

Roberto Brant

Professor and Bachelor of Laws

Professor and Bachelor of Laws, Roberto Brant was a constituent Congressman and Minister of Social Security and Welfare between 2001 and 2002. He is currently the president of the CNA Institute, a non-profit civil association that develops social and agribusiness studies and research. Since 2017, he has also been a counselor of the TCU Center for Advanced Studies in Public Administration and Control (Cecap). In an interview to the TCU Journal, Brant talks about the current Brazilian political scenario, the challenges for the sustainability of the social security system, and the role of the courts of accounts in this process.

"We are increasingly characterized as a country that maybe won't work":

Roberto Brant talks about a crisis in the Brazilian political system and brings suggestions for the social security issue.

At the first meeting of Cecap's Superior Council (6/27/2017), you said that Brazil runs a serious risk of being a society that did not work and that in a few years we would be sure about that. In your opinion, what are the critical factors that put the country on this path today?

Today, I would state this even more emphatically. I think the institutions of the Brazilian State are not working in a coordinated way, with a view to a predetermined objective. In a poor country like ours, this objective is to allow material progress, to allow this progress to be extended and provide adequate basic public services such as education, health, and safety for everybody.

But I feel that the Brazilian State has become an arena in which distributive conflicts, that is, who pays what and who re-

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ceives what, need to be ordered more fairly. This has led to a very large fiscal crisis, mainly to a precarious public service delivery, which only the State can provide in a more egalitarian way, such as safety and health care, for example. I don't see this course being reversed.

Therefore, I think we are increasingly characterized as a country that maybe won't work. There are many countries in the world that had everything to succeed and failed. The greatest example is here by our side, which is Argentina. In 1900, Argentina was the second or third richest country in the world in per capita income. It was paradise for anyone in the world. People came from Europe to live here. It had everything, climate, soil, a people much more cultured than the rest of Latin America, etc. However, the country almost went bankrupt and became irrelevant. No one talks about Argentina anymore, except in soccer.

Another example is Italy. We can finally say that this country failed. It is beyond repair. A clown created a political party and had majority in the elections. A clown, literally, who used to work on television: Bepe Grillo. A country that descended from the Romans, from the Etruscans, created the Renaissance and now is over. Maybe in 50 years they will have some regeneration, but the country no longer believes in itself, everyone faces everything with mockery. In the elections, for example, it is not that the voters believe that these people will solve anything. They have just reached a point of mockery and decided to vote for the clown. This also already happened here in Brazil. People didn't think he was going to do anything. They just thought "this is not worth more than a clown", and, in the end, I don't know if they were wrong.

In the case of Brazil, historically, what do you think that were the origins of this crisis in the State's performance?

I notice that the origin of this has two sources. The first one are the flaws of the Constitution of 88. I say this very naturally, because I was a constituent. A constitution is a kind of pact between the various sectors of society. It aligns the rights that must be protected with the duties that must be apportioned. Our constitutional pact came at an unfortunate time in World History. First because it was a year before the fall of the Berlin Wall. After that, the world's view changed completely. This way of thinking, with the State being too strong, with little regard for individual enterprise, with too much emphasis on the distribution of rights to public bureaucracies, everything would have been different if it happened two years later. A second point is that, at the time, the country came from an authoritarian experience, which contaminated people with the fear of excessive power by the Executive Branch. Thus, although the Constitution consecrates the division of powers, all situations reveal a distrust in the Executive Branch, so that the controls were exaggerated and their effective powers diminished. Even though, contradictorily, the actions of the State, which are performed by the Executive Branch, have been expanded, it has been increasing-

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ly cornered until it reached the current situation.

Moreover, when the Constitution was drafted there was no clear civilian leadership that could direct the process. The democratic society is plural, but the truth is that this plurality has to be harmonized, otherwise coexistence is not possible. Harmonization occurs when some people give in some things, others give in other things and so you can live on common terms. At least, this is the ideal.

The second source for the causes of the crisis in in the Brazilian State is that there was a kind of bankruptcy of the political system. In fact, the State and society depend very much on the quality of the political system, on how political institutions work.

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Basically the parties and the parliament. The military government interrupted the ongoing process of formation of public men. There were two or three parties in operation until 1964, with a certain clarity, coherence, and a great deal of representativeness in relation to society. The military government liquidated the parties, invented two parties by decree, and hunted down everyone who had a little freedom of speech. With that, it discouraged an entire generation from being part of Brazilian politics, including mine. I graduated in 1964. My dream was to be a politician and I waited twenty years for that. However, most people who also had this dream got lost in the private sector. When they resumed their political life, a continuity had been broken. There was a tradition that the most intelligent people came to politics, we had big names. Since 1985, the quality of the political representatives has diminished.

Moreover, the excess of freedom of political initiative has created a great fragmentation. Brazil then became a sick country, which has thirty parties, but none represents absolutely anything. The National Congress' attempt to change this – through a barrier clause – was thwarted by the Supreme Court, which I also consider to be one of the institutions responsible for what we are experiencing.

Today the parties do not work and it is through the parties that the parliamentarians work. Our Legislative Branch represents absolutely nothing. It is a body that lives of itself, for itself, to survive and to eternalize itself. Therefore, we have a defective Constitution and institutions that function in a defective way, in view of the State's goals of distributing rights and duties, taking from those

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who can afford it through the tax system and distributing services that give equal opportunities to everyone. Nonetheless, the Brazilian State does not provide the poor with professional opportunities or the opportunity to rise in life, nor treatment in disease and misery nor public safety, as we are seeing in Rio de Janeiro. Moreover, the political system has no capacity to regenerate these functional defects.

Thus, if Brazil remains at this point, I think we will end up being a country that did not work at all. We were brought up with the idea that Brazil would be the country of the future. The present was bad, but the future was going to be great. I've learned this since I was a kid. It turns out that the future has not come and there comes a time when you say: does it really exist? I'm not saying it won't come. This country has energy, strength, and people. Nevertheless, in this moment we are living, it is fair to admit, at least, that we have gone astray from our future.

And how could the country build a turning point to approach this future?

Things are solved in two ways: either by means of reforms and regeneration conducted by the intelligent hand of man, or by virtue of an unsolvable crisis, in which chaos is created and things resolve themselves, which is the worst option. I think we need a deep institutional reform to review not only the constitutional pact, but also the formation of the political system.

We can't have thirty parties. We will have an election for President of the Republic with the idea that Brazil would be the country of the future. The present was bad, but the future was going to be great. It turns out that the future has not come and there comes a time when you say: does it really exist?"

now and it is so without representation that anywhere in the world you have two or three candidates. Here, we already have 14, and this is madness. In any country in the world, the voters are unfamiliar with the major issues of public policies. Voters guide themselves in the elections through a few symbols, embodied in two or three people. It is multiple choice, with few squares. Here in Brazil we are going to a multiple choice of 15 squares. You see, if I ask you something trivial and give you 15 possible answers, you're going to get lost. The Brazilian people are being subjected to this and can't distinguish one option from the other. This is a sign of the disease of the political system, which is unable to agglutinate. Politics means aggregation, processing of diversities to reduce differences. You have a thousand points of view you try to reduce to 200, 100, 50, 20, 5, 3... and then you have options. Nobody is completely satisfied, but this

is politics. The rest is a primitive society, which cannot live in large numbers.

Considering then the current scenario in relation to the constitutional and political panorama, what would be the prospects for the next president?

This next president will arrive without significant majorities, natural majorities. And he or she will have to deal with a Congress of 30 parties, most of which do not care who will win the election. They are there waiting for the visitor - who is the President of the Republic - to negotiate how he or she will govern, because they are the ones who are going to dictate it. If the president says he or she will not exchange favors, that he or she will not deal with a particular party, that he or she will not appoint a particular person, the president will not be able to approve any bills either. A country in which everything is constitutionalized, everything depends on large majorities to be approved. We are already in a crisis and in need of legislative reforms. He or she will not approve any, and will lose people's confidence, then push the Congress against the people, the people against the Congress, become isolated and end up leaving. In 15 years, we had two impeachments. This is a symptom that everything is wrong, and if we think that by going on like this, things will be solved by themselves, it is a mistake.

Thus, for a deep regeneration of the Brazilian state, I can't see the horizon. Who is going to lead it? When the Congressmen make a political reform, they make a miserable one, such as

this one that is going to regulate the election now. It is an election made in such a way that no one outside the political system can enter because they have banned private funding. Now only public funding is accepted through the party. The party bureaucracies will receive millions and millions in taxes and will define to whom they are going to give them, since there is no rule, no law no decree to force them to do anything. They have their own money, and the medium sized parties are privileged, because they have no candidate for president or governor, so their money is for congressmen, and congressmen are currency. The more Congressmen they have, the more money they will have in the next election, whether from the party fund or the electoral fund. And this is their livelihood. they are financial agencies. Now, if financial agents, whose owner says, "vote for me or I will not give you the money" dominates the Congress, the Brazilian people have no political representation. I see what is happening and get sadder every day. It doesn't mean that the future is over, but that it is running away from us.

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What could be the contribution of the courts of accounts to help the country reverse this situation?

I think the TCU has an important role to play. First because it helped in directing the functioning of the State. If you consider the period before and after 88, this was one of the few things in which the Constitution may have had breakthrough. Before the Constitution, the role of the court of accounts was subordinate. The Public Administration felt no pressure from external control. After 88, the courts of accounts became more important and better equipped in terms of personnel, auditors, so that they started to exercise effective control. Uncontrolled power is absurd.

In addition, the courts of accounts started to have a more preventive role. In the old days, when you did something wrong, the court would come and condemn you, but the mistake was already made. In fact, the function of control is not to punish. The function of control, in my view, is to prevent. There are people who even get annoyed with it. They want to initiate a bidding process and say it can't be done because the court has not yet released the call for bids. I prefer it this way. After all, what would be the opposite? The government would make the call as

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they wanted, proceed with the bidding, execute the contract, and then, the court of accounts would say that everything was wrong, find overprice, stop the work, and waste a lot of time, and still live with the losses.

I also see a great improvement in the technical capacity of the courts of accounts. This will always be controversial, but anyway, unfortunately, the Executive Branch has been losing technical quality. After the Constitution of 88, some bodies improved technically, such as the Office of the Public Prosecutor, the Judiciary Branch improved, the courts of accounts, some careers, such as the Central Bank and National Treasury are also good. However, except for these islands, the Executive Branch is very poor of technical resources.

Today, much of the conflict with the Executive Branch may result from the fact that the technical staff of the courts of accounts are better. This also involves the salaries. The Executive Branch eventually complied with all the restrictions that were placed. And universal restraints are always dumb. We should restrict where restriction is needed, but, in some areas, we need opening. The public sector spends a lot of money where there is no longer a need and fails to spend where it is indispensable, such as coordination, planning, monitoring. The Executive Branch has lost the ability to hire high-quality people because of salary issues. They say, "you will earn less, but then you will retire". But they will change the rules of retirement, and then you will get nothing. The person who is good and has quality should earn the equivalent in the market. The Executive Branch was orphaned. And this is also one of the dysfunctions of the Brazilian State, which, in a reform of the public service, would have to be addressed at all costs.

Regarding the reforms being discussed in the country, the social security one deserves attention. In your opinion, what are the critical points to be considered in a reform that seeks to make the Brazilian social security model feasible?

Social security has become impracticable in Brazil, but it is happening in many parts of the world. First, let's talk about the private pension, that is a quite typical case. The financing mechanism of the private pension worldwide, not only in Brazil, is a contribution collected by a worker who has a job and a collection from the employer. These are the two pillars. Here in Brazil, the company collects 20% of the payroll and 8 or 9% are discounted from the salary of the worker. This low social security is supposed to protect the people as a whole, against the calculated risk of old age and death. Everyone is subject to this. But only part of the people finances the system, because only 30 million Brazilians have a regular employment in a company. The remainder of the active population, almost 100 million people, is out of the system. Therefore, this system runs a deficit by nature.

In addition, we have the transformations of the labor market. This number of employed, that we consider low, shows no tendency of growing, because, although the unemployment is cyclical when the economy is



falling, it improves when the economy is rising; in the long term, other forms of work are taking place in economic and social life, such as partial work, temporary work, work by task, work at home,... These forms of work that the International Labor Organization (ILO) calls atypical are already representing a very large amount in the total economy. Here in Brazil, it corresponds to approximately 20%, not considering the informal work. These atypical forms, since they don't have a permanent labor relation, have no company paying part of their contribution. The contribution of the worker is a small part of the social security fund, since the company pays 20% on its payroll and the person pays 9% only on the ceiling of his/ her contribution, which is R\$ 5 thousand. So, I would say that approximately 65%, 70% of the financing of the social security comes from the regular employer. And when we decrease the importance of the regular employer, we affect the financing of the social security. So, this financing is structurally problematic. On the other hand, a large part of the Brazilian population will not have the protection of the social security. For me, this problem is as big as the deficit itself.

And we still have the deficit. Even with all this, contributions are not being enough, for a simple reason: people are living longer. This social security thing has existed in the world for a very short time. In Germany, it exists since the XIX century, but in the rest of the world, only after the war, which began when people lived very little. Now, we live a lot. People retire at 40, 50, 50 and a few years and they will live to 80, 85. Today, the life expectancy at birth in Brazil is 76 years, but, when the person reaches that age, his/her life expectancy goes to 85, 90. The system became unfeasible, because, in the old days, 5, 10 years of retirement were affordable, and the person soon died. Now, it finances 20, 30. The calculations can't match. Reforms must be made, such as the one proposed, which increases the retirement age, ends with retirement for time of contribution, decreases it for some categories, separates it from the minimum wage. All this to try to give some more years to the system. Now, in the long run, 20, 30 years, the system as it stands, even with these mends, is still untenable.

And what is required for us to reach a sustainable model?

A bad thing here in Brazil – and this one is exclusively Brazilian – is that our rules are in the Constitution, a thing that was made to last. But economic and social scenarios are changing a lot. Ideally, this should be regulated by a law, because a law is something that can be changed easily. You can change it every 10 years, without much trouble. In the Constitution, the rule is frozen, but, in one moment, it becomes impossible, and changing it leads to a great impact.

So, if it was a law, it could be changed as reality changes. Thus, it would affect people's lives over time, there wouldn't be a shock. It's not a surgery. Let's say, in an analogy, that this social security illness could be treated with a remedy, just like we treat diabetes, high blood pressure, we don't even feel it, and, in the end, you get there. But no, here we let the thing reach a critical point and then we need a huge surgery.

In the case of the public sector, it is just the same. The State grew a lot and gained other responsibilities. Those rights that the workers had back on 1940, 1950 become unfeasible in 2018. Some rules are even absurd, such as the so called equal pay, equating the retired to those still working. First of all, it demotivates the employees. Whether in the public sector or in the private sector, an increase in the salary must be derived from increased produc-

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tivity or increased requirements for the exercise of the profession. 40 years ago, an engineer should have a certain qualification to be hired, today it is much higher. In addition, when productivity increases, it's only fair to improve people's actual income, not just inflation. And then you transfer this to everyone that is retired, it doesn't exist anywhere in the world. Everywhere else in the world, once you are retired, you cut your link with the active world. From that moment on, you should have the right to a regular recovery of the purchasing power of that retirement. But the employees still working may receive an increase of the salary, get a promotion, in accordance with their needs. So, this even pay is not right.

A person retiring with 100% is also something exclusive from Brazil. This so-called "retirement replacement rate" generally ranges from 50 to 60%, at most 70%, in Europe, for example, which is a generous continent in this matter. In the United States it doesn't even exists. But in Europe, which is our model – although they are much richer than us – they are also not being able to afford it. Anyway, here, until 2003, we gave 100% replacement plus a last salary.

People may argue that this is a vested right. But the rights are not exactly the same. Some rights are limitless. So, I can exercise my right without affecting other people' rights. For example, the right of association, credit right, freedom of movement. The fact that someone enjoys these rights does not hinder other people's enjoyment of their respective rights. And then, we have the

economic rights, within them, we have those that are public, such as environment, the right to a clean air etc. This costs money. Often, you have to think: is it worth wasting R\$ 100 billion to improve the air or is it better to invest in other things? It is a decision, but, in any case, it is a public property. The fact that I am breathing clean air does not stop anyone from breathing it too, it is not a competition. Then, we have the individual economic rights, as salaries and retirements. This is an individual right, exercised as a society, these rights cannot be absolute. I have the right to receive my retirement pension of R\$ 30,000 every month, but this right is paid by the society as a whole, and, in Brazil, 90% of the people are poor, earning less than 3 minimum salaries, and these people do not have any of these benefits. And this is the injustice: the Constitution is a pact of rights and duties, but a lot of people were left out and few people are in. This is also something that makes society sick.

How may the Federal Court of Accounts contribute, in relation to specific aspects, with the formation of a more sustainable and egalitarian system for the social security?

The TCU may help a lot. Senator Paulo Paim brought an Investigating Commission of the social security in the Senate and they came to the conclusion that there is no deficit, everything may stay the same. The huge role of the TCU is to legitimate the correct information. It has authority to say "look, things are exactly like this, this costs this much". It is not about what is fair and

what is not, this is not the role of the Federal Court of Accounts. And, if this is in the Constitution. this is fair. The political system needs to change the rule of the Constitution, but it is not up to the TCU. The Federal Court of Accounts will say: "are those data true? Is that right?". In addition, making projections, as already done, for example, in the global tax area, golden rule, projections of the evolution of expenditure, revenue, deficit, public debt, they do this constantly and I think that this should also be done with social security, including in the area of financing ... if there are failures, if there are frauds.

This government says that, in the cases of retirement due to physical disability, they could eliminate tens of thousands of them. In the cases of rural retirement. I believe there was a fraud. For example, when I was a minister. I examined the number of rural retirements in Paraíba and Rio Grande do Norte, because rural retirement is very strong in the Northeast. Then, I took IBGE data and noticed that the population eligible in the census were smaller than the benefits that had been granted. It does not necessarily mean that there was a fraud, people may have moved to the state, etc. But, anyway, it's evidence. The eligible population is of women aged 60 and men 65 in rural areas, with no employment. This is shown by the Agribusiness Census and the Demographic Census as well. So, I thought: "there is something wrong here".

For urban workers, since 1975, the data are all on the general server of the social security. In fact, they don't need to

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prove anything. But in practice, they need to prove the length of service, show the social security card, then, an investigation is made and the retirement is granted. In the rural sector, there is none of this. The INSS does not approve the rural retirement. They were politically forced, since back then. Contag, which is the National Confederation of Agricultural Workers, did all this processing through its branches, delivered, and then that was just approved. Well, that was a union organization, the local politicians then would come and ask: "get me a retirement for the so-andso". They forced things.

So, if someone would audit rural retirements, it would be a spectacle, in the fiscal sense. Often, the political power, Executive Branch, is afraid to do so. I remember that, during the PT government, Berzoini decided to make a re-registration of retirees

in Brazil. A normal thing, just to see who was dead or alive. It was a mess, Jornal Nacional showed they taking a man from his little home to the town. This is one case in a million. Anyone who audits may have a case like this. But they did that and killed the re-registration. The court of accounts could demand the re-registration because it has the role of ensuring the fairness and legitimacy of the acts of expenditure and revenue of the Government.

I think the court has a huge power, even because it is neutral, as an assistant of the Legislative Branch. It could lead something real. I don't see anyone with this capacity. I think it would be a contribution to the benefits of continued provision, to rural retirement and even to urban retirement, which has too many frauds. Every time we see a fraud scandal, they arrest someone, but it's a topical thing, we need something systematic. And then, we empower the Government to do it, because the Government is afraid to do it.

Do you believe that for the social security model to be improved, it must approximate the private pension model?

I do not think that the models should be the same, but I think that the process that is under way in Brazil is fair. To have a small basic retirement for everyone and, in the case of the public sector, to have access to a complementary fund in which you contribute with part and the State with another. This doesn't exist in the private sector. The private worker has his/her only the INSS retirement. If he/she wants a supplementary plan, he/she will pay alone for it.

In the public sector, the costs are shared, because the horizons are smaller, theoretically.

Then, different models must be treated differently. However, it can't be as different as it is today. In this debate, people are too influenced by politics and the topic should be discussed without emotions or political opinions, since it is a reasonable thing that can be gradually implemented. I am against great ruptures. We are always seeking surgical solutions to problems that could be treated in a first-aid-room, using a medical analogy. If we were aware that these things are going to be like this, from the first day, we would adapt, so people would not feel a trauma, nor a reversal of their expectations, that also have to be respected.

When I was minister of social security, I order some projections for the social security system, only taking into account the real increase of the minimum salary, since Brazil established that no social benefit could be lower than the minimum wage. We made several projections and realized that, if the minimum salary increased any amount above inflation, by 2030, the system would become absolutely broken. Then, Lula came along and ordered huge increases to the minimum salary. This ended up being unfair, since the minimum salary in the private sector is more of a guide because most people already earn more than a minimum salary, but the effect on the public sector was terrible. You have 10 million rural retirees, who never contributed - because they did not have the money for that – but retirement pay had to be readjusted based on the minimum salary. I believe that

the real increase in the minimum salary should correspond to the increase in general labor productivity in the economy. However, the rural worker is not working, he/she is there, isolated, and it benefits are paid with tax money.

People who have reached the age of 65 without income and have any physical disability also receive continued benefits based on the minimum salary. There are basically these two in the case of the Federal Government. However, in the case of the municipalities, more than half of the city hall employees in Brazil earn in minimum salaries, so they would also have that increase. This generated a huge tax pressure. It is a matter of deciding whether to spend money with these people - that are already reasonably affected, and we can't compare their lives with ours, but with their own lives because they had nothing - or invest a little more in education, health, etc.

Since the resource is finite, transferring all that money to older people is actually taking it away from the children. What we should be addressing is that the people who are children today do not need a continued benefit tomorrow nor rural retirement. which are non-contributory things. No society is able to give money to everyone. We should provide to them minimum educational opportunities so that they could earn 2, 3, 4, 5, 6 minimum salaries or more. We are neglecting the future generations. We are wasting the money for the future in the present, which is a sign of reckless and unwise people.

I call Brazil a reckless society. This is very typical of us, tropical. We don't think about the future, tomorrow is not a problem. Brazilians do not have personal savings and we don't want the state to save either. I use to say that saving is to invest in the people of tomorrow. A reckless State like this will generate problems tomorrow. And I repeat, maybe we have no future for that, because we are increasing our public debt distributing money in the present. This is neither left nor right. This is nothing, because left or right, money has no color, no ideology.

Is there an explanation for this lack of long-term commitment? Would it be a characteristic of the Brazilian political culture?

I believe this is a characteristic of our social culture, not just political. But in the politics, it has something to do with the current political party system. Here, each Congressman speaks for himself/herself, each senator speaks for himself/herself. The tendency is that each one tries to save himself/herself, and then, the long-term concern actually disappears, because he/she needs to be re-elected, nothing else. When

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a political party truly works, it manages to give a certain order to this diffusion of personal ambitions. The political party is an organization with bureaucratic functions, hierarchies, scopes of deliberation and discussion that greatly diminish individual voluntarism.

However, in Brazil, it's like we have no parties. If I were a Congressman today, there would be three or four parties fighting for me, offering me money for my campaign. If I join such a party, I have no duty to them, I made a deal. As soon I am re-elected, I am alone again. I do not even know who the president of the party is, or I know, but we have no link – organic links, solidarity links, a bond of cohesion.

We've thrown out the organizational and institutional filters. The president of the Republic today talks to 30 parties, but out of the 30, there are a lot of

people who say: "when you speak with so-an-so, you are not speaking with me". I heard from a minister of the current government that they need to talk to all Congressmen almost individually. There's no such thing. I mean, there is, but it doesn't work. There is no way it can work.

With this dispersion, this fragmentation, this voluntarist individualism, it is impossible to produce reasonable public decisions and policies. Each department of public performance is separate - energy here, transportation there. It is separated and they do not speak to each other, because each department is controlled by a certain political group. Thus, the logic of decisions has to meet the national need, which is not always ignored, but has to meet the logic of that sectorial interest.

It can't work at all. We don't have true politics, and the gov-

ernment is a hostage, just as the next president of the Republic will be. He/she will also be hostage of the parties, hostage of the congress, and then he/she ends up hostage of the Office of the Public Prosecutor. Anyway, we have to distance ourselves more from the individualism and voluntarism and seek more collective solutions.

Today, I believe things are worse than on that day of the first meeting. Today, I would say that things are more difficult.

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