and Leonel Brizola had emerged as front runners. Number of other names like Senator Mario Covas, former President Janio Quadros, Vice-president Aureliano Chaves were also doing the rounds. A new name which came up dramatically was that of Fernando Collor de Mello, who eventually made it to the presidency. It seems, the 1988 Constitution was framed in the background of a deep economic crisis and in a political control of a weak incumbent president. An anti-authoritarian development, it has tried to curb the excessive power of the president, preserve the privileges of the legislature, and decentralise powers including in financial matters.

Many of its safeguards proved impractical. As the next chapter describes, the first directly elected civilian since 1960, Fernando Collor de Mello began pushing for policies of economic liberalisation and privatisation through the Congress, much against the nationalist and welfare moorings of the 1988 Constitution. It was however, corruption at the highest level involving the president and his aides that invited congressional action against the president. Fernando Collor de Mello became the first president to be impeached and thus an old political tradition of presidential domination was reversed in Brazil.

## **CHAPTER IV**

### **Position of President: 1989-94**

#### **1989 Election of Fernando Collor De Mello**

In the 1989 presidential elections a total of 22 candidates and parties had registered, but among them only Fernando Collor de Mello, Lula (Luis Inacio da Silva) and Brizola had remained front runners in the polls. As the municipal election of November 1988 ended, the presidential campaign began. Former Rio de Janeiro governor Leonel Brizola, launched his campaign on behalf of the Democratic Labour Party (PDT) early in 1989. It was well known that Luis Inacio da Silva, commonly known as "Lula" would carry the Workers Party (PT) standard.

The biggest surprise of the presidential election in 1989 was the appearance of 39-year old Fernando Collor de Mello, then governor of the small, poor north eastern state of Alagoas. Collor had gained prominence as governor because of his fight in 1987 against the so-called "maharajahs", the civil servants who receive huge salaries for no work. Collor stopped had payment on their salaries in his state and gained instant national fame. He enhanced his popular image by attacking the feeble government in Brasilia. In order to contest the presidential elections, Collor hastily organised a new political party, the National Renovation Party (PRN).

Within weeks of announcing his candidacy, Collor got first place in the public opinion polls and thanks to Roberto Marinho of TV Globo, he held it

throughout the year. Roberto Marinho managed Collor's wide coverage in order to defeat his arch rival Leonel Brizola.<sup>1</sup> Some were of the view that it was Jose Sarney who had persuaded Roberto Marinho of to render his support to Collor. The key issue before the electorate was economy and corruption. Collor heavily concentrated on corruption. He projected his image as the only force who would wipe out corruption from Brazil. His economic programme, never very clear, nevertheless mentioned the need of harsh economic adjustment policies.

On 15 November 1989, more than 80 million Brazilians voted for individuals not political parties. Collor de Mello's final share of the vote was 28 percent. The second-placed and Collor's opponent in the run-off election was Lula, who had defeated Brizola by a little over 250,000 votes in the first-round. Lula offered Brazilians a more radical option. In the run-off, completed on 17 December 1989 it was eventually, Fernando Collor de Mello who emerged victorious; and he had a mammoth task waiting ahead.

After taking the office, the most important task for Collor was to correct the ills of economy, to subdue the whoping inflation and to wipe out corruption of which he himself eventually fell prey. For achieving these objectives, Collor had announced "a sweeping" emergency package of economic reforms, including a price freeze, a new currency and jail term for economic crimes. "Brazilians want serious action now", announced the new president during a nationally-televised cabinet

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<sup>1</sup> Riordan Roett and Scott D. Tollefson, "The Year of Elections in Brazil", *Current Affairs*, vol. 89, January 1990, pp.25-29.

meeting on his first full day in office. The president was faced with a 2,700 percent annual inflation rate and a debt of 31 billion dollar.<sup>2</sup> Collor promised to curb runaway inflation, trim the bloated state bureaucracy and redistribute wealth.<sup>3</sup> In order to take on inflation, he announced freeze of prices for 30 days. He also announced reform for public sector administration. Given his weak position in Congress and to ensure congressional support for his policies, Collor appointed two senior members of Congress as his cabinet colleagues. He assigned them the ministry of education and justice.

Collor administration made a good start by persuading business community and Congress to face up the imperatives of free market competitiveness. Most important, he reinforced civilian rule by curbing the entrenched political power of the armed forces.

Despite all his seriousness to put the economy back on track, he did not succeed. His policies to lure foreign investment did not produce results. Net foreign direct investment in Brazil came down to dollar 65 million from 125 million dollar.<sup>4</sup> He failed to control inflation. Present president Cardoso commented on Collor's failure to curb inflation that "Collor put the military in its place, he made progress on the environment, he opened the economy he broke up monopolies but

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<sup>2</sup> *Times of India*, (New Delhi), 18 March 1990.

<sup>3</sup> *Christian Science Monitor*, (Boston: Mass) 22 March 1990.

<sup>4</sup> *Bangkok Post*, (Bangkok), 15 April 1991.

all this is obscured by the image of a man who could not beat inflation".<sup>5</sup>

*Jornal do Brazil*, an independent Rio de Janeiro daily decried Collor by saying "A lot of Noise and little Action". Protests started with many protestors demanding his resignation. Inflation remained adrift at 23 percent monthly. Collor who declared that inflation would be his enemy number one failed to tackle the enemy. Political death knell sounded for Collor when his brother charged him with corruption.

### **Impeachment of Fernando Collor de Mello**

Collor was charged with receiving \$ 6.5 million in bribes solicited by his friends and supporters in exchange for government favours. It was alleged that an influence peddling and kickback scheme was run by one of his closest associates, Paulo Ceasar Farias and Collor received million of dollars from Farias for his household expenses. Collor retorted back by saying that he knew nothing about the scheme. Congressional enquiry was setup. Parliamentary commission of inquiry found strong evidence of president Fernando Collor de Mello's involvement in corruption. The evidence collected by CPI (*Comissao Parlamentar de Inquerito*) showed that former campaign fund raiser, Paulo Ceasar Farias, controlled an extensive network that facilitated public contracts and influenced government decisions in exchange for kickbacks and commissions. Members of the CPI

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<sup>5</sup> *International Herald Tribune*, (Paris), 15 March 1991.

estimated the total amount of money involved at about two million dollars.<sup>6</sup> CPI also uncovered more than 40,000 kickback checks made out to bank accounts controlled either by Collor or his closest associates.

CPI also found that some of the money was used to pay for the maintenance of Collor's house and the regular expenses of his family. Most of the deposits to Collor's account took an illegal and now well known form: phantom cheques, that is, cheques from bank accounts opened by Farias's associates using fake identities. One of the cheques was used to buy Collor's car. Evidence indicated that Collor spent \$ 2.5 million to build a spectacular garden at his home. CIP after collecting evidences submitted its report. After going through the *prima facie* evidences, Congress gave its nod for president's impeachment. President's impeachment was a new thing for Brazil. New because presidents in Latin America generally and in Brazil particularly had always dominated and controlled the Congress. The impeachment process became more important for Brazil because it marked the ascendancy of Congress and consolidation of democracy.

As soon as Congress began the impeachment process, president Collor, sensing that no party in Congress was able to throw him out alone started luring congressmen to his side. Weak party organisations and lack of party discipline made the Congress vulnerable. In Congress the highest percentage of seats 21 percent were in the hands of PMDB followed by PFL with 17 percent. President's own

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<sup>6</sup> Barbara Geddes & Artur Ribeiro Neto, "Institutional Sources of Corruption in Brazil", *Third World Quarterly*, Vol. 13, No. 4, 1992, pp.641-659.

party controlled only 9 percent of seats. Lack of proper impeachment procedure in the 1988 constitution and the consequent uncertainty about whether and how it might be accomplished further increased the problems of Congress.

Amidst all this, a mobilised public opinion resolved the problems of Congress. An informed and mobilised public that made clear its intention of defeating legislators who supported the president in spite of evidence of corruption persuaded them to stand against Collor. Several factors like distress caused by Collor's policies, the timing of municipal elections, and the decision to broadcast deputies votes on television worked as bulwark against Collor's maneuverings. Demonstrations by public against Collor acted as a pressure upon legislators. The demonstrations were to send the message to legislators that public cared about the issue and would not forget.

The impeachment process began in Chamber of Deputies on September 29, 1992. Chamber of Deputies finally impeached Collor by a vote of 441 to 38. Chamber of Deputies also decided to relieve Collor of his powers for a maximum of 180 days while awaiting the impeachment trial in the other house of the Congress. It was for the first time that any president in a Latin American country had been impeached. Next round of impeachment proceedings in Senate was fixed on 29 December, 1992. Number of reports were published in newspapers to assess the role of senators; in the end, 71 of the 81 senators were willing to vote against Collor.

On 29 December, 1992, Collor resigned as president of Brazil, 22 minutes



after the Senate began his impeachment trial. Collor hoped by his action to avoid the prohibition from holding office for the next eight years that a conviction would have resulted in, along with his forced removal from the presidency. However, by a vote of 73 to 8, the senators decided to continue the trial even after the resignation and stripped Collor of his political rights until the year 2001.<sup>7</sup> Collor entered the presidential palace on the issue of corruption and was forced to exit because of corruption.

The long rule of the armed forces and the economic development policies of the military regime had produced significant social and political changes in Brazil. For one, the domestic business had grown in stature and size and by 1980s was capable of defending its class interests. The weakening of corporatist controls had also freed the labour and gave birth to what came to be called 'new unionism'. Likewise, the extension of basic welfare laws to rural and agricultural workers had caused the spread of unions in the rural areas too. Urban middle classes had highly effective professionalised associations to represent their interests. Some of these changes were at work during the framing of the new constitution as interest group lobbying was very strong. That Brazil was changing rapidly was also apparent in the strong popular reaction that led to the impeachment of Fernando Collor de Mello.

These changes were also related to other volatile political developments in

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<sup>7</sup> Carlos Eduardo Lins Da Silva, "Brazil's Struggle with Democracy", *Current History* (Philadelphia), Vol. 92, No. 572, March 1993, pp. 126-129.

the 1980s. The best example, noted earlier, was how the PMDB-PFL's Democratic Alliance secured majority in the 1986 elections; and there by in the Constituent Assembly. Having done that, the Constituent Assembly was however without the leadership of the incumbent president Sarney, whose own popularity nose-dived with the failure of the Cruzado and other plans. PMDB-PEL's Democratic Alliance lost miserably in the presidential elections of 1989. Ulysses Guimaraes and Aureliano Chaves contesting for president and vice president could secure no more than 5 percent of the votes.

The direct vote for the president held in 1989 reflected some of the shortcomings and infirmities of the 1988 constitution. The constitution could not shake its narrow plebescitory approach to politics which civilian opposition had begun developing during the long military rule. The myth that plebiscitarian presidentialism would ensure stability in a political system that is highly fragmented and has features of consociationalism in the form of intra-elite bargains were incorporated in the 1988 constitution. This is how double-ballotting was provided for presidential, in fact for all major executive elections on the assumption that presidents would be able to claim popular legitimacy and a broader governing majority. Collor's election in 1989 indicated that the electoral process reinforced the plebiscitory and polarising components of the system, which under the changed circumstances were not strictly useful for democracy. There is no way, the constitution could check the polarising tendencies, and given the fragmented nature of the party system, check the arbitrary and corrupt practices of an incumbent

president.

The political system including the constitutional provisions allowed Collor to function in an imperial and, as later revealed, corrupt manner. Neither political nor constitutional provisions restrained the president from implementing an economic adjustment programme. The failure of successive plans and programmes coupled with president's own involvement in corruption had produced a confrontational situation between the president and the Congress. To some extent, this was directly related to the constitution especially the way it delineated of presidential and congressional powers.

#### **Interim President Itamar Franco.**

After the impeachment of Fernando Collor de mello, Itamar Franco stepped in as the new president of Brazil. Congress was already feeling invincible. Itamar Franco had to tread cautiously. For once in the history of Brazil, Congress had established its supremacy over the executive. The 1988 constitution appeared stood vindicated in its resolve to strengthen the legislature. Though he was chosen by Collor to serve, Itamar Franco tried to separate himself from Collar's policies in a bid to receive congressional support. In the first eight months, the administration of Itamor Franco lacked clear direction and failed to make any headway in combating Brazil's severe economic and political problems.

President Itamar Franco unveiled an economic programme that was likely to slow the country's move toward open, deregulated markets, and an economy based

on low inflation rate<sup>8</sup>. Failed in his efforts to accrue the desired results, Itamar Franco appointed as finance minister Fernando Henrique Cardoso, a well respected leader of the moderate PSDB for the remainder of the presidential term. However Cardoso could not muster the support of Congress for structural reforms. Lacking the democratic legitimation of an electoral mandate, the interim president had to confine himself to temporary stabilisation measures. Congressmen refrained from supporting government's controversial policies. It was thought by Itamar Franco that constitutional revision would provide him required space for overhauling Brazil but ultimately low attendance by the governments supporters and fierce obstruction by the leftist opposition doomed the constitutional revision<sup>9</sup>. None of the government's proposals for structural reform passed, most did not even come up for a vote. The only success which was achieved by the government was approval of a short term fiscal stabilisation plan.<sup>10</sup>

Thus in the face of lack of popular support, erstwhile powers enjoyed by the Brazilian presidents, and above all an obstructionist Congress, Itamar Franco government failed to deliver any goods. Presidency during his tenure was overshadowed by the Congress.

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<sup>8</sup> Nathaniel C. Nash, "Brazil's New Chief Pulls back from Open Market", *International Herald Tribune* (Paris), 2 January, 1993.

<sup>9</sup> Brazilian Fiscal System was in Shamble. To overhaul the system opening of economy was needed. For opening of economy certain constitutional amendments were needed.

<sup>10</sup> Kurt Weyland, "The Brazilian State in the New Democracy", *Journal of Inter-American Studies and World Affairs* (Illinois), March 1997, pp.63-87.

## CHAPTER V

### Presidential Term of Fernando Henrique Cardoso: 1995–

#### Election of Fernando Henrique Cardoso as President of Brazil

Fernando Henrique Cardoso became President of Brazil in 1994. He took office on 1st January 1995. Before stepping in to the Presidential palace Cardoso worked as finance minister in Itamar Franco's caretaker government. His popularity and strength in presidential election campaign had even come from the work he had performed as finance minister of the country. He had successes in curbing the inflation from 5 to 1 percent monthly. Even more important, he did the job amidst the constraints thrown by a bouyant Congress, which felt itself omnipotent after the successful impeachment and successive disenfranchisement of Fernando Collor de Mello.

The anti inflation, programme was called the *Plano Real* which introduced a new currency whose value was tied to the dollar; and several new taxes were also introduced. Taxes were imposed in order to curb the huge deficit. The plan worked Brazil by the end of September 1994 seemed to take off on a burst of growth. Riding the wave of popularity generated by his anti-inflationary measures Cardoso won the presidential election of 1994.

In his inaugural speech Cardoso urged Brazilians to work towards a more socially just and prosperous country. He said that "our economy is like a healthy

plant after a long drought. The time has come to grow and blossom".<sup>1</sup> Cardoso also promised to open Brazil's protected markets and push the privatisation of state enterprises. He also promised to reduce the domestic imbalances- the extreme inequalities among regions and social groups, because in his reckoning they were the greatest obstacles in the path of development. Thus in his inaugural speech Cardoso generated hope for common Brazilians hoping for stability and better living standards after ending 5,000 percent a year inflation and corruption and also anxiety among the highly profitable alliances between business and the old style politicians.

### **Reforms by Transaction (1995-1998)**

Fernando Henrique Cardoso stepped in president's office on 1st January 1995. Going by the content of the inaugural speech, Cardoso presented an agenda that was mammoth. He referred to the need of fiscal reforms, administrative reforms, social security opening of economy, constitutional amendments etc. Most of his proposed reforms needed the solid backing of Congress because the days were gone when the Brazilian president could formulate major policies. Of course the parties were in Congress to support the initiatives of the president. Under the 1988 Constitution, though president enjoyed wide powers; in practice, he was constrained by an often obstructive Congress by independent minded and powerful state governors and by an occasionally interventionist judiciary.<sup>2</sup>

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<sup>1</sup> Jonathan Power, "Chance for Brazil to Become a Super Power with Cardoso's Win", *New Strait Times*, (Kualalampur), 8 October, 1994.

<sup>2</sup> "Cardoso Plough Ahead", *The Economist*, 6th May 1995.

Sensing the trouble from all sides and having witnessed the plight of Collor, Cardoso started treading cautiously. He has pursued his agenda through transaction. Whereas Collor confronted and antagonised politicians, interest groups and strong state governors. Cardoso has tried to negotiate with them. Given the interests of these players in maintaining many aspects of the status quo, the progress of Cardoso's reform initiatives was very slow. The key players in Brazil like politicians, interest groups were not allowing president to continue with his economic reform policies. The most striking example of president's lack of power and Congress ascendancy was that of the government's bill to reform the deficit ridden social security and pension systems. The bill got through the lower house of Congress, but only at the second attempt and after president's offering of certain compensation. After the passage of the bill from the Congress Supreme Court came in and responded further action on procedural grounds.

Cardoso dealt with such situation on the basis of his political strength which he drew from his overwhelming electoral mandate. He kept his popularity and appeal intact by appealing to "the people" over and above the politicians, parties and interest groups. The disrepute of politicians and interest groups because of their involvement in the budget scandal of late 1998 and early 1994. Further emboldened Cardoso to pursue his reform efforts.

Furthermore the threat of a powerful socialist left, which had grown in the course of democratisation, helped to discipline established politicians and the private sector. The strength of left epitomised by Lula revealed the electoral weakness of

established politicians, and many rightist and centrist parties felt indebted to the eventual winner, Cardoso, and induced them to look more kindly to his reform efforts, which the new president depicted as necessary for retaining his economic stabilisation plan in the medium and long terms. Thus, in a number of ways, the repercussions of democratisation reinforced president Cardoso's clout, debilitated his opponents, and improved his chances for enacting some important reforms.

Devoid of many of the powers which Brazilian president enjoyed in past, Cardoso has employed clever political tactics. He attempted to exploit differences among politicians, state governors, and business groups, reinforcing those of their demands that coincide with his own reform agenda and compensating demands he cannot satisfy.

Cardoso's negotiating strategies differ slightly with each set of potential Congress members. In dealing with politicians, Cardoso has tried to play their short-term interests off against their long-term goals. Politicians want to gain current patronage and maintain access to future patronage. Because of uncertainty and unpredictability created by electoral system of open-list proportional representation politicians heavily discount the long run and focus on the short run. Cardoso therefore has offered patronage immediately so as to persuade politicians to accept various reforms that seek to limit patronage in the future.

Dealing with governors of various states has been easy for Cardoso because the interests of state governors partly coincide and partly diverge with Cardoso's reform goals. While the state governors opposed any attempt at fiscal centralisation,



they face an especially growing need for administrative reform which would allow them to slim down their bureaucracies and reduce their enormous financial deficits. Cardoso has therefore enlisted the governors as allies in his struggle for civil service reform, which intends to eliminate the employment guarantee reinforced and extended by the 1988 Constitution. In the area of fiscal reform Cardoso paid compensation for any loss that the state governments would incur.

To deal with private business community which have a collective interest in macroeconomic stabilisation and state reform but individually refrain from taking any action Cardoso has employed another tactics. Cardoso has sought to mitigate the collective action dilemma by welcoming the efforts of business leaders to create a more cohesive, encompassing organisation of the whole private sector, known as *Acao Empresarial*.

With these clever tactics, Cardoso has pursued his wide ranging efforts at state reform. Through tax reform, the government has tried to guarantee the state a solid fiscal foundation. Through profound administrative reforms, the government has sought to professionalise the public bureaucracy and make it more efficient and accountable.

Despite the clever political tactics and strong democratic mandate Cardoso faced obstacles especially in case of reforms. Above all, Congress attempted to minimise the cost they must bear and to extract price for the losses they may incur. In the area of fiscal reform, for instance, state governors have blocked, any revenue

shift from the sub-national governments back to the central government. In addition politicians have obstructed a lasting solution to Brazil's fiscal crisis and have agreed merely to a temporary extension of the tax package adopted in early 1994. The goal to maximise patronage governed this decision. Every time the federal government has to win approval for a further extension, politicians extracted new patronage.

Similar difficulties have hindered administrative reform. Within the period since 1994 to 1998 politicians were unwilling to vote for a change especially the abolition of the employment guarantee for public servants.

Privatisation also proceeded slowly at the beginning of the Cardoso government, which by December 1995, had sold only five public enterprises. The staffs of these firms, concerned about their jobs, salaries, and generous fringe benefits, and the ministries supervising them, reluctant to lose power, resisted privatisation.

Because of all these reasons president Cardoso was unable to push his reforms vigorously. His successful attempt to win the right of reelection exposed him to patronage hungry parliamentarians. The continued influence on public appointments and resource allocation that politicians demand in return for the endorsement of president Cardoso's reform initiatives depict the lack of president's power in practice.

In sum, the efforts of the president Cardoso to accomplish state reform through transaction have had only limited success. President's negotiations have advanced slowly and unevenly. In spite of its slow advance Cardoso was able to

accomplish certain significant changes not on the basis of presidential power but on the basis of negotiations.

### **Re-election of Fernando Henrique Cardoso**

In his first tenure from 1994 to 1998, president put forth number of reforms for congressional approval. In all his initiatives he either failed or got little respite. The only exception was the demand for second term. He pursued this attempt vigorously. For the very purpose he used all his political skills and even used all sorts of political patronage, machinations and manipulations. Even it was alleged that he went to the extent of offering bribe to five congressmen through Sergio Motta,<sup>3</sup> the close associate of Cardoso. Opposition cried foul and demanded an inquiry. Cardoso succeeded in his efforts when on 28th January, after much lobbying but still by an unexpected margin, the lower house of Congress backed a constitutional amendment to allow an incumbent president a second consecutive term. The vote signal led another term for Cardoso ensuring continuity for his programme of economic reform.<sup>4</sup>

Election took place in October 1998. Cardoso defeated his perennial opponent Lula (Luis Lnacio da Silva) in the presidential election. Cardoso received 52 percent of votes in 1998. Cardoso also ensured congressional majority with the help of alliance of four parties. But time and again after his re-election it was

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<sup>3</sup> "Brazil Bought Votes and Presidential Perils", *The Economist*, May 24, 1997, p.43.

<sup>4</sup> "Mortal After All", *The Economist*, May 3rd 1997, p.36.

reflected that he would not be able to push forth his much discussed proposals. Even the election of various opponents of president Cardoso to the post of president of the Congress was expected to make his situation worse because in lack of support he won't be able to push his reforms.

It was even reported that popularity of president was decreasing rapidly. Newspapers reported that :

There is a point that must be stressed that popularity of government is higher than the popularity of president. Although both aspects have shown indices of popularity quite low.<sup>5</sup>

Reasons for his loss of popularity were his failure to contain the deepening of social and regional inequalities, and increase of unemployment. Rio Grande do Sul Olivio Dutra blamed Cardoso for putting the country in the hands of I.M.F.<sup>6</sup>

The loss of popularity may snatch one of the most powerful weapon from the hands of Cardoso, namely negotiations with which he pressed the Congress and politicians in his first term. A new kind of polarisation between various political parties is also taking place. The latest example came up in August 1999 when political setup was surprised by an approach between the PT (Party of the workers) under the leadership of Lula and the Rural Democratic Union (UDR) under the leadership of Ronaldo Caiado. Why the PT, a leftist party, representing mainly the

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<sup>5</sup> Gazetia Mercantil, 2nd October 99.

<sup>6</sup> Jornal do Brazil, (Rio de Janeiro) 4th August 1999.

interest of the working force in the industrialised centres and the UDR an extreme rightist party are coming together? Observers say that such an alliance is going to create in the Brazilian parliament a front which is going to create difficulties in the passage of reform policies inspired by the neo-liberal trend that is present in Cardoso's economic policies inspite of fact that he himself more than once has denied that he subscribes the neoliberal ideas.<sup>7</sup>

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<sup>7</sup> *Jornal of Brazil (Rio de Janeiro)*, August 4th, 1999.

## **SUMMARY AND CONCLUSIONS**

In the preceding Chapters, a modest attempt has been made to describe and delineate the powers and functions of the president in Brazil. Latin American countries including importantly Brazil remain essentially president-centered irrespective of the fact whether the political system is democratic or authoritarian. In the first Chapter, an attempt has been made to trace the origin and evolution of the presidential powers. Political traditions, legacies of monarchy, and the critically important role Brazilian armed forces played in the establishment of First Republic had endowed the president with some extraordinary powers. The constitution of 1891 had vested the president with the powers in the affairs of the state; and it was this provision that soon brought the President Deodoro de Fonseca in conflict with the Congress which was dominated by the regional interests. The federal government in Rio de Janeiro was weak and unable to challenge the powerful regional interests. Almost all through the First Republic, the situation remained like that. Large and economically rich states like Sao Paulo, Minas Gerais and Rio Grande do Sul showed so much independence that they maintained diplomatic relations with foreign governments, displayed their state flags above the national one, and even called their state governors 'presidents'. The centrifugal structure of power had created what is known as the 'politics of governors' at the national level. The chief prize in the politics of bargaining between the big and rich provinces was often the federal presidency.

The coming to presidency of Getulio Vargas lessened these centrifugal pulls. The 1934 Constitution clearly gave preeminence to the national executive; state flags and anthems were abolished; and importantly, most economic functions were now handled by the federal government. Vargas' *Estado Novo* strengthened and reinforced centralisation to the extent that even after his departure in 1945, the federal government's powers far out-paced states' rights.

No doubt, Vargas exercised powers far in excess of those conferred by the constitution. When he was installed as provisional president in 1930 by the armed forces and until 1934 when the new constitution was drafted, Vargas ruled by decrees. There was no legislature to check his powers; Vargas appointed new governors in all the states, except in Minas Gerais, who directly reported to the provisional President Vargas; and besides, he used his office to break the powers of regional political machines and anti-Vargas factions. The 1934 Constitution therefore reflected some of the centralising tendencies of the period.

A crucial factor in the ascendance of the president was the support of the armed forces. Since 1889, military had arrogated to itself the role of *poder moderador*, and its used its position to instal Vargas as president in 1930 and again backed his declaration of *Estado Novo* in 1937.

It was military's commitment to hold free and democratic elections in 1946 that had allowed Eurico Dutra to win the presidency. This time around, the Constituent Assembly drafted a constitution that gave more powers to the states and

vested Congress with considerable legislative and financial powers. The role of military as *poder moderador* was evident even more in the manner, Vargas' presidency came to an end in 1955 and the period until the military coup of 1964.

The element of parliamentarism has remained present in Brazilian political process. There was an experiment with semi-parliamentary process during the monarchy in the nineteenth century. Once again, Brazil briefly experimented with prime ministerial institution when the military and other powerful political interests attempted to counter-balance the powers of Joao Goulart in 1961.

The military regimes (1964-85) were those of authoritarian military presidents. The powers of the provinces as well as the Congress were severally curbed and curtailed through a series of Institutional Acts and other measures. Congress was purged, put in recess, and its powers were systematically destroyed. Often it was used to legitimate the junta's choice of presidential candidate. Military presidents used Congress to legitimate their authority and policies; nevertheless, what is important is that at the some time, Congress became the arena of conflict between the president and the civilian elements seeking some space for political activities.

It has been described in the second Chapter. The process of 'decompression' and *abertura* were regime initiatives and directed from above. Both Presidents Ernesto Geisel and Joao Figueiredo nevertheless left their personal impression on the process. One witnessed that the process by and large moved along a



contradictory pattern. Every measure at liberalising the process allowed civilian political forces attempt to enlarge the political space; and every time, the military regime would held back the process of political 'opening'. No gainsaying, military presidents succeeded in keeping control over the process of liberalisation; however the political events that followed the results of 1982 elections soon confirmed that the regime will not for long be able to forestall the civilian democratic elements. An important development in this regard was change in the party configuration within the Congress. The Democratic Alliance comprising of the opposition Brazilian Democratic Movement Party (PMDB) and others soon paved the ground for the election, albeit an indirect one through the electoral college, of the Tancredo Neves the first civilian president in twenty years.

Jose Sarney arrived in the presidential palace without a popular or electoral mandate. The death of President-elect Tancredo Neves before he could assume the office put the presidency and a pattern of elite negotiations and bargains that had been characteristic of Brazilian politics and got reinforced during the twenty years of the military, were the other factors that put pressures on the presidency of Jose Sarney. He proved a weak president who was dependent on congressional support and emerging power configurations. Brazil's economic woes including heavy external debt, inflation and faltering economy further limited presidential choices in matters of economic policies. Sarney came up with Cruzado plan that initially boosted economic growth and consumption but ignited yet a new round of run on

the prices of essential commodities. As the third Chapter has described, Cruzado plan nevertheless helped the PMDB-led Democratic Alliance gain substantial number of seats in the Constituent Assembly elections of 1986.

The 1988 Constitution has provided for a direct election of the president and sought to balance the presidential powers by vesting considerable legislative and financial powers in the Congress. At the same time, it has aimed at decentralisation with considerable political and fiscal autonomy for the states and the municipalities. At the same time, it has aimed at decentralisation with considerable political and fiscal autonomy for the states and the municipalities. At the same time, the constitution seeks to protect certain strategic sectors of the economy by keeping them out of bounds for foreign investments; it also extends and expands welfare entitlement and social measures for the poor.

In 1989, Brazil held its first direct election for the president after a gap of nearly thirty years. The economic programme of president Fernando Collor de Mello soon started a new confrontation between the president and the Congress. The 1988 Constitution has endowed Congress with powers to check the functioning of the president. Congressional majorities on several occasions reversed the president's economic initiatives. The head-long clash between the executive and the legislature began in the wake of the charges of corruption against Collor. Exercising its powers to investigate the probity of the chief executive, Congress impeached Collor who could not even complete two years in office. Brazil once again found

itself at the cross-roads. The mantle of office fell on Vice-President Itamar Franco in 1992. The remaining term of the president had once more to be completed by the vice president.

As has been discussed in the fifth Chapter, the election of Fernando Henrique Cardoso has initiated a new period when the incumbent president has tried to work out compromises and bargains with the Congress for his economic and political policies.

Cardoso assured Brazilians to build a new Brazil. For the realisation of his programme he has tried not to confront Brazilian Congress which has emerged as powerful body in the post-1988 period. He has pursued his policies through transaction. Cardoso gave patronage to the politicians; he has appealed directly to the public; and has extensively used the decree powers. His *Plano Real* which gave some respite to Brazilians from inflation had initially built his credibility. On the basis of this credibility he even bargained with congressmen. But for the moment, he has not tried to bypass Congress in the manner presidents of pre-1988 period did. Despite of his well-planned and calculated moves, he did not succeed in gathering any of the constitutional amendments through the Congress that would have allowed privatisation of social security schemes etc. However managed to get through a constitutional amendment allowing second term for the president.

In 1998, he was re-elected to the office. New kind of political alliances within and outside the Congress are bound to create difficulty for president in

Congress, making it incumbent upon a president to pursue policies based on negotiations and compromises.

Thus after 1988 Constitution, presidents can no more overlook the Congress. An assertive Congress and a fragmented political party system make it imperative for the president to follow the path of bargain, compromise and consciences. An important legacy of the long military rule has been the plebiscitary pattern of politics where contesting parties and alliances have looked at politics in confrontational terms. The multiplicity of political parties, varied elites representing different interests and classes and groups that are well-entrenched in the Congress, and armed forces whose instituting interest and guaranteed and who restrain their conventional role of *poder moderador* make it imperative for both the executives and the legislature as well as the federal and state. Governments to opt for negotiation and compromise. These forces and process are impelling the democratisation of the office of president.

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