

# Federalism and Public Health Governance. The Role of State-Level Horizontal Coordination During Responses to Covid-19 in Brazil

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## Abstract

The paper chronicles the Covid-19 pandemic as a defining moment, which works to propel a cascade of institutional responses – uncoordinated at first, but that reach an equilibrium later in time for establishing a multi-level governance (MLG) based on horizontal coordination among subnational units over specific issue-areas. This moment affords a special opportunity to observe the confrontation between the federal government and subnational units in Brazil over the nature of the response and the prerogative to act. Of special interest to our understanding of the impact of Covid-19 in Brazil are two related questions. First, can we speak of the “national” policy responses to the pandemic as a definite departure from the pattern of interaction that characterizes Brazilian democratic federalism? Secondly, if so, which are the implications of this transformative process in terms of public health governance? More specifically, how the relevant changes in the political dynamics of Brazilian federalism affect the provision of public health goods - and the prospects of democratic governance? Our analysis concludes that by putting the pattern of cooperation between the federal government and subnational entities under strain, Bolsonaro’s attempt to resume presidential prerogatives prompted the improvement in inter-governmental relations (IGR) of Brazilian states at the horizontal level and, consequently, of MLG per policy domain. This shift is a key aspect of what can be broadly described as the realignment of the political and social forces engaged in responding to the global challenge of public health governance within the framework of the 1988 Constitution.

**Keywords:** Federalism, Multi-Level Governance, Brazilian federalism, Covid-19

## Federalismo y gobernanza de la salud pública. El papel de la coordinación horizontal a nivel estatal en durante la respuesta a Covid-19 en Brasil

## Resumen

El documento describe la pandemia de Covid-19 como un momento definitorio que impulsa una cascada de respuestas institucionales, al principio descoordinadas, pero que alcanzan un equilibrio más tarde para establecer una gobernanza multinivel (MLG) basada en la coordinación horizontal entre unidades subnacionales sobre áreas temáticas específicas.

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Este momento ofrece una oportunidad especial para observar la confrontación entre el gobierno federal y las unidades subnacionales en Brasil sobre la naturaleza de la respuesta y la prerrogativa de actuar. De especial interés para nuestra comprensión del impacto de Covid-19 en Brasil son dos cuestiones relacionadas. En primer lugar, ¿podemos hablar de las respuestas políticas "nacionales" a la pandemia como una desviación definitiva del patrón de interacción que caracteriza al federalismo democrático brasileño? En segundo lugar, en caso afirmativo, ¿cuáles son las implicaciones de este proceso transformador en términos de gobernanza de la salud pública? Más concretamente, ¿cómo afectan los cambios relevantes en la dinámica política del federalismo brasileño a la provisión de bienes de salud pública y a las perspectivas de gobernanza democrática? Nuestro análisis concluye que, al poner en tensión el patrón de cooperación entre el gobierno federal y las entidades subnacionales, el intento de Bolsonaro de retomar las prerrogativas presidenciales impulsó la mejora de las relaciones intergubernamentales (RIG) de los estados brasileños a nivel horizontal y, en consecuencia, del MLG por dominio político. Este cambio es un aspecto clave de lo que puede describirse a grandes rasgos como el reajuste de las fuerzas políticas y sociales que participan en la respuesta al reto global de la gobernanza de la salud pública en el marco de la Constitución de 1988.

**Palabras clave:** federalismo, gobernanza multinivel, federalismo brasileño, Covid-19

## Introduction

Brazilian democratic federalism has been the subject of a prolific literature, particularly after the promulgation of the post-Military Dictatorship Constitution in 1988. Scholarship on the topic conceives of it as a founding moment wherein the longstanding centralizing/hierarchical pattern of the relationship between the central government and subnational entities, was reframed and overcome. In subsequent years this literature unfolded in many directions, driven by the multiple implications of the new governance patterns ushered in since 1988, including the successive constitutional reforms that followed (Arantes and Couto 2019) and the rise of multi-level governance (MLG) as globalization unfolded after the end of the Cold War. Within this literature, there are recurrent themes and debates.

The Brazilian case consists of a decentralized coordinated response within a multi-level system that prioritized the governance of health over territorial jurisdiction. Given the negationist policies of far-right president Jair Bolsonaro (2019-2022), state governors built upon the legacies of decentralization from the 1988 Constitution to form an informal forum to coordinate action to tackle the pandemic. This could accommodate divergent interests from governors as well as the power dynamics within each federal unit.

The successful reaction against Covid in Brazil amidst the vacuum left by a far-right, anti-science president can be understood as arising from subnational actors' conversion of a multi-level governance (MLG) of type I into type II. Marks's (1993: 392) original definition of MLG is "a system of continuous negotiation among nested governments at several territorial tiers". While type I is a hierarchical mode in which delegation follows a territorial logic, type II builds upon decentralization as the focus lies on specific tasks and, hence, fields of knowledge. That is the case with health systems. In Brazil, however, such a decentralization would not have been possible unless the Unified Health System (Sistema Único de Saúde - SUS) established by the 1988 Constitution already operated in a decentralized manner. Yet, not only the national legal system served as a reference for governors who were keen on bypassing Bolsonaro's negationist stances.

The reference frameworks established by the World Health Organization (WHO) were equally important to build a level playing field among federal units to tackle the pandemic.

There are therefore two questions concerning the Brazilian case during the Covid pandemic with potential lessons to other cases of federalism and MLG. First, are the policy responses to the pandemic during Bolsonaro's administration a critical juncture for the model of democratic federalism that emerged as a result of the 1988 Constitution? Second, which are the implications of this transformative process in terms of public health governance and democratic patterns in general? The Constitution created a tripartite cooperative arrangement underpinning the implementation of national policies while securing a reasonable degree of autonomy to subnational authorities (Souza 2020 and 2021; Abrúcio et al 2020).

We address both questions combining a MLG framework with the perspective developed by Lourdes Sola and Eduardo Kugelmas in a 2001 article, "Fédéralisme, stabilisation monétaire et démocratisation au Brésil". It focused on the nascent dynamics of Brazilian federalism in the light of what the authors held as the major challenge of democratic governance in the 90's: the expansionary policies carried out by most autonomous state banks. It consisted of designing a policy framework to accomplish dual simultaneous task. On one hand, overcoming the fragmented structure of monetary and fiscal authority underlying the hyperinflationary trend (Sola, Garman, and Marques 2001, 1998; Sola and Marques 2006). On the other hand, institutionalizing the principle of shared sovereignty entrenched in the 1988 Constitution through the partial redistribution of taxing and spending powers to subnational entities – a key condition to effectively implement the range of social policies allotted to them.<sup>1</sup>

This approach to the complex relationship between continuity and change echoed two basic assumptions closely associated with historical institutionalism. One is that in looking for causal structures, "there is value in seeing politics as a process that is structured across space and time." (Hall 2016: 31). The other relates to a question familiar to political economists. How differences in national political economies that condition economic performance as well as social well-being, may be construed in the context of an unsettling global shift? (Gourevitch 1986 and 2013; Solingen and Gourevitch 2017; Sola and Whitehead, 2020).

We claim that understanding its logic and political dynamics in the context of the pandemic requires a shift of perspectives as a means of taking into account the changing dynamics of democratic federalism due to a critical challenge of democratic governance posed by the multifaceted thrust of right-wing populism. In the unstable context of Brazilian democracy, it becomes meaningful to situate our *problématique* in the context of the two *overlapping critical junctures*, global and domestic, both of which prompted the emergence of a type II MLG solution. At the global level, there was shift

1 Sola and Kugelmas (2001) approach the challenges of democratic governance as variables, subject to contextual analysis. In their 2001 article, they focus on monetary policy in the context of the hyperinflationary trend observed in the 1990s in Brazil. This crisis is considered a challenge of democratic governance at the time. Responses to this challenge were relevant for both the Brazilian insertion in the Liberal International Order as well as for the design of a democratic solution to the distributive conflicts associated with hyperinflation.

triggered by the consequential implications of the pandemic, while at the domestic level the established political arrangement underpinning public health governance changed. According to Abrúcio et al (2020), the Covid-19 pandemic has imposed a new dynamic between the Brazilian federal government and the states. The authors embrace a historical institutionalist approach to chronicle Bolsonaro's response to the pandemic and conclude that there is a new pattern of "lack of coordination" in place. This pattern goes against the spirit and the principles of the 1988 Federal Constitution and, critically, jeopardizes the country's capacity to address the 2019 world health emergency effectively.

The article thus contributes to identify the institutional complexity as well as obstacles of a timely response to unexpected public health crises of the nature of Covid-19. It lays out the challenges for cooperation at the national level, namely the extra hurdles that a decentralized decision-making process typical of federal states and MLG often entails. Through this approach, the article also sows the seeds for further thinking about the hurdles that international cooperation may encounter – an arena where the 2019 pandemic has unfortunately offered such a disappointing example. Nevertheless, while we share their approach and the underlying assumption of a radical departure from the comparatively successful pattern of public health governance, we claim that the resulting response is the outcome of an important shift in *the mode of coordination* and, hence, of MLG in a federal system inserted in a globalized world. Driven by the negationist, authoritarian/centralizing turn of allegedly "national" policy guidelines from the Presidency and by the pursuit of their own political survival, a significant number of governors engaged in a sustained counter-reaction. The evidence we bring forward suggests that we have to grapple (once more) with a dual or even triple simultaneous movement that does not match expectations directly drawn from past experience.

This paper proceeds to argue that Covid-19 launched a counteracting movement to hinder the recentralizing attempts emanating from President Bolsonaro's government, which denied the principle of shared sovereignty inherent in all varieties of democratic federalisms. Similarly, it suggests a new political dynamic, wherein the departure from the common practice propelled by the President is contested by the exercise of the enhanced veto power of governors and mayors. This counterreaction is underpinned by institutional developments legitimizing the principle of shared sovereignty entrenched in the Constitution. That is to say, the decisive role of the Brazilian supreme court (*Supremo Tribunal Federal*) in validating the autonomy of subnational entities with respect to public health policy (Souza and Fontanelli, 2021). It is important, however, to recognize the limitations of this coordinated response with respect to the ultimate objective of saving lives, but the counter-factual of dominant lack of coordination would have certainly brought about a greater disaster.

The paper is organized in three sections. The first section briefly conceptualizes federal units as spheres of authority in an MLG context. The following one presents evidence of growing coordination among subnational units in Brazil, highlighting the apparently random protagonism of a small number of governors who chaperoned the efforts to promote coordination.

Their network was key to designing an autonomous response vis-à-vis the central government policies. Section three details the policies that resulted from the coordinated effort amongst subnational units. In particular, it highlights the design and implementation of policies that sought to mitigate regional inequalities that often compromised the immediate interests of powerful members of the network. Section four discusses the recent literature on public health and Covid-19 to build a case for the Pareto superior qualities of the policies implemented at the subnational level, in contrast to a counterfactual wherein the federal government's *negationist* approach would have prevailed. We conclude with possible avenues for further research.

### Spheres of authority and MLG

We understand federal units as spheres of authority (Rosenau 2004). Based on the European Union (EU) experience, Schakel, Hooghe, and Marks (2014) claim that the deepening of regional integration stimulates shifting authority away from national governments to subnational jurisdictions. In the same vein, a similar shift happens in the context of multilateral organizations like the WHO. Such a context provides fertile ground for those jurisdictions/units to articulate among themselves to create coordinated solutions. Moreover, when external challenges like a world-wide pandemic arise, there are incentives for subnational units to come together and develop shared solutions, thus establishing networks, such as the ones that aim at tackling climate change (Happaerts, Van den Brande, and Hans 2010).

Spheres of authority have both formal and informal rule systems. As it will be demonstrated ahead, the forum formed by state governors emerged as an informal mechanism of ruling during the pandemic. The Brazilian experience contrasts with that of other federal sovereign states. In Germany, for instance, subnational units – both states/landers and local governments – had more power at the onset of the pandemic to implement public health solutions, whereas later a vertical coordination model was adopted. As Kuhlmann and Franzke (2022, 314) summarize,

“[w]hile in the first phase of the pandemic, the intergovernmental relations still largely corresponded to the usual type MLG I with the territorial perspective being predominant and the subnational authorities as key actors of crisis management, in the second phase MLG II became more relevant and functionally oriented vertical coordination between actors from various levels of government gained in importance”.

In the same vein, Navarro and Velasco (2022) have found that subnational units in Spain had to improve their inter-governmental relations (IGR) after a centralizing wave emerged at the onset of the crisis. As they summarize,

“the declaration of a ‘state of alarm’ – a constitutional prerogative that centralises the power in central government’s hands- was unprecedented, but the concept of co-governance also emerged for the first time, conceived as a specific way of co-decision between the central government and regions when the lockdown was softened and later lifted. The intense activation of the *Conferencia de Presidentes* that sits together the Spanish prime with regional presidents and the reform of the Interterritorial Council of the National Health System to facilitate vertical coordination stand as further examples of the varied -and previously untested- intergovernmental ways for facing the challenge” (Navarro and Velasco 2022, 207).

Decision-making should be understood in terms of centralization vs decentralization and unilateralism vs coordination, according to Hegele and Schnabel (2021). In comparing the federations of Austria, Germany, and Switzerland, they found that the latter was unilateral and centralized, while Austria and Germany converged into a coordinated model in which federal and subnational authorities coordinated decisions although Vienna has a centralized federation and Berlin consists of a decentralized one. As we demonstrate below, the Brazilian case evolved towards decentralized system in which coordination depended on governors establishing IGR without any substantial mediation of the center as Bolsonaro embraced negationist stances.

### **Evidence of coordination among subnational units**

The Covid-19 pandemic fueled two distinct, observable, and important political phenomena in Brazil: first, the pandemic became an axis of polarization between the federal government and subnational units, along the science cleavage; second, the pandemic fostered unprecedented coordination among Brazilian governors – an IGR-type of articulation to reassure authority over health issues and other policy areas impacted by the pandemic, in line with the type II of MLG. The importance of these two phenomena lies in the fact that they shaped the country's response and, in our view, worked to prevent a humanitarian disaster of incalculable proportions. This section chronicles the process of polarization that evolved to become a characteristic of the relationship between the federal government and subnational units *and* it also describes the process of coalition building that culminated with the coordinated response by Brazilian governors.

### ***The pandemic as an axis of political polarization***

Political polarization has marked Brazilian politics since the first Lula da Silva administration and only increased after 2013 (Ortellado and Ribeiro 2018). Thus, the Presidential elections of 2018 took place in a highly polarized political environment; during the campaign for the runoff election, polarization further increased because the then-presidential candidate Jair Bolsonaro could not campaign face-to-face. He also had very limited television airtime.<sup>2</sup> For these reasons, Bolsonaro's campaign migrated almost entirely to social media – making use of by then well researched political campaign strategies. In retrospect, this was the first episode of a successful social media-based presidential campaign in Brazilian political history, one that pushed the political polarization already in place to further limits by juxtaposing the interests of the "people" against the "corrupt" political elite and its embedded liberal values (Mudde and Kaltwasser 2017; Moffitt 2016). It is in this context of highly polarized domestic politics that a response to the Covid-19 pandemic had to be orchestrated, developed, and implement-

2 President Jair Bolsonaro was the target of a life-threatening assault, which left him with severe injuries that required several weeks of hospitalization and convalescence (Globo.com 6 September 2018). The amount of airtime that each candidate has is determined by his/her party and/or coalition share of seats in the Parliament.

ed. The nature of the pandemic, at its early stages, entailed high levels of uncertainty – including in the scientific realm. An additional factor that potentialized uncertainty was the lack of transparency by the government of China, where Covid-19 first appeared.

The fog of scientific evidence and information that ensued, during the first months of 2020, created the ideal political scenario to disseminate political discourses with respect to the pandemic that reinforced a specific populist *repertoire* (Casullo 2019). In the case of President Bolsonaro, there was a subtle but visible support from the military, during the electoral campaign. Once elected, he invited several members from the ranked military to join his cabinet. Nevertheless, it is important to keep in mind that the military have preserved an independent position *vis-à-vis* the Bolsonaro government; they have also repeatedly reiterated their commitment to democratic institutions, including during some of the political crises that the government faced.

President Bolsonaro cultivated the image of a strong leader -one that would have the necessary skills to “protect” the people. This repertoire of personal strength is reinforced during times of vulnerability, such as the months that followed the beginning of the pandemic, where the degree of uncertainty was high, and the death toll was frightening. We argue that Bolsonaro’s increased polarization along the scientific cleavage can be understood as an attempt to build a rhetoric of “outsiderness,” to use the concept proposed by Destradi and Plangemann (2019). It was the Presidency *versus* the pandemic, and this battle ought to be fought at the personal level – relying on the power and strength of this “late (low rank) military leader.” President Bolsonaro (and him alone) was to be credited for victory.

The centralization of decision-making is another trait of a political environment characterized by “outsiderness”. No scientific expert would be allowed into the President’s inner circle, especially an individual that could “take the spotlight,” because of his or her knowledge and experience. What followed was a struggle to bring science into the decision-making process at the federal level. Yet the populist nature of Bolsonaro’s leadership resisted these forces, accelerating the polarization process. It was crucial to secure the support of his political basis throughout this process. We argue that the federal government’s rejection of science and the creation of “strawmen proposals” followed a logic of appeasing and reassuring the President’s political basis; at the same time, this logic widened the gap between the federal government and every other segment of the Brazilian political establishment. President Bolsonaro’s “strawmen proposals,” such as the efficiency of hydroxychloroquine, the downplaying of the virus’ lethality, and the obsolescence of the use of masks, were widely circulated and re-circulated on social media. These proposals were systematically criticized and strongly opposed by the scientific community and broader segments of Brazilian society. They became the axis of political polarization that would fuel coordination among subnational units and culminate with the Covid-19 oriented mobilization of the forum of Brazilian governors.

It is important to note that coordination amongst subnational units pre-existed the Bolsonaro government like in the federal systems mentioned above, most notably the cases of Germany and Spain. In the case of Brazil,

the arrangement that brought governors and authorities at the municipal level closer together aimed at countering the inefficiencies of Brazilian public health governance within the legal-political framework provided by the 1988 Constitution. This was not the first time that public authorities at the federal state (provincial) as well as municipal level gathered to work together. But this episode is distinct from previous efforts of coordination with respect to the degree of political polarization; it is also singular in as much as representatives of the entire political spectrum – left and right – coalesced to counter the negationist policies of the federal government.

### ***Unprecedented coordination among Brazilian governors***

Another consequence of the pandemic of Covid-19 was the crystallization of an alliance amongst governors – this time coalescing around the response to the public health crisis. The Forum of Governors – which fits under the logic of IGR for establishing authority over certain issue areas (type II of MLG) – had been created to orchestrate an agenda of fiscal reform, in response to some dysfunctional aspects of the Brazilian fiscal federalism. Throughout March of 2020, the Forum quickly became a locus to debate the federal government's proposed response to the health crisis – and from day one the Forum sided with science to defend social distancing and related policies.<sup>3</sup>

As suggested above, the Forum did not only established authority over health matters, but also covered other issue-areas, articulating, for instance, fiscal and economic demands. In addition, there were sub-coalitions within the Forum, like the so-called "group of governors of northern states."<sup>4</sup> This reinforces the argument that IGR was improved as specific needs of certain states had to be considered as Brazil is arguably a more diverse federation than Germany and Spain. Yet, it was the Forum of Governors, which gathered the elected leaders of Brazilian states, that would undertake a leading role in conceiving and implementing public health policies to mitigate the effects of the pandemic. It also became a non-partisan coalition, overcoming even left-right ideological cleavages. Another noteworthy aspect of this development is the emergence of redistributive policies within the Forum, which were later implemented in an unusually speedy manner.

The Forum of Governors was key to conceive and to implement at least four crucial responses:

1. The provision of legitimacy and legal defense for social distancing and related policies (including lockdown);
2. The full recognition of the guidelines of the federal regulatory agency that oversees sanitary issues (ANVISA);
3. The pressure to pursue the development and production of vaccines;
4. The articulation of an emergency economic package, focusing on the most vulnerable segments of the Brazilian population

3 <https://www1.folha.uol.com.br/mercado/2020/03/governadores-propoem-isolamento-social-e-pedem-suspensao-de-dividas.shtml>

4 <https://paraiba.pb.gov.br/noticias/governadores-do-nordeste-reforcam-medidas-para-conter-o-coronavirus-e-cobram-acoas-do-governo-federal/25-03-carta-dos-governadores-do-nordeste-pdf.pdf/view>

Due to the timely action by the Forum of Governors Brazil avoided an even greater disaster. The scholarship has since documented the pervasive adverse consequences of Covid-19 for societies with already high levels of inequality like Brazil (Pires, Carvalho, and Rawet 2021). Economic inequality increases vulnerability to pandemics, and Covid-19 has confirmed this conjecture. Pires et al analyze the two-way causal impact of Covid-19 over inequality, highlighting the increased vulnerability associated with inequality when the pandemic hits. The authors also document the impact of the unprecedented emergency package, which consisted of direct transfers to the most vulnerable individuals within Brazilian society. Brazil spent more than 2% of GDP with the cash-transfer program, which was a direct result of mounting pressure from civil society groups and the Forum of Governors. Also, according to Pires et al (2021), the cash transfer program was more than sufficient to compensate for the impact of inequality on vulnerabilities with respect to the pandemic; in their words, “the program has so far neutralized the pandemic’s initial impact on income inequality (Pires, Carvalho, and Rawet 2021: 53).”

Pires et al (2021) also chronicles the impact of pre-existing regional inequality within Brazil on the same vulnerabilities that Covid-19 has tapped on. The authors collected data and ran statistical analyses for scrutinizing the impact of inequality on the social risk of infection. Inequality at the country level increases the social risk of infection. But in the case of Brazil, this inequality is coupled with severe discrepancies within the country, along regional cleavages. Thus, the social risk of infection in Northern Brazilian states (North and Northeast) was found to be much higher than the social risk of infection in Southern states (South, Southeast and Midwest). This finding helps us identify some of the hurdles that could have created obstacles for coordination amongst Brazilian governors. Notwithstanding the distinct thresholds of social vulnerability to the pandemic, the Forum of Governors formed a unified front – juxtaposed to the federal government – to pursue redistributive policies. These policies were key to mitigate the adverse impact of regional inequalities with respect to the pandemic.

Having demonstrated the emergence of an unprecedented level of IGR among governors and, hence, of their authority over specific policy domains in line with a type II of MLG, we discuss aspects of these redistributive policies in the following section. Our argument is that their implementation was only possible due to the decentralized characteristics of the SUS and the institutional arrangement embedded in the 1988 Brazilian Constitution that created the universal health system.

### **Historical Legacies Meet Conjunctural Challenges**

Here we build our argument based on the scholarship who have overcome the traditional debate on types of federalism to explore the peculiarities and almost unique character of the Brazilian federal system (e.g., Souza 2019; Cheibub, Figueiredo, and Limongi 2002). Souza (2019), for instance, agrees with the assertion that Brazil followed a “holding together” pattern, in contrast to the United States, but calls our attention to the historical evolution of our federal system. In particular, she analyses this evolution along four pendular relations or dimensions: a) cooperation and coordination

amongst units; b) uniformity versus diversity; c) autonomy versus shared responsibilities; and d) centralization versus decentralization. She credits the institutional innovations of the 1988 Constitution for Brazilian federalism's ability to overcome dilemmas of coordination not unlike the one brought by the pandemic of Covid-19.

The public health governance structure envisioned by the universal health system fomented the dialogue and the collaborative tone that have informed policy making since 1988. We do not suggest that this process was uncontested; rather, the outcome embedded in the universal system was the product of contestations and accommodation, culminating with a more or less well-defined role for the federal government, subnational units, and municipalities. Thirty years of experience have culminated with the system that exists today, a system that had battled two significant global health crises by 2020: the AIDS epidemic and the H1N1 pandemic. Here is not the place to compare the challenges that each one of these health crises presented in relation to the ones Covid-19 brought to us. In fact, this would be a fascinating topic for further research. But from a historical institutionalist standpoint, the experiences combating AIDS and H1N1 have yielded a positive balance of accumulated technical expertise and coordination currency. We turn to these two points next.

The Brazilian universal health system – as established by the 1988 Constitution – entails an intricate set of competencies and responsibilities, some exclusive, others concurrent. Implementation of the system throughout the past thirty-two years required attributing meaning to the letter of the law and the intent of the legislator. This process was the byproduct of contestations that involved public entities, elected politicians, and civil society organizations. Unlike most federative systems, in Brazil municipalities have important constitutional mandates and, according to some scholars, in the sphere of public health, municipalities may have been proportionally greatly empowered in comparison to states – as traditional subnational units (Souza 2019). Regardless of the specific balance between Brazilian subnational units and Brazilian municipalities at any specific point in time, during the pandemic of Covid-19, subnational units became protagonists in health-related matters.

This phenomenon can be understood through a collective action theoretical frame (Olson 1970): while municipalities clearly operate as a latent group, with all the known challenges for organization and action, subnational units can be characterized as an intermediary group. According to Olson, intermediary groups have the potential to mobilize and act collectively. They have enough properties, in terms of numbers, joint interest, reputational qualities that overcoming the collective action problem is not impossible. Here, pre-existing institutional arrangements will be key to facilitate organization and action. This is precisely what the institutions associated with the Brazilian universal health care system did for the states.

Hence, the Forum of Governors did not operate in an institutional vacuum. The very outcome of observed coordination at the subnational level derived from a constitutional architecture originally conceived to strengthen the autonomy of state provinces in the provision of public health in Brazil. The unprecedented coordination among Brazilian governors was made possible by the 1988 Constitution's institutional legacy, although the trigger for improving IGR among states arose from Bolsonaro's negationist stances

and the fears of their consequences over politics and social cohesion. Constitutional spin-offs, such as the National Immunization Program, have paved the way for responses at the subnational level that can happen independently of, and even in spite of, the federal government. In our view, the strategy of polarization embraced by the Bolsonaro government fueled the coordination among governors and contributed to expand the coalition, cementing its links above and beyond political party and ideological affiliations.

Yet, not only horizontal relations mattered. Without the traditional type I of governance – which emphasizes hierarchical relations between spheres of authority – , the Forum of Governors could have lacked legitimacy and legal support. That is the case as policies related to pandemic established by states through the mechanisms of IGR without the mediation of the federal executive were eventually backed by the federal judiciary branch. the Brazilian Supreme Court recognized the concurrent constitutional competencies of subnational units and municipalities with respect to the pandemic.<sup>5</sup> At stake, there was the prerogative of subnational units and municipalities to depart from the federal government orientation that had given priority to economic activity to the detriment of social distancing measures. The decision cemented the institutional equilibrium – a system of checks and balances – with respect to public health competencies; it imposed heavy political costs on Bolsonaro and shaped future events related to the pandemic. In this respect, the Supreme Court decision qualifies as a defining moment (Capoccia 2016). The president, however, reacted by seizing the political crisis that followed the Court's decision to mobilize his political basis, leading to higher political polarization.

The process of polarization ignited by the Bolsonaro government generated cleavages along science-based responses to the pandemic with effects well beyond the field of health policies. The Forum of Governors also sponsored a set of redistributive policies designed to mitigate some of the regional inequalities within the Brazilian federation. As we argued above, the role of the Forum of Governors must be understood as a byproduct of the institutionalization process that the 1988 Constitution launched combined with conjunctural challenges that arose from the unique combination of the need of fighting a pandemic amidst a federal executive who in practice denied its existence. If, on one hand, the Forum's protagonism per se is noteworthy, given the challenges to convene a group of high-level politicians from different political party and ideological affiliations, on the other hand, the redistributive nature of the policies sponsored by the Forum goes against theoretical expectations. To understand this exceptional outcome, one must set the polarized nature of the federal government's response to the pandemic against the existential challenge it posed to the population.

The years that followed the 1988 Brazilian Constitution launched an unprecedented institutional investment designed to implement the universal public health system. This effort mobilized the federal government as well as subnational units and municipalities. It entailed a reorganization of previous competencies and demanded a new fiscal model with the aim of

5 Medida Cautelar na Ação Direta de Inconstitucionalidade 6.341 Distrito Federal, de 24 de março de 2020, Relator: Ministro Marco Aurélio. STF reconhece competência concorrente de estados, DF, municípios e União no combate à Covid-19 [Supremo Tribunal Federal, 15 April 2020]

making effective the mandatory transfers created by the Constitution. Moreover, there were immense challenges to build the infrastructure required to deliver health services, often much greater in the remote regions of the country, where public health services hardly existed. Needless to say, this process was not apolitical. There was resistance on the part of state governors, given the new role for municipalities in the constitutional framework.

The legacy of these institutional developments was essential to the Brazilian response to the Covid-19 pandemic. Although the federal government adopted a negationist approach towards the pandemic, the Forum of Governors overcame such a shortcoming as it provided coordination among state executive branches to provide a unified response to the crisis. As we state in the previous section, this response was guided by the best science available to decisionmakers. The sharing of information related to testing, number of cases, hospitalization, and intensive care unit (ICU) occupancy enabled a parallel effort in relation to the Health Cabinet's prerogative. One could chronicle a parallel government run at the subnational and municipal level, under the umbrella of the Forum of Governors. At a particular moment that we consider a key inflection, the federal government halted the data gathering and dissemination efforts; the Forum of Governors, backed by independent media, filled the gap by collecting and systematizing the essential data collection effort for the purposes of policy planning and delivery.

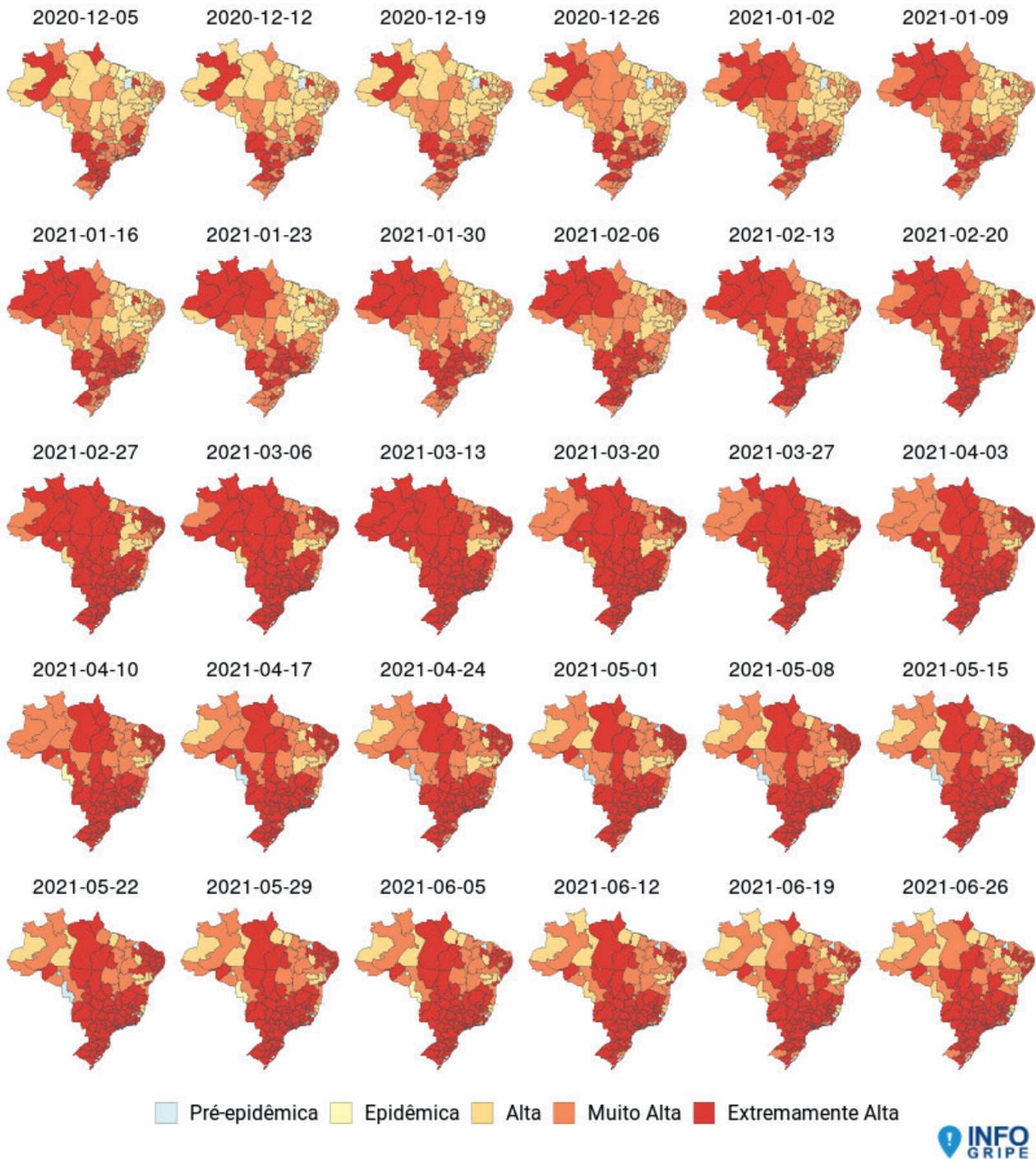
One event within the pandemic timeline warrants a close analysis: the shortage of oxygen in the capital of the state of the Amazon, Manaus. The events evolved early in January 2021, and fueled the legal liability of the federal government with respect to its mishandling of the pandemic.<sup>6</sup> Doctors and members of the scientific community compared the situation inside the hospitals to "gas chambers." The collapse of the public health system in Manaus at the time ignited a humanitarian response from unlikely partners, such as the United States under a newly seated Biden presidency and Venezuela. Perhaps even more counter-intuitive was the response by the Forum of Governors. Once more, in spite of ideological or political party cleavages, the Forum raised to the occasion and assigned absolute priority to the collapse in Manaus. This priority is evidenced by the actions endorsed by the Forum to reorient urgent response to meet the needs of Manaus and surrounding areas. In the aftermath of this crisis, Manaus was the destination of a proportionally much higher quota of vaccines, in comparison to other state capitals in Brazil.

Figure 1 shows data for the transmission of the virus for Brazilian macro regions, grouped in five categories: pre-pandemic (lighter color), pandemic, high, very high, extremely high (darker color). There is weak but noteworthy evidence of reduction in the transmission rate for several macro regions within Northern Brazil as early as 20 March 2021, and more prominently after April 2021. Given the lack of coordination from the federal government and the random behavior of the virus, this reduction in the rate of transmission can be partially attributed to the policies gestated within the Forum of Governors.

6 [https://www.gazetadopovo.com.br/republica/coronavirus-manaus-colapso-falta-oxigenio/?utm\\_source=google&utm\\_medium=cpc&utm\\_campaign=recdinamico&gad\\_source=1&gclid=Cj0KCQjw-uK0BhC0ARIsANQtgGNZBJPW7mouInB7wZjc-qdIjQAigMQCnfKABxhSd6Q\\_IIGK5NgeJB0aAhjsEALw\\_wcB](https://www.gazetadopovo.com.br/republica/coronavirus-manaus-colapso-falta-oxigenio/?utm_source=google&utm_medium=cpc&utm_campaign=recdinamico&gad_source=1&gclid=Cj0KCQjw-uK0BhC0ARIsANQtgGNZBJPW7mouInB7wZjc-qdIjQAigMQCnfKABxhSd6Q_IIGK5NgeJB0aAhjsEALw_wcB)

Figure 1. InfoGripe Bulletin

Transmission of respiratory viruses according to Severe Acute Respiratory Syndrome (SARS) level (December 2020-June 2021)



Analysis based on data collected until 28 June 2021 [Week 25 of the Covid-19 pandemic]

Source: Fundação Oswaldo Cruz

## The counter-factual of a greater disaster

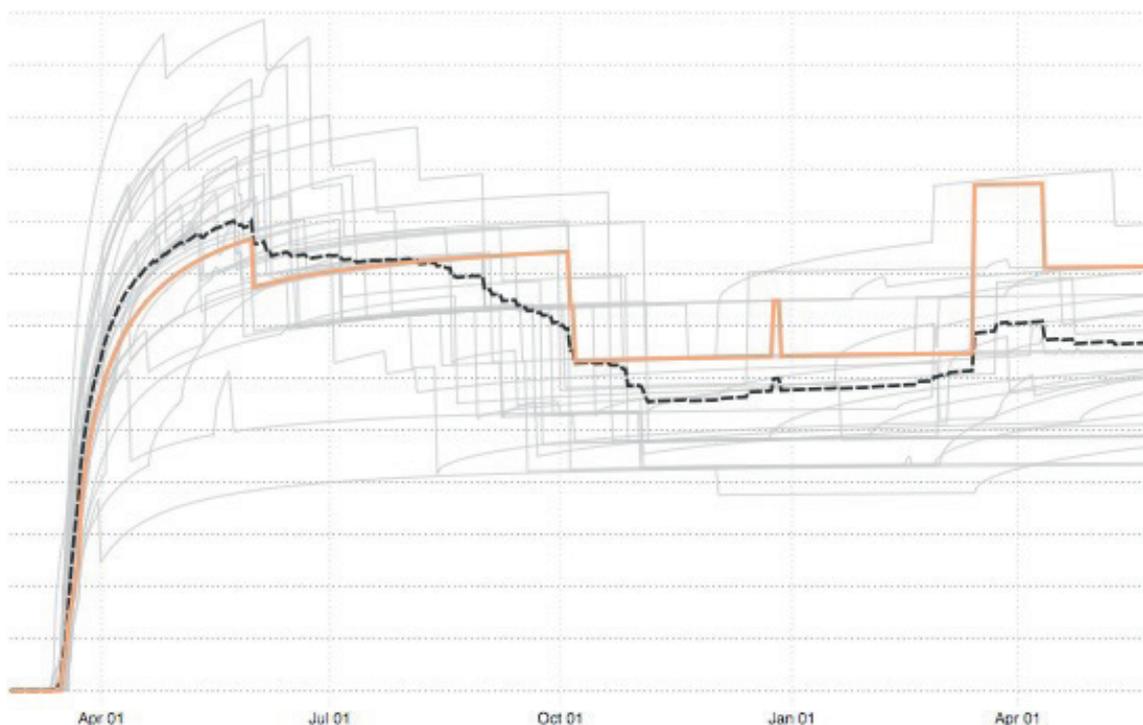
Historical institutionalism-oriented research evolves through critical observation of reality. This is a strategy that forces the researcher to mobilize higher standards to validate the proposed association between related social phenomena. We would like to elaborate the counter-factual wherein the federal government would have implemented President Bolsonaro's negationist agenda without hindrance. In this scenario, the Forum of Governors would not have intervened – even more, the Forum would not have coalesced around a unified response that clashed with the federal government. Recent research abounds to document the association between support for President Bolsonaro during the 2018 elections and higher levels of Covid-19-related mortality. There is also evidence of an inverse relationship between support for President Bolsonaro and compliance with social distancing policies. This literature is methodologically sophisticated and powerfully conclusive.

Fernandes et al (2020) found a statistically significant relationship between the vote for Bolsonaro in 2018 and greater resistance with respect to social distancing measures; the second part of the analysis corroborates a causal relationship between lower levels of social distancing and higher mortality rate. The research design mobilized data at the municipal level on all three indicators and benefitted from several robustness tests. Barberia and Gómez (2020) follow in the same direction. They are amongst the first scholars to draw our attention to the dangers that the Bolsonaro government's negationist policies could bring about. In an article that appeared in *The Lancet* only four months after Covid-19 began to take lives in Brazil, the authors analyze the political and institutional downside associated with Brazil's initial response to the pandemic – "Political and Institutional Perils of Brazil's COVID-19 Crisis." The authors are amongst the first to point to the perverse consequences that politicization of the health cabinet, at the federal level, could have for an effective response to the pandemic. They also chronicle the tradition of coalition building within the cabinet, dating back to the Fernando Henrique Cardoso administration. Nevertheless, at times of crises, such as the 2020 pandemic, they suggest that such politicization could be disastrous. If we fast forward, one year after the publication of their article, a congressional investigation sought to establish the responsibility of the federal government for the mishandling of the pandemic.

The congressional hearings (Comissão Parlamentar de Inquérito, or CPI) gathered testimony and data with the goal of informing yet another request for impeachment of President Jair Bolsonaro. In the process, a significant amount of information has surfaced and further suggested the responsibility of the federal government for failing to act in light of the information that it had throughout the pandemic. This episode of the public health crisis showcased the tension between the Legislative and autonomous agencies of the Brazilian Judiciary, more specifically the *Ministério Público* (MP, the office of independent public attorneys). The MP has the prerogative to initiate judicial procedures based on final reports produced by the Legislative, through congressional investigations.

Data on the impact of the policies conceived, designed and implemented by the Forum of Governors is still scarce, but the Covid Observatory, developed at the University of Miami, illustrates a concerted response in 2021 – with persistent regional discrepancies. The Observatory created a public policy adoption index and monitored the evolution of the index at the subnational level since late March, 2021.<sup>7</sup> Figure 2 below brings individual observations for each Brazilian subnational unit for distinct moments in time, throughout the pandemic. The black dotted line represents the average of subnational units observations.

**Figure 2. Public Policy Adoption Index (Brazilian subnational units, April 2020 – April 2021)**



Source: Covid Observatory

The data clearly shows the convergence of policy adoption that took place around mid-2020, more specifically, after 1 July 2020, when the distance between some of the grey lines representing the public adoption index for individual states and the average has diminished. Subsequent developments from the research agenda ushered in with this paper will investigate whether the hypothesis that a conversion indeed took place can

<sup>7</sup> The public policy adoption index is a measure of how many public policies a country has adopted to control the pandemic. The higher the number, the more policies a country has adopted. Our index is based on an index created by Oxford University. We track 9 public policies intended to help control the pandemic. These policies include the closing of schools and non-essential businesses, and stay-at-home orders, among other policies. Measures are weighted based on the date when they were implemented, and on how long they've been in place.

be confirmed statistically. The data also allow an investigation of regional convergence, given the impact of inequality on policy implementation. We argue that the observed higher number on the index can be attributed to the protagonism of the Forum of Governors, which in turn represents the enhancement of IGR as well as of type II of MLG in the Brazilian federation.

The counterfactual of an unhindered federal government would have displayed lower levels of public policy adoption and less convergence amongst subnational units, confirming a public health disaster only matched by the 1918 Spanish Flu in Rio de Janeiro, when the Brazilian federation operated in a Constitutional framework closer to the American decentralized federation and there was no proper IGR among governors except to defend oligarchic interests. The Spanish Flu is credited by historians to have claimed more lives than World War I (Spinney 2017). In Brazil, the then national capital – Rio de Janeiro suffered a tremendous halt due to the pandemic. But given the limitations in transportation and the sheer size of the national territory, other subnational units and Brazilian cities were spared of significant losses. Thus, for the purposes of comparison, the Covid-19 pandemic is truly a unique event in the history of Brazilian public health.

## Conclusion

This paper analyzes the response of Brazil to the pandemic of Covid-19 in light of the scholarship on federalism and MLG. It sees the pandemic as a defining moment, wherein the dynamic of Brazilian federalism was redesigned as a result of the protagonism of governors, who realigned and coalesced around the Forum of Governors – an example of IGR that filled the gap left by a negationist federal executive and, hence, allowed the operation of a type II of MLG as states operated independently of the center policies in public health and other issue-areas impacted by the pandemic. This process was instrumentalized by political polarization along the scientific cleavage. On one side, there was a negationist federal government, headed by a populist leader; on the other side, there was a coalition of governors mobilized by a logic of political survival and even a commitment with normative instances, including the need to preserve social cohesion and avoid political turmoil amidst pandemics.

The paper also chronicles the evolution of this dynamic and the resulting architecture of public health governance. In doing so, we contribute towards the accumulated knowledge by showcasing the Covid-19 pandemic as a major challenge for democratic governance, as well as for federal and MLG systems in general. Thirty-two years of experience with public health governance under the Brazilian universal health care system enabled a higher degree of coordination amongst subnational units, precisely because of pre-existing experiences with decentralization. This key feature of Brazilian federalism played a pivotal role in enabling a higher degree of coordination amongst subnational units, precisely because of pre-existing experiences with decentralization. Without those experiences, the protagonism of the Forum of Governors could not have succeeded considering the challenges of cooperation for the provision of public health goods, in light of competing ideological and political party orientation amongst its

members. The Forum also engaged in redistributive policies in order to mitigate the adverse impact of deep regional inequalities.

Throughout the paper, we identify several questions that warrant further investigation. First, to what extent the Forum of Governors was mobilized by a logic of political survival or normative issues? Second, is there statistical support for claiming that policies sponsored by the Forum are associated with higher levels of public policy convergence amongst Brazilian subnational units? Furthermore, is there an observable regional cleavage in effect? Third, in terms of the process that culminated with the mobilization of the Forum of Governors, can this process be associated with the political polarization that has characterized Brazilian politics for so long? It will be important to determine the consequences that these processes may have had for the recentralization and decentralization dynamics within Brazilian federalism (Arretche 2012 and 2000). These are questions of empirical as well as of scholarly interest that concerns not only those interested in studying federalism in Brazil, but MLG systems in general.

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