

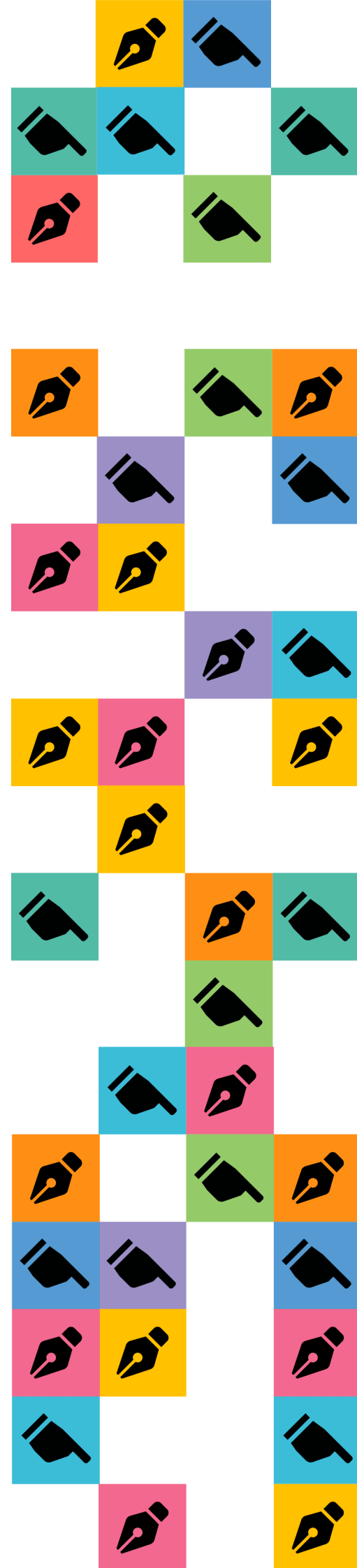
How can we analyze authoritarianism in Brazil?

Methodological foundations of
the Emergency Agenda, a tool
for mapping the authoritarian
agenda since 2019

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LAUT  **EMERGENCY
AGENDA**



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INTRODUCTION

Democratic recession, authoritarian populism, autocratization: the current democratic crisis in Brazil and elsewhere has been studied in various fields of knowledge and called by different names. Facing the lack of empirical and conceptual tools to analyze the multiple factors involved in the current processes of democratic decline, which have intensified in recent years, LAUT has developed the Emergency **Agenda project**¹. As its central object the **platform has the Brazilian political-institutional junctures since the inauguration of Jair Bolsonaro on 01/01/2019 and aims to build a well-informed archive of formal and informal acts of public authorities whose actions that have damaged or put democracy and freedoms at risk have been mapped through research in the mainstream press and specialized monitoring hubs.**

The project cross-references literature on “illiberal” democracies and constitutional erosion, states of exception and emergency, and the incomplete transition of political regimes, and seeks to bring them into the conversation, since the phenomena they describe are currently correlated and combined, but have not necessarily been related by researchers. Under this approach, which combines theoretical analyses from different fields with the observation of empirical phenomena found in the current Brazilian context, we have developed a way to classify the events that pose risks to freedom and democracy. This classification was never intended to be permanent and can be refined as the need arises. In this paper, we present the main references that have informed the construction of each of the categories articulated in the Emergency Agenda.

The Emergency Agenda seeks to identify the various risks to freedom and democracy in the current Brazilian context, showing the relations between the ways in which these risks appear. The main purpose of the project is to enrich the understanding of what we are living through by looking both at our past and at more recent events.



It is worth noting that the very concept of democracy and its combination with other paradigms and institutions are under dispute. Regardless of conceptual divergences, the idea that liberal constitutional democracy is opposed to authoritarianism in its form of organization and political coexistence prevails. The authoritarian tendency undermines the valorization of liberties, autonomy, equality, and political participation, besides the respect for constitutional precepts and the system of legitimate choice of representatives through elections.

One approach to democracy studies questions on whether authoritarianism implies only authoritarian leadership or a change in the political regime². This approach is too restrictive to define what we are currently experiencing, a crisis that is not necessarily linked to the change in a form of government³ and often does not even have a moment that can be identified as the end point of the democratic regime. Instead of drastic authoritarian moves, democratic institutions and practices are used and hollowed out gradually⁴. **In addition to being gradual, democratic erosion is less and less identifiable in terms of legality.** Behind the majority of the autocratization processes, there are legal means of political-institutional change or at least a façade of legality. This would differentiate the “new wave” of autocratization from those in the past, which focused on illegal tactics to rise to power, such as military invasions and coups or self-strikes - although these also made use of the law⁵ and language of democracy⁶.

1 <https://agendadeemergencia.laut.org.br/en/>

2 See, for example, Franz (2018).

3 Tóth (2019).

4 Lührmann, Lindberg (2019).

5 Lührmann, Lindberg (2019).

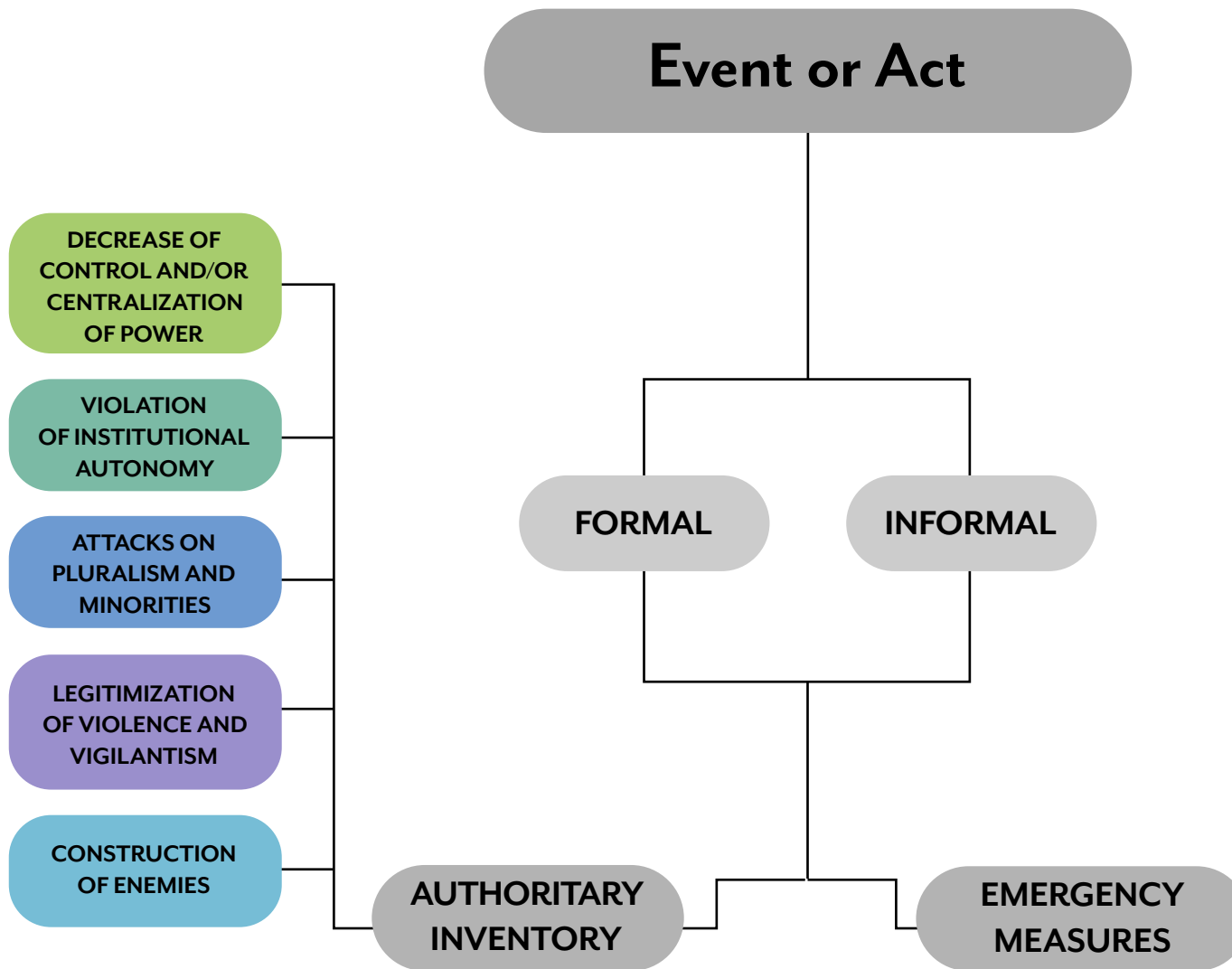
6 Brooker (2014).



On the one hand, Brazilian democracy is facing acts and behaviors that delegitimize elections, attack pluralism, and incite violence. On the other, democracy as a political regime is under pressure during the current health crisis. In order to map the different acts linked to the double challenge that Brazilian democracy faces today, we established a list of categories for ‘emergency measures’ and ‘authoritarian inventory measures’. The aim of the project is to build an archive to inform medium and long term analyses and, above all, to draw immediate attention to the current process of democratic erosion – which also reflects our past, in which authoritarianism was maintained through constant adaptations and reinventions.

Through this project we seek to engage people – beyond academics and experts – who are interested in learning more about and defending our democracy. Thus, our focus is on trying to develop a dialogue with people in a transparent and honest way, providing more subsidies for a political education.

These assumptions having been established, we will present the categories created for the project. The following table presents them schematically, but each will be detailed in later sections of the text.



A FORMAL/INFORMAL POWER

The Emergency Agenda adopts the bifocal study of both formal and informal phenomena to understand authoritarianism. This option is not the rule in the field of political science or law. There is, in fact, a double blind lens: political scientists, when studying regime transitions and the consolidation of non-democratic regimes, have often left the study of law to one side⁷. On the other hand, legal scholars, when studying such regimes, often disregard the norms beyond their ideal dimension, remaining stuck in a normativism that, alone, is unable to understand the strategies that regimes employ to exercise their political power⁸. **Crossing both dimensions, however, allows for a broader diagnosis of authoritarian modes of action, and the categories of “formal” and “informal” exercising of power ensure this goal.**

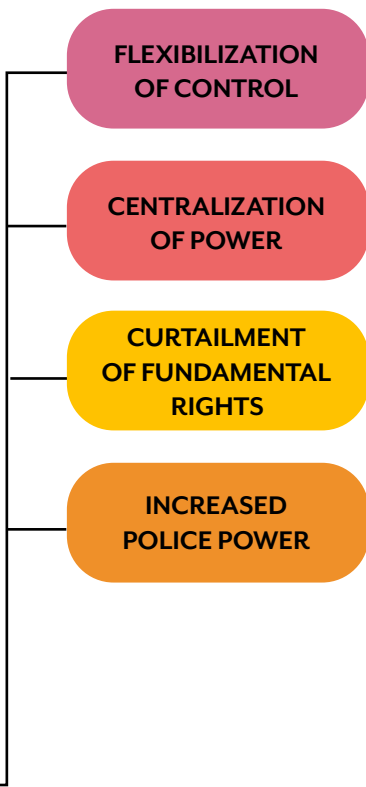
As formal power, we understand that which is disciplined by legislation, which can be exercised “at the stroke of a pen” and requires the observation of legal rites and procedures. This category draws attention to the arbitrary use of power – “authoritarianism” as an “arbitrary governmental activity”⁹ –, but also allows steps of democratic decline to be highlighted via legal-institutional reforms. Informal power, on the other hand, is that which is regulated by the signifying codes of political life; a dimension that law does not and cannot regulate, but that produces a positive or negative effect on the quality of the political regime (liturgies, discourses, negotiations, interactions, eye-to-eye engagements, handshakes, authoritative commands, etc.).

The interplay between acts of formal and informal power is especially revealing in the field of education. A series of acts of informal power delegitimizing teachers, public institutions of higher education, and scientific knowledge itself was accompanied by formal power acts that could go unnoticed as mere budgetary discretionary choices, but reveal a sense of undermining educational policies once contextualized.

7 On this matter, see, for instance, Pereira (2005). For approaches that focus less on the institutional traces of the recent authoritarian regimes, due to the weakness of institutions, see Levitsky; and Way (2010); Brinks (2020); and Murillo (2020).

8 For a broad analysis on this matter, regarding Brazilian authoritarianism under Getulio Vargas (1930-1945), see, for example, Loewenstein (1942).

9 Tóth (2019).



B AUTHORITARIAN INVENTORY

Brazilian history is filled with authoritarian episodes and traditions¹⁰, to which centralizing institutions and leaderships, for example, have contributed, as have the structuring practices of discrimination and racial segregation. **We understand that we currently live not only with static remnants of past authoritarian regimes, but also with the reinvention of authoritarian tools¹¹.** The Emergency Agenda classifies Authoritarian Inventory measures as being formal and informal state acts that employ tools of constant authoritarian reproduction that coexist with the democratic regime, but affect it as a system of choosing legitimate representatives and as an institutional dynamic for protecting rights and guaranteeing pluralism. Such measures are classified in five modalities: (i) decrease of control and/or centralization of power; (ii) violation of institutional autonomy; (iii) construction of enemies; (iv) attack on pluralism and minorities; and (v) legitimization of violence and vigilantism.

DECREASE OF CONTROL AND/OR CENTRALIZATION OF POWER

The international literature on the current democratic decline highlights the use of mechanisms to decrease democratic checks on the executive branch – notably those made by the legislative and judicial branches, by the executive branch on itself, and social control of the executive branch¹². Some authors mention an “aggrandizement” of the executive branch, which would occur when it weakens the checks to which it is subject and, to this end, undertakes a series of institutional changes¹³, whilst they also speak of a gradual concentration of power as a key feature of contemporary autocratization¹⁴.

Others frame the terms of this debate under the terminology of a reduction of political checks (accountability). Thinking about the agency of the State to check itself, studies have already pointed out a worsening under the Bolsonaro government in the indexes of transparency, inspection, sanctions, institutional capacity, popular mobilization and dominance, which would be six possible dimensions for the measurement of “accountability”¹⁵.

From a social perspective of the phenomenon, studies on political participation advocate the “democratization of democracy”, making public agents more responsive to popular demands¹⁶.

One of the episodes that best demonstrates the centralizing nature of the measures adopted by the Bolsonaro administration is the extinction, in 2019, of the National Policy for Social Participation. Justifying it as a budgetary cut, the measure affected more than 700 committees, councils, and working groups made up of representatives of civil society, which acted in order to improve policies in various areas of the federal government.



In this literature, the reduction of checks is generally associated with a centralization of the power of certain state agents. On the other hand, such centralization of power can also forge, exceptionally, an (unconstitutional) increase of checks. Through this process certain governmental bodies acquire the power to check the conduct of public agents or authorize the publication of scientific research, for example¹⁷. This aspect, in turn, is not well delimited in comparative literature. **We chose to maintain a single category to classify both phenomena in Brazil because we understand that, in most individual manifestations, the centralization of power and the reduction of checks come together, that is, they are exercised simultaneously.** Even so, we also recognize the possibility of fewer cases of conflict between both terms of the category, that is, acts that denote either a reduction of checks or centralization.

2 VIOLATION OF INSTITUTIONAL AUTONOMY

The violation of institutional autonomy implies an action contrary to the institutional functions and objectives pursued, often resulting in the emptying of agencies and other institutions of the public administration due to political-ideological stances, partisan interests, or personalist culture. It does not always operate suddenly, with simple nominations and dismissals of technical civil servants. In fact, it can also extend over time, becoming progressively established through an accumulation of acts of a diverse nature¹⁸. In this sense, the continued vacancy of strategic positions illustrates this violation of institutional autonomy deferred over time.

We can group the strategies of violation of autonomy into three main categories. First, there are the nominations, dismissals, and normative changes made unilaterally by the government, which threaten the pursuit of the attributions of the most diverse institutions. Secondly, the strategic continued vacancy of positions, which creates obstacles to the guarantee of rights and to the achievement of institutional competencies. Institutional harassment is a third front, constituting “a deliberate practice that disrupts the institutional bonds, attacking constituted knowledge, people, practices and objectives, with the often explicit purpose of degrading the working conditions and the institutional normality”¹⁹. Transversal to these dimensions, especially the first and the third, there is the infra-legal normative power, by means of which administrative acts are performed that may frustrate the purposes of the institutions and the laws to which they refer.

Examples of this mode of action occurred with the exoneration of an Ibama employee who fined Bolsonaro for illegal fishing in March 2019, and the resignation of Ricardo Galvão, director of the National Institute for Space Research (Inpe), in August 2019, after the president criticized the data released by the agency on Amazon deforestation and accused the institution of an alleged lack of impartiality and reliability in its work.

10 See, for example, Paulino (2021).

11 Bermeo (2016).

12 V-DEM (2017).

13 Taylor; Da Ros (2021, p. 191-203).

14 See, for example, Baiocchi (2017); Ganuza (2017) and Gurza Lavalle; Isunza (2011).

15 Taylor; Da Ros (2021, p. 191-203).

16 See, for example, Baiocchi (2017); Ganuza (2017) and Gurza Lavalle; Isunza (2011).

17 As examples, there are cases of the acquisition of check power by the Secretariat for Competition Advocacy and Competitiveness (SEAE) to analyze possible “competitive distortions resulting from regulation of public norms” and the “academic gag law” imposed on Chico Mendes Conservation Institute (ICMBio) between March and April 2021.

18 See, for example, Lührmann, Lindberg (2019).

19 Silva; Cardoso Jr. (2021, p. 206).

In addition to openly racist, misogynistic, and homophobic comments by State agents, programs aimed at the care of social minorities were drained: the Ministry of Women, Family, and Human Rights spent only 2% of the budget allocated to actions to fight racism in 2020. Moreover, the Ministry of Health presented a plan for a mass revocation of several regulations on mental health care.



3 ATTACKS ON PLURALISM AND MINORITIES

In building a democracy, the aggregation of the diverse political conceptions of the people, heterogeneous and plural, into a single and singular “will of the people” is not a simple task²⁰. In fact, this has been a challenge for political theory for centuries. Even more so with the assumption of the pluralism of modern societies, several theories have attempted to operationalize dissent in political democracies, thinking about the peaceful possibility of the coexistence of minorities²¹. They therefore propose that, besides aggregating citizens’ preferences and expressing the will of the majority, democracy should also be based on the respect for human and minority rights, under risk of incursion into a pure “majoritarianism”.

As requirements of democracy, pluralism and the standard of justice with freedom, equality and diversity are opposed to the idea of homogeneity of the “people” – which defines the current anti-democratic populist trend²². Such restriction of the identity of the “people” mobilizes substantive and intolerant conceptions of what is good and just, from which, for example, black people, women, migrants, and LGBTQIA+ people are excluded. Moreover, the value of dissent is weakened, as is the very notion of politics as a means to process conflicts, ultimately putting at risk the very possibility of peaceful coexistence among citizens.

With this in mind, this category of the Emergency Agenda seeks to highlight, on the one hand, the recent implementation of discriminatory policies and the proclamation of speeches openly opposed to the existence of minorities; on the other, the dismantling of social welfare policies and the suppression of the achievements of socially excluded groups to address historical inequalities. This last sense connects to the critical reading of the pervasiveness of the phenomenon of neoliberalism²³, which links its failures in meeting social needs to the acquisition of powers by institutions and systems of rules or beliefs linked to conservatism, sometimes combined with the idea of an entrepreneurial spirit of oneself, which privatizes issues previously formulated collectively and in the public sphere.

20 See, for example, Przeworski (2010, p. 20).

21 See, for example, Robert Dahl’s work.

22 See, for example, Müller (2016) and Urbinati (2019).

23 See, for example, Brown (2019) and Cooper (2017).

LEGITIMIZATION OF VIOLENCE AND VIGILANTISM

The use of violence (often in an exclusive and total way) is one of the characteristics that accompanies the authoritarian regimes of the 20th century. The extensive use of the Armed Forces and the police shaped the political framework of dictatorships, including the Brazilian one. The preservation of the corporatist interests of those branches in the new constitutional pact, with the attribution of prominent functions to the security forces, is a sign of the reproduction of current Brazilian authoritarianism.

The public display of force, even if it does not necessarily mean physical violence, is still a hallmark of authoritarian practice today. With speeches that inflate the feeling of insecurity of those who live in urban centers, exploiting the deficiencies of public security programs and incorporating elements of the rhetoric of construction of enemies, contemporary authoritarian leaders rely on the requests of a supposed “public opinion” to increase and transform the scope of operation of the police and even the Armed Forces. With this legitimizing seal of approval, these institutions have seen their field of action expand. In practice, this means an increase in the budget, greater investments in militarized technologies, and the dissemination of statements that position these agents as necessary for the control of certain social groups²⁴ - associating such groups with a sense of danger²⁵.

In this scenario, there is also the normalization of arbitrary actions, which is enhanced by the indiscriminate use of monitoring and control technologies. Violating the rights of privacy and protection of personal data, these actions encourage the practice of vigilantism, which relates to the idea of privatization of public functions²⁶. Often these functions are shared with private entities, which have the approval of the state to carry them out on their own terms, under the justification of meeting a ‘popular desire’ for greater security. **This pulverization of the use of force and the discourse that reaffirms the need for more security and crime control is combined with a mobilization of feelings of anger, resentment and humiliation shared by certain social groups**²⁷.

The use of this rhetoric - which also includes the idea of victimization - was mobilized to explain the phenomenon of support for Trumpism in the United States²⁸, but can also be used as an element of analysis of Bolsonaroism in Brazil²⁹.

Several state abuses, especially against Black and Brown people, are allowed in the name of ‘fighting the war on drugs’: in 2021, 28 civilians were killed during a police operation in the Jacarezinho neighborhood of Rio de Janeiro, justified as a way of protecting children and adolescents from being recruited by criminal organizations linked to drug trafficking. We also cannot ignore the effort made by the federal government to change the legislation on gun control in Brazil: in recent years, at least 34 regulations were issued to expand access to weapons and ammunition.



24 In this regard, see Wolin (2008).

25 On this topic see, f. ex., Stenner (2009).

26 On techno-authoritarianism in Brazil, see the report elaborated by LAUT in collaboration with DataPrivacy Brazil at: <<https://laut.org.br/wp-content/uploads/2021/01/RETROSPECTIVA-TECNOAUTORITARISMO-2020.pdf>>.

27 In this regard, see Brown (2019).

28 Again, see Brown (2019).

29 On the Brazilian phenomenon, see, f.ex., Feltran (2020).

5 CONSTRUCTION OF ENEMIES

Non-democratic regimes of the last century used various strategies for (de)mobilization of the public sphere, supported by the consolidation of political ideologies³⁰. In general, the mobilization of these mechanisms aims to undermine any demonstration or opposition movement that destabilizes (or could destabilize) the government and the incumbent ruler. The events that unfolded during the period of the civil-military dictatorships are exemplary in this regard. In Brazil, the National Truth Commission identified the occurrence of at least 434 deaths or disappearances executed by agents of the state³¹. There are many statements made by political opponents of the military regime who suffered persecution and torture at the hands of public agents. The reconstruction performed by the National Truth Commission, although late, demonstrates that the violation of human rights was systematic and aimed at neutralizing those considered enemies.

Currently, with no clear change of regime, we can see a phenomenon that maintains similarities with the past.

Cases of intimidation of those critical of the current government are not few. Via speeches that delegitimize the opposition, by opening police inquiries, and even by filing judicial and administrative lawsuits, public agents have been draining dissenting opinions and popular control over the federal government. In this sense, even instruments used at the time of the military regime, such as the now (recently) revoked National Security Law, have been widely mobilized.

This is largely because, in Brazil, President Jair Bolsonaro is constantly promoting the revival of the military dictatorship's rhetoric of constructing an internal enemy that must be persecuted³². **The result is the mobilization of formal and informal measures that build the logic of 'us' versus 'them' and position the latter as enemies.** By means of these measures, political actors state their identity through antagonism and evoke images of threat. Although they do not promote massive purges of "enemies" as in the dictatorship, public agents have not ceased to exert pressures, sometimes more diffuse, sometimes more direct, often with legal justifications³³. This tactic allows for a suffocation of the opposition, that is weakened, but not totally annihilated, thus guaranteeing at least a semblance of formal legitimacy to the government³⁴.



The construction of enemies hits very different targets. Journalists, for example, have already been called an “endangered species” by the president, and environmental protection NGOs have been called “cancer”. The attacks promoted in the discursive sphere, however, go beyond defamatory opinions to the denial of public and well-known facts, such as the very serious nature of the Covid-19 pandemic. Thus it is that the president has also called the pandemic a “little flu” and compared it to a simple “rain”.



Among the main targets of the construction of enemies promoted by the Bolsonaro government are journalists³⁵, members of civil society organizations that defend the environment³⁶, members of public universities³⁷, among others. The mechanisms used are diverse and range from suffocating the budget for certain programs or institutions to making statements (often untrue) in a derogatory and offensive tone, and even the effective criminal prosecution of opponents. In this last sense, the use of the recently revoked³⁹ National Security Law (LSN) has been widespread³⁹. In the last two years, several inquiries based on the provisions of such law have been opened to investigate citizens (with or without public impact) who express criticism of the federal government. In spite of the procedures being initiated, in the vast majority of the cases, people have not been prosecuted, much less punished⁴⁰. The situation appears, therefore, to be a strategy of intimidation promoted by the government to frighten the opposition - without, however, performing any spectacular arrests or mass violations of rights⁴¹.

30 In this regard, see, f. ex., Linz (2000), Pateman (1970).

31 To read the full conclusions and recommendations of the National Truth Commission, see: <http://cnv.memoriasreveladas.gov.br/images/pdf/relatorio/volume_1_pagina_959_a_976.pdf>.

32 On such rhetoric, see, f. ex., Rocha (2021).

33 In this regard, see Scheppelle (2018).

34 For other theoretical approaches that identify this type of tactic in authoritarian regimes, see Paulino (2021).

35 In this respect, f. ex., see: <<https://agendadeemergencia.laut.org.br/2020/02/bolsonaro-insulta-reporter-com-insinuacao-sexual/>>.

36 In this respect, f. ex., see: <<https://agendadeemergencia.laut.org.br/2019/11/policia-civil-do-para-prende-brigadistas-membros-de-ongs-de-atuacao-na-regiao-sob-acusacao-deterem-iniciado-incendios/>>.

37 In this respect, f. ex., see: <<https://agendadeemergencia.laut.org.br/2019/08/capes-nega-verba-de-apoio-a-realizacao-de-congresso-em-santa-catarina-por-conta-de-militancia-politica/>>.

38 On this topic, see: <<https://pp.nexojornal.com.br/linha-do-tempo/2021/As-disputas-legislativas-em-torno-da-Lei-de-Seguran%C3%A7a-Nacional>>

39 For a more complete diagnosis of the current uses of the National Security Law, see: <<https://laut.org.br/wp-content/uploads/2021/05/Relato%CC%81rio-LSN-formatado.vf-novo.pdf>>

40 On the outcome of the inquiries initiated on the basis of the National Security Law, see: <<https://www1.folha.uol.com.br/poder/2021/05/conheca-20-atingidos-por-investigacoes-de-crimes-da-lei-de-seguranca-nacional-e-opositores-de-bolsonaro.shtml>>.

41 On the use of the National Security Law, see the report produced by LAUT “Diagnostics of current application of the National Security Law”: <<https://laut.org.br/wp-content/uploads/2021/05/Relato%CC%81rio-LSN-formatado.vf-novo.pdf>>

EMERGENCY MEASURES

Because of the Covid-19 pandemic, we have also included the risks to democracy linked to this new context in the mapping of the Emergency Agenda. **Under the democratic constitutional regime, emergency acts must respect the Constitution and protect the rights to life and health. Even so, because they create exceptional restrictions linked to the health crisis, they require constant control over their necessity, proportionality, and temporal limitation.** In the long run, attention should be paid to ensure that they do not become an undemocratic 'new normal' outside this emergency period.

Besides setting off alarm bells for already frayed political regimes, the pandemic also confused and brought uncertainty to long-time scholars of authoritarianism and democracies. Some were wary of adopting measures restricting liberties, even in view of the gravity of the emergency.



In fact, several tragic predictions about the effects of the pandemic on political regimes have not been confirmed. As recent surveys have shown, the democratic or autocratic quality of a regime was not a determining factor in evaluating performance in the pandemic⁴². Moreover, the general assumption that only players from the Executive Power were prominent in responses to the Covid-19 crisis is incorrect⁴³. There have, indeed, been actions taken by courts and parliaments, to a greater or lesser degree, in a substantial portion of countries around the globe. Even so, there has been a "pandemic of human rights abuses," as Amnesty International attested: at least 83 countries experienced abuses in the implementation of restrictive measures to combat the virus⁴⁴. For all these factors, we understood that it was necessary to elaborate a specific taxonomy to analyze the actions resulting from emergency or exceptional situations⁴⁵.

Indeed, the Covid-19 pandemic does not summarize the full scope of such a category of Emergency Measures. Although it served as a trigger for the creation of this parallel taxonomy, what is certain is that the latter extends to situations that go

beyond the health emergency. There are several situations that can trigger the activation of emergencies, which can originate in natural disasters (such as landslides), disasters caused by direct human action (such as wildfires), wars, deep institutional crises, among other factors⁴⁶. The Brazilian legal system itself has several constitutional and legal mechanisms that can be triggered in these situations, ranging from the most modest declarations of public calamity to those of a state of defense and siege⁴⁷. In addition to these, however, other mechanisms can also be considered emergencies, such as the extraordinary summoning of the National Public Security Force and the decree of Law and Order Operations. With this in mind, we have extended the use of this classification to other events that go beyond the pandemic, but are also justified by emergencies.

We can therefore classify Emergency Measures as acts that, within the context of emergencies or exceptional situations⁴⁸, offer risks and damages to democracy and Brazilian liberties. They presuppose as justifications for the adoption of the measure the *facing of the emergency situation*, an approach in which they differ fundamentally from the Authoritarian Inventory Measures. Measures that took place during the pandemic, but were not nominally justified as means of confrontation, or even denied

42 In this respect, see: <<https://interactives.lowyinstitute.org/features/covid-performance/>>.

43 In this regard, see Versteeg and Ginsburg (2020).

44 In this respect, see: <<https://pp.nexojournal.com.br/opiniaio/2021/Autoritarismo-e-pandemia-conex%C3%B5es-e-correspond%C3%Aancias>>.

the existence or severity of the crisis, are thus classified as Authoritarian Inventory Measures. It is also worth noting that, while the latter already have clearer impacts and contexts that allow us to see their harmful effects on democracy, Emergency Measures are not undoubtedly authoritarian at the present moment. In several cases, they only present a future risk to democracy, being necessary to control the health emergency.

Despite these differences, we chose to classify the Emergency Measures using categories that mirror the classifications of the Authoritarian Inventory. They can, therefore, be classified as follows: (i) flexibilization of control; (ii) centralization of power; (iii) curtailment of fundamental rights; and (iv) increased police power.

FLEXIBILIZATION OF CONTROL

Unless one denies the existence of an exceptional situation or the need for a differentiated operation of the political system, it is certain that there will be changes in the institutional functions or in the way they are operated by the powers that perform them⁴⁹. Thus it is generally argued that political emergencies tend to lead to imbalances in competencies, taking ordinary politics as a parameter⁵⁰. By triggering extraordinary modes of institutional operation, they are also seen as consensus builders. Even though there has been a major pandemic denial campaign in the country, it is certain that several Emergency Measures have been formally justified, such as the enactment of emergency decrees in record numbers⁵¹.

The Flexibilization of Control is the first aspect of the institutional triggering of emergencies. It implies that certain rites and processes are simplified in order to respond to the urgency required for the emergency. **It is also possible that, based on the need for effectiveness or speed, the procedures that guarantee the public control and transparency of governmental acts are drained.** We have chosen to indicate these situations separately from the centralization of power, as opposed to the analogous category of Authoritarian Inventory Measures, to facilitate the direct identification of acts that imply this flexibilization. By doing so, we highlight the lower degree of control and transparency of actions that would normally be accompanied by a more detailed analysis by the other branches of the government or by civil society. However, the processes of Flexibilization of Control and Centralization of Power can undoubtedly be seen as correlated.

45 The concepts of 'emergency' and 'exception' are usually synonymous, but there are authors who believe this is a mistake. Silva (2021), for example, defends the use of 'emergency' instead of 'exception', since the latter imbues a vision of detachment from the legal order, which is normatively disapproved. Lazar (2009) proposes detaching the discussion of the terms of the binomial 'norm' versus 'exception', just as he also considers that this would give rise to interpretations of deviation from the constitutional order. In fact, such crisis situations

One of the most exemplary measures of the flexibilization of control legitimized by the pandemic has been the federal government's determination to suspend the bidding process for the acquisition of goods, services, and supplies destined to face the health emergency. In the same month in which this was determined, the federal government also suspended the deadlines and appeals for the requests made based on the Access to Information Law, which can be used to obtain information about any public body.



would be more and more common, mischaracterizing the accuracy of the term 'exception' to characterize them.

- 46 In this respect, see: <<https://pp.nexojornal.com.br/glossario/Exce%C3%A7%C3%A3o-emerg%C3%Aancia>>.
- 47 In this respect, see: <<https://pp.nexojornal.com.br/glossario/Mecanismos-para-crisis-no-direito-brasileiro>>
- 48 On the different models for dealing with emergencies or exceptions, see, for example, Dyzenhaus (2006, 2007, 2012), Ferejohn and Pasquino (2004), Gross and Aoláin (2006), Ackerman (2004), Holmes (2009), Scheppele (2004), VOIGT E BJØRNSKOV (2018).
- 49 In this regard, see: Dyzenhaus, 2012; Gross, Aoláin, 2006.
- 50 In this regard, see: Gross; Aoláin (2006).
- 51 In this respect, see: <<https://www.poder360.com.br/congresso/em-ano-de-pandemia-governo-envia-e-perde-numero-recorde-de-mps/>>

2 CENTRALIZATION OF POWER

With the modification of the distribution of powers originally foreseen by the Constitution, it is possible not only that activities previously foreseen will no longer be controlled, but that a Centralization of Power will also take place. This means that a certain sphere of government may have its competencies and attributions expanded, with the objective of, for example, facilitating or speeding up decision making on a certain issue. The classic model of theorizing about emergencies foresees the extension of the powers of the executive branch, although alternative models have also proposed the extension of powers of the legislative or even of the judiciary powers⁵².

In the Brazilian scenario, although denial of the health emergency - which falls under the category of Construction of Enemies of Authoritarian Inventory Measures - has reigned, it is certain that there have also been attempts at Power Centralization by the federal executive branch. Besides this, the judiciary made decisions along these lines, which rules out the idea that only the executive acted⁵³.

The situations are inserted into a context of political dispute between the president of the republic and the governors of some states, who are his political opponents. The successive attempts at centralization have been used by Bolsonaro as a way to strengthen his option of (not) fighting the pandemic to the detriment of the paths intended by the governors. Many of the latter imposed measures aimed at social isolation and restriction of movement, moves that were harshly criticized by Bolsonaro, who started to issue executive orders on situations typically decided at state or municipal level.

52 In this regard, see: Dyzenhaus (2006, 2007, 2012), Ferejohn and Pasquino (2004), Gross and Aolain (2006).

53 In this regard, see: Versteeg, Ginsburg, 2020.

3 CURTAILMENT OF FUNDAMENTAL RIGHTS

The restrictions on rights largely mirror the attitudes that make up the Authoritarian Stock and have been classified as Attacks on Pluralism and Minorities or Construction of Enemies. However, they also go beyond such situations, hurting broad and universal guarantees protected by the Federal Constitution and becoming legitimate due to the exceptionality of the context. **Restrictions on the circulation of people and the right of assembly are common examples.**

Unlike the other categories, whose first authors and recipients are usually public agents, this one is characterized by the consideration of citizens in the foreground. Correlated to this is the category of Increased Police Power, which focuses on the enforcement of measures restricting fundamental rights.

4 INCREASED POLICE POWER

Exceptional situations make it possible for the government to expand its means of control - such as police action, which can repress individuals and groups in situations previously not so affected by its oversight. **As a result, there is an increase in the incidence of arbitrary situations and, reflexively, more severe limitations of fundamental rights are permitted.** This category to some extent reflects those of Construction of Enemies and Legitimation of Violence and Vigilantism, with the additional factor of actions being justified on the basis of tackling the emergency situation.

At the beginning of the pandemic, detainees in federal penitentiaries had their visiting rights completely suspended, including those of their lawyers. More recently, the Federal Police detained Venezuelan migrants who were housed in an association linked to the Catholic Church, claiming that the number of people in the house where they were staying was higher than permitted by the health decrees in force.



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