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TO : Department of State
INFO : Amembassy RIO DE JANEIRO

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HANDLING INDICATOR
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JUL 13 1971

FROM : Amembassy BRASILIA DATE: June 17, 1971

SUBJECT: The Emerging Brazilian Political System

REF :

SUMMARY

Ever since the earliest days of the Medici government, the President and other high officials have spoken of the need to develop a specifically Brazilian form of democracy. Analyzing the direction the political system is taking, this airgram observes that new Brazilian-style democracy does not seem to involve replacing old institutions but rather the superimposition of new organs of government and modifications in the way traditional institutions are intended to function. Post-1964 political initiatives seem to be founded on the desire to assure the effective power of the Presidency to intervene in the three branches of government at all levels. Although most of the thrust of political innovation is to find legal devices that effectively prevent contestation of the President's authority, in some degree the new system functions because the whole of the President's power is already so great that it is not reasonable to risk retaliation even when resistance has a constitutional basis. The airgram argues that when the executive is assured that it has sufficient legal means to avoid ~~XXX~~ meaningful resistance to its wishes, the present arbitrary powers contained in I.A.5 can be removed and the Brazilian version of democracy will have been established.

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It is noted that the developing political system derives much of its current public acceptance from the economic progress it has presided over. Therefore, deterioration in the economic picture could shake the political structure. Moreover, the new system is vulnerable to corruption, mistakes and an ill-defined succession mechanism, all of which/could generate divisive pressures in the foundation of military unity which supports the government.

Repeatedly, since the installation of the Medici administration, the President and other government spokesmen have talked of the need to develop a specifically Brazilian form of democracy. In various speeches, "liberal" democracy has been ruled out as being unsuited to Brazilian conditions as has been any return to the pre-1964 political processes. Enough has been said and done since President-designate Medici in October 1969 expressed the "hope to see democracy definitively established" by the end of his term (1974) to rough out the outlines of this new political system intended under the name "Brazilian democracy".

There is no indication that basic changes in the formal structure of government are planned. Tripartite institutions, a federal structure, political parties, and elections exist and will continue to do so. However, revolutionary devices, such as the General Investigating Commission (CPI's) and the trial of civilians by military courts in national security cases will also remain part of the system, as will the military staffed National Security Council. As recently as February, Medici expressed his pleasure at the way the political system operates and ruled out any major changes at this time. Recent political initiatives of GOB have been in the nature of refinements of the existing system, such as the legal provisions on party loyalty.

the version of
If/Brazilian/democracy is not to be expressed by
distinctive institutions, its uniqueness must lie in the

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manner in which Brazilian institutions operate. Repeated statements by government leaders have stressed the point that the Revolution of 1964 is beyond challenge and the institutions of government are the channels through which it will effect its transformation of Brazil. The nature of Brazilian kind of democracy is best understood in the light of the full implications of this principle.

Leaving aside for the purposes of this airgram what the "Revolution" is, the primacy of the Revolution requires that no institution be in a position to obstruct it. The military nature of this government derives from the fact that the function of ultimate arbiter of revolutionary purity has been preempted by this institution.

If the military, specifically the higher officer corps of the Army, is the ultimate authority in its role as keeper of the revolutionary flame, the operational instrument of the Revolution is clearly the Presidency. Underlying every institutional modification since 1964 has been the obvious desire to increase the effective power of the President to intervene at any institutional level and assert his power of decision. Embassy reporting has consistently covered examples of Presidential intervention at State and local governmental levels and in the judiciary and legislative as well as the executive areas. The extent and limitation of presidential power will be the subject of continued reporting.

It has always been the aim of the revolutionaries to return control of the country to a purified political class. Events, however, soon caused a rethinking of what political reforms would be necessary if the revolution was to complete its transformation of Brazil. Political defeats in 1965 led to I.A.2 and the continuation of arbitrary rule until 1967 when the liberal 1946 constitution was replaced by a more authoritarian one. "Conditions" did not permit a civilian president at the end of Costello Branco's term. The 1967 Constitution soon proved an insufficient instrument of protection

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for the Revolution and I.A.5 was decreed. After the succession crisis of September 1969, an even more authoritarian constitution, Constitutional Amendment No. 1, was enacted. I.A.5 remained in force to give the President continuing arbitrary powers through an unspecified period. Projecting this trend, only when legal means have been found to protect against any serious challenge to presidential authority will the arbitrary powers of I.A.5 be dropped. It is the argument of the airgram that when this point is reached the Act will be repealed and ^{the} Brazilian ^{version of} democracy proclaimed.

A number of powers attributed to the President in I.A.5 already have been effectively transposed into the Constitution of 1969. The new Constitution gives the President ample powers to remove elected Governors or Mayors, declare a state of seige and to issue decree laws. Although these measures are subject to subsequent Congressional approval, the legally disciplined ARENA majority make it unlikely that such Presidential acts would be challenged successfully. The Constitution does not give the President power to remove a person's political rights by decree. However, he can request the Supreme Court to do so for abuse of individual or political rights for purposes of subversion or corruption. Parliamentary immunities do not apply in this case. It is highly unlikely that the Court would deny such a Presidential request. Moreover, the law of ineligibility to some degree minimizes the need for cassation power by giving the government the effective right to limit candidates to persons acceptable to it. Four major powers authorized by I.A.5 have not been transferred into the Constitution in any form: to dissolve Congress, to retire federal employees, including members of the armed forces, without cause, to confiscate illegally obtained properties by administrative decision and the blanket suspension of habeas corpus in security cases. It is primarily in these areas that the Executive can be expected to seek alternative means of exercising control before permitting I.A.5 to lapse.

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Fundamental to the emerging political system is unity of the armed forces, especially the Army. This has been true of all post-1964 governments. Any serious division of opinion in the officer corps, either over goals or personalities, can rapidly undermine the President's authority and might lead to experiments with alternative political models. It is in the area of potentially divisive factors that weaknesses in the political system may possibly emerge.

Experience during the last two years with the Medici administration has shown that large segments of Brazilian opinion are willing to accommodate themselves to authoritarian government, tainted with chronic, if occasional, abuses of individual rights, so long as it is accompanied by prosperity and a sense of accomplishment. It is doubtful, however, that the nascent Brazilian democracy would retain wide popular acceptance in the face of an economic downturn. Unpopularity and economic stagnation in turn would almost certainly generate criticism of the government from within the military system. It is obvious that many elements of economic prosperity are not under Brazilian control.

Other threats to military unity, besides an economic downturn, could undermine the emergent political system. Theoretically, the new Brazilian democracy is susceptible to corruption since few outside checks on government actions are operative in the light of press censorship and the restrictions on Congress. In fact, there is little solid evidence of high level corruption and the post-1964 governments are widely held to be the most honest in Brazilian history. Certainly, the fact that the revolution in part justified itself on the need to root out flagrant corruption among the old politicians has served to inhibit the normal course of human weakness. Military tradition and discipline are also important checks. One can see, however, disturbing signs such as the rapid increase, disproportionate to other sectors, in military officers' salaries and perquisites in 1969 or repeated reports that contracts for military purchases have been

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influenced by personal favors. Disturbing smoke has issued from the Ministries of Transportation and Interior, both headed by former Army officers, and in numerous state governments, admittedly without solid evidence. The point is that since normal channels for exposing corruption or laying to rest unfounded charges are closely controlled by the executive in the emergent Brazilian democracy, the government is especially vulnerable to suspicion of protected malfeasance. The involvement of the military in the government and the anti-corruption premises of the Revolution make this issue potentially divisive to military unity.

In a sense, the threat of corruption is only the sharp point of the larger, general problem of mistakes. The emerging political system sees little distinction between subversion and criticism. The spread of permissible political discussion has grown constantly narrower. Few people or institutions are willing or able to insist that the government consider alternatives to its policies. Often major policy initiatives are announced without even advance public knowledge that the matter is under discussion, i.e. the Transamazonica Highway and the extension of Brazil's territorial waters. There are already indications that the system is subject to the impulse to ignore, or hide, those mistakes which normally occur. Tendencies exist, therefore, either towards the stagnation which comes with immunity to criticism or towards the stress which occurs between those within the military who accept the new status quo and others who try to maintain the initial revolutionary purity.

Another weakness of the new Brazilian democracy is that it has not provided, despite the constitution, a functional mechanism for Presidential succession, only a method for legitimizing it. As the Costa e Silva-Medici transition demonstrated, the ambitions and policy options involved in presidential selection do not disappear when the choice is confined to the higher echelons of the Army. Politics, banished from the formal democratic institutions, found a new home.

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Medici's success in reuniting the officer corps, selecting civilian governors and diminishing the day to day involvement of the military commands in local political and administrative decisions does not change the fact that politics (and division) searches out power and power lies ultimately in the upper ranks of the Army. This is the inconsistency of a governmental system built on military unity.

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