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Governance and Public Transparency: The Brazilian Case

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Governance and Public Transparency

The Brazilian Case

Aiming to provide an overall assessment of the impact of the Constitution of the Federative Republic of Brazil (“CFRB” - which is in effect since 1988), in the construction of a Democratic State of Law, over the past 30 years, this article investigates how the institutional improvements achieved took form, the transformation of the State's role in the enforcement of human rights and individual guarantees, and the changes that took place towards a democratic political culture, both from the perspective of the citizen relating to the State and the citizen relating to the State's external oversight body (“TCU” - Federal Audit Court). In this sense, this article highlights the circumstances in which the governance of the Federal Executive Branch has been formed in the past thirty years, in what pertains to its oversight, i.e., by analyzing some of the institutional arrangements obtained and the practices adopted in search of greater transparency and wider accountability for the public affairs. In this period, it is possible to assert that there has been progress in the oversight of the activities of the federal government, with a more institutionalized, direct and easier access by all Brazilians to the information of public entities, on the other hand there are not any consolidated or conclusive information regarding the quality of the information received by the citizens.

I. Governance and the Social Control of Public Affairs

In the past 30 years, it is possible to point out the major institutional landmarks that impacted the Public Governance of the Brazilian State and, in so doing, have as a starting point the reasons expressed by the Constitution pertaining to the organization and administration of the branches of power of the state. The governance of the bodies and entities of the public administration involves basic functions of the State, in the steering, oversight and evaluation of the management of the public machine and its public policies (Referencial básico de governança, TCU, 2014, p.30-32). Today, both in theory and in practice, the most up-to-date concept of public governance proposes a new approach to government, understood as a comprehensive, plural and complex process of society, which involves the integration of politics and administration, of management and public policies (Martins and Marini, 2014, p.43) and presents a normative vision of the accountability of public administrators as a basic asset of democracy - the democratic accountability (Diamond, 1999, p.30).

Good public governance requires transparency in the acts of government, i.e., the systematic production and disclosure of information (Mota Filho, 2017, p.20) and aims to generate social benefits. So much so that for the administration councilmembers of the federal government corporations, the greatest improvement of the Government Corporations Law¹ consisted in its command for greater transparency in the disclosure of relevant information (FDC, 2018 and Sardenberg, 2018, p. 14). Within the legal landmarks, counting from the Federal Constitution, this article aims to highlight how the governance of the Federal Executive Branch took form in the past thirty years, by way of overseeing it, that is, by analyzing some of the institutional arrangements obtained and the practices adopted in the search of greater transparency and wider accountability for the public affairs. This perspective has been chosen to directly provide information pertaining to the degree of access to information from the Federal Government that citizens enjoy and about what is the possible degree of knowledge that Brazilians have in what regards to the effective results of public actions and policies. In this sense, examining the roles played by the oversight bodies of public accounts (external control) when overseeing the advances of the public administration and directly by the citizens when they demand information from administrators, questioning the government and taking part in decisions of public policies (social control) is made all the more important. With this, this article intends to outline how the administration of the Brazilian Democratic State improved institutionally, in light of the transparency of the external and social controls, which are fundamental for the implementation of fundamental rights.

¹ Law no. 13,303, from June 30, 2016.

Within the limits of this article, the choice for a more specific analysis of the realm of transparency in the federal public administration is justified taking into account that the publicity of government acts is one of the foundations of the Democratic State of Law upheld by the CFRB. According to its own constituent legislators: access to information of public bodies is essential for the improvement of the government machine, for the correction of eventual abuses, for the fight against corruption and for the full exercise of one's civic duties. Because of those reasons, the right to information is entered in the list of fundamental rights and guarantees of our Constitution (CFRB, art.5º, XIV and XXXIII). This approach also allows for the confirmation of some perceptions regarding the increase of the Brazilian civil society's engagement in public affairs, expressed in the surveys of Transparency International (Transparency International, 2017, Research Analysis), and if they corresponded to an effective search for more information about the actions of the government.

The analysis of the level of transparency and form of accountability of the Federal Government provides an assessment of the improvement of the public governance of information, in the period of the New Republic (1988-2018), and it contributes to strengthen the knowledge about the implementation of the values established by the CFRB and answer if and how Brazilian institutions have been able to honor part of the promises therein enshrined, especially in what pertains to the universalization of access to the public of information regarding government actions and the accountability of said actions.

II. Institutional Landmarks

In the logic of the constituent legislators, the effectiveness of fundamental rights and guarantees is directly related with the capacity for oversight of state actions and public policies. In this logic, it was necessary to gift citizens and the very institutional apparatus of the State with the means to oversee state actions and public policies.

The CFRB, also known as Citizen's Constitution, established that access to information is a fundamental right of the individuals and stressed publicity as a principle of the Public Administration. Because of the Constitution, several measures have been adopted to promote the dissemination of information to the society, especially in the context of the Federal Government, and mainly regarding the use of public resources. When analyzing the main institutional landmarks of this constitutional trend, a larger advancement on the public transparency issue can be observed, as of the 2000s, with the promulgation of various laws and regulations and the adoption of many institutional measures aiming for its consolidation.

Thus, in the federal context, between 2000 and 2012, the Fiscal Responsibility Law (2001) was promulgated in order to ensure greater access and oversight of public accounts; the Office of the Federal Controller General was created as an internal oversight body of the executive branch (2003); the Transparency Portal (2004) was implemented to increase the transparency of public management, allowing citizens to monitor how the public funds are spent and to help oversee the expenditure; the public electronic bidding for the purchase of common goods and services was regulated, in the Federal context, with a nation-wide disclosure; SICONV - System for the Management of Contracts (2007) was created, an online tool that consolidates and processes information on the transfers of Federal Resources, in order to give more transparency about where public money is spent; a policy of transparency of government was consolidated, with specific rules and procedures to facilitate the exercise of the constitutional right of access to public information by the society (2012); and the Integrated System of Registration of CEIS/CNEP (2013) was developed in order to publicize, on the Transparency Portal, all data from the National Registry of Suspended and Untrustworthy Companies (CEIS) and the National Registry of Punished Companies (CNEP).

When it comes to public oversight, at the federal level, the role played by the TCU, with constitutional attributions of a federal government external oversight body, in assisting the Congress in the mission of monitoring the country's budget and financial undertakings stand out. Throughout all this time, a constitutional and institutional understanding about the competences comprehended by the TCU was consolidated.

Considering the comprehensiveness of the constitutional role assigned to the TCU and, also, the increase of its oversight attributions over the years, it is possible to observe that this oversight body has become strategic for the monitoring of the public actions and policies in general. This shows that the constitutional order has opted to strengthen the external oversight of the executive branch and that the subsequent federal legislators confirmed and reinforced this constitutional option, strengthening the bodies by increasing their institutional attributions.

Institutional landmarks subsequent to the Citizen's Constitution served not only to confirm the constitutional logic of the citizens themselves (social control) and the external oversight bodies (TCU) monitoring public actions, but it has also deepened it. Thus, one can assert that both in the light of the social control aspect and in that of the external oversight, substantial institutional improvements have been made. Apparently, the institutional improvements of the transparency social control were more concentrated in time and took place with more intensity in the last decade, while the trend of institutional improvements of external control was less concentrated in time.

However, it should be asked whether the institutional instruments available were used effectively and if they lived up to the expectations regarding the improvement of the Brazilian citizens' fundamental right of having access to information regarding public affairs. For that, it is valid to heed the implementations of these institutional instruments both in the light of the citizen in relation to the State and the citizen in relation to the external oversight body.

III. Transparency and the Social Control of the Public Administration

Good public governance always demands the transparency of government acts, which is nothing more than the systematic production and disclosure of information to the public (Mota Filho, 2017, p.20). But in this matter it is important to realize that the logic of the external oversight of the public affairs does not necessarily follow the same logic of the social control. While the bodies that are responsible for the external control have the power and legal duty to monitor and control state activities, using their functional structures and bureaucracies, in the social control the citizen has the right, guaranteed by the Constitution, to monitor the public administration. For the social control of public actions regarding social services, for example, the population participates in the creation of social assistance policies and in the control of these actions². Thusly, social control is only possible when the information made transparent is capable of becoming an instrument that allows the citizen or society in general to act. The logic of the social control involves a *qualified participation* of citizens or of social organizations. For some, this participation can be seen as a co-management relationship, when the planning and implementation of public actions are defined with the participation of the society (Arnstein, 1969, p.216-217). In this line, in 2018, the city councilors of the Federal District approved a law that establishes guidelines for a comprehensive social participation in the definition, implementation and oversight of resources intended for municipal public policies³. For others, the social control corresponds to the oversight performed by society, whether it is by its citizens or institutions, in order to control government actions (Sirach, 2009, p.32).

² Art. 204 of the Federal Constitution and Law 8,742, 12/07/1993 (Organic Law of Social Services).

³ Law no. 6,116, from February 27, 2018, Brasília, DF.

Therefore, in order to find out if the transparency is being effectively used by society as an instrument of social control, it is necessary to answer if the information that was rendered transparent could be converted into an instrument of action by the citizen or society in general. In pursuit of said answer, one must check, firstly, if the institutional instruments available under the Law of Access to Information ("LAI") have rendered the information more transparent to Brazilian citizens and, secondly, if the Fiscal Responsibility Law ("LRF") granted upon society the necessary tools to convert said information, especially those pertaining to public management, into oversight actions over the acts of the public administration.

IV. Social Access to information in the Law of Access to Information ("LAI")

To ascertain whether any institutional improvements of the social control of the civil service have been implemented, one can make use of the information disclosed by the Controller General's reports (Relatório sobre a implementação da Lei n 12.527/2011) between 2012 and 2016 regarding the implementation of the Law of Access to Information ("LAI") with the procedures set forth for ensuring the fundamental right of access to information by the citizens⁴.

The LAI regulates the CFRB⁵, making it an enforceable right, that is, establishing general guidelines regarding the procedures that must be followed by the public authorities so as to guarantee to the citizens the full exercise of their right. It remains to be seen whether if, starting from these favorable institutional conditions, citizens have been effectively demanding information from government bodies and how this has been happening.

Since the LAI was promulgated until the balance of its first year of effect⁶, it can be observed that there has been a series of measures aimed at the implementation of its legal devices by the federal executive authorities, such as the Single Action Plan, the development of e-SIC, the training of civil servants and the creation of the Network for the Access to Information. In an overview of the implementation of the LAI, from May 2012 to December of 2016, it was observed that almost all of the received requests were answered. Out of the answered requests, the vast majority of them was wholly or partially granted, a small portion was denied and only in rare cases no answer was given to the requests. The monthly average of requests for access to information has experienced a steady growth over the years⁷. In this period, e-SIC recorded requests from approximately 89% of the country's municipalities. The data suggests that the administrative measures taken to facilitate the implementation of the LAI rendered positive effects in ensuring high levels of response to requesters from all over the national territory and in encouraging requesters to use the institutional channel

⁴ The Law of Access to Information is comprised of general rules that are immediately applicable to all bodies and entities that are subject to said law and a part that is applicable only to the Executive Branch of the Federal Government. Each one of the Branches and federative entities, in accordance with its constitutional autonomy, must then take measures to issue their own specific regulations, observing the general guidelines of the Law. Decree no. 7,724, from May 16, 2012, regulated the LAI in the context of the Federal Executive Branch, defining the procedures that must be adopted by state bodies and entities to ensure society's effective access to public information. The source of data for these Reports has as its advantages its public and official character, and, furthermore, allows for the comparison and analysis of the same data over a time span of at least five years, given that this law was only promulgated in 2011 and that the reports cover the period from 2012 to 2016. No comparisons with previous periods shall be made. The intention here is to examine the impact of a new institutional tool of social control.

⁵ More specifically, the LAI regulates what is set forth in item XXXIII of art. 5, in item II of paragraph 3 of article 37 and in paragraph 2 of art. 216 of the Constitution of the Federative Republic of Brazil.

⁶ Relatório sobre a implementação da Lei n° 12.527/2011. Controladoria Geral da União – CGU. Brasília, maio de 2013 (2011-2012).

⁷ Table of the monthly average of requests of access to information. Ministry of Transparency and Office of the Federal Government Controller General. Relatório sobre a implementação da Lei n° 12.527/2011: Lei de Acesso à Informação. Poder Executivo Federal 2016.

of the LAI. In this sense, it is possible to affirm that the impacts of the LAI were positive for the expansion of the access to information regarding federal government bodies. Thus, not only the institutional conditions are present, but also the material and organizational conditions for the implementation of the social control of public information.

Beyond this broader overview, the data contained in the Reports also allows for a more detailed look into the profile of the requesters; the geographical regions from which most requests came; the government bodies with the most requests; the justifications provided when denying requests; and the motivations that led requesters to file appeals. A more detailed analysis of said data can strengthen or refute the more general overview of the positive impacts of the LAI.

By analyzing the reports it is possible to verify that the profile of the requesters is made up of people with higher education; that the geographical regions with the most requesters are the southeast, center-west and south, in that order; that the public bodies with more requests were ministries, government corporations, regulating bodies and government-owned companies; denials or refusals to provide the requested information represented a small minority of total requests; appeals presented by requesters because of partial or total refusal of their requests represent a small minority over the analyzed period.

In light of all that, a more detailed analysis of the data contained in the Reports confirms the assessment of the broader data and reveals that the creation of unified procedures for the request of information has had a positive impact on the exercise of social control of public affairs, which has been supported, throughout the years, by the adoption of administrative and organizational measures geared to the implementation of its legal rule by the Federal Executive Branch. All evidence suggests that a confluence of a virtuous combination of institutional factors and administrative effort took place. This confluence enabled Brazilian citizens to demand, effectively, information from various segments of the federal government, by creating the conditions for the existence of high rates of response to the demands for information and keeping it in high levels over the years.

However, this positive impact, translated into the high number of answers provided, does not allow one to verify, quality-wise, if the requests answered contained explanations about the actions or omissions of the federal government in the execution of its public policies. Hence, a possible improvement of governmental transparency, by means of the LAI, could be the development of quality indexes regarding the information provided, so as to generate a richer set of data for the oversight of the public administration. And, on the citizen's side, another positive impact is how the social control of the civil service complements the external oversight performed by the oversight bodies when the requests made by the general populace demand explanations from the segments of the federal administration about the planning of actions and the decision-making processes.

V. Society's use of information in the Fiscal Responsibility Law (“LRF”)

Over the past 30 years, substantial reforms in the area of public finance were carried out in Brazil. The institutional and legal framework of public finances in the 80s had little transparency to it and it made oversight difficult by both Congress and society (Tavares, 2005, p.80). In this context, the Citizen's Constitution established the need for legislation regarding public finance, which was achieved, in no small measure, with the promulgation of the LRF.

The LRF created instruments for the transparency of fiscal management, embodied in the periodic disclosure of reports, in holding regular public hearings, submitting the accounts of the heads of the branches, encouraging popular participation and strengthening social control. In several of its rules, this Law determines

that all information is to be disclosed in electronic means, expanding citizens' potential access to it via the internet. In the public transparency logic established in the LRF, popular participation is encouraged with the holding of public hearings, during the preparation of budgetary plans and the budget guidelines law and of budgets themselves. Following this logic, the Transparency Portal was created in order to disclose detailed data and information about the budgetary and financial of the Federal Government and allow the citizens to monitor the Federal Government's implementation of programs and actions. And, going beyond these improvements, standards and clear criteria geared to the bookkeeping and consolidation of accounts were also defined and the presentation of accounting statements and reports was standardized, which contributes to the comparison of information provided by the various segments of the public administration.

In the wake of the first years of the implementation of the LRF, more specifically during its first five years, preliminary and direct studies have already revealed some of its effects, from a standpoint of the use of budgetary and fiscal information by the society (Culau and Fortis, 2006, p.12-14). According to these studies, even with the creation of the LRF, the transparency of fiscal, budgetary and financial information of the public administration have proved to be insufficient in what pertains to bringing the citizen closer to the administration, in bringing society closer to the State. As main causes for this, the authors point out specifically the low level of education of the Brazilian population and a difficulty to understand the technical language. These causes then hindered the understanding of how the Brazilian budgetary structure functions, which is already quite complex, and that, even with the LRF, was still restricted to a circle of specialists. In addition to these causes, they emphasize that the precariousness of the administrative and institutional structure of Brazilian cities also negatively affect the transparency and society's control of public resources.

It is worth noting that the LRF itself provides ways to encourage the State to come closer to society and to allow that the information of the public affairs is turned into actions of social control, such as: technical assistance to cities rendered by the federal government for the modernization of the administrative apparatus and to contribute to the production and disclosure of knowledge; the creation of a fiscal management council, comprised of representatives from all branches and spheres of government, the Public Prosecutor's Office and technical entities that represent the society. These legal incentives endeavor to seek appropriate solutions to address the issue of language and access to complex information reports and statements.

It is not possible to evaluate what was the effectiveness of the social control by looking at the activities of the Council of Fiscal Management (CGF), given that even after 18 years from the promulgation of the LRF, the CGF is yet to be constituted, therefore having no regulations⁸. The proposals currently discussed for the regulation of the CGF involve changes in its competences. Among the proposals are included the harmonization of technical interpretations on the application of standards geared to the fiscal management responsibility; the issuance of general rules for the consolidation of public accounts, seeking to converge with the international standards; the standardization of the account rendering and fiscal reports and statements required by the LRF; the adoption of simpler norms and standards for cities with fewer than 50 thousand inhabitants. In this regard, it has been verified that the social control of public finance management, despite the institutional improvements obtained with the LRF, did not progress as much as it could have, and even in the regulatory proposals, it seems to focus the weight representation in internal and external control bodies of the executive branch.

⁸The regulation template for the Council of Fiscal Management (CGF), a body set forth by the LRF, is still under discussion in the National Congress. A proposal for amending the LRF⁸ is currently in discussion. The aim is to alter the CGF's competences and fixes its composition in 12 members, with voting rights, presided by the Minister of Finance, and it favors a composition of technical members, with personnel from the executive branch and from the bodies or internal and external control. PLP 210/15. Rapporteur Pauderney Avelino.

The challenge of facilitating the exercise of social control requires measures that would enable the active participation of the citizen in the control of the public management and, in this sense, perhaps regulating the CGF could be further advanced if it included in its proposals the encouragement of drafting Integrated Reports⁹ capable of translating to a non-specialized public the goals and results of the governments' financial management and the stimulation of a policy for the creation of state and municipal fiscal councils, with greater social participation and with the training of its citizens, in the form of councils directed to the Social Services area¹⁰.

VI. Transparency and External Oversight of Public Administration

Examining the constitutional design of the TCU reveals that the constituents of 1988 gave TCU a prominent role as the external oversight body of government acts and the use of public resources. Said Court is an autonomous institution, financially and administratively independent, not integrating the hierarchical structure of any of the branches of power, and it effectively exercises oversight in all levels and bodies of the State, with competences stemming directly from the Constitution¹¹.

In the constitutional logic, TCU's role is that of accounting, financial, budgetary, operational and asset oversight of the units of the Federal Government's Powers and all other governmental entities at the federal level. In a clear sign of the comprehensiveness of its competences, any natural person or legal entity who uses, garners, stores, manages or handles money, assets and monies that are public is subject to rendering its accounts for the examination of the oversight bodies. In this point, it is worth pointing out that, in their reports on government accounts, the TCU has rejected on two occasions the accounts of federal governments, in 1937, in the Vargas' administration, and in 2014, in Dilma's administration, this last one already in the period of democracy and in the effect of the Constitution of 1988 (Relatório de Atividades do TCU - 3º Trimestre 2015, p.5), which contributed to the impeachment of President Dilma, as a result of shortcomings in the implementation of the budgets of the Federal Government and operations carried out with federal public resources, according to the judgment of the National Congress.

The federal legislation has been confirming and reinforcing the constitutional logic, providing to the TCU the necessary institutional instruments to carry out a comprehensive external oversight of public accounts, as laid down in Complementary Law no. 63 (1990) and Federal Law no. 8,443/92. Corroborating a trend of concentrating and expanding the external oversight of the public actions and policies, other powers have been bestowed upon the TCU by means of specific laws, such as the Law of Tenders and Contracts (Law no. 8,666/93), the Fiscal Responsibility Law (Complementary Law no. 101/2000), the Law that regulates the sharing of resources of the Cide - Contribution of Intervention in the Economic Domain (Law no. 10,866/2004), the annual issues of the Law of Budgetary Guidelines and of the Annual Budget Law and,

⁹ An integrated report is a concise document about how strategy, governance, performance and perspectives of an organization (public or private), in the context of its external environment, lead to the generation of value in the short, medium and long term. This new approach to the rendering of information to the public is based on the philosophy and guidelines developed by the *International Integrated Reporting Council* (IIRC), a global coalition of regulators, investors, companies, standard makers, professionals in accounting sector and NGOs. www.theiirc.org.

¹⁰ Such as the Municipal Councils of Social Services, responsible for guiding and overseeing the funds for Funds for Social Services and supervise the entities and organizations of social services; the Municipal Councils of the Elderly, competent to supervise, monitor, oversee and evaluate national policies on the elderly; and the Social Control Instances of the Bolsa Família Program, responsible for following up, evaluating and subsidizing oversight and monitoring, in the municipalities, the process regarding the enrollment of families, selection of beneficiaries, granting and maintenance of the benefits, control of the fulfillment of its grant conditions.

¹¹ The main section of art. 71 of the Constitution of 1988, establishes: Art. 71. The external control, a responsibility of the National Congress, shall be exercised with the aid of the Federal Public Finance Court, whose competences are: [...]

more recently, the Laws of Public-Private Partnership (Law no. 11,079/2004) and the Law for the Hiring of Public Consortia (Law no. 11,107/2005).

But, apart from its many institutional oversight tools, TCU must also render accounts of their actions and oversight to the society. In the Brazilian constitutional model of a democratic state of law, the public agents - those who were voted into office or not - are obligated to account for their actions to society (accountability). In this model, the control mechanisms are situated in two spheres: the mechanisms of vertical controls: from the society in relation to the State - such as, for example, voting in elections, which means rewarding or punishing a ruler; social claims made using the freedom of opinion, freedom of association and freedom of access to information; and the mechanisms of horizontal controls: agencies and state institutions whose competence is to monitor and punish unlawful acts and/or omissions committed by their counterparts in the State, such as the TCU itself.

The answer that is then needed is if the institutional instruments made available to the TCU (a body that must operate as a mechanism of horizontal control of public accounts) were effectively used for the public transparency and lived up to the expectations that they would improve the fundamental rights of Brazilians in having access to information about public affairs. In other words, it is necessary to investigate if, from the perspective of the citizen in relation to the body for external oversight, there has been an improvement on *accountability*, in particular in the dimension of the democratic control, based on the responsiveness and transparency of the public agent (Denhardt e Denhardt, 2003. p. 131-137).

In a democracy, pursuant to what the TCU itself has asserted, the legitimacy and the perception of the relevance of a public institution depend both on the results achieved and on the disclosure and use of such results by the citizen. In this sense, expanding the disclosure of information about public management, and the results and benefits of the external control to the society, to the press, public bodies and councils legally responsible for the social control strengthens the exercise of one's civic duty and the system of external oversight itself (Relatório de Atividades do TCU, 2006. p. 50) and represents an improvement of the accountability in its democratic dimension (Diamond, 1999, p.30,34). Therefore, in order to evaluate the implementation of the constitutional project of public transparency over the last 30 years, one must verify whether the institutional improvements in the external oversight bodies meant progress in the disclosure of information about the allocation of public resources and about the results of government policies, in the specific eyes of the citizen.

VII. Access to information about the allocation of public resources

Thanks to the architecture of the CRFB and the institutional improvement of the LAI, in the 2000s a transparency webpage was developed in the TCU's Internet Portal, with miscellaneous information regarding governance and management, as well as a system to request access to information. As a complement, the Court also submits to its TCU Portal Annual and Quarterly Activity Reports and Management Reports, in which the TCU's annual accounts are rendered with a summary of the results of all actions undertaken, as well as a demonstration of the use of the budgetary and financial resources made available to it. Here, one can perceive the existence of an institutional channel stemming from the TCU and directed to the society, with the potential to strengthen the exercise of one's civic duties and the external control system itself and, in this sense, it can be grasped as an improvement on the accountability of the Court, in its democratic dimension.

From the perspective of the citizen in relation to the TCU, the TCU's Ombudsman channel stand out. This Ombudsman has the responsibility to receive suggestions for improvement, criticisms, complaint or information regarding a service rendered by the Court or receive any news of irregularity in an administrative act practiced by a public servant dedicated to the TCU. In a comparative study between the years of 2005

and 2016, it is possible to say that there were growing interest and participation of citizens in matters related to the implementation and use of public resources, which also suggests an improvement on the accountability of the Court, in its democratic dimension, by bringing the social control closer to the external control (Relatório de Atividades do TCU, 2006, p.50 and Relatório Anual de Atividades do TCU, 2017, p.9,72-75).

Still, in the realm of democratic accountability in the 2010s, other institutional actions by the TCU focused on public transparency and in providing information directly to the society stand out, such as the creation of the blog #EuFiscalizo aimed at the citizen, with the objective to instigate and disclose actions of social control and civic duty; the disclosure of institutional videos of their audits, events and special hearings, and the thematic campaigns, using social networks; the provision of services to citizens, such as the possibility of issuing a certificate stating that one's name is not registered in the Inactive And Untrustworthy system (Relatório Anual de Atividades do TCU, 2017, p.72-73); and the incentive to strengthen social control, from sharing information and documents to the exchange of experiences and personnel training, based on an oversight network, all accessible on the TCU Portal. These actions reveal an institutional concern of the federal body for external control in the realm democratic accountability. But it should also be noted that these actions, intensified in the second half of the 2010s, are the broad contemporary popular movement known as "the June days" of 2013, which questioned the quality of public services, provided under the concession scheme or not, throughout the country. It seems that, in the eyes of the citizen, there were grounds for a great dissatisfaction with the state's governance and management ability. Within this perspective, the Brazilian society sought to exert a social control over the constituted authorities, also seeking to further improve the accountability of its representatives.

On its turn, Public Dialogue, a project developed by the TCU also in the 2000s, consisted of a set of systematic actions fostering the relationship, disclosure and exchange of information among the TCU, the society, the National Congress and the public managers, in the different spheres of government, aiming to stimulate the social control, performed by the citizens directly or by way of the oversight bodies, and guidance offered to public managers and members of community councils (Relatório de Atividades do TCU, 2006, p.52-53). This project, along with other incentives for the strengthening of social control, suggests the creation of a more coordinated and interactive environment of social and external control, in addition to enabling the development of a more organic network for the exchange of information. But it also raises a scenario of asymmetry of knowledge and information among the citizens who exert social control and the bureaucracy of the TCU, which concentrates, in addition to the institutional tools, a large capacity for production, per se, of data and information. Hence, the citizen seems to be more of a requester of information than a producer of new information, with the ability to criticize or dispute the TCU's reports and analysis.

VIII. Access to information about the results of public policies

In the same pace that the audit courts assimilate the need to consider the question of the evaluation of public policies of the government actions they oversee, they also need to consider the issue regarding the operationalization of said oversight. The role of external oversight bodies, such as the TCU, is not restricted to the approval or rejection of accounts and enforcement of penalties, but it also aims to adjust or correct the course taken so that goals can be achieved and programs approved and can subsidize new plans for public policies. In this sense, a lot of criticism has been flung at the lack of oversight by the TCU regarding the course of public policies, which would have even facilitated corruption and misappropriation of funds, forcing the society, responsible for bankrolling the State, to bear higher costs. That criticism may have stimulated the TCU's greater protagonism in this regard, leading to a more specific evaluation of government programs.

Therefore, the objective of the program evaluation is to examine the effectiveness of governmental programs and projects. This audit method seeks to verify to what the actions implemented succeeded in producing the effects desired by the administration. In this direction, the TCU conducts audits of an operational nature. From 2013, the TCU began to produce systemic oversight reports (Fisc) and consolidated the disclosure of said reports from 2015 on, with the explicit goal of evaluating public policies. This initiative points to a reclassification of external control by enabling a continuous discussion of the results of public policies. In this sense, the TCU conducts audits of an operational nature, which allow, in principle, an analysis about the main trends of improvement, stagnation or retrogression of these policies. If this initiative is confirmed as a repeated practice of qualitative analysis of public policies, and proposals for correcting them in the course of their implementation, we shall then be closer to the new concept of governance which seeks to integrate politics and administration, management and public policies, within a vision of government as a comprehensive, plural and complex process of society (Martins e Marini, 2014, p. 43).

Perhaps inspired by this new concept, the Report of Government Policies and Programs of 2017 (RePP, 2017, p.1-4) showed the existence of deficits in institutional governance and in the management of the federal public administration, which produce generalized inefficiencies in the federal public spending. By doing so, this report offers, albeit indirectly, an analysis on the quality of our democracy itself and on the results achieved by the constitutional project of 1988. The inefficiencies identified in this report implicate considerable waste and systemic deviations in the application of federal public resources. Based on the analysis of these consolidated findings, one concludes that these institutional deficits, if left uncorrected, are capable of maintaining the low efficiency of the public services and assets offered by the State, which have been perceived by society as inadequate and insufficient. Within this context, external oversight bodies should pursue strategies and encourage decision-making processes that promote the elimination or reduction of these deficits, with proposals that seek to involve the Brazilian society and mobilize it, since these institutional deficits can easily become democratic deficits, causing distrust from the society regarding the legitimacy of the democratic regime itself and its accountability and ability to produce adequate and sufficient public services, compromising the achievements that have been reached up to this point.

However, today the democratic accountability standart is far from our accountability reality if we consider the reality of all other audit courts in Brazil. In the period of the New Republic, with the exception of the TCU itself, in the great majority of the Cities and States Audit Courts there is not a major concern in what pertains to the concept of accountability, even in relation to its bureaucratic dimension. These bodies remain limited to traditional standards of oversight, restricted to verifying whether public agents have acted accordingly (Barros, 2000, p.167,213). In this sense, some researchers argue that Brazilian public finance courts seem to be ineffective in promoting this concept (Rocha, 2009, p.13), and correlate the cause of this low effectiveness with the fact that their reports and opinions do not reflect all the dimensions of the concept (Denhardt and Denhardt, 2003, p.131-137), grouped in three planes: the bureaucratic control of compliance with the laws and regulations; the control of performance, represented by obtaining a maximum productivity of public resources by means of controlling the results of the action; and the democratic control, based on the responsiveness and transparency of the public servant.

Thusly, the dimension of the democratic oversight, seared in the Citizen's Constitution, has not been reflected in the structures of the Audit Courts of the Brazilian States and it amasses, in addition to the demands for bureaucratic oversight and performance, a new requirement, embodied in the double requirement, at one time, of reports and opinions that are at the same time instruments of analysis and evaluation of the actions of public entities and agents, as well as instruments of disclosure of the work of these entities and agents for those social actors who are interested. In this sense, in order to follow the constitutional logic of external oversight, it is necessary that all the reports and opinions incorporate a fundamental component to the democratic dimension of accountability: communicability, i.e., the defined standards of analysis and

systematization of information, an appropriate periodicity, wide disclosure, guaranteed availability and access and, mainly, intelligibility (Rocha, 2009, p.11).

To ensure that Brazilian public finance courts behave effectively and contribute to the improvement of public administration and for the improvement of the social control, their reports, analysis and opinions must be made known and intelligible to the society and to the citizen. On its turn, it is also necessary that the social actors explore the existing possibilities of implementation of accountability from the information produced by these oversight bodies and demand improvements so as to make the social control a better tool.

IX. Conclusion

Several segments of the direct and indirect federal public administration showed improvements in the transparency indicators of the LAI and the disclosure of audits and TCU's reports on the results of public policies was made more robust. It was possible to verify that these improvements were sustained by the institutional evolution generated by the federal legislation, in respect to the fundamental rights expressed in the 1988's CFRB, which was promulgated by the Congress over the last thirty years, but emphasized in the last decade and, more specifically, in the last five years, in a gradual and complementary fashion.

In the realm of social control of public affairs, more specifically in the case of the LAI, there was a confluence of a virtuous combination of institutional factors and administrative efforts. This combination enabled Brazilian citizens to demand, in an effective manner, information from the various segments of the federal government by creating the conditions for high rates of responsiveness to the requests for information and maintaining it in a high level over time. However, this positive impact, translated into the high number of answers provided, does not allow one to investigate, in what pertains to quality, if the answered requests contained explanations about the actions or omissions of the federal government in the execution of its public policies. Hence, a possible improvement of governmental transparency, via LAI, could take place with the development of quality indexes regarding the information provided, in order to reveal a richer set of data for the oversight of the public actions and policies. And, on the citizen's side, a growing interest in public affairs and in information about the public administration was verified, with the effective use of the institutional means available.

In the field of external control, there was a movement towards improving the legal mechanisms of governance, the monitoring of the public expenditures, which was also stimulated by the TCU's actions, which intensified and deepened its audits and demands to the various segments of the federal government. This combination of new legal landmarks over the years and of the federal oversight body committed to enforce said legal landmarks, favored the implementation of new transparency practices and the development of the necessary means for it, and stimulated a more favorable scenario for citizens to be brought closer to the public arena. Still the citizen acts more as a requester than a producer of new information, albeit capable of criticizing or disputing the reports and analyses of the TCU. Even so, in a general way, today the concept of democratic accountability is far from the reality of the rest of the Brazilian public finance courts. In the period of the New Republic (1988-2018), with the exception of the TCU itself, in the great majority of the external oversight bodies of the federative entities, there is not a major concern in what pertains to this concept.

In summary, if on the one hand there was improvement in the monitoring of the federal government activities, with a more institutionalized, more direct access and with greater access of Brazilian citizens to the information of the public entities who produce public assets and render public services, on the other hand in the reports analyzed one cannot find any consolidated or conclusive information about the quality of the information received by the Brazilians citizens. Thus, it is necessary to advance further in the investigations

regarding measurements, quantity and quality-wise, of the responses provided by the various segments of the Brazilian federal government.

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