

# **The Federative Liaison Committee: intergovernmental coordination and cooperation instrument for public policies in Brazil**

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**Abstract:** The present paper aims to reflect upon the issue of intra and intergovernability advocated by the Federative Liaison Committee – CAF, a stage for dialogue between the Federal Government and Municipal Governments, associated to the Secretariat of Institutional Relations of the Presidency of the Republic of Brazil with the aim of verifying to what extent and how, this instrument may contribute to ensuring that public policies in Brazil work in a concerted fashion.

## **I – Introduction**

Before considering the proposed topic, it is necessary to define some concepts which will be used in this paper. We understand intergovernmental relations as relational techniques or cooperative arrangements which permanently reestablish the *foedus*<sup>1</sup> through sharing the obligation of services offer, usually a responsibility of governments and their respective administrative bureaus (SILVEIRA, 2002). These relations may take place vertically, between government levels, or horizontally, between governments of the same level. This paper also includes considerations on intragovernmental cooperation, in other words, between sectors of direct and indirect administration of a same governmental level.

It is also important to mention the growing significance given to these topics in the World Public Administration and Reform of the State Agenda. Enhancing intergovernmental relations is a contemporary necessity of all types of government due to the generalized decentralization process of responsibilities seen from the 80's onwards, even in countries with a strong centralizing and unitary tendency (ABRUCIO and SOARES, 2001). Nevertheless, in Federal States, where the autonomy of subnational governments, the necessary interdependence and unit resulting from the federative constitutional pact live side by side, developing intergovernmental liaison instruments is not only a need, but a structuring condition. This is due to the recurring demand for communication, cooperation and collaboration between autonomous, and at the same time, interdependent states (CUNHA, 2004).

We have observed that the federalist logic for liaising actions between different government spheres has disseminated in the world. Today, 28 countries, home to 40% of the world population, declare themselves to be federated, or are openly considered as such. Almost all highly populated democracies or those which have a great territorial extension are federations (ANDERSON, 2008). The value given to the federated structure for organizing the State, resides in its flexibility to institutionalize and work in a concerted fashion with new regional government levels and territorial concertation models, with variable geometry, several shared objectives between different government spheres and the participation of a great variety of public, social and private actors.

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<sup>1</sup> *foedus, foederis*: alliance, pact, etymological origin of the word federation.

Brazil is no exception. Although it is a Federal State, it is a very unique federation, as it recognizes municipalities (local level) as federative entities in its Constitution in the following terms: “Article 1 The Federative Republic of Brazil, composed by the insoluble union of the States, Municipalities and the Federal District, was constituted in democratic rule of law with the following foundations: sovereignty; citizenship; human dignity; social labor values and free initiative; political pluralism”.

Evidently, this fact brought more complexity to our intergovernmental relations, but on the other hand, carries with it a democratic promise yet to be fulfilled, due to the Brazilian federative project being unfinished and lacking in cooperation and coordination instruments. This assertion is exactly what we will try to show in the present article and to do so, it is necessary to put the evolution of federalism in Brazil into historical context.

## **II – Historical evolution of federalism in Brazil**

The ideal federalist finds his or her roots in the Imperial Period (DOLHNIKOFF, 2005). Therefore, in this sense, although it does not admit to it, Brazil was born as a federation. However, this corresponding principle was only included in the national judicial ordinance after the monarchy was overthrown and the Republic established on the 15<sup>th</sup> of November 1889. Since then, the federative system features as a constitutional element, although in practice, the dictatorship periods almost suppressed it as a result of excessive centralization.

Analyzing Brazilian history, we see a pendular movement between centralization and decentralization, which started to characterize Brazilian federalism. Another important characteristic of Brazilian federalism is disaggregation. Contrary to the classic North-American model, which aggregates 13 previously sovereign British colonies, the Brazilian Federation emerges from the unitary state established by the Political Constitution of the Empire from 1824.

The first Brazilian Federative Constitution in 1891 looked for inspiration in the dual North-American model, much decentralized, consolidating through norms a presidential federative republic with two legislative houses. However, historical conditions cannot be reproduced and although the national political institutions drank from the same fountain – liberal ideals from illuminism -, they developed their own characteristic, very different from their North-American counterparts.

In the Brazilian case we can say that, ‘much more than playing the role of maintaining unity in diversity, federalism allowed, in all moments of our history, for political and economic interests of the regional political elite to be accommodated’ (BAGGIO, 2006). It was in this manner that the Old Republic, marked by practices of *coronelismo*, also known as the ‘rule of the coronel’, term which refers to the old classic boss system under which the control of patronage was centralized in the hands of a locally dominant oligarch known as a coronel, ensured power to agrarian oligarchies. Even later, with the 1930 Revolution and the rise of Getulio Vargas, regional political elites still had power, however, a new elite was formed, with an industrial and urban economic base instead of agrarian.

It is important to acknowledge that the second Brazilian Federative Constitution in 1934 outlines a much more centralized federalism, the paradigm of which was the German Weimar Constitution. This change in paradigm shows an evolutionary trend in federalism, experienced throughout the world, including the United States: the transition of dual federalism, characterized by the non-interference in decisions between levels of government, to cooperative federalism, anticipating consensus and sharing in decision making. In this sense, the 1934 Constitution would be the constitutional framework of the new Brazilian intergovernmental relations (HORTA, 1999).

Nevertheless, there is no need to overvalue the financial dimension of intergovernmental cooperation. The 1934 Constitution is ambiguous and does not in fact lead to cooperation, that is, the joint management of common interest and services, decision making consensus. It ‘needs precisely that structuring intergovernmental cooperation element: consensus/agreement on the opportunity of decisions being validated by discourse’ (SILVEIRA, 2002).

Perhaps this is why the new constitutional order did not last. On the 18<sup>th</sup> of December 1935, it is amended, generating something similar to the state of war. This exceptional state fed the ‘self-coup’ by President Getúlio Vargas, who even though elected for the quadrennium by the Constituency, installed the dictatorship of the New State.

While the New State was in force, Decree-law 1.202, from the 8<sup>th</sup> of April 1939 (Municipalities Code), providing for the administration of States and Municipalities, deconstitutionalized the Federation and implemented the structure of a unitary State with decentralized bodies in subnational entities.

The subsequent democratic period, from 1946 to 1964, builds back the foundations for a municipally based cooperative federalism. During this period important innovations were developed in relation to sharing tax revenues between federative entities, creating a cooperative fiscal regime, where States, the Federal District and Municipalities had an income share from Union taxes. The Municipalities also had a share in the revenue of States taxes, system which was enhanced and included in later Constitutions.

The 1946 Constitution allocated the Union with a lot of planning responsibilities for the economy, as well as big state investments and in particular, initiatives to reduce regional inequalities, such as SUDENE<sup>2</sup>. In fact, it was the first Constitution to reflect the Brazilian cooperative project, this because ‘the intervening Social State was already triggering strong changes in federalism, which without the ambiguous bias were protected by the 1937 Charter’ (RIBEIRO, 2001).

Unfortunately, this democratic moment is halted by the military regime in force from 1964 to 1985. During this time, which came to be known as ‘Organic Federalism’ (ZIMMERMANN, 2005), federative centralization reaches high threshold levels interrupted only by the 1988 Constitution, considered a decentralization milestone.

As a result, the alternation between centralization and decentralization periods in Brazilian history is often associated to blocks of authoritarianism and democratic advances, respectively. Nonetheless, this rationale is not enough to explain the current settings of the Brazilian federative model and the distinguishing oscillation it experienced between being open and closed, as there is no presumed regularity of this movement (KUGELMAS, 2001).

However, the idea that associates decentralization and democracy would be strengthened during the period of political opening, exceedingly influencing debates in the Constituent Congress. During these discussions, although there was some divergence, all States converged in the intention of seeing their fiscal resources increased. The result was the adoption of a notably decentralized federative model, marked by the ‘state ultra-presidentialism’ phenomenon (ABRUCIO, 1994). Direct elections being held at the state before the national level, was a fact that stood out in this process. This situation influenced the gains experienced by the subnational governments in the Constituent Congress, elected in 1986, through simultaneous proceedings held for new governors to be chosen. Hence, the prestige

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<sup>2</sup> The Superintendence for the Development of the North-east (SUDENE) is an entity which fosters socio-economic development in the North-east Region in Brazil, which is regularly affected by droughts, inhabited by low income population with little education.

and maneuvering power held by governors over respective political allies in the National Congress increased.

Nevertheless, this trend of strengthening state powers was reversed in 1994, when Fernando Henrique Cardoso (FHC) was elected president. For the first time in the history of the redemocratization process, the presidential election concurred with the proportional representation in the national congress, hence the political promises made by the new parliamentarians were in concomitance to the commitments made by the victorious candidate during the campaign. On top of that, several allies were elected for state governments, with the success of the new governors closely connected to the national economic stabilization plan, whose success granted the President political and social legitimacy (ABRUCIO, 2005).

Under these circumstances, the reforms proposed to support the fiscal adjustment were widely facilitated. The FHC Administration concentrated tax collection in the hands of the Union, in particular through the creation of social taxes not shared with states and municipalities. The fiscal adjustment was not limited to the Union's efforts in raising higher primary revenues than the increase in federal government expenditure (primary surplus). Subnational governments were also compelled to do their part, particularly through the agreements for the renegotiation of the debt, where the Union assumed and refinanced the debts from the states and municipalities in São Paulo and Rio de Janeiro in approximately 30 years (SILVA, 2007). With the Brazilian Fiscal Responsibility Law (LRF), instituted by Complementary Law 101 from 2000, the Union control over the adjustments of state and municipal accounts gained significant reinforcement. Through this law, openly disrespecting the constitutional matrix, the Federal Government prioritized primary surpluses, in prejudice of the positive disbursement on behalf of the Union, States and Municipalities as guarantors of individual, social, collective and diffuse rights (rights which provide guarantees to a group of individuals dispersed within the political community who have common legal interests despite their merely circumstantial connection) provided for in the 1988 Constitution.

Following the pendular movement, in the Administration of President Luis Inácio Lula da Silva, this trend of concentrating tax collection at the federal level begins to revert. Since 2003, many changes to Brazilian legislation have been made with the aim of increasing the transfer of resources to subnational governments and above all, to municipalities, thus improving their own tax collection capacity. During this period the increase in direct collection is significant, from 2.7% in 1988/89, to 5.5% from the tax pool between 1999/2005. The majority of these 'increases' for municipalities were agreed at the scope of the Federative Liaison Committee – CAF, which will be analyzed in the following pages.

### **III – The Evolution of Municipal Autonomy in Brazil**

After this brief historical context, for the purpose of this article we will point out another relevant aspect which makes Brazilian federalism unique: the municipality as an entity of the Federation. This is such a singular situation that at times justifies a direct relationship between the Union and municipalities. However, this did not come about overnight, as it is the result of historical development, which we will try to show.

From its origin, the Constitution of the United States of Brazil, from 1891, granted autonomy to municipalities under the following terms: 'Article 68. The States will organize themselves in such a way that the autonomy of the Municipalities will be guaranteed in everything related to its peculiar interest'. However, the reach of state powers at that time submitted municipal organization to strict hierarchical control in such a way, that the publicly announced autonomy of the local entities was not put into practice. Later, the 1926 constitutional reform expressively included municipal autonomy

among the Union's constitutional principles (article 6, paragraph II, item f). From then on, 'local autonomy would be limited to federal interpretation and no longer, exclusively, to the interpretation of the member-State, in the exercise of its power to organize the Municipality' (HORTA, 1999).

The complex political mechanism established in the Old Republic led to a paradoxal situation in relation to local power. Municipalities depended financially on state governments and would only receive resources to supply for their needs if they supported them. On the other hand, these same local leaders could exercise full autonomy in all issues related to their Municipalities, even those that were under the exclusive responsibility of the Union or the States, such as appointing judges or chiefs of police, for example.

In this period, the practice of *coronelismo* prevails and the 'coronel' stands out as the main electoral force, using his economic power to influence voters to vote for his political allies, mentioned by Victor Nunes Leas in his classic work from 1949. The author points out problems in the representation system at the time, relating them to the economic and social aspects of the predominantly agrarian structure in the country, which was based on the concentration of land ownership. In the rural scenario, society sheltered a minority of big land owners, surrounded by poor people who depended on them. The political weight of this electorate was significant in deciding state and federal elections. The coronels rounded up voters in the Municipality of District, providing the State government with invaluable support in the elections. *Coronelismo* constituted a commitment, a trade off between the public power and the coronels' private power. (LEAL, 1997).

The process of emancipating the municipalities from the states began under the 1934 Constitution. This novelty consisted in applying the precepts of municipal autonomy laid down in Article 13, through which municipalities were granted the possibility of directly and indirectly electing mayors and local representatives, the authority to organize services under their responsibility, and particularly, embryonic financial and fiscal capacity (Articles 8 and 10). However, as we saw, this legislation did not last long. The 1937 Constitution kept the Federation only in name. After the right to elect mayors was revoked, an interventionist regime followed in which the mayors were direct representatives of the central government. According to the Code of Municipalities (Decree-Law n° 1.202 of 08/04/39, modified by n° 5.511 of 21/05/4), the appointed mayors governed subserviently and discretionally, without the participation of local representative entities.

The 1946 Constitution re-established municipal autonomy to 1934 standards, although the restriction on electing mayors prevailed. However, the possibility of state intervention was restricted by the definition of the hypothesis of appropriateness in the Federal Constitution. Also, the financial and fiscal capacity of local branches was reinforced and as a result of municipal autonomy remaining a constitutional principle of the Union, its legal defense earned the protection of the Federal Supreme Court (HORTA, 1999).

The 1967 Constitution and its amendment in 1969 made the appointment of mayors in capital cities, spring water sites and Municipalities classified as of national security interest, compulsory; cases of State intervention in the Municipality increased and important modifications were introduced in the fiscal and financial field, thus increasing the dependence of subnational governments on the central government.

As a result of the democratic opening process in 1988, the position of the Municipality in the Federation was consolidated, as it was considered a component of the federative structure (Article 1, caption and article 18). Municipal political autonomy was guaranteed constitutionally by direct elections for mayors and local representatives for all municipalities, as well as through the possibility of self-organization provided for by the Municipal Organic Law and the capacity to regulate and offer public services for which it was responsible. Municipalities were also offered the opportunity to

legislate over issues which are exclusive to them, in addition to supplementing other laws of local interest.

It is exactly in the context of municipal responsibilities that the importance of the municipality becomes evident in Brazil. The current Constitution grants full powers to Municipalities to: legislate on local interest issues (article 30, clause I); add to federal and state legislation, in what is appropriate (article 30, clause II); institute and collect own taxes and use its revenues (article 30, clause III); organize and provide public services of local interest directly or through a concession (article 30, clause V); provide for pre-school and primary and lower secondary education programs (article 30, clause VI); provided health care services to the population (article 30, clause VII); promote adequate territorial occupation system, through planning and controlling the use of land (article 30, clause VIII, with article 182, paragraph 1); approve through municipal law, its Multi-year Plan, Budget Guidelines and its Annual Budget (article 165); and execute the urban development policy with the aim of putting the city's developing roles in a system and ensuring the well-being of its population (article 182, caption).

On top of the abovementioned responsibilities, they were also allocated with jurisdiction common to the Union and member-States, such as: providing health care and assistance to individuals with special needs (article 23, clause II); provide access to culture, education and science (article 23, clause V); protect the environment and fight pollution (article 23, clause VI); preserve forests, fauna and flora (article 23, clause VIII); promote programs for the building of housing and improving basic sanitation (article 23, clause IX); and fight poverty and marginalization by promoting social integration of disfavored sectors (article 23, clause X). The regulation of common jurisdiction is one of the main aspects still pending in the Brazilian cooperative project, in particular because it refers to responsibilities which need to be fulfilled through cooperation between federated entities under the terms of article 23, through complementary laws which have yet to be edited.

However, we should not innocently attribute the democratization of the country exclusively to the important role played by municipalities in the Brazilian Federation. As it has been shown, Brazil has always had a strong tradition of local domination. In the colonization process, local domination served the Portuguese Crown; in the Republic, under the *coronelismo*, it allowed oligarchic elites to be kept in power. Therefore, 'the autonomy received by Municipalities in the Federal Constitution of 1988 was very natural, reinforcing local power structures even more' (BAGGIO, 2006).

#### **IV – The democratic promise of a tripartite Federation**

In Brazil we live in the following dichotomy: municipal autonomy is at the same time an instrument for domination and emancipation. It is our history which will show us the paths chosen. In the past, it seems that the tradition of local domination was preferred, particularly due to there being no democratic Rule of Law. However, the 1988 Constitution, the so called 'Citizen Constitution' re-established the relation between the State and society, including in the political agenda, issues such as social participation and control, advocating for a new social protection system, through social policies of free and universal access. Thus, the future of municipal autonomy in the current effective democratic environment seems more promising than before.

Regarding the (re)configuration of intergovernmental relations, the redemocratization process presented Brazil with a new moment. The 1988 Constitution established the country's fiscal and political decentralization, strengthening the autonomy and tax base of subnational governments and increased the volume of intergovernmental transfers. In this sense, it is important to say that 'the

municipalities had the biggest relative increase in share of the fiscal pool, even though many of them still depend on economic and administrative resources of other governmental spheres' (ABRUCCIO, 2005).

The political, administrative and fiscal decentralization was followed up with an attempt to democratize the local plan. Channels for participation in public management were instituted, integrating new social actors in the development and execution of public policies, through the setting up of sectoral social policy councils, provided for in the 1988 Constitution, as well as new mechanisms for participation in public management. The most well known example of this is the Participatory Budget<sup>3</sup>; however, the achievements of democratization do not take away the problems of local Brazilian Governments.

The end of the 90s is marked by intense debates about the limitations imposed by the process of municipalization of public policies in Brazil. Among these, the lack of a more active role on behalf of state governments in the regional coordination of the decentralization process stands out, when compared with the increase in social expenditure which is seen, in particular at the municipal level. A total disregard of federative coordination instruments is also identified, particularly in metropolitan regions and urban clusters, where approximately 76 million people reside (45% of the national population). This population corresponds to an aggregate monthly income (year 2000) of approximately R\$ 31 billion, in other words, 61% of the national income (RIBEIRO, 2008). Therefore, these are regions that due to their importance require more political and institutional liaison between the three levels of government, above all, between the state and municipal governments so that joint actions may be developed at the subregional level.

Still at the level of intergovernmental relations, the persistence of a locally based political culture is criticized, one that intends to be 'self-sufficient' at the level of local government. Celso Daniel (Mayor of the Municipality of Santo André, murdered in 2001) identified this as a type of municipalism based on the model of autonomous public entities, which leads to mayors demanding more resources, as if municipal actions were sufficient to meet social needs. It also neglects the potential for intergovernmental cooperation through the shared management of public policies, above all, when regional problems are considered, as well as the interdependence of the country's urban networks as a driver of the local economy (ABRUCCIO, 2005).

Another important aspect of Brazilian federalism is the need for developing new solutions to deal with the great heterogeneity of Brazilian municipalities and their reduced technical-administrative and financial capacity, particularly of small municipalities. The great majority of them (89.8%) have up to 50 thousand inhabitants, which represents 34.5% of the country's population, whilst a smaller percentage (0.6%) with over 500 thousand people correspond to 29% of the total national population. In other words, the 35 most populated Municipalities in Brazil are home to almost 53 million people. Another significant fact is the great number of small municipalities, with less than 10 thousand inhabitants (2,670 units), representing 48% of the total number of Brazilian municipalities. These small municipalities are the ones that present the least adequate level of certain public services and rely on intergovernmental transfers (IBGE, 2006).

Finally, it is important to acknowledge the survival, at the local level, of an anti-republican policy which prevents the decentralization process from being democratic. This is easily seen in the transition processes between administrations when an elected candidate from the opposition breaks away from the local political power. In these cases, it is not uncommon to see the administrative set up being dismantled, and municipal records and data being lost. Generally, new mayors are sworn into

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<sup>3</sup> Participatory Budget (PB) is a governmental mechanism for participatory democracy which allows citizens to influence or make decisions in relation to public budgets, generally the budget from City Halls, through the citizen participation process.

office with little if no administrative knowledge, thus increasing the risk of public services being discontinued and no longer rendered to the population.

In summary, in Brazil, ‘at the intergovernmental level, coordination, capable of encouraging decentralization throughout the redemocratization process was not set up’ (ABRUCIO, 2005). Hence, the democratic promise of the tripartite federation was not kept and it remains threatened by the tradition of local representation, which keeps regional political elites in power through the association with local elites. *How can we change this picture? How can we revert this logic?* These are the questions that we ask every day at the Special Advisory Office for Federative Affairs at the Presidency of the Republic of Brazil.

Evidently there is more than one answer to this question and it is not a program or project that can change the course of the country’s history. However, some steps have been taken in this direction, in particular at the level of the Federative Liaison Committee – CAF, with a view to strengthening the role of the Union as a liaison and coordination channel for federative relations, advocating for sharing of responsibilities between the three spheres of government and joint actions.

## **V – The creation of the Federative Liaison Committee - CAF**

CAF emerged in the context of a new federal administration. The Lula Administration intended to open space for a big national renegotiation process, allowing for historical regional and social inequalities to be faced in Brazil. This renegotiation process in the country was driven by two dynamic angles: cooperation among social players and the federative renegotiation process. Hence, social cooperation and the federative renegotiation process consisted of two essential levels of the political process of the new government (TREVAS, 2004).

Initially called ‘the Liaison and Federative Negotiation Committee’, CAF was constituted by the Federative Cooperation Protocol, signed in 2003. The Protocol was signed by the Federal Government, represented by the Minister-Chief of the Presidential Staff Office and by other national entities, representing municipalities during the ‘VI March in Brasilia in Defense of Municipalities’<sup>4</sup>. The first protocol defined points in a common work agenda and an instrument to process this agenda, in other words, the Committee itself. Thus, the Federative Liaison Committee was made up of nine Federal Government representatives, chosen from bodies with a higher incidence of municipal public policies, and three representatives from the following entities that represent mayors: The National Mayors Front – FNP, the National Confederation of Municipalities – CNM and the Brazilian Association of Municipalities – ABM.

According to the signed protocol, the Committee’s core role was to coordinate the permanent dialogue between the Federal Government and Municipalities, with a view to building consensus on issues belonging to the Federative Pact and common interest actions between the Union and Municipalities. The issues which make up the Committee’s initial work agenda were defined in the Federative Cooperation Protocol and are as follows: (a) tax reform; (b) fiscal reform; (c) Social Security reform; (d) access of Municipalities to federal public credit; (e) evaluation of the current transfer system of federal resources to Municipalities and; (f) Propositions aimed at a complementary draft bill, establishing standards for cooperation between the Union and Municipalities, targeting the balance of development and well-being at the national level, as provided for in the terms of the sole paragraph of article 23 from the 1988 Constitution.

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<sup>4</sup> Since 1998 Brazilian municipalities, in particular through the National Confederation of Municipalities, organize a March in Brasilia, which has been consolidated as the main forum for political demand on behalf of the municipal movement in Brazil.

The organizational structure of the Federative Liaison Committee and its mechanisms were defined in the Internal Regulations approved by its members. Another point which should be noted is that as other intergovernmental bodies in Brazil, such as the National Council of Financial Policy – CONFAZ and the sectoral tripartite inter-managerial commissions, CAF makes its decisions by consensus.

At that initial moment, setting up the Federative Liaison Committee was an act of goodwill from both parts, a bilateral adjustment/contract (hence its practical nature) between the municipal and federal governments. Even so, it was seen as the Federal Government's main strategy for a respectful and permanent dialogue with mayors, who until then did not have a non-sectoral communication channel with the Union and were therefore, bound to political dialogue through the governors or through sectoral tripartite levels. One of the Committee's main political innovations was "bringing the coordination of the intergovernmental relation and federative agreement with municipalities, to the 'heart' of the government, the Presidency itself" (CUNHA, 2005).

According to an evaluation conducted by its members, even though the Committee had specific demands and subjective urgencies, it tried to establish more than just reactive actions, developing a strategic view of the Brazilian Federation. However, it was seen that in this first period, conjunctural elements were discussed more than strategic elements by members of the Committee. Despite this, the agenda during President Lula's first term (2003-2006) contemplated many important issues such as: tax and social security reform, land regulation, the role of municipalities in the Public Security System (SUSP), administrative streamlining, making urban public transport cheaper, reviewing of income transfer policies, among others.

Although useful, these discussions showed how the municipal movement still needs to mature in order to engage in such strategic debate for the Federation. Municipal organizations tried to ensure that the discussions provided for their own demands, a result of municipalism based on the model of autonomous public entities, which has already been mentioned as a negative point of our locally based political culture. For example, at the level of the discussions on tax reform, the issue which mobilized municipal representatives the most was the increase – from 22.05% to 23.05% - in the transfer of the revenues of the tax on Industrialized Products (IPI) and Income Tax (IR) to the Municipality Participation Fund (FPM). This represented a smaller gain for municipalities and the country than discouraging the fiscal war, aimed at unifying the tax rates for the main tax in the country, the tax on the circulation of goods and services (ICMS), with is a state tax shared with the municipalities. At the end, without political support from federated organizations the increase in the FPM was one of the few discussion points approved by the National Congress.

Although they were not considered strategic, the several economic gains experienced by municipalities as a result of this agenda negotiated with CAF, assisted in trust being built at the discussion level. Among many of the approved measures, the following stand out: the new law on Service Tax (ISS), which increased the municipal tax collection rate; the direct transfer to municipalities of the education-wage, the new law which shares the responsibilities with school transport; the share of the so called CIDE economic domain tax (first tax shared between the Union and subnational entities); financial assistance for fostering exports; increase in the value of the school dinner transfer, etc.

The debates at CAF were also influenced by public opinion and the parliamentary agenda in the extent that the agenda defined by the Brazilian media or National Congress, the latter many times influenced by the press, ended up determining which issues should be discussed and analyzed by the Committee (CUNHA, 2005).

In conclusion, it is possible to state that CAF has gone through stages where it ‘established the agenda’ (TREVAS, 2004), when it rightly included the issue of federative cooperation through the consolidation of public consortiums in the agenda. However, it also went through stages where it reacted to demands from the municipal agenda, in particular of small municipalities, which represent a lower percentage of the population, but are higher in number. This is partly due to the Committee’s make up, which as it has already been mentioned, has representatives from the three most nationally recognized entities, two of them (CNM and ABM) representing small municipalities, which are the majority in Brazil and the other (FNP), representing mayors from cities and towns in the metropolitan areas.

It is also important to note that the Federal Government, through its several bodies in the Committee, was not capable to break away from the sectoralization and present to the municipalities a strategic federative agenda for the country, aimed at filling up the gaps of the constitutional cooperative project. In fact, there is no regulation proposal for the sole paragraph of article 23 from the Constitution, which should establish standards for common responsibilities between entities in the Federation.

## **VI – Present and future of CAF**

At the beginning of President Lula’s second term in Office (2007-2010), a higher institutional feature was granted to the Federative Liaison Committee –CAF, so that its existence would not solely depend on agreements and pacts. Through Decree 6.181 from the 3<sup>rd</sup> of August 2007, CAF was instituted at the level of the Secretariat of Institutional Relations of the Presidency of the Republic, with the aim of liaising in the development of strategies and in the implementation of coordinated and cooperative actions between the federal and municipal government spheres. This was done with the goal of supplying the demands of society and enhancing federative relations.

Therefore, CAF became a consultative level of the Presidency and to increase its political status, the chair was awarded to the Minister-Chief of the Secretariat of Institutional Relations, body under the Special Advisory Office for Federative Affairs, which continues to coordinate the endeavor. Decisions continue to be made by consensus in CAF, but its formal decisions are now published in the Official Federal Gazette, as resolutions signed by the chairperson.

The referred decree determines as charges of CAF: I – contribute to the development of federative public policies to be implemented by federal public administration bodies and entities; II – suggest projects and actions aimed at the enhancement of intergovernmental relations and which promote the strengthening of the Federation; III – suggest procedures that promote the integration of actions, at the federal public administration level, with a view to strengthening the financial, technical and managerial capacity of municipal governments; IV – act as a liaising and mobilizing stage between public entities and society for enhancing integration and the relationship between federative organizations; and V – conduct studies and establish strategies on which to base legislative and administrative proposals with the intention of maximizing dialogue, cooperation and solidarity among federative entities.

The following composition was defined for CAF according to the decree: 19 representatives from the Union, among federal bodies with the highest participation in the municipal agenda, appointed by the President of the Republic; and 18 representatives from Municipalities, appointed by organizations signatory of the Federative Cooperation Protocol (respectively their Chairs and 5 more representatives), one from each of the country’s macroregions, hence ensuring the regional representation of its members. This provides for equal representation in the extent that the chairperson’s vote, a member of the federal government, only has the possibility of untying a decision.

However, as there is no contest for votes, this parity aims only at ensuring political balance between the two spheres, as the Committee only takes action based on consensus.

It is important to point out that the choice of Federal Government bodies which have a seat on the Committee was made by negotiation with municipal entities, taking into account the strong federative relation these structures have with municipalities in their programs and actions. Similarly, in the Committee's meetings it was noticed that the mayors chosen by the municipal organizations as their representatives, have specialized knowledge in 'key-areas' under discussion in the agenda. This fact has been enriching discussions and raising the bar of decisions made by CAF in such a way, that much more consistent federative results are reached.

The Federative Cooperation Protocol signed in 2003 was renewed, reaffirming the Federative Liaison Committee as a strategic stage for dialogue, negotiation and partnerships for a shared federative agenda to be agreed on by national entities, signatory municipalities and Federal Government. A new federative agenda was also assigned for the period, established in two years from the date of signing, due to this period being the void between federal and municipal elections.

Therefore, in the anticipated period, CAF shall promote the discussion and search for solutions for the following challenges, without prejudice to other issues which may be proposed or approved by the Committee's plenary: 1) enhancing of the national federative pact to provide a better distribution of resources among entities of the federation, considering their constitutional responsibilities and the regional inequalities they face (tax, political, social security reforms, etc.); 2) consolidation of a broad public social protection network, through the strengthening and integration of federative public policies, such as Education, Health, Social Assistance, Work and Income, Culture, Public Safety, Land Regulation and other urban development policies (housing, urban sanitation and mobility); 3) negotiate a strategic agenda for metropolitan regions to overcome the fragmentation of governmental action in these territories and allow for the democratic environmentally sustainable management of our cities, the integration of urban development policies with strategies against violence, as well as ensuring the access of the whole of the population to public services and urban infrastructure (above all, relative to urban mobility); 4) develop a national policy for institutional and managerial strengthening of municipalities, liaising with the several capacity-building, support and strengthening programs, developed by federal bodies for municipal administration, focusing on small municipalities, as well as enhancing common interest national legislation, including public accounting; fiscal responsibility, procurement and contracts, among others; 5) widen and qualify the standard of services provided by federal bodies to Brazilian Municipalities, ensuring their access to federal programs and resources with little red tape and in a transparent manner; 6) strengthen federative negotiation, agreement and cooperation mechanisms by institutionalizing intergovernmental levels, such as CAF, tripartite commissions and federative panels, and regulating pertinent constitutional devices (article 18, 23 and 43 of the Constitution); and 7) support federative and decentralized international cooperation actions for the regional development at borders and bilateral relations in the international agreement scenario, as long as in line with the objectives of the Brazilian foreign policy.

It can be seen that in relation to the first, the new federative agenda is wider and more structured on strategic axes, aimed at the problems identified in the present text and in the decentralization process of public policies, which took place in the last few years. This does not ensure that it will be complied with, but the new agenda shows a higher level of maturity from both the federal and municipal parts in this process.

The structure for CAF was basically kept the same. The members of the plenary are appointed by the Federal Government and by the organizations that represent mayors. It is the Committee's highest decision making level, where resolutions which set up Work Groups (WGs) are created and proposals and products developed by these WGs are validated. The Technical Secretariat is composed

of technicians appointed by the Special Advisory Office for Federative Affairs, the Ministry of Finance and the Ministry of Planning, Budget and Management, as well as by the three organizations that represent the mayors, thus providing the possibility for decision making at the same level. The goal of the Technical Secretariat is to support, evaluate, develop and build technical consensus and find alternatives which reflect the contributions offered by members of the Committee. With meetings every fortnight, instead of every two months, as is the case with the Plenary, the Secretariat is the stage where more dynamic issues are analyzed and discussed, such as the parliamentarian follow up given to projects of interest, which if necessary are forwarded to the Plenary for ratification. Finally, the Work Groups are constituted with the aim of conducting technical studies to further the discussion on topics considered relevant. All of the WGs are temporary, defined in the resolution that created them and are made defunct when their work has been concluded and their proposals or products have been submitted to the Committee's Plenary.

It has been possible to further discussions, considered strategic for the resolution of the problems of the Brazilian Federation, through WGs. In this sense, work groups were set up to: negotiate the new tax reform proposal; contractualization of the school transport service in rural areas between States and Municipalities; follow up of the Education Development Plan (PDE); draft proposals aimed at institutional strengthening and qualifying municipal management; enhance urban mobility systems; and the regulation of federative coordination in metropolitan regions, urban clusters and microregions.

As these topics are considered strategic for the Federation, it is almost always necessary to bring the state governors to the discussion, as without them the federative equation is not possible. This was the case with the new Constitutional Amendment Proposal (ACP) for the tax reform. The Ministry of Finance submitted a first general draft of the proposal to CAF. The Committee's Plenary decided to set up a Work Group, with representatives from the federal and municipal governments, to discuss and establish understanding of the proposal submitted. Several technical and political meetings were held. Many of the current proposal's points were the result of how the WG understood the proposal. At the same time, the Ministry of Finance negotiated with the National Council of Financial Policy – CONFAZ, made up by the State Secretaries of Finance, aimed at promoting actions for developing policies and harmonizing procedures and standards related to the States and Federal District's taxing power. It also collaborated with the National Monetary Council – CNM in establishing the policy for the States and Federal District's internal and external debt and providing guidelines for state public financial institutions. However, in order for a political agreement to be reached, it was necessary for all parts to take effective part in the negotiation. Therefore, two federative plenary meetings were arranged, bringing together representatives from the financial sector of the three government spheres, so that an agreement could be reached over the proposal forwarded to the National Congress.

A different dynamic was used for the school transport WG. As the controversy here was the lack of a contract for this service between states and municipalities, the Group was already set up with the participation of the state level, represented by the Council of State Education Secretaries – CONSED, as well as representatives from the federal and municipal governments. Also, this proposal which became a draft bill has already been agreed on and forwarded to the National Congress. Recently, the WG on Metropolitan Regions, Urban Clusters and Microregions was set up. For this topic, related to the coordination of subregional spaces, the dialogue with the States is essential, however, there is no sectoral council which addresses this issue, pertinent to several public policies. Therefore, there is a need for several strategies to be used, incorporating the state perspective to the group's debates, such as the organizing of a forum to discuss this topic with state metropolitan bodies and several sectoral meetings. Thus, the best ways of including all players engaged in the federative agenda are identified case by case.

Even so, the lack of state representatives at CAF's decision making levels, in other words, in the Plenary and Technical Secretariat, has been constantly criticized by state bodies, as they question the legitimacy of the decisions and consensus reached at the level of the Committee. Such criticism needs to be put into perspective, as the States were never kept away from national debates about the Brazilian Federation. On the contrary, Brazilian history shows that governors were always privileged actors in the federative pact, even after the country's democratization, 'a state federalism came into force, not cooperative and many times predatory' (ABRUCIO, 1994). Municipalities on the other hand, whose local elites were almost always coerced into assisting the governor politically, were never heard. In much higher numbers (5.562 municipalities), with less resources and charged with so much in the decentralization of policies, only formally recognized as federative entities, municipalities were never effectively empowered for the national federative negotiation process.

Consequently, I consider the establishment of a stage where municipalities may voice their interests, something important and positive, and despite all the difficulties presented in this paper, the municipal national organizations, through their representatives have played their role well. During this process, not over yet, new municipal political leaderships were forged and expertise on the issue of federative cooperation and coordination was built at the municipal level. By consolidating itself as a channel for dialogue and negotiation for the municipalities, CAF builds an agenda of municipal institutional interest, which does not belong to regional powers and influence, strengthening municipal power and autonomy, but through a strategic perspective for the Federation and no longer through municipalism based on the model of autonomous public entities. Therefore, municipalities find themselves in better conditions to fulfill the democratic promise of a Tripartite Federation today.

The experience of the Federative Liaison Committee will no doubtably be able to contribute to more mature intergovernmental relations in Brazil. Examples of recent experience with fully federative make ups (with the presence of states) at the level of the committee can be seen in the potential reached by strengthened federative discussion and negotiation forums. Instead of fragmented and partial actions, an intra and intergovernmental cooperation network, such as CAF, allows for better liaison of efforts between all Public Administration (be it federal, state or municipal), resulting in a more efficient and efficacious implementation of policies aimed at the reduction of poverty and inequalities in the country.

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