

Unraveling democratic erosion in Brazil: exploring the impact of the “New Bacharelismo”

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Abstract: *Svelando l’erosione democratica in Brasile: l’esplorazione dell’impatto del “New Bacharelismo”* - The bicentennial celebration of the first Brazilian constitution highlights both the nation’s historical milestones and some of its enduring challenges. This paper explores the relationship between Brazil’s justice system and reactionary movements, focusing on the concept of “new bacharelismo”. Originated in Imperial Brazil, the concept of “bacharelismo” signifies the elevated status of legal professionals who perpetuates conservative power dynamics. By examining historical roots and its modern counterpart – the “new bacharelismo” - this study illuminates the persistent influence of law graduates on Brazil’s institutional framework, urging proactive measures against their authoritarian tendencies.

Keywords: Brazilian imperial constitution bicentennial; Bacharelismo; Conservative institutional framework; New bacharelismo; Democratic erosion

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1. Introduction

On March 25th, 2024, the bicentennial of the first Brazilian Constitution was celebrated. This historic document not only established Brazil as an independent nation within a framework of legal formality but also introduced a political structure in this region of the world, marked by undeniable advancements. However, it also laid the foundation for an institutional organization characterized by conservatism and reactionary tendencies that persist to this day.

Considering the theme of this issue of DPCE: “where Latin America is going on”, especially in the face of political extremism, coupled with this celebratory date in Brazil and the constraints of a brief study, I will delve into a topic closely correlated with right-wing radicalism in Brazil, namely the relationship between the Brazilian justice system and reactionary movements in the country.

While this is a somewhat established theme, one I have previously engaged with¹, I aim in this text to provide a historically referenced discussion related to the idea of “bacharelismo”: a concept of particular importance for understanding Imperial Brazil (1822-1889). According to

¹ B.A. Passadore, C.F. Forigo. *Fragilização Democrática e Poder Judiciário: a cumplicidade dos juízes no processo de ascensão de autoritarismos no Brasil*, in *Boletim do Instituto Brasileiro de Ciências Criminais*, Ano 27, edição 322, 2019.

Venancio Filho², “bacharelismo” refers to the special “liking for the title of bachelor of Law” in imperial Brazil, seen as a defining characteristic of this era. This concept is intertwined with the idea of the Bachelor of Law as a “special hero”³ deserving of specific political and financial privileges.

What I propose to study here is not a dated phenomenon but rather something still prevalent and crucial for understanding the conservative institutional framework of contemporary Brazil, albeit with notable differences compared to the 19th-century. Thus, whether in the past or present, a fundamental issue persists: a social process whereby legal professionals are elevated and hierarchized in relation to the rest of the population. This process, as mentioned, reflects a regressive and reactionary perspective that must be analyzed seriously if there is a genuine interest in confronting the authoritarian threat haunting present-day Brazil.

To avoid ambiguity regarding the topic, I will coin the term “new bacharelismo” to define this phenomenon, which has been prevalent since 2004, a year which I consider a watershed moment that marks the beginning of the influence of these bachelors in national politics.

2. Brazilian Independence as a case of Conservative Revolution

2.1 The Independentist Revolutions in Latin America

When contemplating institutionalism, especially in its historical context, there is a certain consensus that institutions have a relatively permanent perspective in the historical landscape and solidify a set of possible “paths” in terms of political directions within a specific social context. It is no coincidence that proponents of this line of thought understand the great advantage of institutions in creating boundaries for the potential collective trajectory to be followed, thereby bringing stability to society. In other words, based on a “patch dependency” past – or inherited – decisions structure and limit subsequent decisions, encouraging social forces to organize themselves according to these guidelines.

Consequently, processes of “normal” change within this institutional framework tends to be very slow and gradual. However, in some “critical situations”, significant changes are demanded. In general, severe economic

² A. Venâncio Filho, *Das Arcadas ao Bacharelismo*, 2^a ed., São Paulo, 2011, 142 e 295.

³ Regarding the subject, I emphasize an interesting passage from Freyre's work. In it, he recalls a certain deputy from Pará that demanded from the central government of Rio de Janeiro “meat” and “flour” to overcome the poverty of the region. Additionally, he requested “bachelors of Law” due to the “magical virtue” contained in the Law degree, supposedly capable of ensuring civilizational advancements “to that undeveloped province of the far North”. Here's the excerpt: “In his Memoirs, on page 91, D. Romualdo de Seixas recalls that ‘a distinguished deputy, now a senator of the Empire,’ proposed that ‘meat, flour, and bachelors’ be sent to Pará, with the aim of better aligning that undeveloped province of the far North with the imperial system. And D. Romualdo commented: ‘The measure indeed seemed ridiculous; but reflecting a little, one sees that the first two aids were the most appropriate to appease the people oppressed by hunger and misery, and the third no less valuable for *the magical virtue contained in a Law degree*’”. (G. Freyre, *Sobrados e Mucambos*, São Paulo, 2013, 447).

crises or power struggles—typically military conflicts, but not exclusively—are regarded as the classic causes of revolutions creating these exceptional institutional “forks” capable of leading to the development of a new trajectory in terms of power organization⁴. Such revolutions, in turn, may lean towards a more liberal or conservative bias in terms of a new format of institutional organization when compared to the pre-revolutionary period.

When considering political emancipation in various Latin American countries, it is understood that such processes generally lean towards liberalism, especially when compared to the preceding colonial period. The most striking example of this characteristic is the Haitian independence process, where former enslaved people dissatisfied with colonial rule initiated a struggle against France and sparked a new political regime on the island of Hispaniola.

However, such a perspective is not uniform across all Latin American independence movements, and a prominent example of a conservative bias in this momentum of political emancipation in Latin America is precisely the Brazilian case.

The key element in understanding the Brazilian Declaration of Independence in 1822 is not a power struggle between Latin Americans and Europeans, where the former no longer accepted the colonial exploitation process like that which occurred in Haiti and several other countries. The key element was, in fact, a political dispute exclusively among Europeans. To understand the Brazilian Declaration of Independence in 1822, it is necessary to analyze the Portuguese political context immediately preceding this moment.

2.2 Contextualization of Brazilian Independence

In 1807, during the Napoleonic Wars (1803-1815) and the imminent French invasion of Portugal, the Portuguese Crown decided to transfer its court from Europe to Latin America, transforming the so-called “State of Brazil”⁵ from a colonial territory to the seat of the Kingdom of Portugal, with its capital shifting from Lisbon to Rio de Janeiro.

Among the legacies of the Napoleonic Wars was the notorious Strangford Treaty – also known as the Anglo-Brazilian Treaty of 1810 –, which granted a series of commercial privileges to Great Britain in exchange for military protection of the Portuguese territories, including Brazil. Consequently, beyond the crisis resulting from the war, there was a significant social decline due to the virtual English dominance in various key mercantile matters of the Kingdom of Portugal.

In this context of crises, the Porto uprising of 1820 occurred, led by the city’s bourgeois elite, who were dissatisfied with the country's political

⁴ P. Hall, R. Taylor, *As Três Versões do Neoinstitucionalismo*, in *Revista Lua Nova*, Edição 58, 2003, 200-201.

⁵ “State of Brazil” (1549-1815) was the name of the Portuguese administrative unit during the colonial period in the territorial area that encompassed the “Brazilian Empire” (1822-1889), the “United States of Brazil” (1889-1969) and the current “Federative Republic of Brazil” (1969-present).

direction. Quickly spreading to other cities, especially Lisbon, the absolutist government of King John VI of Portugal seemed to be nearing its end.

Thus, in 1821, in an attempt to contain the crisis and quell the rebels and also in response to the end of the Napoleonic threat, the Crown decided to return its court to Portugal and restore Lisbon as the capital of the Kingdom. However, the apparent heir to the Portuguese throne, Peter of Alcantara⁶, was left in Brazilian territory as regent. In the same year, the rebels united in a provisional government initiated the first Portuguese constitutional process, aiming primarily to end the country's absolutism.

The provisional government also decided to dissolve the government of Rio de Janeiro, established a new governing council for Brazil, and appointed another figure to control the territory instead of Peter of Alcantara. Additionally, as the apparent heir of John VI, the provisional government summoned him to return to Portuguese territory to, among other things, swear obedience to the new liberal constitution. However, the Prince decided to stay in Brazil and not accept the orders imposed upon him. Historically, this moment became known as the "Dia do Fico" (Day of Stay), occurring in January 1822.

After some political (but not military) resistance in September of the same year, Peter of Alcantara declared Brazilian independence and proclaimed himself Peter I, Emperor of Brazil, and promised the creation of a liberal constitution. However, this constitution created a series of institutional mechanisms for the maintenance of the Emperor's political centrality, who formally was a constitutional monarch but in practice was head of state and government as a "soft absolutist" with very few institutional limitations.

Among the most relevant elements of imperial prerogatives was being head of the Executive Power and, equally, of the so-called "Moderating Power," whose main role would be the "maintenance of the independence, balance, and harmony of the Political Powers" (Article 98 of the Imperial Constitution of 1824), and for that purpose, the Emperor could "appoint senators," "dissolve Parliament," "suspend judges," "freely appoint and dismiss ministers of State", etc. (Article 101 of the Imperial Constitution of 1824). Thus, despite supposedly being inspired by the English parliamentary monarchy, in Brazil, this model was in practice the "reverse" to the English model - ironically called "parliamentarism in reverse" - in which the Emperor retained the power to dictate the country's political course according to his convenience and with very little constraints.

Thus, Brazil was founded as an independent nation with its own national institutional framework, but not as a liberal project, rather a conservative one based on the perspective of keeping power within the royal figure of Peter I, who saw in the independence process a possibility of preserving part of his original power that was on the verge of collapse in Portugal⁷.

⁶ Later known as Peter I of Brazil or as Peter IV of Portugal.

⁷ In this aspect, we remember the famous phrase attributed to John VI to Peter of Alcantara in 1821: "Pedro, if Brazil is to separate from Portugal, *it will be for you*". In other words, Brazilian independence was a process based on the Portuguese royal family interests.

3. The “bacharelismo” in Brazil

3.1 The elite unification through the figure of the Bachelor of Law

In this environment of affirming an independent Brazil, it was necessary to create a power structure that was minimally unified in terms of interests and political projects, especially considering the disruptive potential that this historical moment could bring in terms of the organization of power. In this way, Sérgio Adorno⁸ emphasizes the importance of the centering power within the figure of the “Bachelor of Law” as a mechanism capable of creating a minimally unified elite, avoiding fissures and being quite effective in reproducing a blatant process of exclusion of the popular classes from the political game. Consequently, a series of measures to place law graduates in key positions of the Empire was initiated and even proved to be quite effective.

As writer Júlio Ribeiro ironically recalls, it was the law schools that would confer an unspoken requirement, necessary and almost exclusive, for political participation in the country at the time:

In Brazil, as a natural magistrate, he [the Bachelor of Law] exercises judicial power; takes a seat in both houses of parliament, thus forming the legislative power; becomes a minister of state, and thus commands the executive power [...]. He manages the administration, directs legislation, directs jurisdiction, directs agriculture, directs industry, directs commerce, directs the army, directs the navy, directs education, directs diplomacy, in a word, *directs the country, directs everything* (emphasis added)⁹.

Rare popular participation in politics always occurred under the logic of assimilation and, as a rule, had little impact. This allowed for the reproduction of domination structures based on the centrality of “white, free, and landowning men,” legitimizing “pre-reflexively the supposed innate superiority of some and the supposed innate inferiority of others.”¹⁰

The relationship between the economic elite and the legal elite, as one can imagine, has always been intense, as has the conservatism associated with this relationship¹¹. There was a close relation between the landowners of the interior and the law graduates of the city, where landowners at the time had two aspirations: “to obtain for themselves a patent in the national guard and to obtain a Law degree at least for one of their descendants.”¹²

Essentially, therefore, the pursuit of a law degree never occurred with the aim of personal or social enrichment from a scientific - or at least, scientizing - perspective whose objective was to achieve provisional answers that could be changed by more suitable hypotheses. In reality, the aim was

⁸ S. Adorno, *Os Aprendizizes do Poder: o bacharelismo liberal na política brasileira*, 2ª ed., São Paulo, 2021, 274-276 e 283.

⁹ J. Ribeiro, *Cartas Sertanejas*, Rio de Janeiro, 1885, 83.

¹⁰ J. Souza, *A Elite do Atraso: da escravidão à Lava-Jato*, Rio de Janeiro, 2017, 18.

¹¹ A. Venancio Filho, cit., 282.

¹² P. Camara, *Memória Histórica da Faculdade do Recife*, Recife, 1904, 40.

the law degree as a requirement to obtain positions within the political elite of the Brazilian State¹³. Such was the importance of law graduates for the reproduction of political elites that there are even reports of a curious scandal. It is said that at the Law School of Fortaleza, there was the simple distribution of attendance certificates, approval with distinction in exams, and even law degrees - with a ruby ring! - to the supporters of the so-called “Clan of Santa Quitéria.”¹⁴

These and other scandals involving law schools did not go unnoticed and were the subject of various criticisms in various circles. Among them, a tale by Olavo Bilac stands out. In this tale entitled “The Bachelor of Law,” Bilac ironically portrays the ease and speed with which certain people obtained this degree:

I became acquainted with him on a day when he came to me with interest, asking me to write a letter to his family: ‘So, you can't write? - Nor read!’ I wrote the letter, amazed at such astonishing lack of education, and went a year without seeing my acquaintance. At the end of that year, I went to court, and saw him, in the defense podium, gravely waving his palm-open hand in the air, with a beautiful ruby sparkling on his index finger. There was a collapse within me. ‘What was that, God of Mercy?’ I waited for the man to finish his speech, saw him descend from the podium, embraced and congratulated by several colleagues, and approached him: ‘So? Graduated? - It's true! It took me a little effort, but finally...’¹⁵

Behind this, there was the perception that by controlling the distribution of bachelor's degrees, there was often even more intense and rigorous control than that related to the electoral process, even though it was marred by various frauds. After all, the electoral process, even if highly manipulable and limited, was subject to certain contingencies. However, the distribution of degrees and, consequently, of positions, often of a lifelong nature, represented a significant political guarantee to the dominant group and eventually even more important than a seat in Parliament¹⁶.

Sérgio Buarque de Holanda, analyzing Imperial Brazil, points out that Brazil had, as one of its historical characteristics, less the existence of a nobiliary nobility, and more a peculiar “robed nobility” in which judges, prosecutors, and lawyers, like grand dukes, dukes, and barons, ascended in relation to the rest of society and, consequently, made the most important political decisions in the country¹⁷.

¹³ Venancio Filho points out such characteristics of legal education in Brazil which was organized based on mere “compendiums” of low scientific stature and aimed at obtaining a Law degree as a simple means of qualification for positions in public bureaucracy: “The Statutes of the courses in Legal and Social Sciences of the Empire [...] dispense with any doctrinal foundation, and maintain a line of, from there, repeating a mere regulation of legal and administrative provisions.” (A. Venancio Filho, cit., 49-50).

¹⁴ A. Venancio Filho, cit., 219, n. 17.

¹⁵ O. Bilac, *Crítica e Fantasia*, Lisboa, 1904, 232.

¹⁶ R. Faoro, *Os Donos do Poder: formação do patronato político brasileiro*, 5ª ed., São Paulo, 2012, 450-451.

¹⁷ S.B. Holanda, *História Geral da Civilização Brasileira: o Brasil monárquico*, Vol. 7, tomo 2, 7ª Ed., Rio de Janeiro, 2005, 353 e 379-381.

If, on one hand, an unspoken and necessary requirement, through the Law degree for access to the national elite, became an excellent factor for cohesion and maintenance of the elites, on the other hand, it brought serious consequences to Brazil as a nation. Perhaps the most significant political consequence was that this artificial centrality of legal knowledge in Brazilian political reality ended up creating a vision that the jurist was almost divine. In other words, that only his knowledge allowed access to a benevolent and presupposed moralism that generated a consequent exclusion of the popular masses for whom the study of law was inaccessible.

From this point of view, it is worth remembering Alberto Torres, a minister of the Supreme Federal Court during the transition period from the 19th to the 20th century and one of the great influences of the thought of Plínio Salgado, who would later become leader of the Brazilian Integralist Movement, an openly fascist group. For Torres, assuming his anti-liberal character: “political democracy could not face the work that needed to be done.” Thus, for him, “Brazil was not developed [...]. It did not have, at the beginning of the 20th century, a minimally organized population. Brazilians needed direction.”¹⁸

Not surprisingly, Holanda again highlights the special success of the positivist thought in imperial Brazil. Through a certain magical belief in the power of Auguste Comte’s ideas, it was possible to resist the fluidity of reality, where eventual defeats would always be seen simply as apparent errors of a normative universal system that would continuously evolve under the guise of conflicts. In other words, the failures resulting from this line of thought would never actually exist, but it would only be episodic and necessary occurrences for a better and already given project¹⁹.

This “obstinate belief in ‘Truth’” accessible only to a few generated an idea of “disgust” about the possibility of a mass democracy in Brazil. After all, the “conscious element” of society would be separated from the “Brazilian mass,” with a belief in the “mental superiority” coming from the “ruby ring and the Law degree,”²⁰ something that is still very strongly perceived when analyzing the current “new bachelorism,” as will be seen below.

3.2 The Decline and Resurgence of the Bachelor of Law

This self-absorbed ruling class proved incapable of perceiving and finding solutions to the real problems of Brazilian society, which was rapidly evolving, leading to expected social discontent. Consequently, given their incomplete mindset, at the dawn of the 20th century jurists began to isolate themselves and lose political centrality²¹. As Holanda reminds us:

A worldview that seeks to simplify all things to make them more easily accessible to lazy reasoning... [is incompatible with] a complicated world [that] would require laborious and meticulous mental processes, thereby excluding the seduction of words or formulas of almost supernatural virtue

¹⁸ P. Doria, *Fascismo à Brasileira*, São Paulo, 2020, 77.

¹⁹ S.B. Holanda, *Raízes do Brasil*, 27^a ed., São Paulo, 2014, 189-193.

²⁰ S.B. Holanda. *Raízes [...]*, cit., p. 190, 191, 193 e 195.

²¹ F.C. San Tiago Dantas, *A Educação Jurídica e a Crise Brasileira*, in *Cadernos da FGV Rio*, n. 3, 2009, 13-16.

that solve everything with a gesture, like magic wands²².

Thus, unable to realize that the challenges of socioeconomic reality demanded readings beyond absolute views of reality, jurists lost political ground and, more gravely, failed to harness the true potential of law in its aim to improve the institutional framework of the country towards a more democratic and inclusive nation²³.

On the other hand, in key moments when the unification of elites in favor of a reactionary movement was particularly necessary, Peter I's logic was repeated. This is exemplified by the most important administrative reform of the Brazilian military government shortly after the coup of 1964.

In order to achieve the "authoritarian consolidation" of the military dictatorship through the "Ato Institucional n. 5" (Institutional Act No. 5) of December 1968 - commonly known as "AI-5", which marked the beginning of the "Brazilian Lead Years"²⁴ -, it was necessary previously, as analyzed by Abrúcio and Loureiro, to promote a "reduction of political power of parties, society, states and municipalities." This was accomplished, among other things, through the administrative reform established by Decree-Law No. 200/1967²⁵.

Through this legislation, according to the authors, "the aim was to give greater autonomy and flexibility to bureaucratic agencies in relation to centralized control [...] in order to have greater recruitment capacity in terms of agility and salary standards, as well as greater freedom to manage public resources." Thus, aware of the elitist and conservative historical aspect of Brazilian jurists, the expected - and effectively produced - result was to reduce "the influence of politics on government directions" by centralizing power in the hands of the Bachelor of Law. This stratagem reduced the political resistance capacity against the dictatorial regime and paved the way for the consolidation of the military in power through the notorious AI-5. This model, according to the authors, functioned very efficiently until the late 1970s, when it began to collapse "because [at that moment] the economic crisis and the growth of democratizing demands put this authoritarian and centralizing model to the test".²⁶

In this regard, it is worth noting that in the first general presidential elections after the military dictatorship in 1989, the winning campaign of Fernando Collor de Mello was based, among other things, on the idea that he would combat the high-ranking Bachelors of Law that occupied

²² S.B. Holanda, *Raízes...*, cit., 197.

²³ R.M. Unger, *O Movimento de Estudos Críticos do Direito: outro tempo, tarefa maior*, Belo Horizonte, 2017, 27.

²⁴ "The AI-5, which, unlike previous acts, would remain in effect indefinitely, granted the president, among other prerogatives, the power to revoke politicians, close Congress, suspend habeas corpus, impose prior censorship on the press, forcibly retire university professors, and arrest dissidents. [The president-dictator] Costa e Silva would do all of this. Any trace of opposition would be suffocated. As political chronicles would define it, *the AI-5 was the coup within the coup, the beginning of the 'Lead Years'.*" (O. Pilgallo, *A História do Brasil do Século XX*, São Paulo, 2009, 65).

²⁵ F.L. Abrúcio, M.R. Loureiro, *Burocracia e Ordem Democrática: Desafios Contemporâneos e Experiência Brasileira*, in R. Pires, G. Lotta, V.E. Oliveira (Ed.), *Burocracia e Políticas Públicas no Brasil: Interseções Analíticas*, Brasília, 2018, 44.

²⁶ F.L. Abrúcio, M.R. Loureiro, cit., 44.

important positions within the previous regime with substantial salaries, but with scant ability to resolve problems in relation to the issues of the common citizen. Regarding this, an excerpt from one of his most remembered speeches during such electoral campaign in which he presents himself as the “caçador de marajás” (hunter of bigwigs) is remarkable:

Is it fair for a crony of the powerful to earn up to 50 salaries to sit on his throne without doing anything, while you, who work hard eight hours a day, earn a salary that is not even enough to pay your children's school fees? It was to end this shame, my people, that I fought so much in Alagoas²⁷, and started a crusade that reached the entire Brazil: *the hunt of bigwigs*²⁸.

Conversely, if in the post-military dictatorship there was a process of discrediting the law graduates, from 2004 onwards, there was an exaggerated valorization of this group, which, in association with new radical right-wing movements a few years later, favored the rise of figures like Jair Bolsonaro.

4. The New Bacharelismo

The number of law schools in Brazil is alarming. Data indicates that the country has a greater number of higher education legal institutions than the United States, China, and Europe combined²⁹, as well as the highest number of lawyers per capita in the world and the second highest absolute number of legal professionals, behind only to India - a country with over seven times the Brazilian population³⁰. Similarly, there is an enormous number of students pursuing this career, which in 2018 reached an impressive mark of 863,101 students. Considering that the total number of people enrolled in higher education in 2018 was 8,450,755, a staggering 10.21% of all higher education students in that year were law students³¹.

It should be noted that this figure is closely related to the potential entry of these students into public bureaucracy, especially in the judiciary and the Public Prosecutor's Office³². According to research by FGV Social,

²⁷ Alagoas is one of the 27 states that forms Brazil and Collor's political home.

²⁸ F. Collor de Mello, *Speech for the Electoral Campaign of 1989*, October 1989. Available at: <https://www.youtube.com/watch?v=tVAPdnNOVxU>.

²⁹ L. Tenente, *Brasil tem mais faculdades de direito que China, EUA e Europa juntos*, in *G1*, 06 July 2017. Retrieved from: <https://g1.globo.com/>.

³⁰ R. Carvalho, *Por que Brasil tem maior número de advogados por habitantes do mundo?*, in *BBC Brasil*, 30 May 2023, retrieved from: www.bbc.com.

³¹ INEP (Instituto Nacional de Estudos e Pesquisas Educacionais Anísio Teixeira). *Sinopse Estatística da Educação Superior 2018*, Brasília, 2019. Retrieved from: <https://www.gov.br/inep/pt-br/acesso-a-informacao/dados-abertos/sinopses-estatisticas>.

³² In 2016, the newspaper “Zero Hora” published an extensive article about Law courses in Brazil. According to the news, the number of enrollments in legal education institutions jumped by 17% in the country between 2011 and 2016. According to the report, “the increase in demand is mainly driven by the high salaries in the legal field and the stability of public competitions.” Furthermore, according to the article, “the number of students who are in college with the aim of passing a competitive exam is impressive.” (F. Costa. *Saiba por que o Direito ainda é o queridinho dos pais e continua atraindo muitos estudantes*. In *Zero Hora*, 10 March 2016. Porto Alegre. Retrieved from: <https://gauchazh.clicrbs.com.br/>.)

based on Personal Income Tax data from 2018, of the top ten highest-paying professions in Brazil, no less than seven are linked to legal careers in the public sector³³.

Abramovay and Lotta point to the symbolic mark of this process as the general strike of Federal Police Inspectors in 2004. At that time, there was a vigorous manifestation of the desire of these law graduates³⁴ demanding corporatist benefits, greater political power³⁵ and always based on an increasing social insulation of these professionals, commonly disconnected from the rest of society. In other words, from 2004 onwards, there was a deepening of a process in which these law graduates “appropriated the public machinery to favor their interests.”³⁶

The data previously presented regarding the number of students and law schools in Brazil suggests that the country is experiencing a process of *hierarchization of knowledge*, disproportionately valuing legal studies, which, evidently, is not endowed with “natural” superiority justifying a preference for legal education over other fields of knowledge that might seem more relevant given the current socioeconomic conditions. In reality, it is something socially related and resulting from an antidemocratic social value by which certain social strata related to the justice system are endowed with special attributes absent in the rest of the population³⁷.

However, the “bacharelismo,” in the sense that the simple Law degree brought “the old prestige of noble coats of arms,” as noted by Buarque de Holanda³⁸ in the past, is not reproduced immediately in 21st century Brazil. Currently, considering the explosion in the number of those versed in Law, a new factor has become absolutely necessary for the maintenance of the political centrality of the Bachelor of Law: the civil service examination. Therefore, this “robed nobility” is no longer just differentiated simply by the degree itself but by its association with an approval in these examinations. On the other hand, it maintains the same characteristic since the foundation of Brazil as an independent nation: a key element in the process of maintaining elites through the control of the intellectual formation of the

³³ D. Barbosa, *Conheça as dez carreias com maior rendimento do Brasil*, in *O Globo*, 28 may 2019, Rio de Janeiro. Retrieved from: <https://oglobo.globo.com/>.

³⁴ In Brazil, it is required for a police inspector to have a law degree.

³⁵ It's worth noting that one of the demands of the strikers in 2004 was not only salary or work conditions improvements but also explicitly “the removal of the head of the Ministry of Justice and his staff”. To achieve this, they resorted to measures such as border closures and the disruption of services at airports. (*Polícia federal começa greve geral no país na terça-feira*, in *Revista Eletrônica Consultor Jurídico*, 07 march 2004. Retrieved from: www.conjur.com.br).

³⁶ P. Abramovay, G. Lotta, *A Democracia Equilibrista: políticos e burocratas no Brasil*, São Paulo, 2022, 44-46.

³⁷ According to Durkheim: “[I]f there is a recognized hierarchy among our faculties, if there are some to which we attribute a kind of primacy and which we must therefore develop more than others, it is not because this dignity is intrinsic to them. It is not because nature itself has always assigned them an eminent position, but because they have a higher value for society.” (E. Durkheim, *Educação e Sociologia*, São Paulo, 2016, 67).

³⁸ S.B. Holanda, *História...*, cit., 305.

law graduates and the strategic use of an institutional bureaucracy distant from the people and associated with economic elites³⁹.

Not surprisingly, this “new bacharelismo” begins to resist the longest period in Brazil’s history of left-wing governments (2003–2016) and starts to use an entire institutional framework precisely to undermine the continuity of this project of social valorization, which, despite many difficulties, had been developing. See, for example, when Deltan Dallagnol asserts that in his mythological “fight against corruption,” “Lava-Jato treats a tumor” resulting from a “cancerous [political] system” that existed in Brazil and he, Sergio Moro, and others began to combat it from 2014 onwards⁴⁰. This view is also echoed by Rodrigo Janot, the Public Prosecutor responsible for the Lava-Jato cases before the Brazilian Supreme Court, stating that when corruption was discussed before 2014, “the initials of the president [of the republic],” as well as his party, “were written in uppercase.”⁴¹ Thus, these law graduates, especially through various abuses of Lava-Jato, promoted an unprecedented deterioration of leftist governments in Brazil in the eyes of public opinion, favoring a political shift to the far-right.⁴²

5. Conclusion

In her doctoral research, Luciana Zafallon Cardoso, based on an analysis of the judicial system in the State of São Paulo, points out that even with supposedly impersonal selections and the constitutionalization of a series of guarantees to bureaucratic careers in the constitutional text, there remains “a strategic interaction between hegemonic political elites, influential economic actors, and legal leadership,” as was the case in the past, where the latter shield the former through “the selective exercise of their democratic responsibilities.”⁴³

According to the author, this interaction occurs through the strategic use of financial benefits for legal careers, resulting in the fact that the highest individual incomes in Brazil are precisely linked to legal field jobs. Despite formal equality of access to the most important positions in the justice system in Brazil post-1988, data shows the persistent exclusion of certain sectors of the community. Regarding this, according to a 2023’s survey by

³⁹ According to Rubens Casara: “The Judiciary, in light of this rationality that conditions institutions and individuals, becomes sought after as a mere endorser of market expectations or as an instrument of control over both the poor - who lack purchasing power -, and individuals identified as political enemies of the neoliberal project.” (R. Casara, *Prefácio*, in M. Semer (Ed.), *Os Paradoxos da Justiça: judiciário e política no Brasil*, São Paulo, 2021, 13).

⁴⁰ D. Dallagnol, *A Luta Contra a Corrupção*, Rio de Janeiro, 2017, 163.

⁴¹ R. Janot, *Nada Menos do Tudo: os bastidores da operação que colocou em o sistema político em xeque*, São Paulo, 2019, 79.

⁴² C.E.C. Lynch, *Ascensão, Fastígio e Declínio da ‘Revolução Judiciária’*, in *Revista Insight Inteligência*, Edição 79, 2017, 164.

⁴³ L.Z. Cardoso, *A Política da Justiça: blindar as elites e criminalizar os pobres*, São Paulo, 2018, 400–401.

the “Conselho Nacional de Justiça”⁴⁴ (National Council of Justice, commonly known as CNJ) about the socio-demographic situation of Brazilian judges, it was found that the profile of Brazilian judges is of *men*⁴⁵, *white*⁴⁶, *heterosexual*⁴⁷, *Catholic*⁴⁸, *married*⁴⁹ and *with children*⁵⁰. There has even been an accentuation of the male character of Brazilian judges since 2021, when the percentage of female judges approved in civil service examinations fell to pre-1990s levels. In other words, data demonstrates that despite a theoretically democratic institutional environment, remains a very specific profile of this “new bacharelismo” that does not differ substantially from its counterpart in the past.

Thus, certain historical dynamics that “shield the elites and criminalize the poor”⁵¹ perpetuate themselves through a supposed idea of equal rights, impersonality, and isonomy, and where public bureaucracy increasingly comes to be seen “as a selective agency in the service of those capable of holding power and wealth”⁵².

It is not surprising that Fausto⁵³ points out that one of the reasons for the rise of extreme right-wing movements in Brazil in 2018 stemmed from a “regressive bias [in public policies] in Brazil”, that is, policies that favored “individuals with higher incomes [...] especially public servants in careers related to the Judiciary and the Public Prosecutor's Office”.

Max Weber himself pointed to a tendency toward aristocratization of law graduates that dominates the legal-rational dynamics in a process where they sought to establish its power on a supposed superior technique lacking a necessary accountability to society. According to the author, just as bureaucracy tends toward rationalization and efficiency, opening up possibilities for mass democracies, it may come into conflict with them, enabling the emergence of authoritarian movements if there is an inappropriate exacerbation of the legal body that, opposed to the governed, “can occupy a quite autocratic position, both in fact and in form”⁵⁴.

Specifically, this perspective is seen in the Lava-Jato operation, which ultimately weakened an agenda of social policies through a discourse based on the “moral necessity” of correcting political missteps that Brazil supposedly began suffering when the first left-wing government in Brazilian history started in early 2000's.

Therefore, according to Weberian thought, the oligarchizing tendency of bureaucracy would be, so to speak, a kind of “adverse effect” of the

⁴⁴ CNJ, *Censo do Poder Judiciário – 2023*, Brasília, 2023. Retrieved from: <https://www.cnj.jus.br>. Data in footnote 46 to 51 is retrieved from this publication.

⁴⁵ 59.6% of Brazilian judges are men.

⁴⁶ 82,7% of Brazilian judges are white, a figure reaches 90% when considered only courts of appeal.

⁴⁷ 94,6% of Brazilian judges are heterosexual.

⁴⁸ 55% of Brazilian judges are Roman Catholics.

⁴⁹ 79,9% of Brazilian judges are married.

⁵⁰ 63,8% of Brazilian judges have children.

⁵¹ L.Z. Cardoso, cit. *passim*.

⁵² R. Casara, cit., 21.

⁵³ S. Fausto, *O Ponto a Que Chegamos: da Constituição de 1988 à eleição de Bolsonaro*, in *Revista Piauí*, Edição 149, 2019.

⁵⁴ M. Weber, *Ensaio de Sociologia*, Rio de Janeiro, 1982, 262.

necessary bureaucratization for the consolidation of democracies, but still capable of being corrected under ideal conditions. On the other hand, in Brazil, this tendency would not be an adverse effect but a striking feature in the affirmation of the country as an independent nation since its beginnings. In reality, in my standpoint, this *elitization and political centrality of law graduates is one of the constitutive elements of Brazil as a nation.*

Thus, if there is an interest in understanding right-wing radicalism in contemporary Brazil, one of the central points, and in my view still underexplored in academia, is precisely this historical role of the Bachelor of Law in a process of implementing a conservative and reactionary political agenda in the country.

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