

The democratic transition and the right to public information in Brazil

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Abstract (718)

In 2018, we celebrate 70 years of the Universal Declaration of Human Rights (UDHR) and, in Brazil, 30 years of the Citizen Constitution, a milestone in the democratic transition after 20 years of Military Dictatorship (1964-1985). In 2016, President Dilma Rousseff, was removed from power after a legal-parliamentary coup procedure (Proner, 2016) and in 2019 a president identified as far right, after a winning the elections, took over.

This paper presents an overview around two questions: Is the democratic question central to public transparency and policy of access to information? Can the coup d'état and the new national scenario interrupt and bring decline to the policies of access to information? These are our research question. The Brazilian constitution in force, known as the “Citizen Constitution” (Brazil, 1988) establishes that everyone is equal before the law, without distinction of any kind, guaranteeing the inviolability of Brazilians and foreigners living in the country the right to life, liberty, equality, security and property. The right to receive from the public agencies’ information of their particular, collective or general interest presented in the Constitution, was regulated by the Law of Access Information – LAI (Brazil, 2011), 23 years after. Regarding the protection of personal data, LAI has reserved only one article, and the approval of the General Law of Protection of Personal Data - LGPD¹, approved in 2018, to take effect in 2020, runs a serious risk of not being implemented. The Open Data Policy practiced by Federal Executive Branch, strengthened the movements with social participation in order to promote access to information, public transparency, social control and scientific research empirica based on public management, among others. Access to information and public transparency meant a step forward in the process of transition to democracy in Brazil. The most legal instruments were approved during President Dilma Rousseff government, that despite this was removed from power by impeachment in 2016. Throughout the change of political regime (1980s and 1990s), the democratic question became central for the process of resistance and overcoming of the dominant

¹ LGPD – Lei Geral de Proteção de Dados initials in Portuguese.

neoliberalism. Popular participation, directly or indirectly, is characterized by the involvement and irreplaceable action of citizens in the meetings, discussions and access to data, appropriating the necessary elements for their decision-making processes.

In the 21st century, Brazil is experiencing the contrast between secrecy culture and the increasing use of new technologies and access to communication without frontiers, through internet by 67% of connected² population. From 1964 to 1985, Brazil lived under a military dictatorship marked by fear and secrecy. The right to information inserted in the Federal Constitution (Brazil, 1988) was not enough to divulge the archives from military regime time, frustrating the legitimate yearnings of a country advancing in democratic conquests. The culture of secrecy is embedded in societies where there is no freedom of expression. Dunker (2019) affirm there is democracy when we acknowledge that not every law is already written and we decide, the path we must take, with setbacks and progress, and it is also when recognized that the history of democracy is about including more subjects. From 2013 to 2018, the digital social networks became widely available to Brazilians, introducing the digital mass experience for individuals who, with the expansion of citizenship and consumption, lived social mobility and consequent identity instability (Dunker, 2019). 2018 elections with the victory of Jair Bolsonaro, who defends military dictatorship and torture, inaugurates a period of uncertainties and possible risks to democracy. The use of social networks such as WhatsApp and Twitter in the campaign, and now like govern communication, puts the ethics of information and the use of the digital universe in the democratic space at the center of the debate. Among the first acts of the new government there was a specific decree amending the LAI regulations. The right to access public information in Brazil is at risk.

This article is based in an ongoing research, around the rise and decline of public transparency in Brazil, during the period of democratic transition and after 2016 coup d'état. It is characterized as a descriptive, exploratory and applied research, with qualitative approach. The techniques of data collection are bibliographic research, observation, analysis of documents and web pages.

Keywords

Right to information. Democratic transition. Law of Access to Information. Ethics of information. Brazil.

² Instituto Brasileiro de Geografia e Estatística (IBGE). Available at <<https://países.ibge.gov.br/dados/brasil>>. Accessed on 04/19/2019

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