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New Interpretations on the Life and Ideas of Raúl Prebisch (1901-1986)

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Abstracts

Judiciary-Executive Relations in Policy Making: The Case of Drug Distribution in the State of São Paulo

Vanessa Elias de Oliveira and Lincoln N. T. Noronha

This paper aims to demonstrate how the responses of public health officials to judicial decisions have shaped drug distribution policies in the state of São Paulo. Data was collected and structured interviews were conducted at the state of São Paulo Department for Health in order to show how different strategies of response to judicial decisions affected the policy of medication distribution by the public sector. We also analysed recent Supreme Federal Court jurisprudence to show how the Court reformed its earlier views on the subject as a result of the demands made by public health officials. It is our understanding that the current literature has failed to produce a more comprehensive view of this phenomenon because of its focus solely on judicial decisions, without taking a step further to analyse how public health officials reacted to them, which would have addressed the compliance problem inherent to positive rights enforcement. Finally, we see this process not as merely positive or negative, but as one that goes beyond the different normative biases present in the literature on the subject, and focus on the mechanisms behind the impact of the judicialization of the right to healthcare on policies of medication distribution.

Keywords: Health policy; Judicial studies; Judicialization of public policies.

Independence after Delegation? Presidential Calculus and Political Interference in Brazilian Regulatory Agencies

Mariana Batista da Silva

Is there Executive interference in the regulatory agencies after its formal establishment as independent bodies? Under what conditions the Executive chooses to interfere in the agencies? This paper analyses the degree of interference in Brazilian national regulatory agencies and provide a tentative explanation for the variation in the degree of interference. The basic hypotheses is that credibility costs, the degree of formal independence and the preferences of presidents are crucial factors affecting the extent to which presidents interfere in the regulatory process. A random effects model is estimated with panel data for the period between 1997 and 2008 covering ten national agencies. The degree of interference is operationalized

by an index built using factor analysis. The data suggest that there is political interference, which varies across agencies and over time. The results show that the preferences of the president and some issue area specificity matters for the choice that presidents make regarding the interference in the regulatory process.

Keywords: Delegation; Independence; Regulation; Political interference.

Brazil–United States military relations during the Cold War: Political Dynamic and Arms Transfers
Eduardo Munhoz Svartman

This article discusses the military relations between Brazil and United States in the Cold War. Focusing on the dynamic of these relations and on arms transfers, one argues that the Brazilian military sought in the USA a path towards organizational modernization, industrialization and regional supremacy. Thus Brazil operated a movement from a very close and dependent position to a more distant one, since Washington did not support Brazilian objectives of military modernization and strategic autonomy and the anticommunist agenda became less important to Brazil.

Keywords: Brazil-United States relations; Armed Forces; Military assistance; Cold War.

Federalism and Public Resources in Brazil: Federal Discretionary Transfers to States
Márcia Miranda Soares and Pedro Robson Pereira Neiva

This paper analyses intergovernmental relations in Brazil based on the dynamics of the distribution of federal discretionary transfers to the states between 1997 and 2008. The theme becomes more relevant when we consider the process of fiscal recentralization that has taken place in Brazil, particularly from 1994 on, and the importance of discretionary transfers for state budgets. Our purpose is to identify which factors can account for a higher or lower state's share in overall resources, by building on two explanatory dimensions: the partisan-political and the social-redistributive. The first one examines how the political dynamic affects resource allocation; the second, if discretionary transfers exhibit a redistributive character across states. Our findings show that a governor's partisan alignment with the president or with the president's government coalition are important factors in determining higher resource allocation for his/her state, and that states that are overrepresented in the lower chamber are favored. We have also found a redistributive character associated with federal discretionary transfers, favoring states with lower Human Development Index (HDI) rankings.

Keywords: Federalism; Fiscal federalism in Brazil; Federal discretionary transfers.

Policies of Space and the Space of Politics: The "Negotiated Expansion" of the Belo Horizonte Metropolitan Area
Carlos Aurélio Pimenta de Faria and Gustavo Gomes Machado

The aim of this article is to analyse the process of expansion of the Belo Horizonte Metropolitan Area, created in 1973 with 14 municipalities, which today comprises 34 municipalities, making it the second largest MA in Brazil.

After the redemocratization, more specifically after the promulgation of the State Constitutions in the late 1980s, several new metropolitan areas were created in the country, and all nine MAs instituted in the early 1970s increased their number of member municipalities, in a context of low prioritization of the MAs by the federal government. The article highlights the factors of a legal, institutional, symbolic and political/electoral nature that explain the expansion of the BHMA, also very present in other regions. It underscores the impact of the model of metropolitan management adopted after the 1989 State Constitution on the capacity to produce cooperative action in the metropolitan sphere. It also analyses the manner in which the dilemma of collective action for the management of the MAs in the state of Minas Gerais was sought to be overcome, by means of adopting a new institutional model, in the mid-2000s.

Keywords: Belo Horizonte Metropolitan Area; Metropolitan management; Constitution of the state of Minas Gerais; Federalism; Intergovernmental relations.

ARTICLE

Judiciary-Executive Relations in Policy Making: The Case of Drug Distribution in the State of São Paulo

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This paper aims to demonstrate how the responses of public health officials to judicial decisions have shaped drug distribution policies in the state of São Paulo. Data was collected and structured interviews were conducted at the state of São Paulo Department for Health in order to show how different strategies of response to judicial decisions affected the policy of medication distribution by the public sector. We also analysed recent Supreme Federal Court jurisprudence to show how the Court reformed its earlier views on the subject as a result of the demands made by public health officials. It is our understanding that the current literature has failed to produce a more comprehensive view of this phenomenon because of its focus solely on judicial decisions, without taking a step further to analyse how public health officials reacted to them, which would have addressed the compliance problem inherent to positive rights enforcement. Finally, we see this process not as merely positive or negative, but as one that goes beyond the different normative biases present in the literature on the subject, and focus on the mechanisms behind the impact of the judicialization of the right to healthcare on policies of medication distribution.

Keywords: Health policy; Judicial studies; Judicialization of public policies.

Introduction

The subject of the "right to healthcare", also called the "judicialization of the health system", has been increasing in relevance in debates not only amongst Law and

public health specialists, but also among those who analyse public policy. This is because the judicial distribution of drugs not given by the public healthcare system (Sistema Único de Saúde (SUS)) involves an allocation of scarce resources to a policy not always seen as the fairest or most urgent in the eyes of public administrators.

The Law debate frames the problem as one of positive constitutional rights, whereas the debate in the area of public health argues that the matter is a technical one, which needs to be addressed through a public health perspective based on risks and priorities. Aside from these perspectives, this problem has captured the attention of political and social scientists for a simple reason: it entails a political issue that involves decisions taken by political actors – be they members of the Executive, Legislative or Judiciary branch – with consequences for governmental policy agendas, management of public policies and social justice.

However, the focus of the debate has not managed to escape a dichotomy pertaining to the subject of access to medicine through judicial means: either the phenomenon is perceived as a good one, because it guarantees that a constitutional right to healthcare is satisfied by the government, or it is viewed as undue interference by the Judiciary branch in decisions that should be left to elected officials and Executive-led bureaucracies, capable of weighing up technical matters and choosing adequate policies, given overall governmental priorities. Thus, the current debate on the issue either does not perceive problems and contradictions within the phenomenon, which we will call here the judicialization of the right to healthcare, or simply ignores some of its impacts on public policies aimed at guaranteeing rights and therefore improving democracy. Furthermore, the focus solely on judicial rulings has lead scholars to a biased diagnosis of the phenomenon's impact on public policies, because they fail to take into consideration how public administrators' responses to the Judiciary's rulings shape those policies.

This article aims to fill this void by examining how public officials' responses to judicial rulings shape drug distribution policies. We view this process as a dual phenomenon, which generates advances in citizens' rights through the effecting of public policies, but not without contradictions and problems created by the interaction between the Executive and the Judiciary. In so doing, we avoid the dichotomous debate that characterizes the Brazilian literature on the subject, and bring an innovation to the theoretical debate by drawing attention to specific aspects of the judicialization of policies that need to be addressed when the Judiciary acts as a positive enforcer of rights.

We have named this phenomenon the judicialization of the right to healthcare because we perceive it as bringing together characteristics emphasised by the two literatures that have studied it: Law, which terms it the "right to healthcare", and public health, which terms it the "judicialization of healthcare". In our understanding, it is a process of judicialization because it consists in using the Judiciary to gain access to a public policy related to the

distribution of drugs, as perceived by public health studies, but it is also about guaranteeing a right that requires positive policies to secure it.

Aside from this introduction, this paper will be structured as follows: first we will present a critical review of both literatures that have been studying the phenomenon – Law and public administration. After that, we will draw from structured interviews to analyse the strategies of public health administrators in response to judicial rulings, and how they affect drug distribution. Finally, we will conclude with a synthesis of our arguments and findings, demonstrating that the current literature presents a much darker – and less credible – account of this phenomenon.

One Phenomenon, Two Interpretations: Law and Public Health

There are two usual approaches to the judicialization of the right to healthcare: one that perceives it as a virtuous process of guaranteeing a right otherwise overlooked by elected politicians and public officials, and another that qualifies it as a vicious distortion of the relationship between branches of government. There are other ways in which to organize the debate, but organizing it in the following manner makes it easier to highlight two features important for understanding the overall impact of this phenomenon on policies that seek to implement the right to healthcare: 1) identifying the actors themselves and how they frame the phenomenon – almost all the authors in each field either have a background in Law, and usually work as lawyers, public defendants, prosecutors, judges etc, or have a background in medicine and public health, and usually work in the public sector; 2) highlighting the author's position on whether they are for or against the Judiciary deciding about the overall level of healthcare that the government should provide makes it easier to understand the political role of the Judiciary foreseen in each field, and the consequences for the institutional structuring of the State's decision making process.

In the following section we will critically analyse how these two views characterize the phenomenon. Our goal is different from that of these approaches. We seek to better understand how this phenomenon changes the decision-making process and how, in turn, that affects the policies actually implemented. Although we address several of the normative issues raised, especially by the right to health literature, we attempt (not always successfully) to refrain from making any judgments on whether this is a good or a bad thing.

The right to healthcare

In the "right to health" literature it is quite common to find authors defending an even more active judicial role in public policies in general and in drug distribution policies

in particular. They usually steer away from a diagnosis of "collapse" or "insufficiency" of the electoral representative system to seeing in the judicial system a way of supplementing this deficiency, because it is more likely to defend underrepresented minorities.

There are many shades of grey in the opinions of the different authors, who almost always have a background in Law, but when you review the literature it becomes clear that their overall opinion is in favour of the judicialization of the right to healthcare.

Even when they seek a middle ground, their position on the subject is made clear in certain passages. For example, Ventura et al. (2010) ponder several ethical and technical issues related to the Judiciary ordering the State to distribute medicine, but are in favour of the Judiciary's authority to interfere on a case by case basis. The authors organize the debate in the following manner:

> 1. An initial position states that considerations on the efficiency of the implementation of the right (to healthcare) must be restricted to services and goods already provided by the SUS determined by health officials.
> 2. A second position defends that the right to healthcare incorporates the guarantee to life and the physical integrity of the individual, and that the judge must consider only the absolute authority of the personal physician assisting the patient/litigator, and thus order the SUS to deliver the medicine to the patient.
> 3. A third stance defends that the efficiency of the right to healthcare must be as ample as possible, and that the Judiciary must ponder rights, goods and interests at stake on a case by case basis in order to set the contents of the State's obligations to deliver goods and services. (Ventura et al 2010, 86).

The third stance mentioned by the author can be collapsed into the second one, since it authorizes the Judiciary to have the final word on the overall healthcare that society should give its individuals. This is by no means a "relative consensus", as the authors claim a few paragraphs previously (it is maybe so in the jurisprudence, but not in the literature), and this can be exemplified by Vieira's (2008) critique addressed further along, which begs the question: Given that we deal in scarce resources and that healthcare is probably the most costly public policy a country can implement, how much of a health safety net are we as a society prepared to provide for our citizens? Additionally, how can we decide this in a democratic regime in a legitimate way?

The only difference between the second and third opinions as organized by the authors is that the latter asks for the judge's careful consideration of the opinions given by SUS officials, rather than simply complying with the patient's personal physician's opinion. The last word "must" still stand with the Judiciary.

When addressing the issue, Werneck Vianna (2003) argues that functional[1] representation, legitimized by the law and the Constitution, may complement classical electoral representation, because it spurs more individual and group participation in the

political arena through the judicial process.[2] This functional representation in the Judiciary would be typically performed by state bureaucracies in charge of doing so (in Brazil, the Ministério Público, Public Defenders' offices and states' lawyers). In such a context, the opening of various participatory channels (including judicial ones) are beneficial to marginalized groups, and help produce public goods for the less privileged sections of society. On top of that, the construction of a collective civic identity through rights-based activism is in line with acquiring a modern sense of belonging. In this context, identities are formed around mutual interests and more objective demands organized around pre-established rights, as opposed to identities formed around an arbitrary historical narrative of commonly held cultural characteristics.

When talking specifically about the distribution of medication, Wang (2009, 81) argues that the broadening of deliberative and participatory channels, including the Judiciary, can contribute to the improvement of public policies, because "(...) in the Judiciary, the interests of the poor and the less favoured in society may be more easily manifested, which gives this institution a comparative advantage". This advantage is presumably given by intermediary institutional instances that could exert advocacy functions for the less favoured strata of society, reducing organizational costs for them. To prove his thesis, Wang researched lawsuits initiated by the Ministério Público and the Public Defender's office in the state of São Paulo between 1999 and 2008. The author presents as evidence of the beneficial nature of the phenomenon the number of medication and medical supplies demanded and given in these suits, thus supplying a social need for such policies that was going unanswered in the classic representation channels.

Collective vs. individual litigation

Another strain of the right to health literature starts from a more critical diagnosis of the phenomenon, which is also present in the judicialization of the right to healthcare literature. This diagnosis is based on the findings that there are more individual than collective suits being filed and decided in the judicial system. From that empirical finding, authors conclude that by giving medication to individuals who have access to the Judiciary, what is created is, in fact, not a policy to positively enforce the right to healthcare, but a privilege given to those with the resources to endure litigation against the State. For the right to health authors who share this diagnosis, what is needed is a shift in judicial enforcement from individual litigation to start dealing more with collective litigation, thus addressing broader issues with overall impacts and benefits (Lopes 2006; Ferreira et al. 2004).

The issue of individual vs. collective litigation in positive rights enforcement has received much attention in the literature. Recent research on the jurisprudence of the São

Paulo State Court (TJSP) showed the Judiciary's difficulty in acting as a rights enforcer in collective lawsuits, whereas in individual claims it usually favours the plaintiff (Pepe et al. 2010). Analysing the TJSP's jurisprudence on the judicialization of the right to healthcare, Fanti (2009, 33) discovered that 92% of the individual lawsuits against the municipality of São Paulo that asked for drugs to fight AIDS were decided in favour of the plaintiffs.

Caldeira (2008) restricted her analysis to rights enforcement in collective lawsuits (including the right to healthcare, although not exclusively) and concluded that the Court restrains itself more when a collective actor asks directly for the creation of an entire policy, not just for the inclusion of a group of people in a particular programme in existence (public school, housing, hospital…).[3] José Reinaldo de Lima Lopes (2006, 255) argues that this has to do with dilemmas of distributive justice, which become more salient and evident to the judge in collective cases than in individual ones. This happens because many collective cases are not about one individual[4] or group of individuals asking for a public resource, but the suits require the creation of an entire new policy or the reformulation of an existing one. Some examples are lawsuits that asked for the transfer of medical equipment from one place to another, lawsuits that asked for the hiring of more health professionals to a given hospital and lawsuits that asked for a specific part of the budget to be allocated to policies for fighting AIDS. Lopes (2006, 255) concluded: "Our analysis showed that the courts are more comfortable when deciding a case in favour of a single individual, but not so when they are asked to force the revision of entire policies". Ferreira et al. (2004, 25) come to the same conclusion, restricting their analysis to STD/AIDS cases against the municipality of São Paulo.

> We have been able to observe that 93% of the rulings favourable to the plaintiffs were composed of cases that recognized the rights of individuals to healthcare, while only 5% of winning claims were about truly collective rights. As for cases where the court denied the plaintiffs' claim, 53% of them were about collective rights and only 33% dealt with individual rights. .

Lopes (2006, 256) criticizes this conservatism of the courts, claiming that it has to do with a Brazilian judicial culture in which "constitutional doctrine is still based on the concept of individual subjective right and does not incorporate a central problem of the democratic regime, which is the principle of universal and equal enjoyment of a right".

Authors who have studied the issue from a "right to healthcare" perspective view this treatment of collective problems according to an individualistic approach, in a setting of extreme social inequalities, as transforming rights into privileges for those with the resources to fight a judicial battle. This diagnosis is shared by those who study the issue from a "judicialization of healthcare" perspective, who complain about the "random" way

in which courts offer expensive treatments to individuals, without considering a broader logic of public health that deals with a population (for examples see Messeder, Osório-de-Castro and Luiza (2005); Vieira and Zuchi (2007); Chieffi and Barata (2009). Curiously, while the solution given by the "judicialization of health" literature is that courts should stay out of such matters, to Lopes and others from the "right to healthcare" perspective, the remedy is exactly the opposite: courts should make more ambitious decisions on the matter, deciding on collective lawsuits and analysing problems of distributive justice so as to create rights for everyone instead of privileges for a few.[5] Ferreira et al. (2004) reach the same conclusion as Lopes, arguing that the economic rationality of deciding collective lawsuits is better for dealing with a problem on a large scale than on a case by case basis.

In a different diagnosis, Caldeira (2008) raises the issue of substantive representation legitimacy in such judicial collective arrangements, given that the main actors involved in the process are not elected. Not only are judges in Brazil not elected, but the Ministério Público (Prosecutor's office) alone is responsible for over 90% of the collective litigation[6] and its members are also unelected and accountable to no-one other than their own consciences.

Although the recommended treatments diverge, the diagnosis given by the literature that studies the judicialization of the right to healthcare is based on the idea that when judges decide individual cases, they create privileges for the plaintiffs *vis à vis* the rest of the population. This diagnosis focuses only on judicial rulings, without taking into account the reactions of public health officials to the problem. Everything is perceived as if public health officials were inert when facing judicial rulings, merely executing them within their limits. Next, we will see in more detail the interpretation given by the literature from the "judicialization of the right to healthcare" perspective, and after that we will analyse the reactions of public health officials to the phenomenon and how it has affected public health policies.

The judicialization of healthcare

As previously stated, the academic distinction between the "right to healthcare" and the "judicialization of healthcare" in Brazil carries with it a normative dichotomy regarding the role of the Judiciary in guaranteeing the distribution of medicine. We have already seen how the problem is framed by the Law academic community, and now we will critically address the issues raised by the "judicialization of healthcare" perspective.

There seems to be a consensus among the two competing views regarding the moment people started using the Judiciary to obtain medicine: it began with requests for antiretroviral drugs used in the treatment of AIDS. According to Messeder, Osório-de-Castro and Luiza (2005), more than 90% of the lawsuits asking for medicines in the period between 1991 and 1998 requested this kind of drug.

It is worth mentioning that, according to Messeder, Osório-de-Castro and Luiza, (2005) and Scheffer, Salazar and Grou (2005), the Judiciary was an effective instrument used by NGOs that were pressing the Executive for AIDS policies in Brazil, not only in order to guarantee access to drugs, but also as an instrument to institutionalize an effective and comprehensive governmental policy for fighting the disease. It is possible to state that this was the most important success obtained through the mobilization of the Judiciary: the creation of a broad, comprehensive and permanent public policy for treating AIDS carried out by the SUS.[7] According to Fanti (2009), analysing Scheffer, Salazar and Grou (2005), the "transformation" of lawsuits into public policies is a positive aspect of the so-called 'judicialization of healthcare'".

> (...) the medicines that were being requested in the lawsuits were, besides those already mentioned in the official SUS programmes, new "top of the line" drugs and diagnostic supplies and equipments that were not in the SUS programmes and thus were not yet financed by the government. The research then shows that the delay in absorbing new technologies in the SUS is proportional to the growth of litigation asking for these technologies. On the other hand, favourable decisions from the Judiciary in many lawsuits contributed for such medicines and tests to be included in the official policies (Scheffer, Salazar and Grou (2005) apud Fanti (2009)).

When the National STD/AIDS Programme began and the distribution of antiretrovirals was normalized, the proportion of requests for HIV medication decreased, dropping to 14.6% in 2000 (Messeder, Osório-de-Castro and Luiza (2005); Fanti (2009). The success in obtaining AIDS medicine through the Judiciary motivated the use of this avenue to request other kinds of medicine to treat other diseases.[8]

So we can say that the relationship between the use of the Judiciary and regular distribution of drugs by the government is inverted: when medicine is not regularly distributed by the government, the Judiciary is frequently called upon; and when the Executive manages to freely distribute medicine for those who need it, the number of lawsuits decreases.

Although this relationship seems obvious, it is not owed to one single reason: turning to the Judiciary does not mean asking for treatment of a disease, but asking for a specific brand or kind of medicine to treat that disease, even though sometimes the Executive already distributes another type or brand of medicine with the same effect in treating it. This is the case, for instance, of lawsuits that ask for a specific brand of medicine that has the same active chemical principle already present in another drug freely distributed by the SUS. Marques and Dallari (2007, 104), having analysed 31 lawsuits requesting medicines and medical supplies to be financed by the government of the state of São Paulo from 1997 to 2004, showed that in the majority of cases the plaintiff requested medicine from a specific

pharmaceutical lab, regardless of whether it was manufactured by other pharmaceutical labs and already distributed by the SUS. According to the authors,

(…) in 35.5% of the cases the name of the pharmaceutical lab was stated in the lawsuits, and in 77.4% of the cases, the author requested at least one medicine or medical supply from a specific brand. They did not ask that their disease be treated, or even to be treated by a specific chemical compound or type of medicine, they asked for the specific branded drug from a specific pharmaceutical laboratory. (Marques and Dallari 2007, 104)

When requesting a specific branded drug, the patient does not guarantee that he/she will receive the best treatment. According to the research made by Vieira and Zucchi (2007) on 170 lawsuits filed against the Health Department of the municipality of São Paulo, 62% of the requested items[9] out of a total of 282 were included in the SUS's lists of freely distributed medicine.[10] From the remaining 38%, 73% could have been substituted by a similar medicine distributed by the SUS.

When analysing the judicial litigation on distribution of medication in the city of Florianópolis, Leite et al. (2009) also found a lot of overlap between what was being requested and what was already distributed by the SUS. Criticizing the Judiciary, Ferraz and Vieira (2009, 2, emphasis added) talks about a "Brazilian model" of litigation in healthcare, which:

> (…) is characterized by a prevalence of individualized claims demanding curative medical treatment (most often drugs) and by an extremely high success rate for the litigant. This model has been shaped and encouraged largely by the interpretation of the constitutional right to health that was established in the late 1990s at the highest level of the Brazilian judicial system, the Supreme Federal Court (the "Supremo Tribunal Federal" or STF), and later became dominant in the rest of the Brazilian Judiciary. In this interpretation, the right to health is an individual entitlement to the fulfilment of one's health needs with the most advanced treatment available, irrespective to costs.

These findings, however, may not reflect what it is really taking place, because what usually happens is that the plaintiffs ask for the whole treatment when they go to the Judiciary, not just the medication not given by the SUS. That way, when the judge sentences, he/she orders the State to provide the specific previously denied medication and other medical supplies required for the treatment, even though those medical supplies are already given freely by the State (Figueiredo 2010). Either way, the whole process of making the State buy medication it already dispenses, but in specific dosages and of specific brands, creates inefficiencies by raising the cost of acquiring such medical supplies.

According to Ferraz and Vieira (2009), not only the question of the costs of treatment must be taken into consideration, because it means allocating scarce resources from

other healthcare policies, but also the sheer fact that it is impossible to give everybody the newest and most expensive treatments currently in existence for each specific healthcare requirement, especially when there are equally effective lower cost alternatives. So the principle of equality must be addressed, not just the principle of universal care. If the SUS establishes universal and equal care, the government must not be made to give unequal access to health resources by a Judiciary that decides which degree of technological innovation is used to treat every specific disease.[11]

Still on the subject of the kind of medicine requested, not only do plaintiffs ask for specific brands of medicine, but some lawsuits ask for a specific brand of medicine already given by the government, but in a different dosage, or they ask for other medical supplies that have nothing to do with the specific disease being treated. Data from the São Paulo State Department for Health point to the existence of an high number of lawsuits requesting disposable nappies, wet paper handkerchiefs, nutritional supplements and medicine already given by the government in a different dosage. This is the case, for instance, in lawsuits requesting 300 milligram capsules of acetylsalicylic acid to treat patients who require that daily dose (so they only need to take one pill a day), instead of the 100mg capsules already distributed by the SUS (that would require three doses a day). Although the patient needs to take three instead of one, the added unitary cost of buying different kinds of pills does not justify the convenience: the 100mg pill given by the SUS in São Paulo through the Programa Dose Certa (Right Dosage Program) costs the government R$ 0.01 a pill; the 300mg pill granted by the Judiciary costs R$ 0.71. This situation repeats itself in many other cases with much higher costs, such as in the case of cancer medicine. Beside the added product cost, the process of acquiring different dosages and different brands of the same medicine itself requires an allocation of human resources and time to do so, especially because we are talking about spending public money, which requires much slower procedures and added oversight costs to try and avoid corruption.

There are many cases in a grey area, where the medicine or medical supply asked for in the lawsuit is not an innovative option for treating a disease already treated by another medicine distributed by the SUS, but merely a treatment that is more convenient for the patient. So there are many cases where the motivation that leads the patient to the Judiciary is different from that of the early AIDS cases. In the early AIDS cases, the motivation was to try to get the government to start financing the treatment of a disease, thus realizing AIDS patients' right to healthcare. The increase in the judicialization of the right to healthcare lead to the treatment of diseases that were not being treated by the public healthcare system, but it also leads to distortions.

Another aspect of the "judicialization of the right to healthcare" raised by the judicialization of healthcare literature is the lack of ANVISA registration of some judicially

distributed drugs.[12] The commercialization and usage of a drug in Brazil requires an ANVISA certification. Experimental drugs that are not yet certified by the agency may only be used in clinical trials.

On this issue, Vieira and Zucchi (2007, 220) showed that of the 170 lawsuits requesting drugs from the municipality of São Paulo, two anti-cancer drugs acquired through judicial rulings were not certified by the ANVISA, "(...) and most of the other cancer drugs requested lacked more controlled randomized clinical trials to attest their effectiveness". Chieffi and Barata (2009) also demonstrated that, out of the 954 different medical supplies requested in the 9,712 lawsuits researched,[13] 3% were not available for commercialization in Brazil. The fact that the drug was not made available in the national market means that the federal agency charged with the job of certifying a drug for its relative safety and effectiveness had not yet done so. The common use of off-label[14] medication also enhances the dangers (Pepe et al. 2010; Ventura et al. 2010) Furthermore, Vieira (2008, 367) argues that the simple registration of a drug by the agency does not mean that it should be incorporated into the SUS programmes:

> Registration of a pharmaceutical product, in itself, does not mandate its integration in SUS treatments. There is no healthcare system in the entire world that offers its users all the available drugs in existence in its internal market. The costs of doing so are prohibitive and even universal systems in developed countries face problems financing treatments.

Ventura et al. (2010, 85) point out that judges had been ordering public officials to give any medication requested by plaintiffs, without taking into account if the supplies or procedures requested were in accordance with the Clinical Protocols and Therapeutic Guidelines established by the SUS.

The argument is that universal healthcare systems must guarantee treatment of all existing diseases, but not through all available drugs. Cost-benefit as well as safety criteria must regulate the decisions of incorporating new drugs into the public system.

A third problem that deserved the literature's attention was the subject of who was filing the lawsuits. Various pieces of work mention the fact that most of the lawsuits are initiated by individuals and not by collective actors. That is another difference between the early AIDS cases and the more recent ones asking for all kinds of drugs and medical supplies. In the AIDS cases, NGOs were the most common sponsors of litigation. After the first few years of judicialization, other actors emerged and most of the lawsuits were filed under the name of individuals who sought treatment for themselves rather than for some kind of universal policy. In their sample, Marques and Dallari (2007, 105) found that 100% of the lawsuits were filed by individuals.[15]

However, the literature does not mention that any citizen has access to the judicial system through public defenders' offices, so resources are not restricted to those who have money to pay for a private lawyer or have an association pay one for them.

Ferraz and Vieira (2009) shows that although only 26% of the lawsuits filed in 2006 in the state of São Paulo were sponsored by public lawyers, in the state of Rio de Janeiro the figure was 53.5% (1991-2002). But the author questions his own figures, arguing that most public defenders' offices are located within high income neighbourhoods that have restricted access via public transportation, and end up being used by high income individuals. The socioeconomic status of people is usually calculated based on geographical location (see, for example, Machado et al. (2011) and Chieffi and Barata (2009)).

The argument that criticizes the fact that the Judiciary is a venue accessible only to people of a high income seems to miss the point. A person's income does not matter much, since public defence is available to whoever seeks it. Different incomes only mean inequalities in access to information, transportation etc., which might affect a person's ability to seek public defence. Besides, the SUS guarantees integral and universal care to all citizens, not just poor ones. Finally, the fact that many lawsuits are filed by people with relatively higher incomes does not mean that they can finance their medical treatment. Some of the drugs asked for in the lawsuits amounted to treatment costing R$ 20,000.00 (circa US$ 12,000.00) per month. Chieffi and Barata (2009) suggest that such treatments could be financed by high income families, but how many high income families earn more than US$ 12,000.00 a month in Brazil? Should people who earn less than that but more than the average Brazilian income be left out of the public healthcare system?

To sum up, the existing literature points to a series of issues connected to the so-called "judicialization of healthcare": who is responsible for the litigation, if it is an individual or a collective actor; the characteristics of the required drug, if an equivalent freely distributed by the SUS already exists, if the drug is specified by brand or active chemical principle, if the drug is certified by the ANVISA; the socioeconomic condition of the plaintiff, if he/she has or has not got enough resources to acquire the drug by him/herself; the issue of checks and balances and the encroachment of the Judiciary in the Executive's policies, and what happens when the Judiciary ignores technical matters or set priorities by considering public health problems of a specific population in a specific place and time. Those questions, however, leave out a series of issues that deserve our consideration.

Universal, integral and equal right

First, we must consider a normative point that is the cornerstone for the whole SUS system: the idea of a universal, integral and equal right to healthcare, enshrined in the

Brazilian Constitution.[16] The acquisition of "top of the line" expensive treatments and drugs through the Judiciary means allocating resources from broader policies that affect a lot of people to a small part of the population that has access to the judicial avenue. In addition to the inequality problem created by the access to expensive drugs and treatments, it is important to bear in mind that the purchase of drugs mandated by judicial rulings is much more onerous to the State: data from the São Paulo State Department for Health shows that while the average cost of treating a patient with drugs bought in the SUS is R$ 2,500.00 (circa US$ 1,500.00) per year, the average cost of treating a patient with drugs bought because of judicial rulings is R$ 10,600.00 (circa US$ 6,000.00) per year.[17]

Second, it is important to remember that the Constitution and the public health system statute (Law 8.080, from 1990) establish that all three levels of government are in charge of financing pharmaceuticals, but the Judiciary rulings do not take into account the federal division of responsibilities when acquiring the drugs. As a consequence of this, municipalities are frequently required to pay for high cost medicine, although the federal government is responsible for doing so.[18] This not only draws resources from other healthcare priorities, but from other policies as well.

Finally, despite its controversial effects, judicial activism in healthcare seems to also have had a positive effect on creating public goods by interfering in the Executive's agenda. As stated by Messeder, Osório-de-Castro and Luiza (2005, 532, emphasis added), there is a direct correlation between the number of lawsuits asking for drugs and their inclusion in the official financed drugs lists.

> A clear example of that is the current list of exceptional medication. In 2000 the requests for Mesalazin and Riluzol began. In 2001, these requests were maintained and Peg-interferon and Hidroclorate of sevelamer were added. In 2002 there was an increase in the requests for Hidroclorate of sevelamer, Mesalazin and Peg-interferon, and the requests for Levodopa + Benserazid, Infliximab, Sinvastatin and Rivastigmin were added. In the last revision of the list for exceptional medication, all those drugs were added to the programme (PT/GM/MS n. 1.318/02).

It is a big supposition to assume that just because there were lawsuits filed requesting those medicines before they were added to the lists one thing was caused by the other, but the same fact was mentioned to us in interviews at São Paulo's State Department for Health. There, a public official in charge of handling the lawsuits told us that some items were included in the lists in response to the volume of judicial decisions ordering their distribution to individual patients. Therefore, it is not possible to judge the judicialization of the right to healthcare just by its negative effects. It may contribute to the creation of public goods.

The Strategies of Public Health Officials

The fact that the focus of most studies on the judicialization of the right to healthcare has been on judicial rulings has lead to a partial evaluation of the phenomenon. Although the courts order public officials to comply with their decisions, these decisions are still implemented by public health officials, who may respond to the judicialization in different ways. The implementation game seems to be a whole new arena that impacts policy results (see, for example, Bardach (1997) and Patashnik (2003)). Our case is not one in which a whole policy fails to achieve its objectives because of implementation sabotage, nor are we talking about a whole policy formulated by the Judiciary and implemented by the Executive, as is usually the case in the implementation literature, but focusing on the type of response generated by public health officials has lead us to a different diagnosis from the one that cries out that "privileges" are being created by the Judiciary.

In interviews conducted at São Paulo's State Department for Health, we were able to identify three different strategies used by public health officials to deal with the judicialization of the right to healthcare. But before we get to these strategies and how they impact the policies, it is important to understand how public health officials themselves assess having judges tell them what medicine to give to whom.

For São Paulo's Head of the State Department for Health, the main issue has nothing to do with judges telling them to give medicine to people who need it, but who the judges listen to when deciding what kind of medication is to be given. It is his perception that the pharmaceutical industry, as any other industry, is driven by market logic. However, differently from other markets, a product's demand is not defined by its final user, the patient, but by the physician who chooses the medication for the patient. In the whole world, and Brazil is no exception, the pharmaceutical industry spends billions of dollars to market its newer and more expensive products to physicians, but these products do not necessarily bring substantial benefits to patients. This is an argument also made by recent works in the field.[19] "Then comes the doctor, who thinks he is God, to give his opinion to a judge, who is sure he himself is one" (head of the State Department for Health). Evidence of this is the fact that doctors prescribe medication not by its active chemical principle (which can be found in numerous products), but by its brand name. The judge, who does not know anything about the technical side of things, simply orders that the drug in the doctor's prescription that accompanies the patient's lawsuit be given to him/her, often without even consulting public healthcare officials.[20] Further evidence of this is the fact that only a handful of doctors and law firms are responsible for the majority of litigation, and even NGOs that advocate patients' rights are financed by the pharmaceutical industry (Lopes et al. 2010).

According to the head of the State Department for Health, even when the judge has a technical opinion given by public officials, he usually leans towards the patient's doctor's opinion. This happens because there is a general culture of distrust in the Judiciary, who believes the Executive just does not want to give people medicine because politicians want to save money for corruption, or for other policies that can get them more votes. But this perception is changing, because more and more judges, public defenders and prosecutors have been communicating with public health officials, organizing joint seminars, visits to hospitals and pharmaceutical dispensaries, exchanging emails, telephone calls etc. Knowing this, legal tactics have also changed and actors (plaintiffs and their lawyers) are filing lawsuits in courts with judges sympathetic to their demands and avoiding courts and judges who would ask public health officials for information before granting an injunction.

Contrary to the tone of "privilege" of the literature that focuses only on the Judiciary, in cases where public officials perceive some gain to patients with the new medication, they extend its distribution to more people than just those who file the lawsuits. Once a demand is brought to their attention by the Judiciary, their effort is to create a general policy to supply it, except in cases where the public health officials' perception is that the medication asked for is actually harmful to those receiving them through a court order.

Based on this evaluation of the problem, what are the strategies of São Paulo public officials to deal with demands that come through the Judiciary? It is possible to identify at least three different ones, organized according to the disposition of public health officials to supply the medication, and they all affect the policies of drug distribution differently.

No restrictions

First, there are the cases where public officials have no restrictions to supply the medication. Here we have two situations: the one where the drug is regularly distributed by the SUS, but for some reason the patient is having trouble receiving it; and the other where the need for a product is brought to the public health officials' attention by the justice system, and they start distributing it as a regular policy. From 2006 to 2007, São Paulo's State Department for Health detected that many judicial claims that came through the Public Defender's office were made by people who had a need for regularly distributed drugs, but had some kind of problem acquiring them. These people sought the Public Defender's office and that was the start of slow and needless judicial claims that cost all parties their time and resources.

In order to minimize this, in 2007 an administrative counter for pharmaceutical triage was set up in the Public Defender's office to talk to patients, and orient them on how to obtain the necessary medication. The service was transferred to a location of its

own in 2008, which allowed the State's Department for Health to cut costs in two ways: by eliminating litigation costs and by dealing with the problem of different prescriptions asking for different brands of the same medication. This turned out to make the access to medication for people who would otherwise have difficulty obtaining them easier. Some peculiar supplies started to be distributed at this triage centre such as special soy milk for lactose intolerant children, nappies and sunscreen lotion. These supplies and medication became accessible not just for whoever filed lawsuits, but to the population in general.

Useless or harmful

Secondly, there are the cases where public officials believe the required treatment to be either useless or actually harmful to the patients.[21] Curiously, some lawsuits asking for antiretroviral medication fit this category.

As is well known, AIDS is still an incurable disease. With the available treatments the patient becomes chronically ill, with his/her lifespan increased by the antiretroviral drugs. However, as times goes by, the patient creates resistance to the drug, and a new one becomes necessary. New drugs are constantly being developed and Brazil freely distributes antiretrovirals to its AIDS patients, but during the timeframe that it takes for a new drug to get its ANVISA certification (three years) and the creation of a clinical protocol that regulates its distribution by the government (usually one year), the AIDS NGOs use the Judiciary as an avenue to force the government to acquire the drugs for the patients. However, the distribution of a new "top of the line" drug to help patients that have not yet developed resistance to the old medication may render a drug that they will require in future useless.

At the end of 2007, a new retroviral drug called darunavir was certified by the ANVISA, but there was still a known gap of one year before it started to be handed out by the federal government. Aiming at speeding up the process and "preventing litigation" (public official of São Paulo's State Department for Health), the state of São Paulo decided to get ahead of the federal government and create its own clinical protocol to start distributing the new drug to patients on whom the other medications no longer had an effect. Because of this, according to data provided by the São Paulo State Department for Health in 2008, only five lawsuits were filed requesting darunavir from the state of São Paulo. In these cases, the São Paulo State Department for Health decided to fight the lawsuits, arguing that providing the drug to those patients would harm them in the future, because they would be useless when they needed them the most. The result of these cases was in favour of the State, although there were other episodes when that was not the case, and the resistance of the government to provide the medication restricted its access only to those who filed

the lawsuits, although one could hardly make the point that the ones who had access to drugs in such a situation are "privileged".

Grey area

Finally there is a "grey area" of drugs and other medical supplies that, despite providing some benefit to the patient, have prohibitive costs when there are other available options regularly distributed by the government. In the view of the head of São Paulo's State Department for Health, "It amounts to the same thing as wanting to create a policy for public transportation that involves paying cabs for workers who need to commute between cities. What the government does is provide buses and trains, either by itself or by regulating how the private initiative does so, and that involves a fee. Is it more pleasant for the worker? Of course not, but you don't see anybody going to the Judiciary to ask for government-paid cabs" (interview with the head of São Paulo's State Department for Health).

An example of these cases is the "glargina insulin", commercially known as lantus. According to the head of São Paulo's State Department for Health, currently about half of the litigation against the state asks for this kind of insulin (the other half are cancer drugs). Insulin is a medical supply used by diabetes patients to control their level of blood glucose. Because diabetes has no cure, once diagnosed the patient has to take the insulin for the rest of his/her life. Currently, there are two types of insulin being regularly distributed in the state of São Paulo and both of them require two or three daily applications by injection, which causes the patients minor discomfort. According to the head of São Paulo's State Department for Health, lantus offers at least two advantages in comparison to other insulin: first, its effects last for 24 hours, so only one dose a day is required, and second, it allows for better control of glucose levels, especially when combined with "rapid action" insulin. This diminishes the risks of hyperglycaemic crisis. The cost of lantus insulin is about 27 times higher than the cost of the regular ones for the government, so it is resistant to substituting its regularly distributed cheaper options. In their perception, the costs outweigh the gains of doing so.

Another example in this same category is the vaccine against the "sincicial virus" (VSR). The vaccine is actually an artificial defence called palivizumabe. It is an artificial antibody manufactured outside a person's body and then given to them to inhibit the virus. This virus presents itself initially as a common cold, but in people with other respiratory problems or some kind of immunodeficiency, especially premature babies, it can evolve to more serious problems that may result in death. The only known treatment against the virus itself is a preventative one, using palivizumabe, but a single immunization costs R$ 5,000.00 (circa US$ 2,200.00) and that makes a widespread immunization policy prohibitive.

In these cases, although the medication provides marginal gain to a person's health, the cost/benefit perception by the Executive is that the distribution of these drugs is unjustified. What is the strategy of São Paulo's State Department for Health to deal with this type of litigation, then? There are two strategies in such cases: the first is to create a clinical protocol to limit and regulate the drug's distribution. The second is the creation of a medical committee to evaluate requests for drugs that are not usually distributed by the SUS. This committee is tied to the pharmaceutical triage process, but it only acts in cases where the requests are outside the normal protocols. If the committee's evaluation is positive, then that cuts down litigation costs for the administration and speeds up the distribution of the medication for the patient. If, however, the committee's evaluation is negative, at least there is a better technical reason to accompany the administration's response when the request finally turns into a lawsuit. This is in tune with the latest STF/CNJ (National Council of Justice) ruling that requires better technical reasoning to be given in judicial sentences. According to the head of São Paulo's Department for Health, there is even the possibility that this committee might become one of those mentioned in the CNJ's "recommendation",[22] in charge of helping the Judiciary decide the cases.

As for the creation of clinical protocols as strategic action taken by public officials to limit litigation, they both create a policy of distributing the medication regularly to patients, thus solving the "privilege" problem, and justify limiting the distribution of medication to those people and illnesses described in the protocol. According to one of the public health officials interviewed, that was the case with palivizumabe. The vaccine started to be requested in lawsuits and they created the clinical protocol to respond to the rising litigation. The state of São Paulo freely distributes the immunization to premature children up to the age of one, or children of up to two years who have some type of congenital heart disease or chronic pulmonary disease, between April and September, as it is a seasonal virus. This year a national programme will probably be launched. In the lantus case, São Paulo's Department for Health is studying the possibility of creating a specific clinical protocol to distribute the new insulin to small children, athletes and pregnant women who are known for having more trouble controlling their levels of blood glucose.

Sometimes the creation of a clinical protocol does not change the litigation. In the palivizumabe case, the evaluation made by interviewees in São Paulo's State Department for Health is that

> This did not change the level of litigation, because the lab that produces the immunization employs three law firms, so they keep searching for people to file the lawsuits in their name. Just yesterday, 25 new lawsuits were filed. I am not even going to bother to respond to them, but they are going to have to go to the centre where this vaccine is administered, so as not to create special treatment, and also because it is a complicated vaccine to give. Sometimes we give the mother a R$

> 5000,00 vial and she comes back to us because her paediatrician does not know how to give it to an infant (interview).

With the new cancer drugs it is the same dynamic, because labs, physicians and patients press the government to acquire new and more expensive drugs through the Judiciary; and the Executive responds by creating clinical protocols that at the same time generalize the policy to encompass those who do not have access to the Judiciary, and also by restricting it according to technical reasoning. This dynamic, of the creation of new clinical protocols for the distribution of new drugs after an initial volley of litigation, was also detected in the state of Minas Gerais by Machado et al. (2011, 594), but the authors raise concerns about this process

The SUS, which is in charge of guaranteeing access to health for everyone, has become a great market for the pharmaceutical industry's release of new products that are not always in the best interest of the health necessities of the overall population.

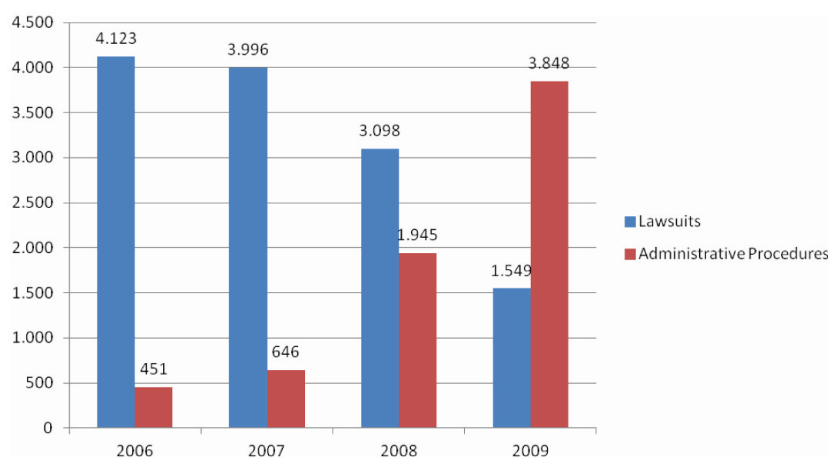
We do not want to get into the merit of the need for all diabetic patients to have access to lantus insulin and all the toddlers and other people with immune, respiratory or heart problems to have access to palivizumabe. What we want is to draw attention to the fact that, in both cases, the creation of a clinical protocol was at least partially motivated by the litigation, but this had the effect of expanding the access to more people than just those with access to the justice system. In these cases, a policy was created.

In time, the São Paulo State Department for Health's tactics have managed to transform litigation into internal administrative procedures, thus submitting the distribution of these drugs to the Executive's internal logic and logistics, cutting costs and minimizing the "privilege" problem.

The emergence of litigation for medication is also intrinsically connected to the social actors interested in sponsoring it. This makes obvious sense if we pay attention to the fact that the principles of the SUS were put in place in 1988, but litigation only started in 1996 and has intensified only very recently. This gap happened because, after the NGOs demonstrated that the Judiciary was a venue to help create policy, other organized actors with resources and interests of their own started to use it as well. So to try to diminish litigation, public health officials have also tried to identify and deal directly with these organized interests and "understand the local dynamics", as one of them put it. Besides the agreement with the Public Defender's office that originated the pharmaceutical triage policy, public health officials have also tried to talk to members of the Ministério Público and NGOs. In some cases it works and in others it does not, and since every public defender and prosecutor has a great deal of independence to act according to his/her own conscience, the result is suboptimal.

> In the Araçatuba municipality, the levels of litigation have raised because of two Public Defenders. In Campinas and Franca, the numbers dropped because the two State Judges refuse to give injunctions to anything, so all the plaintiffs come to file suits in the state's capital as a legal tactic. I know this because the lawsuits are filed here, but I have to deliver the medicine in Campinas, and we fight because they are not supposed to do that. The number one municipality in litigation in the State is São José do Rio Preto, because of an NGO, and the second place goes to the Riberão Preto municipality, because of a Prosecutor. (interview).

Graph 1. Number of lawsuits and administrative procedures in the state of São Paulo, 2006-2009



Source: State of São Paulo Department for Health.

	Lawsuits	Administrative procedures
2006	4,123	451
2007	3,996	646
2008	3,098	1,945
2009	1,549	3,848

The STF's Response

This interaction between judges and public administrators has recently resulted in a modulation of the STF's positioning on the matter. In a recent ruling, the Brazilian Supreme Court's full bench denied nine appeals made by State and federal governments asking to overturn decisions of lower courts that determined the purchase of medication not distributed by the government for patients afflicted with different diseases. Justice Gilmar Mendes was the rapporteur for the cases[23] and the ruling was unanimous. The Supreme Court (STF) had already dealt with the matter in several other cases,[24] but the difference

with this one was that the Supreme Court went well beyond a simple "yes" or "no" answer to respond to whether the government should or should not buy the medicine for the patient in question, but enacted guidelines on how judges and public officials should interact when faced with the problem.

The ruling was accompanied by a comprehensive vote by the rapporteur that was not contested in any of its points by his ten colleagues, save by doubts raised by justice Ellen Gracie (she voted with the rapporteur anyway), who raised concerns regarding the court's new way of dealing with the matter, that changed from analysing every appeal that made its way to the Court, to a broad-based guideline type of ruling.[25] A quick transcript of the justice's words is worth noting:

> Is it possible to produce a ruling of general repercussion that effectively treats fairly all the myriad of cases so different from each other, in which circumstances are oftentimes unique? Maybe if we reduce it to a general category, say, diabetes patients who ask for drugs and devices to perform daily tests – that would be a homogeneous enough category where we could render a unique solution. The diseases brought to the Judiciary vary too much, as do the medications asked to treat them. (STA 175…, justice Ellen Gracie, 105)

When dealing with the issue of the Judiciary's legitimacy for positively guaranteeing a right to healthcare – in our case, by instructing the governments to acquire the medicines required by the patients –, the Supreme Court followed its previous jurisprudence, confirming its legitimacy to do so. The interpretation connected the "right to medicine" to the constitutional individual right to life, as well as the idea of the universal, equal and integral constitutional right to healthcare.

> It seems obvious that the inexistence of a clinical protocol in the SUS does not allow for the violation of the principle of integrality contained in the system, nor does it justify any difference between the options available to the user of the private and the public system. In these cases, administrative omission when dealing with a specific pathology may be the object of judicial challenge, both by individual and collective lawsuits. (STA 175 …, justice Gilmar Mendes, 24, original emphasis).

However, the court's ruling also made clear that, if there already is an alternative effective medicine distributed by the public health system, there should be a preference for it regardless of what was requested by the patient. The STF did not stipulate who should determine the effectiveness of the alternate drug or its necessity, if the patient's physician or doctors employed by the State. "So, we can conclude that, generally speaking, the SUS's standard option for treatment should be favoured when its inefficiency is not proven, regardless of the patient's option for treatment" (STA 175…: 22-23, original emphasis).

Another issue raised was the topic of drugs that were not certified by the ANVISA. On that, the STF decided that it was only possible to give certified medicine for treating a patient because "the certification of the ANVISA is a necessary condition to attest the safety and benefit of a given product, as it constitutes the first requisite for a drug to be incorporated and distributed by the SUS (Laws 6360/1976 and 9782/1999)".

The necessity of certification for judicially obtaining a drug was a controversial issue. Some judges would ignore it and some would require it (Vieira and Zucchi 2007). Fanti (2009) had already identified a tendency by the federal Judiciary (as opposed to São Paulo's State Judiciary) to demand more information from public officials before granting an injunction, and refuse it when the drug that was asked for was not certified by the ANVISA (Fanti, 2009).

Another recurring matter dealt with by the Supreme Court had to do with who should bear the cost of the drug: the federal, state or municipal government. Since the SUS is managed with resources from all three levels, it is not clear who should pay for the required treatments in each case. The lower courts already had well established jurisprudence on the matter (Fanti 2009), and the STF merely repeated it. It basically stated that the plaintiff could require any of the three levels of government to pay for his/her medications, because the constitutional responsibility for the right to healthcare was a shared one, regardless of the fact that, in actuality, responsibility for acquiring and distributing drugs is divided within the government, with the federal government being responsible for the higher cost drugs.

Lastly, there was the issue of whether the Judiciary should only deal with individual claims or also treat collective problems. On that, the court's ruling wasn't of much help, aside from a general preoccupation with the necessity for careful examination of proofs, mentioned expressively when the ruling deals with the possibility of the use of collective action to supplement administrative omission:

> (...) regardless of the case being brought to the attention of the judicial system, the premises here analysed are clear on the necessity of carefully analysed evidence in health cases, so that we do not have standardized claims accompanied by standardized rulings that do not dwell on the minutiae of each case, preventing the judge from reconciling the subjective nature, be it individual or collective, and the objective nature of the right to healthcare. (STA 175, 24, original emphasis).

In the same month that the STF made its ruling, the Conselho Nacional de Justiça (National Council of Justice (CNJ)) also edited a "recommendation" (Recomendação no. 31, March 2010), a tool aimed at advising lower courts and judges on how to deal administratively with an issue. The CNJ is directly connected to the highest instances of the Brazilian Judiciary, so its "recommendation" carries the weight and support of

the jurisprudence of Brazil's highest courts, especially that of the Supreme Court, whose president also sits as president of the CNJ.[26] The coordination between these two institutions is even more evident when we observe the time frame between the STF's ruling and the CNJ's "recommendation", and the fact that the rapporteur, justice Gilmar Mendes, was also the president of both institutions at the time.

The contents of the CNJ's recommendation are very similar to the STF's ruling, asking for better technical and evidentiary care on the decisions regarding the distribution of medicine to patients. It expressly asks that judges "consult public health officials before deciding on granting injunctions" (Recomendação CNJ no. 31, 3). It also recommends that courts reach agreements with the objective of creating independent medical and pharmaceutical councils to aid in the analysis of specific cases. The technical knowledge on diseases and the effects and risks of drugs are at the core of the issue, because judges have to rely on expert opinion in order to justify either giving or denying a patient medicine. Usually, the judges trust the patient's physician's opinion blindly. Lastly, the "recommendation" reinstates the argument that judges should not order the purchase or allow the use of drugs that are not certified by the ANVISA.

The innovation brought by the CNJ's recommendation is related to a suspicion that pharmaceutical labs were using the State, through the Judiciary, to finance experimental treatments for new drugs. In the phase of clinical trials on human beings, laboratories must freely give the new drug that has not yet been certified by the ANVISA to people who will participate in tests, in order to evaluate its effects. Even after the trial is over, the pharmaceutical company has to keep up the treatment of the test subjects, and give them access to the fruits of the research (National Health Council Resolution no. 196/96). Registration and inspection of clinical trials are carried out by a federal agency called National Commission of Research Ethics (CONEP); however, the records of the research are sealed. When we interviewed public health officials in the Health Department of the State of São Paulo, they informed us that by cross-referencing data from patients who are currently receiving experimental medication in the state of São Paulo due to a judicial order, and the number of patients known to be participating in trials for the introduction of the same drug in the Brazilian market, according to the CONEP, it is possible to presume that the laboratories are using the Judiciary to have the government pay for clinical trials. This was a concern addressed by public health officials to the justices of the Supreme Court in an audience held in February 2010 (public audience no. 4 of 2010, also cited in the CNJ recommendation). To prevent this from happening, the CNJ's recommendation asks that judges and lower courts "check with CONEP to see if the plaintiffs are participating in clinical trials for the requested drug, in which case the laboratories should assume the costs of the treatment".[27]

The recent STF/CNJ indicates an inflection from the former jurisprudence, which usually gives the requested medicine to the patient without consulting public officials or questioning if there is an equivalent cheaper medicine already distributed by the SUS, even when the drug was not registered at the ANVISA. Those were complaints long made by public health officials, whose reactions to the first wave of decisions on the issue lead to some changes in interpretation by the courts. We still do not know if this recent stand taken by the STF/CNJ will be followed by lower courts and judges, since in Brazil the principle of staire decisis does not exist,[28] and there are almost no internal controls of members of the Judiciary (Taylor 2008). The recent decision also signals a much broader-based way of acting by the Supreme Court when deciding constitutionality in cases that come to its attention via the diffuse system of constitutional review.[29]

Conclusion

This article has sought to emphasise, both in its critical review of the literature and through empirical research at São Paulo's State Department for Health, that the judicialization of the right to healthcare must not be viewed as exclusively positive or negative simply because it creates rights, or because of privileges or undue interference between governmental branches. The issue is more complicated than that, because it produces public goods, but it can also be questioned as it ignores the problem of limited resources. The process also cannot be characterized as one that creates "privileges", because the responses by public health officials to the judicial decisions end up creating policies to guarantee rights that are not restricted just to those who seek out the Judiciary. In order to understand the mechanics of how the Judiciary affects policy making, it is important to highlight compliance issues of how the administration responds to judicial decisions.

Among the effects that resulted from the judicialization of the right to healthcare in São Paulo we can mention the creation of the administrative service and the triage system, as well as the introduction of new drug dispensing protocols. There was a collective effect produced by various individual victories in the Judiciary, stimulating the creation of public policies by the administrators at the state's Executive.

What our work has shown, through the data collected at the Department and the analysis of the Supreme Court/CNJ jurisprudence, is that the relationship between the Judiciary and the Executive on the issue of dispensing medication was, at first, one of conflict, but afterwards it became more "complementary". The Executive responded to judicial activism by creating more efficient policies and providing more access to medication for its citizens; the Judiciary keeps pushing for the distribution of new medications and medical supplies, but now it pays more attention to technical issues argued for by the Executive's

administrators, and has actually reduced its activism because the Executive has become more active in drug dispensing policies. From the citizens' point of view there seems to be an improvement in policies that grant access to healthcare.

This does not mean that conflicts have ceased to exist. This complementary relationship must not be viewed as a harmonious one. Friction between the two branches of government are created with every new drug and with every new issue brought to the courts, sponsored by interested collective actors or pharmaceutical companies. The interaction between the Judiciary and the Executive, however, seems to be different from where they started off and that is still portrayed by the literature: an Executive obligated by a Judiciary to act in a technically inconsequential manner or, to the opposing view, poorly preoccupied with the health of the citizens, having to be "pushed" by the Judiciary to actually guarantee rights. At least in the case we studied, the relationship between the Judiciary and the Executive has been a much more positive and cooperative one.

And the future of the judicialization of the right to healthcare? Well, we share the head of São Paulo's State Department for Health's view that this process

> Will not end and maybe it should not end. If there is an ill person who needs medicine and the State, for some stupid reason, is not providing it, then we need to go there and help that person. But, as everything in life, I bet that it will decrease when judges start to realize that not everything should be given to everybody, every time they want it. When they realize that there are some interests pushing this process that do not have the patients' best care in mind, although sometimes these interests coincide. And when they start to trust us more to advise them on the reasons as to why some medication should not be distributed. This change is still incipient, but it has already begun. (interview).

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Notes

1 Someone who has the function of a representative, his/her job having been given to him/her by a legal instrument and not by vote or another substantive connection between represented and representative.

2 "Combining electoral and functional forms of representation, complex sovereignty expands the participation and capacity of society to influence the political process in a modern process that seems not to admit taking steps back, because it favours society's self-presentation through all available institutional channels (...). We are not talking about a 'migration' of the locus of

democracy to the Justice system, but of its enhancement through a generalization of forms of representation, which may be activated both by political citizenship inside the classical sovereign representative system and through 'social representation'." (Vianna 2003, 371, author's emphasis, free translations by the authors of this paper).

3 Caldeira analysed 656 decisions by the São Paulo State Court between 1985 and 2006.

4 Paradoxically, there are collective cases where the beneficiary is just one individual. See Caldeira (2008).

5 "To deal with collective suits, the courts should show that the division of costs they are proposing is better and more adequate to the law and the Constitution than the alternatives" (Lopes 2006, 256).

6 Data from São Paulo.

7 It is important to remember, however, that using the Judiciary was not the only tactic that social actors used to obtain political mobilization in the fight against AIDS.

8 Or, as Ventura et al. (2010, 78) point out, "in fact, it seems that this segment managed to establish a positive relationship between the access to the justice system and the effecting of the right to health".

9 In this case, the number of items is superior to the number of suits, because a single suit may ask for multiple items. According to the authors, 20% of the suits asked for more than four items.

1 Most likely, the medicines were already included for distribution in the SUS lists, but for some reason the patients were having difficulties getting them, or the prescribing physician had no knowledge that the medication was freely distributed by the SUS, or even, the drug started being freely distributed after the suit was filed (Vieira and Zucchi 2007).

11 Ferrazand Vieira (2009) adds that "the minority of individuals and (less often) groups who are granted this unlimited right via the Judiciary are therefore privileged over the rest of the population".

12 We will return to this subject when we analyse the STF/CNJ decision.

13 Lawsuits filed in the city of São Paulo in 2006.

14 The off-label use occurs when a medicine is used for the treatment of an illness other than the one to which its use was originally assigned in the clinical protocol.

15 Of these, 67.7% were represented by private lawyers and 23.8% had the support of an association (Marques and Dallari 2007, 104).

16 Article 196 of the Brazilian Federal Constitution of 1988: "Everyone has a right to healthcare and the government must provide it through social and economic policies that reduce the risk of disease and other ailments, and also guarantee universal and equal access to actions aimed at improvement, protection and recuperation.". Article 198: "The policies and healthcare services integrate a hierarchical and regionalized network, and constitute a unique system, organized according to the following directives: I – decentralization, with a single authority in each level of government; II – complete care, with priority to preventative measures without prejudice to assistance services; III – community participation." (emphasis added).

17 These data were provided by the São Paulo State Department for Health.

18 In some municipalities the impact is significant. When asked about this issue, the head of the

Department for Health for the State of São Paulo told us that, in some cases, a single judicial decision determining that a municipality buy drugs to treat a patient amounted to a 10% impact on the municipality's overall budget for health policies.

19 See, for example, Baptista, Machado and Lima (2009). "However, marketing and pressure from the pharmaceutical industry on doctors, NGOs, institutions and HIV/AIDS carriers to incorporate new medications and exams must be considered the origin of many of these suits, no matter the issues related to the rational use of medical procedures and the possible damage associated to inadequate prescriptions and misemployment. This same situation can be applied to present orders in other conditions such as neoplasia and rare diseases with experimental or expensive treatments".

20 This concern was addressed in the CNJ recommendation. See section 3.1.

21 The examples here are prosaic ones. There are, for example, several lawsuits asking for a product called "Lorenzo's Oil" to treat a rare degenerative disease called adrenoleukodystrophy (ADL). According to public health officials at the Department, there is not a shred of scientific evidence that the oil actually works. It only became known because of a Hollywood film that tells the story of a mother's struggle to cure her son. The film implies that the boy's condition could be treated with the oil, and it is said to be based on a true story. When the first lawsuits were filed, the oil was only manufactured at a University in Germany and had to be imported.

22 We will analyse these decisions later on in this paper.

23 STA 175, 211 and 278. Suspensões de Tutela 3724, 2944, 2361, 3345 and 3355. See http://www.stf.jus.br/portal/cms/verNoticiaDetalhe.asp?idConteudo=122125.

24 See RE 556.886/ES (adenocarcinoma de próstata); AI 457.544/RS (artrite reumatóide); AI 583.067/RS (cardiopatia isquêmica grave); RE 393.175-AgR/RS (esquizofrenia paranóide); RE 198.265/RS (fenilcetonúria); AI 570.455/RS (glaucoma crônico); AI 635.475/PR (hepatite "c"); AI 634.285/PR (hiperprolactinemia); RE 273.834-AgR/RS (HIV); RE 271.286-AgR/RS (HIV); RE 556.288/ES (insuficiência coronariana); AI 620.393/MG (leucemia mielóide crônica); AI 676.926/RJ (lipoparatireoidismo); AI 468.961/MG (lúpus eritematoso sistêmico); RE 568.073/RN (melanoma com acometimento cerebral); RE 523.725/ES (migatia mitocondrial); AI 547.758/RS (neoplasia maligna cerebral); AI 626.570/RS (neoplasia maligna cerebral); RE 557.548/MG (osteomielite crônica); AI 452.312/RS (paralisia cerebral); AI 645.736/RS (processo expansivo intracraniano); RE 248.304/RS (status marmóreo); AI 647.296/SC (transplante renal); RE 556.164/ES (transplante renal); RE 569.289/ES (transplante renal).

25 The justice's inclination for more case-by-case handling of litigation involving distribution of medicine was identified as early as 2007 by Leite et al. (2009).

26 The National Council of Justice (CNJ) is composed of fifteen members, of whom nine are magistrates. Aside from occupying its presidency, the Supreme Court also nominates two more magistrates to the CNJ, selected among the states' courts. The Superior Federal Court and the Superior Labour Court each nominates three more magistrates, two from their own ranks. The remaining members are selected by the Senate (1), the Lower Legislative House (1), the Ministério Público (2) and the Brazilian BAR Association (2).

27 Item I, "b.4" of the Recomendação (CNJ... http://www.cnj.jus.br/atos-administrativos/atos-da-presidencia/322-recomendacoes-do-conselho/12113-recomendacao-no-31-de-30-de-marco-de-2010). (emphasis added).

28 As strange as this may seem, it means that lower judges and courts are not bound by and do not necessarily follow the interpretations given by upper courts and the Supreme Court. The

only exception being if the Supreme Court creates a Súmula Vinculante ("Binding Decision"), which was not the case here.

29 The Court also exercises concentrated "European type" reviews. For more information, see Taylor (2008) and Arantes (1997).

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ARTICLE

Independence after Delegation? Presidential Calculus and Political Interference in Brazilian Regulatory Agencies

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Is there Executive interference in the regulatory agencies after its formal establishment as independent bodies? Under what conditions the Executive chooses to interfere in the agencies? This paper analyses the degree of interference in Brazilian national regulatory agencies and provide a tentative explanation for the variation in the degree of interference. The basic hypotheses is that credibility costs, the degree of formal independence and the preferences of presidents are crucial factors affecting the extent to which presidents interfere in the regulatory process. A random effects model is estimated with panel data for the period between 1997 and 2008 covering ten national agencies. The degree of interference is operationalized by an index built using factor analysis. The data suggest that there is political interference, which varies across agencies and over time. The results show that the preferences of the president and some issue area specificity matters for the choice that presidents make regarding the interference in the regulatory process.

Keywords: Delegation; Independence; Regulation; Political interference.

Introduction

The relationship between political actors and autonomous agencies has long been the subject of debate in the North-American literature. These studies, which have particularly analysed the impact of the preferences of political actors on agencies' outcomes (Moe 1982; Wood 1988; Wood and Waterman 1991), have provided an empirical basis for the developing theories of delegation. In Latin America in general, and in Brazil in particular,

these studies can now be seen in a new light, taking the process of privatization and the diffusion of the independent regulator model in the region into account.

In Brazil, the endogenous regulation model centred on self-regulation by departments within ministries was replaced by the regulation model based on independent agencies in the late 1990s. The establishment of these bodies – whose defining characteristic is independence from political actors – was the main institutional innovation in the context of a state reform that restructured the size and manner of interventions by the Brazilian State.

This being so, a new set of issues of interest to Brazilian political scientists emerged: How much regulatory power was delegated to these bodies? Why does the Executive branch delegate? What degree of independence do agencies have from political actors? And (of particular importance for this paper) what degree of independence do they have after their formal institution as independent bodies?

This analysis focuses on the independence of national agencies from the Executive branch, specifically the period after the establishment of formal independence, and the degree of interference after delegation. The argument is that formal independence does not necessarily imply practical independence, the relationship being treated as a phenomenon of contingent delegation in which the president has a choice to *de facto* delegate power or not after the establishment of the agencies as independent bodies.

Between 1996 and 2005, ten regulatory agencies were created at a national level, with considerable formal independence from the Executive branch. However, despite various incentives for the delegation of powers, such as enhanced expertise (Krehbiel 1991; Bendor et al. 2001), the construction of the country's regulatory credibility (Levy and Spiller 1994), the blame-shifting for unpopular policies (Fiorina 1982) and the ability to tie the hands of future governments (Figueiredo 2003), there are also strong incentives for the president to disobey or bypass the signed contracts, and to try to interfere in the activity of such autonomous bodies. This is because the responsibility for economic outcomes is directly linked to the Executive branch, because this actor is elected on a majority basis with a national electorate, and also because of the historical conduct by the Executive branch in issues relating to utilities, such as electricity and telephony. According to Prado (2007a, 10-11),

> If the president will be held electorally responsible for what the agencies are doing, he has strong incentives to try to influence them to implement popular policies. For example, the president could try to make the agencies reduce the electricity rates for residential consumers, given that electricity rates have been historically determined by the Executive branch and are likely to be perceived as the president's responsibility even after privatization.

Another source of incentives for intervention by the Executive branch in the regulatory process stems from the need to avoid conflicts between regulatory policies and other

macroeconomic and social policies implemented by the government such as the control of inflation. Thus, the regulation game, or even, the issue of the independence of regulatory agencies, does not end with the institution of formally independent agencies. This being so, this paper seeks to draw attention to the independence of the agencies from the Executive branch after the formal delegation of powers. That is, to the governance of the delegative "contract" after its establishment. What is questioned is the following: Under what conditions does the president interfere in the regulatory agencies after their formal establishment as independent bodies?

At this point, it is necessary to define exactly what is being termed as independence. Independence here means the ability of a particular actor, in this case the regulatory agency, to make decisions without considering the preferences and without the interference of a second actor (the president). Therefore, interference refers to threats – or inducements – by the president to the agency's actions to suit his/her preferences (Hanretty and Koop 2009). Thus, the focus of this analysis is on the institutional aspects, or the institutional mechanisms of independence, such as the stability of directors, budgetary autonomy, as well as the stability of rules – especially administrative procedures and the agency's scope of action. To be *de facto* independent, the agency must have the capacity to make decisions without directors facing the threat of losing their jobs, having their budgets restricted, or even their procedures modified or becoming less influential in the regulatory process.

This paper concentrates on the institutional characteristics of independence, so its focus is restricted to the political outcomes of the relationship between the Executive branch and the agencies, and not on economic outcomes, as is common in the American literature (Moe 1982; Wood 1988; Wood and Waterman 1991). But how do we explain such political outcomes? Or even, what explains the Executive's interference in the independence of the regulatory agencies? The focal point of this paper is the analysis of the presidential calculus. Presidents are rational actors and thus make their choices based on a calculation of the costs and benefits of each course of action. However, such choices are not made in a vacuum. Accordingly, this study seeks to identify the potential components of this calculation, i.e., the different constraints that influence the choice of his/her course of action and explain his/her behaviour regarding the independence of the regulatory agencies.

So, what are the factors that explain the president's choice to interfere or not in the agencies? Or even, what is the incentive structure that underlies the president's decision? Taking as a starting point the hypothesis raised by the literature, I list three main factors accounting for the president's behaviour: the level of formal independence, the president's preferences regarding the independence of the agencies and the credibility cost of the sector involved. The central hypothesis is that the president makes the choice whether or not to interfere in the agencies' independence not only based on his/her own preferences, but also

considering the institutional, political and economic constraints involved.

With the purpose of developing an analysis of the political interference in regulatory agencies in Brazil, this paper has been divided into four sections besides the introduction and conclusion. In the next section, the theoretical model proposed for the presidential calculus will be presented, emphasising the key elements that contribute to the president's choice to interfere or not in the agencies. In the following section, the formal independence of the national agencies will be analysed in order to gauge the potential of *de facto* independence of such agencies. Then, the index of political interference, a proposal to measure agencies' independence in practice, will be presented. And lastly, an empirical analysis of the conditions under which the president chooses to interfere in the independence of agencies will be made.

The Presidential Calculus

This paper deals with the governance of contracts, once they are established. More specifically, it deals with the governance of the contract of delegation of powers from the president to the national regulatory agencies in Brazil. The focus is on the political calculus made by the president to interfere or not in the agencies once they are formally established as autonomous bodies. The purpose here is to provide a theoretical model for the individual decision by the president regarding the level of interference in the independence of national regulatory agencies. This section will review the main arguments of regulation literature in order to provide a unified model of the president's choice of level of interference in the regulatory agencies.

The relationship between political actors and regulators has been analysed through an institutional approach from two central and complementary points of view. In delegation theory, the regulation by autonomous agencies can be understood in this way: the president, the Legislative or both (principal) delegates the regulatory activity, coupled with the power to act, to the regulatory agencies (agent), in order to benefit from their expertise and so carry out more and better policies (Melo 2001). However, with this action, the president or the Legislative runs the risk of empowering an agent who holds interests contrary to theirs, lacks the features flagged to the principal at the time of the contract (adverse selection), or, after the establishment of the contract, works against the preferences of the principal (moral hazard) (Melo 2001).

Given this possibly conflicting relationship between principal and agent, there has emerged a major programme of empirical research that seeks to elucidate the role of political authorities (principals) in the regulatory process. This is a process in which an agency may or may not be independent and the principal, be it the president, the Legislative or both, can

or cannot control the regulatory outcome. Put differently, from the analysis of outcomes we can analyse the capacity of the principal to maintain the main policies according to their preferences, and the mechanisms used for this purpose, even after the establishment of the autonomous agency.

With this question in mind, the analyses devoted to this subject have not reached a consensus: some prove the discretionary power of the agencies, i.e., the agencies are independent; others have reached opposite conclusions, confirming the dominance of political power, even after the terms of the contract have been taken hold. In Box 1 we see the main results of this literature and also the main mechanisms used to explain them.

Box 1. Principal-agent models - regulatory agencies and political power relation

Author	Political actor	Mechanisms	Control
Moe (1982)	Executive	Directors, budget, presidential leadership	Yes
Weingast and Moran (1983)	Legislative	Oversight by the Legislative Commission	Yes
McCubbins and Page (1986)	Legislative	Administrative procedures	Yes
McCubbins, Noll and Weingast (1987)	Legislative	Administrative procedures	Yes
Wood (1988)	Executive	Directors, budget, work force, managerial centralization	No
Spiller (1990)	Legislative and Interests Groups	Directors, budget	Contingent
Wood and Waterman (1991)	Executive and Legislative	Directors, budget, Legislative hearings, administrative Reorganization, New Legislation, Political Leadership	Yes
Snyder and Weingast (1999)	Executive and Legislative	Directors	Contingent
Howell and Lewis (2002)	Executive	Administrative procedures	Yes
Shapiro (2006)	Executive	Administrative procedures	No

The focus of the analyses presented above is on the political control of the economic outcome of regulation. That is, through political and institutional mechanisms the actors test the principal's capacity to keep the outcomes close to their preferences, even after the establishment of an autonomous regulatory body. The relevant political actor varies from

analysis to analysis, but they tend to be the Executive or the Legislative. This shows that despite the central role played by the Legislature in the creation of agencies in the United States, the managerial relevance of the Executive branch is not being forgotten.

As for the mechanisms analysed, the focus is primarily on three of them: directors, budget and administrative procedures. The budget is strongly emphasised by the literature as a mechanism for control of regulatory outcomes. Outlining the objective of regulators to maximize their resources, the models indicate the principal's ability to use this tool as an incentive or punishment for the behaviour of the regulators.

As a control mechanism, the directors are used as a kind of "colonization" (Moe 1985) of the agencies. For this purpose, the principal empowers directors with preferences closer to his/hers, as a way of conducting the agency's outcomes. The power of such a mechanism increases when the agency's institutional design allows the directors' term to be coincident with the principal's and does not restrict the reappointment to the post. Such institutional characteristics generate directors more readily responsive to the principal.

Lastly, administrative procedures constitute a relatively innovative variable in the debate. McCubbins and Schwartz (1987) directly confront the much propagated idea that the Legislative does not exercise sufficient oversight of its regulators, and show that the use of administrative procedures is a more effective and less costly form of control for lawmakers. Such procedures could be a way to crystallize the preferences of the coalition that created the agency, and also to transfer the activity of supervising the agency's actions to those most directly interested, through mechanisms of direct participation in the regulatory process. With this, the Legislative guarantees which groups will benefit and also gives such groups the informational role of signalling to the Legislative when the agency is out of control.

Aside from the empirical conclusions that these studies have arrived at, the theory of delegation is an important advance compared to the studies that preceded it, as it discusses the relationship between political power and agencies, once viewed as bodies of action limited to the implementation of policies formulated by the government. Here, the studies do not just answer the question about the reason for market regulation by the State, but also seek to elucidate how this process is performed. Thus, institutional and political elements are actually incorporated into the analysis, making them central variables for determining the regulatory outcome.

In the same vein, another theoretical framework linked to the neo-institutionalist tradition seeks to expand the scope of the institutions concerned, shifting the debate to the broader institutional context in which the actors interact in the regulation game. The central object is the capacity to make credible commitments and ensure regulatory credibility, so the interrelationship between the different actors and the institutional context has an important impact on the credibility of the sector.

This literature, linked directly to the context of post-privatization (Melo 2000), concentrates on an understanding of the construction of the credibility of regulation as an activity that involves the most diverse spheres of political and institutional systems. Based on the fact that markets subject to regulations generally involve utilities, that have quite significant sunk costs and high politicization, investments in these areas seem rather risky. Therefore, to ensure that the public good will be produced and that investments will be made to maintain the development of industry, it is necessary for governmental authorities to ensure that contracts will be enforced at the time of their establishment and in the future, and that changes in the rules of the game will not take place with a change of political elite (Melo 2000). This obedience to the rules is the basis of the regulatory credibility of a country.

Based on this model, the analysis of regulation must begin with some considerations about the institutional environment of the country. This environment is composed of five elements: first, the institutions of the Executive and Legislative; second, the judicial institutions; third, customs and other widely accepted norms that constrain the activity of individuals and institutions; fourth, the distribution of interests in society and the balance of power between them; and fifth, the administrative capacity of the nation. Changes in these aspects take place very slowly and independently of the regulatory regime, and are therefore considered independent variables.

Policymakers are able to choose the institutional design they see fit. However, this choice is constrained by the institutional endowment of the country, since aspects such as the rigidity or flexibility of the agency's mandate are linked to broader factors such as the concentration of power in the Executive/Legislative or the Judiciary's ability to act independently in defence of contracts. Likewise, the choice of regulatory instruments is also constrained by institutional design, given that more or less complex instruments depend on the agency's ability to act and therefore on the administrative capacity of the State. Thus, the policy outcome and its credibility are products of the inter-relation of all these factors (Levy and Spiller 1994; Spiller 1996; Holburn and Spiller 2002; Spiller and Tommasi 2005).

The main argument here is that regulation has a higher degree of credibility in countries with political systems that constrain the discretionary power of certain political actors over the agencies, thus reducing their incentives and possibilities for opportunistic action. Relating these postulates to the theory of delegation, one can see that the relationship between principal and agent is contained in an institutional context, so that the wider environment has a direct impact on the rulers' incentives structure to act opportunistically and change the rules of the game.

In the words of Melo, "political institutions influence the regulatory governance structure as a function of the limits they set for the discriminatory actions of the rulers"

(Melo 2001, 64).[1] In other words, they guarantee the stability and predictability of regulatory policies given the actors' actions, so they become variables decisive to the format that the regulation will take in a country and its development.

These two approaches are related in the sense that they bring political and institutional variables to the debate. Delegation theory stresses the importance of the relation between political actors (principal) and regulators (agent) for an understanding of regulatory outcomes, and deals with the issue of the *de facto* independence of regulatory bodies and mechanisms of political control. In its turn, the regulatory credibility approach emphasises institutional constraints over the opportunistic behaviour of political actors to explain the credibility of the regulatory system in the country.

The idea here is to take elements from these two approaches that can be used to describe and explain political interference in the independent regulatory agencies in Brazil, more specifically, elements that could influence the presidential calculus of political interference. The conditions under which the president decides to interfere in the regulatory agencies will derive from this literature. The presidential calculus can be understood as follows:

Presidents are rational actors and thus make their choices based on a calculation of costs and benefits of each course of action. However, such choices are not made in an institutional vacuum (Tsebelis 1998). Institutions matter in order to establish the "rules of the game" and constrain the behaviour of actors (North 1994), or because "they affect how political actors are enabled or constrained" (March and Olsen 2006, 8). Thus, the focus of this paper is on the presidential calculus, keeping in mind the various constraints that influence the choice of his/her course of action and explain his/her behaviour regarding the independence of regulatory agencies.

The aim here is to explain under what conditions the president decides the interference level that he/she will practice on the regulatory agencies. Some questions are listed as central: How is the interference related to the formal independence of the agencies? What is the role played by the credibility cost in the presidential calculus? How crucial are the preferences of the president to his/her course of action? In short, how does the president behave in relation to these autonomous bodies and why?

With these questions in mind, the argument of this paper is that the president's choice to interfere or not in the independence of the regulatory agencies is subject to the constraint of formal rules, i.e., the contract of delegation from the Executive branch to the regulatory agency. However, it is not only the formal rules that are relevant. The point here is that the arguments presented in the literature can be incorporated as additional constraints, other factors that form the presidential calculus and so explain the political interference in Brazilian regulatory agencies.

The proposal presented is based on a principal-agent model. The analysis is centred

on the relationship between the president and the regulatory agencies. The difference regarding the classical North-American analysis (Moe 1982; Wood 1988; Wood and Waterman 1991) is the dependent variable. That is, the focus is not on the political control of the results and what is being explained is not the variation in economic outcomes of the agency. Regulatory agencies are highly specialized organizations that enjoy considerable autonomy in their decision-making (Majone 1999). The analysis is therefore centred on the president's interference in the independence of the agencies, independence being perceived as follows:

> By the independence of A from B, we mean the degree to which the day-to-day decisions of A are formed without the interference of B, and/or the consideration of the preferences of B. The term interference is used to refer to threats or inducements from some B which cause, or attempt to cause, A to act in a way desired by B (Hanretty and Koop 2009, 5).

Bearing in mind the idea that the agencies' independence is based on their ability to make autonomous decisions, much of the debate on independence underscores the importance of institutional design, i.e., the organizational characteristics that provide the agencies' announced ability to make autonomous decisions. Thus, the focus of this analysis is on the interference of the president in the independence of the regulatory agencies, analysed through their organizational characteristics, or on the agency's political outcomes rather than economic ones.

I will now turn to elements of regulation literature that can constitute explanatory factors for the president's behaviour, that is, which integrate the presidential calculus. First, because they are an appropriation of the principal-agent models developed in the American literature, one factor that must be considered is the president's own preferences. A distinction is imperious. In the case of the literature discussed above, the president's preferences are taken from the party's position regarding the "amount of regulation", with party affiliation as a proxy. That is, a republican president would prefer "less regulation", while a democrat president would prefer agencies more active in terms of regulation. Here, the president's preferences are analysed in terms of his/her position regarding the independence of the agencies, shifting the focus of the "more regulation/less regulation" dichotomy to "more independence/less independence".

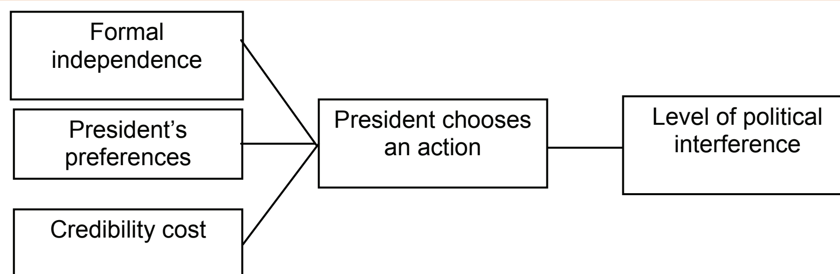
Because it is an analysis of the independence of agencies focused on their organizational aspects, the control mechanisms analysed in the principal-agent models of American literature presented above will serve as a guide for the most relevant dimensions of independence to be analysed in this study.

The second point is the question of the credibility of regulation. The process of the

institution of regulatory agencies in Brazil was, in its beginning, strongly associated with the context of post-privatization, in which the construction of regulatory credibility had fundamental relevance, whereas the main objective today is to attract investments, and the maintenance and development of markets now administered by private companies. Thus, the argument here is that the credibility cost involved in the industry that the agency regulates is a factor considered by the president in his/her calculation of interference in the agencies. A sector that needs to signal greater regulatory independence to the market in order to obtain investments obviously has a higher credibility cost than sectors already established in the private sector, or those that have a lower risk of expropriation.

Bearing in mind these three factors, the argument is that the formal independence of agencies, the preferences of the president and the credibility costs are elements that the president considers in his/her choice of level of interference in regulatory agencies. Political interference in the Brazilian regulatory agencies, i.e., their independence after the formal delegation of powers, is seen as a phenomenon of "contingent delegation" and is explained in a very exploratory way, based on the president's choice to intervene or not in an agency. Below is the analytical model proposed in this paper:

Figure 1. The presidential calculus



As we can see, three elements are presented as relevant to the presidential calculus. The formal independence of agencies represents the major institutional constraint that the president faces, i.e., the rigidity and degree of detail of the institutional design of the independence influences the range of possible choices to the president. Constrained by formal rules, the president also considers his/her own preferences relative to the independence of the agencies, their ideology and their political agenda. The president also considers in his/her calculus the credibility cost, which is a constraint from the features of the market in question.

In the last section, the operationalization of the constraints that integrate the presidential calculus will be discussed. However, the first step is to present the performance of Brazilian regulatory agencies in terms of their independence. This is the task of the next sections.

Meauring the Independence of Brazilian Regulatory Agencies

This section is devoted to an empirical analysis of the independence of regulatory agencies in Brazil. Specifically, the focus is on the independence that agencies have from the Federal Executive branch. With this objective, the research design is based on an analysis of independence by certain institutional characteristics, i.e., not by economic outcomes. The focus on such characteristics is justified on the grounds that they lead to predictable outcomes. That is, "institutions cannot absolutely prevent an undesirable outcome, nor ensure a desirable one, but the way that they allocate decision-making authority within the public sector makes some policy outcomes more probable and others less likely" (Cukierman, Webb and Neyapti 1992, 353).

The focus on institutional design is closely related to the definition of independence used in this paper. As presented in the previous section, independence is seen as the ability to make decisions without interference or consideration of the preferences of another actor, in this case, the president (Hanretty and Koop 2009, 5). Additionally, independent regulators should have the ability to make decisions without needing to consider retaliation such as having their resources reduced, being replaced in office or becoming less influential in the regulatory process. In this sense, an analysis of institutional features is crucial.

The political independence of regulatory agencies has been treated in the literature as a specific component of the broader concept of regulatory governance, which also includes independence from interest groups, accountability, decision-making and regulatory tools, amongst others. This literature is strongly influenced by the debate about central banks (Cukierman, Webb and Neyapti 1992). Overall, the empirical literature can be subdivided into two distinct groups: the construction of indices of formal independence (Gutierrez 2003; Gheventer 2005; Gilardi 2005; Hanretty and Koop 2009), and the construction of indicators that seek to capture the practice, i.e., the *de facto* independence (Stern and Holder 1999; Stern and Cubbin 2003; Correa et al. 2006; Andres et al. 2007).

That said, the purpose of this next section is to analyse the formal independence of the Brazilian agencies and, lastly, propose a new indicator based on the practical independence of such bodies.

Accessing the Formal Independence of National Agencies

This section aims to analyse the formal independence of regulatory agencies in Brazil, as an initial approximation of the practical independence of these bodies, revealing the potential for autonomy from the Executive branch established in their institutional designs. Box 2 shows the indicators included in the index of formal independence and the assigned values.

Several indices on the agencies' formal independence are available. However, none of them include all the national Brazilian agencies[2] and the changes in the laws observed after their creation. The index was constructed as simply as possible so as to reduce the amount of error and arbitrariness in the analysis, following the structure proposed by Gheventer (2005). Because it is an analysis of the Brazilian case, reducing the complexity of the index will not have a negative impact on the quality of information obtained. This is because the institutional design of regulation by independent agencies in Brazil was built with a degree of homogeneity and does not require a complex index like Gilardi's (2005), more suited to cross-national analyses. In this sense, the index used here proves to be more concise in terms of both the variables included and the quantity of items within the response variables. Gilardi (2005) and Gheventer (2005) are replicated in their choice of assigning equal weight to each variable and also in the gradation of response items, due to the fact that there are not sufficient unchallenged theoretical reasons for the attribution of different values. Here is the index:

Box 2. Formal independence index

Variable	Description	Codes
Term of office	Is the director's term greater than or equal to four years?	1 (Yes); 0.5 (<4 years); 0 (No fixed term)
Appointment	Is the appointment system shared between the president and the Legislative?	1 (Yes); 0 (No)
Dismissal	Is dismissal only possible with a sentence?	1 (Yes); 0.5 (Beginning of term); 0 (No)
Renewability	Is reappointment forbidden?	1 (Yes); 0 (No)
Experience	Is it necessary for directors to have specialized knowledge in the area?	1 (Yes); 0 (No)
Authorization	Does the agency make decisions without the necessity of approval from the government?	1 (Yes); 0 (No)
Review of decisions	Are decisions by the agency only subject to review by the Judiciary?	1 (Yes); 0 (No)
Budget	Is the budget defined by the agency itself?	1 (Yes); 0 (No)
Human resources	Is the agency in charge of its human resources policy?	1 (Yes); 0 (No)
Procedures	Can the agency's procedures only be modified with consent from the Legislative?	1 (Yes); 0 (No)

The index comprises 10 variables, focusing on the independence of agencies from the Executive branch. The variable "term of office" refers to the regulator's period in his/her position in relation to the president. In this sense, the longer the directors' term, the

more independent the agency will be. The agency is more independent when its directors' term is greater than or equal to 4 years in relation to the presidential term. Who appoints the directors of the agency is relevant because of the type of relationship that the director will maintain with the president. Thus, the agency is more independent when directors are appointed by a shared process between the president and the Legislative branch, than when the directors are appointed exclusively by the Executive branch.

The "dismissal" variable refers to the possible use by the Executive branch of the threat of removal from office as a way to induce the agency to take a certain action. Therefore, when the dismissal of directors is only possible after a sentence, the agency's independence is considerably higher than when directors can be dismissed at the discretion of those who nominated them. There is also the possibility of dismissal at the beginning of the term, something of a director's "trial" period, which may be a way for the Executive branch to assess whether the behaviour of the director suits their preferences.

The possibility of renewing the mandate is the hallmark of a smaller independent agency since it induces the regulator to conduct his/her decisions based on the preferences of political actors, as a way of retaining office. The technical knowledge variable was included bearing in mind that this signals the importance of the political ties in the recommendations. Recommendations for a body of the importance of a regulatory agency are always guided by political criteria. However, the lack of any relationship with the sector in question can be an indicator of a strong bond and loyalty to the political actor who made the recommendation.

The "authorization" variable refers to the need for approval from the Executive branch to establish rules: the agency is independent when it does not need approval from the Executive branch, and more dependent when approval is a prerequisite for making decisions. The "review" variable refers to the possibility of reversal of agency decisions by actors other than the Judiciary. This variable refers directly to the issue of hierarchical control by the government. The agencies are independent when there is no provision for review outside the Judiciary.

The "budget", "human resources" and "procedures" variables capture the government's use of an agency's budget, human resources and procedures as a mechanism to induce certain regulatory decisions. An agency's budget constitutes a much emphasised mechanism in the literature, and agencies are more independent when their budgets are set by the agencies themselves than when they depend on the government.

When the government has control over the human resources policy, it can "colonize" the agency with its preferred representatives, according to Moe (1985), or may not provide sufficient human resources for the agency as a way to weaken it. Finally, how the procedures and scope of action of the agency can be modified refers to the question of

stability of the rules or the use of these modifications in order to induce certain results. So when the Legislative must be consulted, the rules become more stable and less sensitive to any change in the preferences of the Executive branch. This variable is also based on the research programme on the use of administrative procedures as a means of political control, established by McCubbins, Noll and Weingast (1989).

The analysis of the results indicates that of the ten indicators included in the index, four have no variation between agencies. The budget is based on the agencies' own resources, funds and fines, and also government resources. However, the release is made in the Annual Budget Law (LOA) and is therefore subject to curtailment (*contingenciamento*) by the Executive branch. The human resources policy of the agencies, which is governed by specific legislation, indicates that the supreme organ of the agency, its executive board, has the discretion to request and define the allocation of human resources. As for the need for specific knowledge in the area of regulation, the same specific law on human resources defines that directors should have a college degree and recognized knowledge in the specialty for which they are appointed.[3]

Other similarities relate to constitutional guidelines, as the appointment followed by Senate approval of the directors and also the possibility of modifying the procedures through decree (*medida provisória*), a power delegated to the president in the 1988 Constitution. Other indicators reveal differences among agencies and focus primarily on indicators of the status of directors. The directors' mandates are fixed and the time varies slightly, with only two agencies with mandates of less than four years. Dismissal is only possible with a final sentence or in the director's first four months.

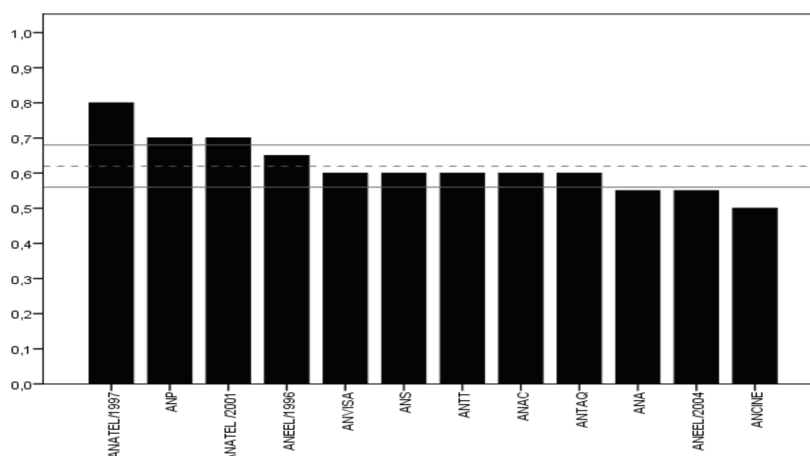
As for the reappointment of directors, there is always the implication that they will become more dependent on the preferences of the Executive branch, bearing in mind the renewal of their mandates. Of all Brazilian agencies, only the ANATEL prohibits renewal in its original design, but in 2001 this item was deleted. Regarding the variable referring to the need for approval from the government for the adoption of decisions by agencies, the analysis shows agencies that do not require government approval for the establishment of their main rules and those that do. A unique case is that of the ANEEL, which in 2004 lost the power to define concession contracts independently, depending directly on the government. The review of the actions of most agencies is done only by the Judiciary. This means that the agencies constitute the last administrative instance, and that the Judiciary is the arbiter in conflicts with other external actors. However, the *medida provisória* that created the ANCINE indicates that it is formally overseen by its ministry manager.

Graph 1 shows the ranking of agencies in the index of formal independence on a scale of 0 to 1.[4]

Graph 1 shows the level of formal independence of regulatory agencies in Brazil.

On a scale of 0 to 1, the independence of the Brazilian agencies is fairly high. As seen in the indicator analysis above, the main restrictions on independence are in the status of directors as a whole, the possibility of contingenciamento of the budget and the possibility of modifying the procedures and scope of action through *medidas provisórias*.

Graph 1. Index of formal independence – Brazilian National Agencies



The first thing to note is that the only regulatory agency not created during Fernando Henrique Cardoso's government – the ANAC – reveals a continuity of the model, and even shows up as one of the most independent agencies from a formal point of view. As a whole, it is noted that the top positions are occupied by the first agencies to be created and also those that are more directly linked to the privatization process. Then there are the agencies of social regulation and subsequently those of economic regulation, and also the ANEEL after the change in design that took place in 2004.

From this index, the organizational characteristics of Brazilian regulatory agencies can be measured and evaluated systematically in order to indicate the level of independence of each agency regarding the Executive branch. In conclusion, we can observe that the level of independence of the Brazilian agencies is fairly high, which has a cost for the actions by the political actors.

However, is this is all that needs be said about the independence of regulatory agencies in Brazil? Does legal independence directly translate into independence in practice? This paper argues that the Executive's delegation game with regulatory agencies does not end with the establishment of the "delegative contract", or with formal rules. Thus, the focus of the next section is to measure the characteristics of institutional independence in practice or, more specifically, the political interference in the agencies' independence.

Measuring Political Interference: A New Indicator Proposal

This paper's analysis focuses on political interference over time, through certain institutional characteristics associated with the independence of regulatory agencies. This research design allows us to evaluate the degree to which established mechanisms of independence in the agency's institutional design are put into practice. It also allows us to relate the degree of interference observed in these formally autonomous bodies to the political, institutional and economic conditions that compose the presidential calculus. But how do we measure such interference?

One useful way of measuring the Brazilian agencies' — *de facto* independence — is the one provided by Correa et al. (2006). Their paper was the first to deal with the differences between the formal and actual independence of the Brazilian agencies. Despite its relevance, this measurement could not be used here as it does not include all ten national agencies, and also because the information comes from time-specific surveys that do not capture the evolution throughout time essential for the research design here proposed.

This paper's strategy to deal with the difficulty in measuring this phenomenon is documentary information. Thus, it seeks to construct an index based on measures such as the turnover of directors (Cukierman, Webb and Neyapti 1992; Montoya and Trillas 2009), the composition of the board (Maggetti 2006) and the budget (Spiller 1990; Maggetti 2006). Specifically, the focus of the analysis of political interference is on the stability of the directors in office, vacancy of the boards, budgetary autonomy and the stability of procedures and scope of action of the agency. With the start date of the mandate, the official date of the end of the mandate and that when the dismissal actually occurred, I was able to identify those who resigned before the end of the mandate and also the number of days that the agency spent without any directors, i.e., the time between a director's departure and his/her replacement.[5]

With this in hand, I could see that out of the 152 directors, 25 resigned before the end of the mandate. Another important element for the agencies' independence in practice are the operating conditions of the executive board, the supreme decision making body of the agency. I evaluated the time that the agency operated without at least one of its directors (the vacancy). A vacancy refers to the absence of specific regulation of such a sensitive issue as the functioning of the board of directors, which needs quorum to deliberate as well as an absolute majority in order to make decisions.

If an agency stays for long without one or more directors, the functioning of the regulatory agency as a whole is undermined. Thus, a vacancy on the board of the agencies can be considered a mechanism of interference in the functioning of the agency, which is a way of weakening the agency by decreasing its decision-making capacity. So the vacancy

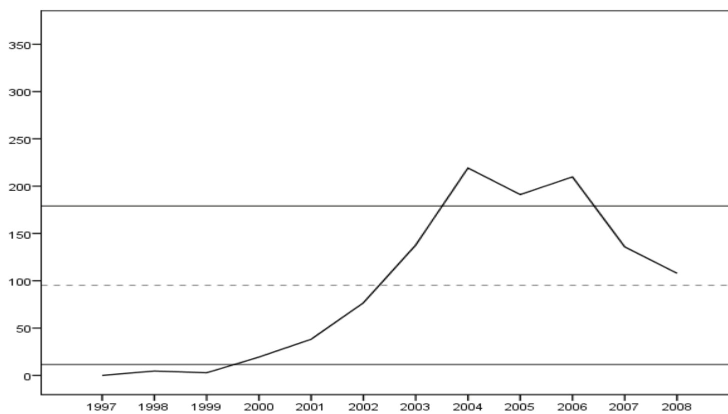
can be politically motivated, because the nomination of a director with aligned preferences does not guarantee control of the agency's decisions, but it undermines its decision-making capacity and certainly makes it easier to capture. Table 1 shows the Brazilian agencies in terms of vacancies of their executive boards – that is, the number of days the agency remained without at least one of its directors per year.

Table 1. Vacancy on the board of the Brazilian regulatory agencies (days)

Agency	N	Minimum	Maximum	Mean	Standard deviation
ANA	9	0	324	61.11	106.753
ANAC	3	0	116	47.00	61.049
ANATEL	12	0	365	128.33	134.660
ANCINE	6	76	365	214.83	130.824
ANEEL	12	0	226	52.08	90.767
ANP	11	0	365	202.82	167.398
ANS	10	0	273	110.20	106.208
ANTAQ	8	0	317	136.50	149.500
ANTT	8	0	352	92.88	140.030
ANVISA	10	0	300	121.90	110.308

As we can see in Table 1, all Brazilian agencies have a relatively high number of vacancies on their boards. The most symptomatic case is that of the ANP, where the agency worked without at least one director for most of the year (202 days on average). Interestingly, in addition to the ANP, the ANATEL and the ANCINE also functioned without one of their directors for a full year. Graph 2 shows the vacancy per year:

Graph 2. Annual vacancy in Brazilian regulatory agencies



In Graph 2 the darker line represents the vacancy and the horizontal lines the mean and one standard deviation above and below the mean. Note that vacancy in the first year is near zero, as the first agency directors have just been appointed. However, as the first periods of office are interspersed so as not to be coincident, vacancies and their consequent renewal begin in 2000, rising considerably to peak in 2004.

As for the agencies' budgets – the mechanism of interference most emphasised in the literature along with the appointment of directors –, the analysis is based not on the actual budget, but on the percentage of the budget that is effectively released by the government. With this, I assessed the interference of the president where he/she has discretion, that is, the contingency reserve (*reservas de contingência*). According to the Chamber of Deputies, in the budgetary process "expenditures are blocked at the discretion of the government who releases them or not depending on its convenience" (Câmara 2005).[6]

Thus, the agency's budget is based mainly on its own resources. However, its effective release depends directly on the government, which has the power to withhold funds even after the approval of the agency's budget by the Legislative. In other words, the president delegates powers to agencies, but keeps the "key to the vault". The *contingenciamento* of the agencies' budgets can be obtained with the Sistema Integrado de Administração Financeira do Governo Federal (SIAFI) data. However, the agencies' initial budget varies greatly because there are differences in revenue due to fees and fines. So the *contingenciamento* measure can be biased, with the agencies with the highest budgets being the ones with the highest *contingenciamento*, because more resources are available to be withheld by the president. To deal with this problem, a change in the *contingenciamento* was made to correct this difference in the initial budget. The formula for the "corrected *contingenciamento*" is the following:

$$CC_{ij} = \frac{1 - \lfloor P_{ij} / (L_{ij} + C_{ij}) \rfloor}{B_{ij} / (\sum B_i)} \qquad [1]$$

The SIAFI directly presents the amount actually transferred to the agency, which is the total amount paid (P_{ij}) divided by the value that was established by law, plus the credits (L_{ij} + C_{ij}). Thus, to obtain the portion of the budget withheld by the government, the actual transferred total is subtracted from 1. To deal with the bias of this measure alone, a correcting factor was created to take the differences in the agencies' initial budgets into account. So, the *contingenciamento* is weighted by the agency's budget (B_{ij}) divided by the sum of all agencies' budgets in a given year. Table 2 shows the data for the Brazilian regulatory agencies:

Table 2 indicates that the corrected *contingenciamento* is a frequent practice present in all agencies to a greater or lesser degree. Note that with the correction, the number shown

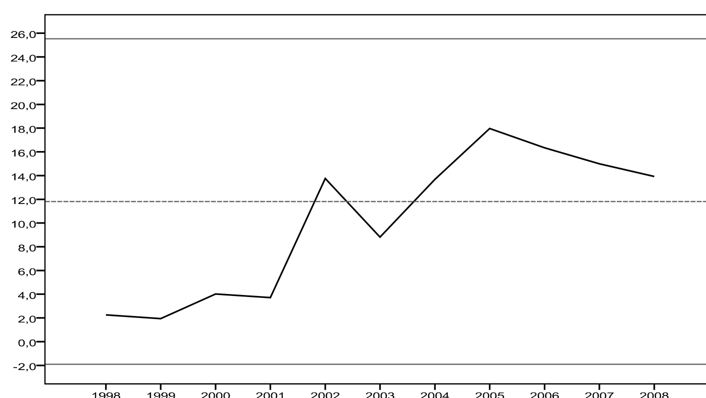
represents the portion of the budget that is withheld, considering the size of the agency's initial budget. The agency most affected by this practice is the ANTAQ, where the average *contingenciamento* is 41.73. Conversely, the agency least affected is the ANATEL, with an average *contingenciamento* of 2.27.

Table 2. Corrected *contingenciamento* of the Brazilian regulatory agencies (1997-2008)

Agency	N	Minimum	Maximum	Mean	Standard deviation
ANA	8	2.94	17.31	12.45	5.42
ANAC	2	11.15	16.09	13.62	3.49
ANATEL	11	0.81	3.52	2.27	0.86
ANCINE	5	29.88	44.18	36.61	5.39
ANEEL	11	0.93	20.53	8.07	6.40
ANP	11	1.69	3.67	2.42	0.63
ANS	9	3.46	24.29	9.18	6.38
ANTAQ	7	21.33	61.11	41.73	15.61
ANTT	7	11.01	16.93	13.57	2.19
ANVISA	10	1.71	4.01	2.73	0.80

Graph 3 shows the development of the corrected *contingenciamento* annually:

Graph 3. Evolution of annual budgetary *contingenciamento* (1997-2008)



Again, the darker line represents the *contingenciamento* and the clearer the mean and standard deviation. Note that there is a clear pattern of growth of the *contingenciamento* over time, with a provision "zigzag" in the period of the Cardoso government and stabilizing above the mean in the Lula government.

Finally, I assessed the stability of the rules after the moment of the agencies' creation, based on the analysis of modifications in order to reduce the scope of action of the agency

or to modify its administrative procedures through *medidas provisórias*. Evaluating the use of *medidas provisórias* in the modification of the procedures of the agency aims to capture the president's unilateral action to alter the agency's decision-making process. However, contrary to expectations, there were no changes along these lines. Of the ten federal regulatory agencies, only the ANATEL has not been changed by means of *medidas provisórias*. However, such changes do not specifically address changes in an agency's procedures.

Regarding the agencies' scope of action, the analysis showed that changes in the rules with the purpose of making the agency less influential in the regulatory process was not often used as a mechanism of interference. Only the ANEEL suffered this type of intervention, in the well-known case of the electricity crisis of 2003, where the president issued *medidas provisórias* in order to reverse the delegation of powers and transfer back to the ministry the power to establish the terms of concession contracts.

These last two mechanisms of interference in the regulatory agencies, to reduce the scope of action and change the agency's administrative procedures, refer directly to bill "general law of regulatory agencies" (PL 3.337/2004). A direct result of the report of the interministerial working group (Presidência da República 2003), established early in Lula's government and coordinated by the chief of the Casa Civil, José Dirceu, the bill focuses mainly on the redistribution of power between agencies and ministries and the social control mechanisms of regulation.

With the ANEEL example in mind, the project's goal is to give back to the ministries the authority to establish concession contracts. The main argument is that the State is the holder of the right to operate public services, directly or through concessions. In this sense, the government should establish the terms of the concession, not an autonomous agency.

As for the agency's social control, the main objective is to establish in the law the obligation of an ombudsman and the system of notice and comment in case of new rules or decisions that affect the interests of the groups involved. It also establishes public hearings in all agencies. Currently, all agencies already have hearings or public consultation. However, the goal is to legally require all agencies to adopt administrative procedures that integrate the interests of society directly into their decision-making.

This initiative by the Executive branch to propose a bill that aims to reorganize the regulatory system simultaneously signified a retreat from the position of radical modification of the regulatory system, including the extinction of the model of independent regulatory agencies, and a step towards restoring to the ministries some of the powers now allocated in the agencies.

However, with the establishment of the regulatory agencies and the maturing of this model after more than ten years, a support network has been created. This means that significant changes in the model will now undergo resistance from the agencies themselves,

from the representative association of the agencies (Brazilian Association of Regulatory Agencies (ABAR)) and associations of companies that operate in the market like the Brazilian Association of Infrastructure and Basic Industries (ABDIB). Such associations have played an active role in the discussions of the bill, including providing detailed discussions to the Executive's bill. Currently, the bill has yet not been voted in the Chamber of Deputies (Câmara dos Deputados).

Bearing in mind these performance aspects of independence in practice, the interference index constructed here is based on the key mechanisms used by the president to interfere in the agencies, as seen in the analysis developed in this section. Thus, the index assesses the independence of the agencies on the basis of budgetary autonomy, vacancy of the boards and turnover of directors. These three mechanisms were selected from the others discussed in this section because they appear to be the most relevant indicators, and also because they are undoubtedly political interference. In Box 3 the indicators that compose the index of political interference proposed here are:

Box 3. Index of political interference

Indicator	Description
Turnover	Identifies the number of directors who handed over before the end of his/her term.
Vacancy	Identifies the number of days that the agency functioned with at least one of its directors missing.
Contingenciamento	Identifies the corrected portion of the budget approved in the budgetary annual law (Lei Orçamentária Annual (LOA)) retained by the government.

As discussed above, the variables related to the mandate of the directors, the vacancy of the boards and the *contingenciamento* are the mechanisms of political interference most used by the president. Given that this index has not yet been validated in the literature, here I am using the technique of factor analysis for its construction. The logic behind this is that factor analysis indicates the patterns and relationships among a group of variables, examining if the set of variables can be condensed into a smaller set of factors or components. The results obtained from the factor analysis represent the best linear combination of variables, indicating that the combination offered explains more variance than any other linear combination. The extraction method for the construction of the index of political interference is principal component analysis (PCA), which summarizes most of the original information (variance) to a minimum number of factors (Hair et al. 2006).

That said, the analysis will be based on the above three variables, that were standardized. Tables 3 and 4 show the process of the factor analysis.

Table 3. Communalities

	Initial	Extraction
Turnover	1.000	0.275
Vacancy	1.000	0.530
"Contingenciamento"	1.000	0.476

Extraction method: principal component analysis.

Table 4. Total variance explained

	Initial eigenvalues			Extraction sums of squared loadings		
Component	Total	% Variance	% Cumulative	Total	% of variance	% Cumulative
1	1.281	42.694	42.694	1.281	42.694	42.694
2	0.928	30.924	73.618			
3	0.791	26.382	100.000			

Table 4 presents the communalities that indicate the amount of variance in each variable that is accounted for. Table 5 presents the factors obtained. Of the three factors, only the first was extracted, following the recommendation of the literature to extract only the factors that have eigenvalues above 1. As we can see, this factor alone carries about 42% of the variance of the variables included in the analysis. The loadings are presented in Table 5:

Table 5. Component matrix

Variable	Component
Turnover	.524
Vacancy	.728
Contingenciamento	.690

The loadings represent the correlation between the factor and the variable in question. According to Hair et al. (2006), the minimum acceptable is 0.30. Loadings greater than 0.40 are considered more important and loadings of over 0.50 are considered to have practical significance. Note that the loadings of the three variables are above 0.50. Moreover, the three variables contribute positively to the factor, that is, all vary in the same direction, as expected.

Regarding the appropriateness of the technique of factor analysis to the data in question, namely, the significance of the factor analysis, the statistical value of the Kaiser-

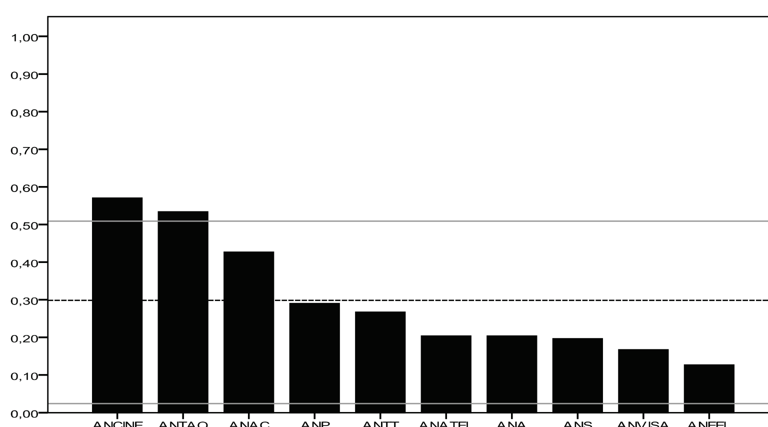
Meyer-Olkin (KMO) was 0.543 and Bartlett's Test of Sphericity was significant at 95%, indicating that the matrix in question can be factored and that the observed correlations are not due to sampling error. The value of Cronbach's alpha statistic was 0.323. This value is low, but it is noteworthy that this statistic is directly affected by the number of variables included in the analysis. Thus, an analysis with only three variables is expected to have a low value.

From this analysis it was possible to construct a single measure that represents the three variables, i.e., for the purposes of this study, which represents the political interference in the Brazilian regulatory agencies. In this sense, such a measure is also more reliable, since the share of each variable in the factor is determined by its explanatory power and not arbitrarily as is done in many indices. In order to facilitate an understanding, the scores assigned to each case by factor analysis were converted to a scale ranging from 0 to 1.[7]

The average political interference, which varies from 0 to 1 (bearing in mind that the higher the value, the greater the political interference), is 0.2665, with a standard deviation of 0.24237. We note that by the indicators included in this analysis, the interference is relatively low. However, the standard deviation is high, indicating significant differences between the cases.

Similarly to what was done in the previous section on formal independence, the Brazilian regulatory agencies are presented in Graph 4 in terms of the degree of political interference. The values for each agency refer to the mean of the period studied.

Graph 4. Index of political interference – Brazilian federal agencies

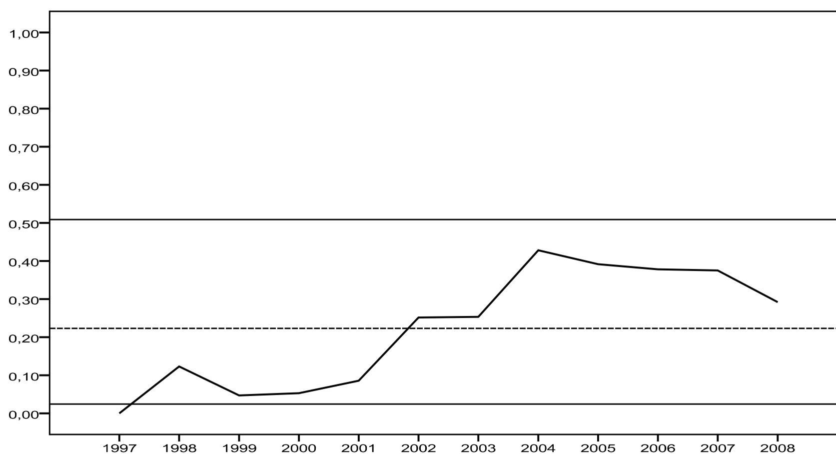


Look at Graph 4 and note how all Brazilian regulatory agencies suffer political interference, but there are remarkable differences in the degree of interference. The ranking of the agencies in terms of political interference presents a heterogeneous pattern. The agencies that suffer the most with political interference are the ANCINE, the ANTAQ and

the ANAC; the first an agency of social regulation, directly connected to the ministry, and the other two, agencies of economic regulation. Next appears the ANP, an agency connected to the privatization process but in charge of regulating Petrobras, a state-owned company. Then appears the ANTT, the ANATEL and the ANA, all agencies that deal with concession contracts, and the ANS and the ANVISA, agencies of social regulation classified by the report of the interministerial working group on regulatory agencies as "executive" agencies, not "regulatory" (Presidência da República 2003). Finally, the ANEEL, the agency that had its institutional design drastically changed during the energy crisis.

This analysis reveals an array of agencies that do not follow the pattern seen in formal independence. Even bearing in mind that from the standpoint of formal design the agencies have a degree of homogeneity and that few items differentiate them, it is interesting to note the variation between agencies in the degree of political interference. In Graph 5 the evolution of political interference over time can be seen.

Graph 5. Evolution of political interference in Brazilian federal agencies



Graph 5 shows that political interference is a fact since the creation of regulatory agencies, that is, political interference exists independently of the government. Thus, the hypothesis proposed by Oliveira Filho (2005) that there is an institutionalization of independence, i.e., a tendency to increase and stabilize the independence of the agencies over time, collides with the information in Graph 5, which shows that there is increasing interference in the agencies.

However, what is most notable is that, apart from the growth of interference over time, there are remarkable differences between governments. The degree of interference, which rose and fell during the Cardoso administration, reached the exact mean in 2002 and remained above mean throughout the Lula government.

What can be seen with this description of the information obtained with the index of political interference is that a change of government had an impact on the degree of political interference in the national agencies in Brazil. Unfortunately, there are no studies or any other information about the agencies' independence in practice, i.e., after the establishment of formal rules, with which the results achieved here can be compared. However, as a way to test these preliminary results, the next section will be devoted to a more rigorous analysis.

The Presidential Calculus and the Determinants of Political Interference

As seen in the previous section, interference in independence is a fact present in all agencies throughout the whole period of their existence. However, the variations between agencies and over time are not negligible. So what explains this variation in the degree of independence in practice?

The exploratory nature of this analysis and the scarce development of empirical research on this subject in Brazil do not allow us to draw conclusive results on the subject. However, the purpose of this section is to evaluate the conditions under which the president chooses to interfere in the independence of the agencies, according to three hypotheses derived from the main theories of regulation seen in the first section.

In the following subsections I will present the independent variables as well as the estimation method for the analysis proposed here, followed by the results and also new ways in which to deepen the analysis of *de facto* independence of regulatory agencies in Brazil.

Measuring the Independent Variables

The president's preferences

The actor's preferences are the natural starting point for an analysis of the determinants of his/her behaviour, so I have sought to identify the preferences of the president in relation to the independence of the regulatory agencies. In the period of the agencies' existence, Brazil was ruled by two presidents, both with two mandates: Fernando Henrique Cardoso and Luiz Inácio Lula da Silva.

The issue of measuring the preferences of political actors is still problematic, considering that there are substantive differences between behaviours and preferences, and between real preferences and revealed preferences. In the present study, the preferences are analysed as follows: president Cardoso was the creator, bearing the political costs of

creating regulatory agencies. Therefore, it is assumed that his preferences were favourable, i.e., that the president supported the independence of the agencies. Now, regarding president Lula, as a candidate he was contrary to the independence of the agencies, his election being considered a "political shock" to this particular issue (Mattos and Mueller 2004) or a "test" for the autonomy of agencies (Pacheco 2003). Nunes, Andrade and Costa (2003), in a study on the mentions of the regulatory agencies and the Lula government in major newspapers in the country, found that the statements by members of Lula's government to be the following:

> They consider excessive the autonomy of agencies, which are extrapolating the functions of regulation and supervision to develop policy guidelines – the role of ministries. They state the need to correct existing distortions and strengthen the role of the ministries in the formulation of public sector policies left to the agencies by the previous administration. They recognize that any change in the functioning of regulatory agencies can only occur through changes in legislation and think to recommend the creation of a General Law of Agencies (Nunes, Andrade and Costa 2003, 6).

Bringing the autonomy of the agencies to the centre of the discussion, Lula went from a position contrary to the model to a position of recognizing their role, but defending reformulations such as those seen in the project of the "general law of regulatory agencies", discussed in the previous section. Thus, his preferences are considered as negative in relation to the independence of the agencies. That is, president Lula was contrary to the independence of such bodies.

As preferences are indicative of the actor's actions, even if not decisive, it is expected that in the Lula government there would be more interference in the independence of agencies than under Cardoso.[8]

H1: In the period of the Lula government there was more interference in the agencies than in the Cardoso government.

Formal independence of the regulatory agencies

The formal mechanisms of independence of the agencies appear to be the main institutional constraint to interference by the Executive branch. This is because the law imposes costs on any attempt at interference so that the president acts around the law, and does not go directly against the rules too frequently. The formal independence variable is composed of the values obtained by the formal independence index presented in the previous section.

H2: The greater the agency's formal independence, the less the interference by the Executive branch.

Credibility Cost

The credibility cost of the sector in which the agency operates directly refers to its relationship to the privatization process, as seen in section before Thus, agencies that regulate the electricity, telecommunications and oil and natural gas sectors – those most affected by the privatization process – underwent less interference from the Executive branch. This is because the ANEEL, the ANATEL and the ANP had to signal to the market that the established regulatory framework was not to be modified and that the commitments made at the time of privatization were credible. Thus, interference in such agencies indicates the possibility of opportunistic behaviour by the president and reduces regulatory credibility, affecting investments in the sector. Consequently, interference in such agencies is more costly for the president than in agencies where the credibility cost is smaller, because the sector has been in operation by private enterprise for a long time.

H3: In agencies where the credibility cost is higher, less interference from the Executive branch is expected.

The descriptive analysis made in the previous section provided an indication of which of these hypotheses is empirically supported. However, a more rigorous analysis is required. To test these hypotheses, some control variables have been included.

Control Variables

Some papers on this subject indicate that the kind of regulation – whether economic or social – that the agency operates influences the level of independence. According to Gilardi (2005), economic regulation deals with the tariffs, input, output and services of an industry, while social regulation is concerned with noneconomic issues such as health and safety. Agencies of economic regulation need to signal greater independence from the market, something less important for agencies with responsibilities aimed at ensuring quality of services (Gilardi 2005). Agencies of economic regulation might be more committed to independence because their main task is to regulate prices and tariffs, so if their acting lacks credibility and pricing is influenced by the government, companies have no incentive to invest in the sector.

A second control variable is the existence or not of a contract between the agency and ministry (*contrato de gestão*). In Brazil, the ANEEL, the ANVISA and the ANS are obliged to follow a contract established by the ministry and be accountable on the basis of this contract. Contradictory arguments can be raised about the relationship between the contract and the agency's independence. The contract can serve to control the agency's activity or to establish guidelines within which the agency has autonomy. This variable is therefore included in order to understand its relation to independence in practice and also to avoid problems of omitted variables in the regression model.

Finally, the support given to the president in the Legislative branch that year is included in the model. The idea is that in the Brazilian coalition presidentialism, the support enjoyed by the Executive branch in the Legislature is not negligible and has an impact on its incentives to act unilaterally and interfere in the agencies. This Legislative support is operationalized by the percentage of seats of the coalition supporting the president in the two Legislative houses (Chamber of Deputies and Senate separately). It is expected that the greater the support by the Legislature, the greater the political interference.

The Conditions of Interference

The analysis of political interference in the independence of regulatory agencies in Brazil over time here proposed has a panel data structure, i.e., cross-sectional time series. That is because there are ten national regulatory agencies in Brazil and the period of analysis is between 1997 and 2008. With this in mind, the data requires special treatment, so the inference method used here is a panel, linear model with random effects.[9]

As the Brazilian regulatory agencies were created in different years, there are no observations for all years and all agencies. In this sense, the model is an unbalanced panel. However, Wooldridge (2006) states that if the lack of observations is not based on some kind of selection bias, there are no additional problems in the treatment of such a panel.

The dependent variable — $Interferência_{it}$ — it refers to the scores obtained from the factor analysis for each observation, i.e., every year from each agency.[10] The basic model being tested is proposed in the following equation:

$$Interference_{it} = \beta_0 + \beta_{1PREFERENCESit} - \beta_{2FORMALit} - \beta_{3CREDIBILITYit} + v_{it} \quad [4]$$

Where:

$\mathcal{B}_0$: Constant

PREFERENCES: dummy variable that indicates the preferences of the president, assuming the value 0 if Cardoso and 1 if Lula, at agency *i* in year *t*.

FORMAL: indicates the level of formal independence at agency *I* in year *t*.

CREDIBILITY: dummy variable that indicates the credibility cost of the agency in question, assuming the value 0 if agencies with low credibility cost and 1 if agencies with high credibility cost at agency *i* in year *t*.

v_{it}: composite error term, captures the unobserved factors constant in time that affect the interference at agency *i*, and also unobserved factors that do change over time and that affect the interference, at agency *i* in year *t*.

Table 6 shows the results for the equation above.

Table 6. Linear regression model — Panel random effects

Variable	Model 1	Model 2	Model 3	Model 4
Constant	.871 (1.592)	.782 (1.604)	1.384 (1.475)	1.994 (1.44)
Preferences	.788*** (.198)	1.406*** (.437)	1.364*** (.431)	1.315*** (.418)
Formal	-2.085 (2.596)	-1.596 (2.521)	-2.831 (2.333)	-3.168 (2.107)
Credibility	-.108 (.379)	-.135 (.357)		
Sector			.204 (.347)	
Chamber of Deputies		-.045 (.028)	-.045 (.028)	-.045 (.027)
Senate		.039 (.025)	.039 (.025)	.039 (.024)
Contract				-.720** (.310)
R^2	0.237	0.258	0.263	0.361
Wald X^2	24.12***	27.31***	27.20***	33.74***
N	89	89	89	89

Standard error in parentheses. ** sig. 0.05, *** sig. 0.01.

The first model is restricted to this paper's three central variables. As expected, the preferences of the president do impact the degree of interference that the agency will suffer. That is, the passage from the Cardoso to the Lula government increased the interference in the independence of the agencies. This result is robust, having been maintained in different specifications in models 2, 3 and 4. Put differently, in the Lula government the political interference increased by 0.97 compared to the Cardoso government, confirming the hypothesis that the president's preferences regarding the agencies' independence may have an impact on his choice of course of action.

The "formal" variable presents the expected sign but does not achieve statistical significance.[11] The expected negative sign is kept in the other models' specifications, confirming the hypothesis that the increase in the formal independence would be accompanied by a decrease in political interference.

The credibility variable also appears with the expected negative sign in both models it is included in. This means that, all else held constant, the values of agencies with high credibility costs have decreased by 0.108 points in the interference index. This result confirms the hypothesis that the government would interfere less in the agencies that are closely related to the privatization process. This means that the president takes into consideration the cost of interfering in agencies that have a need to signal independence to the market. In other words, considering the credibility cost, the president interferes less in the ANATEL,

the ANEEL and the ANP than in agencies that do not have such a high credibility cost.

The sector control variable does not present a meaningful result and is not significant at any considerable level. The Chamber of Deputies and Senate variables appear with different signs. Apparently, the increase in support in the Chamber of Deputies decreases the interference and the increase in the support in the Senate increases it. Thus, the Senate variable presents the expected sign but is not significant, and the Chamber of Deputies variable is minimally significant but in the wrong sign. This means that the impact of the support of the Legislature to the president and the ideological position of the legislator regarding the independence of the agencies must be investigated further.

Finally, the obligation of a contract between the agency and the ministry appears with a negative sign and is significant, indicating that the contract is responsible for a decrease in the degree of political interference in the agencies. Put another way, agencies that maintain a contract with the ministries have less political interference, all else held constant.

In one decade of regulation by independent agencies, Brazil established ten agencies in different periods. We also had two presidents, one of them the creator of the model. Thus, the comparison is limited. Including new variables in the index of political interference appears to be of fundamental importance to make it truer to the concept that it is expected to translate. Moreover, subsequent developments must also include questions regarding the content of policies in order to capture the influence on the decisions by regulatory agencies.

It is also important to evaluate the inclusion of more explanatory variables and a control group, considering that many other factors can influence the level of agency independence in practice. Another important point is to highlight the preferences of ministers regarding the independence of regulatory agencies. This is a sensitive point, given that agencies are necessarily linked to a ministry. However, to access this relationship, the debate has to address the problem of estimating ministers' preferences, something that is not trivial, and requires greater knowledge of the internal dynamics of the Executive branch, which is beyond the scope of this paper.

This paper has sought to contribute to the debate in order to systematically analyse the independence of regulatory agencies in Brazil and their relationship with the Executive branch, even with all the limitations presented here. However, further advances and more conclusive results on the topic will be possible only with the institutionalization of a research agenda on the theme, which appears to be at a very early stage.

Conclusion

The political independence of regulatory agencies is the most important dimension of regulatory governance from the viewpoint of the stability and institutionalization of this

new regulatory regime that has the autonomy of the bodies as its defining characteristic.

Independence has been a source of intense debate in the political and economic arenas, but is a topic not yet explored systematically in a specialized discussion. This study has aimed to analyse the political independence of regulatory agencies in Brazil, emphasising the nondeterministic relation between formal independence and *de facto* independence.

With this in mind, two indices of independence were created: the formal independence index and the index of independence in practice, as political interference. The formal index was based on what was produced and validated in the literature. The political interference index was built in order to capture the interference in the independence of the agencies by the Executive branch, constituting a proposal for a new indicator.

With the use of factor analysis, I created a single measure from three indicators that have proven to be important mechanisms of political interference: turnover of directors, budget and vacancy. Rankings of both indices were created in order to compare the performance of the ten national agencies in Brazil.

An analysis of formal independence showed that the law establishes high independence for national agencies, also indicating that there is some degree of homogeneity in the laws of agencies that were created at different periods to regulate very distinct sectors. The index of interference in independence showed that the interference is fairly low, but present in all agencies and also in the whole period analysed. An important result observed was the significant variation between agencies and in time.

Knowing the interference pattern in Brazilian regulatory agencies, the last section aimed to examine in an exploratory way the impact of the three independent variables derived from the literature review: the president's preferences, credibility costs and formal independence. For this, a linear model for panel data with random effects was estimated. Results showed that the change from the Cardoso to the Lula government positively impacted political interference. That is, there was greater interference in agencies in Lula's government compared to Cardoso's. Variables such as credibility costs and contracts were also relevant.

These results, as well as the index presented here, only indicate new paths and do not represent conclusive results on the determinants of political interference in regulatory agencies in Brazil. With many limitations, the results presented seek to contribute to the debate in order to systematically deal with this aspect of regulatory governance, which has significant effects on the institutionalization of this new regulatory regime.

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Notes

1 From the original in Portuguese: "as instituições políticas influenciam a estrutura de governança regulatória em função dos limites que estabelecem para a ação discriminatória dos governantes" (Melo 2001, 64).

2 Brazilian national agencies: Agência Nacional de Energia Elétrica (ANEEL), Agência Nacional de Telecomunicações (ANATEL), Agência Nacional de Petróleo e Gás Natural (ANP), Agência Nacional de Cinema (ANCINE), Agência Nacional de Transportes Terrestres (ANTT), Agência Nacional de Transportes Aquaviários (ANTAQ), Agência Nacional de Aviação Civil (ANAC), Agência Nacional de Águas (ANA), Agência Nacional de Vigilância Sanitária (ANVISA), Agência Nacional de Saúde (ANS).

3 Law number 9, 986 (Brasil, 2000b).

4 Brasil (1996; 1997a; 1997b; 2000a; 2000b; 2001a; 2001b; 2001c; 2001d; 2001e; 2005).

5 The final number excludes directors who left the agencies for reasons unrelated to politics, such as death or personal reasons.

6 From the original in Portuguese: "as despesas são bloqueadas a critério do governo, que as libera ou não dependendo da sua conveniência" (Câmara 2005).

7 5 The formula used for the transformation is: $$F_i = \frac{Fi - F_{\min}}{F_{\max} - F_{\min}} \quad [2]$$

Where F_i is the i-th factor score, F_{min} is the minimum factor score and F_{max} is the maximum factor score.

8 Using Cardoso and Lula's terms as variables is potentially problematic because factors (other than the presidents' preferences) correlated with those periods might have affected interference in the agencies. However, after a thorough review of the literature and analysis of the Brazilian political environment, no other variables were found that could undermine the effect of the presidents' preferences in this particular case.

9 A fixed effects model might be more desirable, but inappropriate in this case because it would preclude time invariant variables.

10 The minimum and maximum values observed are -1.099 and 3.026.

11 Statistical significance is not a determinant factor because the data are the universe, rather than a sample.

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ARTICLE

Brazil–United States Military Relations during the Cold War: Political Dynamic and Arms Transfers*

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This article discusses the military relations between Brazil and United States in the Cold War. Focusing on the dynamic of these relations and on arms transfers, one argues that the Brazilian military sought in the USA a path towards organizational modernization, industrialization and regional supremacy. Thus Brazil operated a movement from a very close and dependent position to a more distant one, since Washington did not support Brazilian objectives of military modernization and strategic autonomy and the anticommunist agenda became less important to Brazil.

Keywords: Brazil-United States relations; Armed Forces; Military assistance; Cold War.

Introduction

Relations between Brazil and the United States have been well investigated by researchers from the two countries. This fact in a way mirrors the amplitude and complexity of the ties established over nearly two centuries. Although security questions and strictly military matters have nearly always been on both countries' agendas, above all since the Second World War, there are relatively few studies about the military relations between Brazil and the United States. Brazilian historiography tends to deal with the question laterally, when discussing relations between the two countries more broadly (Moura 1991; Cervo and Bueno 1992; Vizentini 1998; Almeida and Barbosa 2006; Hirst 2009), or to situate

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Brazil in US hemispheric strategy (Martins Filho 2005). This gap is in part explained by the difficulties in accessing Brazilian military sources.

Works that do approach military relations more centrally tend to focus on the decision-making process, basically using diplomatic sources (Alves 2007, or to emphasise a growing rivalry between Brazil and the United States (Bandeira 1989; Tempestini 1998), which is difficult to identify with respect to the first decades of the Cold War, in spite of there being plenty of divergences between the two countries. For its part, US historiography, which mainly uses diplomatic and military sources stored in the country's archives, tends to look upon the military relations between Brazil and the United States as a patron-client relationship (Davis 1996; Mott 2002). Sonny Davis, for instance, in a thorough study of military relations between the two countries that pays special attention to the Joint Brazil-United States Military Commission, sees a transposition of the clientelism present in Brazilian culture to the military relations between the two countries as the key to understanding the alleged ease with which Brazil realigned its military ties from Europe to the United States. Such a contribution tends to narrow one's understanding of the strategic and organizational interests that fed into Brazil's military relations with other countries. Culture, ideology and the representations of the actors are important components in understanding decision-making processes. However, one cannot project in linear fashion a characteristic of domestic politics onto complex organizations such as the Armed Forces and onto an extensive process like Brazil-US military relations during the Cold War.

This article holds the premise that despite conjunctural redefinitions and the broader evolution of relations between Brazil and the United States, military relations during the period in question were corollaries of the pattern established during the Second World War. In this setting, the agreements were signed and the channels created that made feasible the interaction between officers of the two countries. Also in this circumstance, the Brazilian military consolidated the long-term objectives on which they were to base their relations with Washington: acquisition of modern arms and equipment, development of an autonomous weapons industry (linked to the country's broader industrialization) and regional military supremacy, particularly in relation to Argentina.[1] Despite being deeply asymmetrical and marked by a strong material dependence, relations with the United States tended to be seen by the Brazilian military elite as a path to the modernization of their organization and, in the long term, to Brazil's strategic autonomy. The alliance — renegotiated at different moments — had a further important point of convergence: anticommunism. This had been increasingly cultivated by the Brazilian military leadership since 1935 (Castro 2002).

For the United States, this period marks the definition of the continent as its sphere of influence and as the territory hosting its strategy of "hemispheric defence" (Moura 1980; Conn and Fairchild 2000). During the war, Brazil's position in the US power system was of

great regional relevance, owing chiefly to the bases in the northeast of the country. However, by the end of the conflict and start of the Cold War, this importance declined significantly. In a context in which the Americas possessed low priority in military aid programmes, Brazil was set within the regional policy of equilibrium, together with Argentina and Chile. Thus, Washington sought simply to maintain Brazilian alignment, the bases and the supply of strategic raw materials. Without greater distinctions, Brazil should be integrated into the plans to standardize the continent's Armed Forces, thus avoiding a return of European influence, and restrict communism and the development of a brand of nationalism that might affect US economic interests (Haines 1989).

Owing to this only partial coincidence of objectives, it is argued that military relations between the two countries were selectively and pragmatically negotiated by Brazilian officers, since Brazilian national defence policy-making did not always converge with US hemispheric defence formulations. On the domestic plane, despite the fact that the Brazilian Armed Forces opened themselves to US influence, there were instances of resistance, adaptation and questioning that led to tensions in the military relations between the two countries.

In order to deal with this proposition, the article is divided into two sections. The first reviews the dynamic of military relations between the two countries during the Cold War stressing the most relevant elements of the agenda, their institutional mechanisms and the movements of approximation and distancing by Brazil and the United States. One sought to employ military and diplomatic sources from the two countries so as to have a more balanced view of this dynamic. The second section deals in greater detail with arms transfers to Brazil in order to obtain a clear view of the impact of these relations on the structuring of Brazil's defence means. To this end, data made available by the Stockholm International Peace Research Institute (SIPRI) and by the bibliography were used.

The Dynamic of the Relations

Military ties between Brazil and the United States were consolidated during the Second World War. It was in this context that there took place long and sometimes tough negotiations over the granting and construction of the air and naval bases to the Americans, the granting of credits and war materiel to Brazil, the joint anti-submarine patrolling of the South Atlantic and the Brazilian Expeditionary Force itself. The war intensified diplomatic and economic links between the two countries and sealed a pragmatically negotiated military alliance (McCann 1995; Svartman 2008).

The first major agreement was signed in May 1942. It dealt with US aid and cooperation in the enhancement of Brazil's military capacity through organization, training, supply of war materiel and support for the development of infrastructure geared to the war

effort.[2] In order to supervise and direct the close military relations established, two joint commissions made up of officers from the two countries were created. The Joint Brazil-United States Defense Commission sited in Washington would conduct studies and make recommendations regarding mutual defence. Until the end of the war, it acted as a forum for high-level military diplomacy (Davis 1996). In Rio de Janeiro, the Joint Brazil-United States Military Commission (JBUSMC) had the role of implementing the recommendations that came from Washington, formulating suggestions and liaising with the commands and the defence staff in Brazil. The creation of the two commissions marked the birth of a formal military alliance between Brazil and the United States. Unlike the former, the latter commission had a long and intense period of activity during the Cold War, having been wound up only in 1977.

The end of the Second World War ushered in a period of indefiniteness and subsequently an inflexion in US policy-making towards Latin America, which, combined with the region's low priority level in the anti-communist strategy until the Cuban Revolution, significantly affected US interest in maintaining "special military relations" with Brazil. While this scenario was taking shape, the Joint Military Commission was the arena for talks held in 1945 that intended to establish a large-scale assistance plan. Via Lend-Lease, sales and no-cost transfers, this was to guarantee for Brazil two battleships, two light aircraft-carriers, fifteen destroyers, nine submarines, six naval bases, one arsenal, equipment for 180,000 soldiers and reserves for 26 divisions, help in the building of roads and railways for military mobility, support for the expansion of the Brazilian Air Force to 600 aircraft and compatible facilities on land (United States Department of State 1945).

Suddenly, however, the military lost influence over US policy towards the region and the position of the State Department was inflexible in vetoing Brazil's ambitious military reinforcement plan. Instead, it successfully advocated a policy to restrict military expenditure in Latin America and to promote a power balance between Argentina, Brazil and Chile. Despite this serious setback in its military interests and the frustrating negotiations about economic aid during the Dutra government, Brazil remained diplomatically aligned to the USA in 1947 at the signing in Petrópolis of the Inter-American Treaty of Reciprocal Assistance (IATRA), in 1948 over the creation of the Organization of American States (OAS) and for various votes at the UN (Moura 1991). The point of convergence and key to understanding these positions on Brazil's part was anticommunism. An illustrative example of this convergence is the provision of information to the US military attaché in Rio de Janeiro regarding the supposed presence of communists in the Brazilian public service.[3] The strengthening of ties with Latin American military personnel as allies in the fight against communism was one of the core points in Washington's foreign policy from 1945 to 1955 (Pach 1991; Mott 2002).

In spite of restrictions placed on high levels of military spending, there was an effort to enhance the ties and ensure US predominance in the supply of equipment and training, as well as "to make the military a factor of growing influence in the political life of the region".[4] Brazil was the main focus of this effort, which ultimately sought to standardize the region's Armed Forces to operate in tune with the United States against "Soviet expansionism" and in maintaining order domestically (Haines 1989). Thus, US officers who sat on the JBUSMC took the view that in order to attain the objectives of developing the capacity of the Brazilian Armed Forces to provide internal and external defence and to be available for deployment in other areas, greater emphasis should be put on training programmes in the United States. In the eyes of such military personnel that interacted with Brazilian counterparts, these programmes were efficient means of indoctrination, for upon their return to Brazil the participants tended to become "ardent supporters not only of US military doctrines, but also of its way of life".[5]

In a context of shrinking arms transfers and continued Brazilian demands for industrialization, the anti-communist convergence and the ties established during the war were important motivating factors in the creation of the Escola Superior de Guerra (ESG, National War College). ESG relied on strong US influence and day-to-day cooperation in its early years. A mission composed of three American officers advised on its creation and a considerable part of its initial teaching materials were translations of texts originally produced in the United States. However, its doctrine was more a reflection of diffuse elements of a certain modernizing authoritarianism shared by much of the Brazilian officer corps than a direct transposition of US models (Svartman 2006).

The Brazilian Armed Forces revealed themselves rather permeable to the presence of US officers acting as instructors, liaison elements and technicians in the immediate postwar period. The Joint Military Commission had its offices on the premises of the ministry of War in Rio de Janeiro, and officers from the two countries worked there on a daily basis. Several military teaching institutions in Brazil were influenced by the USA. Their staffers took part in the meetings that redefined the organization of the ministry of War in 1946, produced reports suggesting reforms to the teaching system, gave lectures, screened films and translated manuals.[6] Although in a lesser scale than during the war, Brazilian officers continued attending courses, internships and "courtesy visits" at military organizations in the United States or the Panama Canal Zone.[7] There was a clear intention on the part of the US military to cultivate good relations with their Brazilian counterparts.

However, there was a serious hindrance to the full assimilation of US military doctrines in Brazil. According to the 1945 Report of the army chief of staff, the Training and Specialization Centre, located in the Rio de Janeiro district of Realengo, already incorporated "American doctrine" in its instruction. However, the Report also pondered

that the generalized use of US equipment and the consequent adoption of that country's military organization and doctrine were problematic, for serious limitations regarding the motorization of Brazilian forces were already being identified, with reference both to vehicles and highways. For its part, the 1948 Report informed the minister of War that in that context of transition and restructuring, which sought to assimilate the experiences of the Second World War and adapt to US organization and equipment, a serious "readjustment" had to be undertaken by virtue of the sudden "deprivation of means" which the army had undergone (Estado-Maior do Exército 1996).[8] This point results both from budgetary restrictions in Brazil and from the fact that since 1945 there had not existed any specific legislation or agreement that allowed the dispatch of US war materiel in keeping with Brazilian expectations. In 1949, the minister of War went to Washington to try to negotiate a new military agreement. He was not successful, given the low priority accorded to Brazil (and to Latin America) in that setting. Only after the passing of the Mutual Defense Assistance Act by the US Congress and the creation of the Military Assistance Program (MAP) were new military aid channels created (Pach 1991). Even so, the priority was not the continent. The 1952 ministry of War report speaks of the weakness of Brazilian war materiel and, in the midst of budgetary difficulties, of the need to import even tyres and batteries for vehicles. Aware of the growing discontent, US officers of the JBUSMC sought to compensate the lack of equipment by lending 5,745 training films to Brazil.[9]

Though close, Brazil-US military links did not always meet the interests formulated by the Brazilian military leadership, chiefly with respect to the development of a national weapons industry and to the achievement of regional military supremacy. This forced a relative distancing between the two in the late 1940s, and accentuated ideological divisions among the officer corps. The polemics relating to the model of the national oil industry and to the sending of troops to the conflict in Korea expressed the political and ideological tensions that the military relations between Brazil and the United States implied. The Brazilian Armed Forces were important protagonists of the so-called "oil question" and the Military Club was the stage where debates and sharp polemics were acted out, thus defining opposing currents among the officer corps (Peixoto 1980; Smallmann 2004). Starting in 1951, the Getúlio Vargas government sought to re-launch the formula of politico-military alignment as a tool for bargaining with the USA, so as to obtain economic support for industrialization. The possibility of participation in the Korean War further deepened the cleavages among the officer corps. Since the Brazilian Congress condemned it and Washington proved reticent in providing the expected economic and military aid, the government ended up refusing the American request (Davis 1996; Alves 2007).

More than at any other time, "the evolution of Brazilian foreign policy during this period was influenced by the comings and goings of domestic politics, which progressively

came to reflect the ideological confrontation between left and right typical of the Cold War at the global level" (Hirst 2009). The signing of the 1952 Military Accord was one of the major icons of this. It was negotiated by the army chief of staff and the foreign ministry, circumventing the nationalist minister of War Estilac Leal, and led to the latter's resignation and to months-long polemics in the Brazilian Congress before it was ratified. Its content met US demands for strategic raw materials and established a new institutional framework for military assistance to Brazil, grounded in the 1951 Mutual Security Act and in the discourse of defence of the Western Hemisphere and the Free World (Carone 1989, 35ss.).[10] Its signing and ratification represented a victory for the more conservative segments of the Armed Forces (the so-called entreguistas) and a defeat for the *nacionalistas*. The agreement also affected Brazil's incipient nuclear policy, for in addition to other mechanisms already in force — under the guise of scientific cooperation —, it implied controls on research conducted in the country and guaranteed the supply of radioactive raw materials to the United States (Andrade 2010). On the other hand, the National Council for Scientific and Technological Development (CNPq), created with the aim of developing nuclear technological capacity in Brazil, and Petrobras — both of which counted on a strong military presence — expressed the political tensions and ambiguities involved in Brazilian objectives to strive for autonomy in strategic sectors.

From the Juscelino Kubistchek presidency onwards, Brazilian foreign policy took on a more assertive profile, with initiatives such as the Pan-American Operation, and a special place reserved in its discourse for developmentalism, which implied greater openness in relation to other regions. In spite of the attempt to change the terms of the dialogue with the United States, military relations maintained the same standards. It was in this context that there took place the negotiation over the expansion of some military facilities operated in Brazil by the USA since the Second World War and the establishment of a ballistic missile detection post in the Fernando de Noronha archipelago. However, the results were frustrating, for Washington did not accept Brazil's terms, i.e., modern armaments for the premises ceded. Fresh disappointment came about with the failure to obtain an aircraft-carrier, forcing Brazil to turn to Europe and acquire the HMS *Vengeance* from the UK in 1956. The ship was modernized in the Netherlands and renamed *Minas Gerais* by the Brazilian Navy in 1960 (Davis 1996). It was only after almost a decade in existence that the MAP began to have more repercussion as far as the Brazilian Navy was concerned, with the start of deliveries of US Navy destroyers in 1959. These ships put the Brazilian Navy in contact with more sophisticated technologies such as radar and sonar, though reinforcing its role as an auxiliary force in the anti-submarine patrolling of the South Atlantic, as well as its dependence on US means and doctrine (Martins Filho 2010). In 1955, in the midst of disagreements among scientists and the military, an agreement

had been signed within the framework of the US programme "Atoms for Peace", which provided for the supply of enriched uranium and the construction of nuclear research reactors in Brazil (Andrade, 2010).

In line with the country's more complex international insertion, the Quadros and Goulart governments launched the Independent Foreign Policy (PEI), constituting a turning point in Brazil's international activity and ergo in its relations with the USA. Its basic postulate stated that Brazil should enhance its autonomy on the international plane and shake off the conditioning factors of bipolarity; its aspirations should be motivated by national interests and not by pressures from the great powers, particularly the United States; it preached that Brazil should identify with the Third World; it considered itself neutralist and critical of colonialism, neo-colonialism, racism and of the arms race (Vizentini 1995).

On the military plane, the Cuban Revolution and the dissemination of doctrines on revolutionary war and counter-insurgency began to dominate the agenda, especially after John F. Kennedy took office as US president. More than his predecessors, Kennedy intended to foster closer ties between the Armed Forces of his country and those of Latin America. And although this approximation was motivated by anticommunism, it endorsed the belief held by some academics that the military could contribute towards the economic and social progress of the region on the terms of the Alliance for Progress (ALPRO). It was argued that officers would not be committed to the oligarchies and, being of middle-class origin, would act as modernizing agents and advocates of administrative efficiency and order, industrialization and technological progress (Rabe 1999). Civic action and ALPRO programmes, counter-insurgency courses taught by US officers in Brazil and the sending of some Brazilian military officers and many police officers for training at the School of the Americas in the Panama Canal Zone all meant an enhancement of Brazil-US relations. Once again, in the military sphere, the point of convergence was anticommunism, and the sectors that identified less with this rallying cry were not able to counterbalance the growing conspiracies that led to the 1964 coup.

The presence of the US embassy in the destabilization campaign and in the conspiracies against the Goulart government meant that the United States recognized coup leader Castelo Branco's government almost instantly (Fico 2008). The first military government repudiated the PEI and adopted a policy of strict alignment to Washington, whose aim was to gain credentials as a preferential ally and regional hegemonic pole in tune with the great power's security agenda (Gonçalves and Miyamoto 1993). Hence Brazil broke off diplomatic relations with Cuba and took part in the occupation of the Dominican Republic in close cooperation with the USA, in 1965. With an initial contingent of 1,100 soldiers in the Inter-American Peace Force, Brazil took on the command of the intervention, which in a way officialized the unilateral attitude of the United States in that

country. The close cooperation in this typical Cold War action lasted until September 1966, when over 3,000 Brazilian soldiers from the three Armed Forces took part in the troop rotation in the Dominican Republic. Brazilian diplomacy espoused the idea of creating a standing force to safeguard "hemispheric security" and even considered sending Brazilian troops to Vietnam (Hirst 2009). In 1966, under the auspices of the MAP, an anti-guerrilla training programme conducted by US military personnel was set up in Rio de Janeiro and Recife. In the assessment of the Mobile Training Team officers, the initiative would have been beneficial to the Brazilian military, for despite being familiar with counter-insurgency doctrines, they had little practical experience.[11] However, as Sonny Davis points out, all this fine-tuned closeness was in fact the swan song of the special relationship between Brazil and the United States. Since then, the intensity of military relations between the two countries has been on the decrease, with the emergence (even) of disputes.

The first tensions were expressed as far back as 1965, when the USA used military channels to manifest its displeasure with Institutional Act Number 2 (AI-2). The option to support Castelo Branco against the "anti-American nationalist military", the so-called linha dura (hard line), kept a lid on tensions at this stage.[12] The thrust of military and diplomatic relations started to change more significantly during the Costa e Silva government. The United States was deeply engaged in Vietnam and set about reducing its military and diplomatic personnel in Brazil and strongly restricting military aid to Latin America as a whole. The priority was counter-insurgency, a field in which Brazil had already been developing its own doctrine and training centres, like Escola de Guerra na Selva (Jungle War School). A point of tension that was to unfold dramatically during the Geisel government was Brazil's refusal to join the Nuclear Non-Proliferation Treaty (NPT). In this context, the American refusal to supply supersonic F-5 fighter jets made Brazil turn to Europe once again, and acquire Mirage aircraft from France. In parallel, Brazil strengthened its long-term guidelines to develop the national weapons industry, so as to provide the Brazilian Armed Forces with autonomy. In 1969, *Empresa Brasileira de Aeronáutica* (Embraer, Brazilian Aeronautics Company) was founded. Among its first orders were Xavante training jets, made under license from Italian company Aermacchi, to train future Brazilian fighter pilots. The following year, a wide-ranging agreement was signed with the United Kingdom. The purpose was the acquisition of six modern frigates, two of which would be built in Rio de Janeiro. The impact of this agreement was felt in the training of Navy personnel and in the abandonment of the former model that depended on the (obsolete) materiel supplied by the USA (Martins Filho 2010).

New points of tension came about with the unilateral enlargement of the Brazilian Territorial Sea from 12 to 200 nautical miles and Brazilian persistence in not adhering to the NPT in the 1970s. Despite disagreements in the economic domain, during the Nixon

government there was a brief strategic re-approximation between Brazil and the United States that found expression, for instance, in the purchase of a batch of F-5 fighters by the Brazilian air force (Spektor 2009). However, the strategic nuclear issue remained open. In 1974, in the midst of the oil crisis and of the reverberations of the Indian atomic bomb, the USA suspended the supply of enriched uranium that had fed Brazil's research reactors acquired through the Atoms for Peace programme. This speeded up negotiations in this sphere with the Federal Republic of Germany. In turn, the signing of a broad nuclear agreement with this country in 1975 unleashed strong pressure from Washington. This question, together with criticism of the support offered by previous US governments to regimes that violated human rights, was integrated into Jimmy Carter's campaign speeches (Tempestini 1998). In 1977, the US Congress approved and Carter signed into law the International Security Assistance Act, which conditioned US military aid to respect for human rights on the part of recipient nations. This legislation implied severe restrictions on arms transfers to several countries, and was a turning point in the pattern of US military relations with its allies (Mott 2002).

In response to US pressures over the nuclear agreement and to the criticism of human rights violations by the Brazilian military dictatorship, the Geisel government unilaterally suspended the 1952 military accord, the Joint Military Commission, the Naval Mission and other minor measures, such as the cartographical agreement (Vizentini 1998). On the eve of their 35th anniversary, the "special military relations" came to an end, a consequence of the progressive strategic divergences between two countries whose relations had become more complex. But military relations were not cut off altogether. Contacts between the chiefs of staff remained, as did joint naval manoeuvres, officer exchanges in schools, a strong Brazilian presence at the Inter-American Defense College and the publication of a Portuguese language version of the influential Military Review (Davis 1996). The tensions that produced the political distancing and the interruption of the channels that for three decades had operationalized military relations did not weaken the enhanced economic and commercial relations, which involved the interests of US banks in Brazil's growing indebtedness, the competition of multinationals over this market and the export of Brazilian manufactured goods (Hirst 2009).

Military relations between Brazil and the United States in the final decade of the Cold War followed along in the progressive distancing process of the previous period. What differed was that the optimism in the quest for Brazilian military autonomy of the initial years was severely shaken by the limitations of the country's development model and the debt crisis. Brazil's growing military exports brought about a dispute surrounding the re-export of US technology embedded in these products. Washington intended to exert a veto power over sales to certain countries, which hurt Brazilian trade interests vis-à-vis Libya,

Iran and Iraq. The 1982 Malvinas War clearly exposed the limits of IATRA, thus making the idea that the United States was “not a very reliable ally” mature among the Brazilian military (Bandeira 1989). In a context in which the national weapons industry was capable of supplying 80% of the army’s equipment and disputes built up in sensitive fields such as information technology, missiles and nuclear energy, the Brazilian chiefs of staff began to formulate hypotheses of war, perhaps for the first time ever, between Brazil and “a country of the Western Bloc, situated in the northern hemisphere” (Bandeira 1989). Another important inflexion of this period was the progressive approximation between Argentina and Brazil, which evolved towards a hollowing out of their diplomatic-military rivalries and an enhancement of politico-economic ties that were to become institutionalized in the Mercosur (Common Market of the South).

Differences over US interventions in Central America and the Caribbean, over the creation of a NATO-style military alliance involving Argentina, South Africa and Brazil, over Brazilian access to technologies such as microelectronics, aerospace materials and long-range ballistic missiles, and to the US aircraft and armoured vehicle market were only formally mitigated by an understanding on military cooperation reached in 1984 (Vizentini 1998). In spite of thriving bilateral trade relations, disputes involving issues linked directly or indirectly to the Armed Forces were notable in the second half of the 1980s. Pharmaceutical patents created a new focus of disagreement, whipped up by US companies. This led to the creation of the ministry of Science and Technology and to the exacerbation of nationalist positions in Brazilian military circles on the question of “technological sovereignty”, which would bring together IT, the nuclear project and pharmaceutical patents with a view to an autonomous technology policy (Hirst 2009).

The international setting of the late 1980s greatly limited the Brazilian strategy. The Third World debt crisis and the “hardening” of North-South negotiations severely restricted the markets opened by Brazil in Africa and the Middle East. The fragility of the debt-fuelled growth of some “emerging” economies was becoming clear. Such countries were now more vulnerable to external pressures for “structural adjustment” of their economies, in a context of demobilization of third-worldist collective action (Lima and Hirst 1994). Brazilian dependence on the US market increased again, as did its reliance on financial institutions controlled by the North, such as the International Monetary Fund (IMF). The 1991 Gulf War marked another disagreement between Brazil and the United States, since the war put an end to important Brazilian economic and military cooperation interests in Iraq. If the Second World War was a milestone of a new standard in Brazil-US military relations, the conflict in the Middle East marked the end of an era. In constant pursuit of autonomy, Brazil went from being an exporter to being a modest importer of war materiel in the post-Cold War period.

Arms Transfers

An important indicator of the intensity and profile of military relations between two countries with such asymmetrical military might as Brazil and the United States is the supply of armaments, whether through military aid programmes or trade. This indicator was particularly relevant during the Cold War, for since the late 1940s military aid had become a political instrument of major importance for the United States (Pach 1991). The data presented here seek to quantify and qualify the importance for the Brazilian Armed Forces of their relations with Washington. It is not a full inventory of what was received (light weapons, munitions, radars, missiles and various items of equipment were left out, as were innumerable spare parts). Rather, it tracks significant means such as ships, aircraft, armoured vehicles and canons. This allows one to size up US influence in the structuring of Brazilian forces during the Cold War, as well as the change that took place in the second half of the 1970s, in comparison with other suppliers.

Table 1. Ships acquired by Brazil from 1950 to 1990, by category and country of origin

	USA	UK	Netherlands	FRG	Japan
Aircraft-carrier		1			
Cruiser	2				
Frigate	4	6			
Destroyer	14				
Submarine	11	3			
Minesweeper	4			6	
Landing	4				
Repair	1				
Rescue	1				
Transport					4
Tugboat			10		
TOTAL	41	10	10	6	4

Source: SIPRI.

The importance of the USA in the composition of the Brazilian fleet during the period is very clear, not just in numerical terms, but also qualitatively speaking. Only the United States supplied ships of the various categories, with (light) cruisers, submarines and destroyers standing out. The United Kingdom supplied the same number of vessels as the Netherlands, but more important ones, such as the aircraft-carrier delivered in 1960 and the Vosper frigates (capable of operating surface-to-surface missiles) that arrived between 1976 and 1980. Even then, British deliveries did not amount to ¼ of American ones.

Table 2. Aircraft acquired by Brazil from 1950 to 1991, by category and country of origin

	USA	France	UK	Netherlands	Canada
Piston fighter	25				
Jet fighter	116	24	71		
Bomber	38				
Training	229	49		70	
Helicopter	176	58	29		
Transport	131		12		24
Anti-submarine	33				2
Observation and liaison	40				
Detection	2				
Total	790	131	112	70	26

Source: SIPRI.

With respect to military aviation, the suppliers are a little more diversified. Even so, only the United States supplied aircraft of all categories, and always in greater number than other nations. In the case of fighters, it is important to note that Washington was a less willing supplier. The first batch was purchased from the UK in 1953, and it was not until 1956 that Brazil had access to the more modern American F-80s, and even then in smaller number than the British fighters. The obtainment of supersonic fighters was a difficult negotiation, as already commented, leading Brazil to acquire the first batch of sixteen Mirages from France in the early 1970s. It was only in 1973, in a context of commercial and political approximation, that the US government authorized the sale of 42 F-5A and F-5E fighters to Brazil, delivered in 1975 and 1976. A further batch with 26 aircraft was delivered during the dimming of Cold War lights (1988), so that the French presence was counterbalanced in this sector.

Table 3. Canons and armoured vehicles acquired by Brazil from 1950 to 1991

	USA	UK
Artillery	492	4
Armour	991	

Source: SIPRI.

If in the interwar period Brazil acquired artillery pieces from France and Germany, Table 3 allows one to conclude that during the Cold War the USA completely displaced European suppliers from the Brazilian market. The Krupp canons acquired in 1938 continued being used by the army, but in residual fashion. Beginning with the 1942 military

agreement, Brazilian artillery was restructured using American methods and equipment.[13] The four artillery pieces purchased from the United Kingdom were meant for the Inhaúma class corvettes, built in the Navy's own arsenal from the second half of the 1980s. As for the armoured vehicles that equipped both the army and the Navy, Brazil's deep dependence on the USA was partly reduced only when the national industry started supplying products manufactured domestically.

Table 4. Diversification in the supply of armaments to Brazil (%)

	USA	UK	France	Others
1951-55	83	17		
1956-60	68	25	5	2
1961-65	92	5	1	2
1966-70	58	12	1	29
1971-75	76	9	6	10
1976-80	27	62	7	4
1981-85	14	?	36	50
1986-90	12	?	46	42

Source: Mott (adapted). The percentages indicate the monetary value of transfers in each period.

Tables 1 to 3 show the totality of the materiel delivered by the USA and other meaningful suppliers during the Cold War without taking into account how this evolved over time. For its part, Table 4 presents the relative importance of each major supplier at different periods. Obtaining the specific percentage of UK deliveries between 1981 and 1990 was not possible, so these are aggregated in the "others" column. Table 4 clearly demonstrates that Brazilian dependence on US arms was very significant until the mid-1970s, when the dynamic began to alter. Washington held a comfortable lead, even reaching a virtual monopoly from 1961 to 1965, as had been the case during the Second World War. The United Kingdom had played a secondary though important role until then, meeting demands that the USA did not, like the first jet fighters for the Brazilian Air Force and the aircraft-carrier that equipped the Navy until 2001. Until the 1980s, France had hovered around the 5% mark, but by the end of the decade was the largest single supplier.

The second half of the 1970s was marked by an inflexion in the profile of Brazilian military acquisitions. The rupture of the military accord in 1977 constituted a watershed not only in diplomatic terms but also with reference to the diversification in the supply of war materiel. The US share was sharply reduced and carried on declining until the end of the period. The United States ceased to be a hegemonic or even majority supplier, becoming instead a secondary one, within a framework of diversification where no individual supplier managed to concentrate 50% of Brazilian purchases.

An assessment of the above data should also take account of the change in the American pattern of arms deliveries to allies, as Mott points out. Military aid programmes such as MAP underwent significant reduction or were interrupted precisely from the mid-1970s. In parallel, direct sales grew, whether financed or not by government credits. The supply of US armaments and equipment took place more and more by means of market mechanisms rather than through military aid.

Table 5. US arms transfers to Brazil, by type

	Military aid	Direct sales			
	MAP	Financed sales	Training and education	Total	
1946-55	50.6	21.4	3.1	75.1	-
1956-65	101.3	42.7	6.1	150.1	-
1966-75	55.2	122.6	6.5	184.3	12.7
1976-85	-	113.9	0.7	114.6	138.3
1986-90	-	121.1	0.3	121.4	210.8
Total	207.1	422.6	16.6	645.5	361.8

Source: Mott (adapted). Amounts in 1985 US dollars (million).

Table 5 shows the value of military aid (in million dollars) provided by the USA to Brazil over the course of the Cold War. The column furthest to the right indicates the value of direct arms sales that do not constitute military aid because they are not financed by government programmes. The data are set out so that one can visualize their evolution over time. In the case of military aid, the amounts are broken down under three different mechanisms: the Military Assistance Program, which supplied arms and military equipment with no onus for the recipient countries; sales of arms produced and financed by the USA, which constituted a mechanism of indirect aid; and the less costly but very important training and education programmes offered by the US Armed Forces to the Brazilian military.

Table 5 allows one to see that in terms of resources, MAP was the most important mode of US military aid to Brazil until the mid-1960s, accounting for approximately 2/3 of all the military aid in the period. MAP's preponderance coincides with the period in which Washington was Brazil's chief arms supplier. In turn, financed sales gradually took on a leading role. The rising values must be qualified, inasmuch as after the suspension of MAP by Carter and the denouncement of the Brazil-US military accord by Geisel, this mode in practice became the main mechanism of military aid to Brazil. However, the table also shows that the level of non-financed direct sales — inexistent in the first two decades of the Cold War and modest in the 1966-1975 period — rose sharply until the end of the period, even surpassing that of military aid. Examining Tables 4 and 5 side by side, one notices that

the decline of US influence in terms of the supply of armaments coincides with the end of donations and with the growing role played by purchases made at market rates.

Final Remarks

The dynamic of Brazil's military relations with the United States operated a movement of approximation motivated by convergent interests that were bargained over, followed by moments of strict alignment and then a progressive distancing inasmuch as Washington failed to attend to the strategic objectives formulated by Brazil. During four decades, the Brazilian military sustained the continuity of an agenda involving the acquisition of armaments and equipment and the development of a weapons industry linked to the broader industrialization of the country. Anticommunism and regional military supremacy were important themes in the initial decades and grounded the convergence between the two countries. But these declined in importance in the second half of the 1970s and exited the Brazilian agenda. Over the course of the Cold War, the intimate military relations that had even been designated a "special alliance", evolved, in the midst of advances and retreats, towards a distancing that translated a divergence in objectives and the emergence of disputes.

As for defence means, if on the one hand Brazil sought autonomy in terms of supplies for its Armed Forces (something that remained distant in the first decades of the Cold War), on the other the United States converted military aid more and more into business. This meant that there was room for Brazil to seek other suppliers on the growing international market and to develop its own industry, which towards the end of the period was also internationally competitive in certain niches. In spite of having played a fundamental role in the supply of combat means for Brazil's forces — with the consequent organizational, doctrinal and ideological implications —, military relations with the United States became progressively more distant as a result of the declining commonality between the two countries' objectives.

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Notes

1 The 1941 ministry of War report is particularly clear in this sense when it lists the conditions perceived as necessary for supplying Brazil's "future weapons industry", and manifests the intention of the military elite to make the country into a "great world power, truly independent" (BRASIL 1942, 10).

2 In 1941, a US$ 100 million credit had been agreed for Brazil to acquire war materiel from the USA, under the terms of the Lend-Lease Act. However, its implementation was far short of the demands formulated by the Brazilian military.

3 Military Attaché Intelligence Report. Rio de Janeiro, 5 December, 1946. RG 319 Records of the Army General Staff. Estimate Military Intelligence Division. National Archives (NARA).

4 Operational Letter Report. 28 October, 1950. US Military Commission (JBUSMC) Army Command Reports. RG 407, box 16, NARA.

5 Operational Letter Report. 28 October, 1950. US Military Commission (JBUSMC) Army Command Reports. RG 407, box 16, NARA.

6 The Joint Brazil-United States Military Commission and the Brazilian Army. RG 333 Record of the International Military Agencies. JBUSMC, 1946-1952, box 6, NARA. [

7 Monthly report of activities of the JBUSMC. 2 January, 1947. RG 333 Record of the international military agencies. JBUSMC, 1946-1952, box 7, NARA.

8 Relatório dos trabalhos do EME, 1945 e 1948. p. 287 and 296.

9 BRASIL. Relatório do Ministério da Guerra referente ao ano de 1952. CDocEx.

10 The full text of the agreement is published in Carone (1980, 35ss.).

11 Report of Mobile Training Team in Brazil. Fort Gullick, Canal Zone, April 22, 1966. RG 319 Records of the Army Staff, Foreign National Training files, 1955-1966, box 9, NARA.

12 Telegram from the Department of State to the Embassy in Brazil. Washington, November 7, 1965, 2:09 p.m. Foreign Relations of the United States, 1964-1968. Volume XXXI, South and Central America; Mexico, p. 493. Memorandum from secretary of State Rusk to president Johnson in Texas. Washington, December 3, 1965. Foreign Relations of the United States, 1964-1968. Volume XXXI, South and Central America; Mexico, p. 499ss.

13 US influence in this sector dates back to 1934, when a coastal artillery training mission was contracted by the Brazilian government.

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ARTICLE

Federalism and Public Resources in Brazil: Federal Discretionary Transfers to States

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This paper analyses intergovernmental relations in Brazil based on the dynamics of the distribution of federal discretionary transfers to the states between 1997 and 2008. The theme becomes more relevant when we consider the process of fiscal recentralization that has taken place in Brazil, particularly from 1994 on, and the importance of discretionary transfers for state budgets. Our purpose is to identify which factors can account for a higher or lower state's share in overall resources, by building on two explanatory dimensions: the partisan-political and the social-redistributive. The first one examines how the political dynamic affects resource allocation; the second, if discretionary transfers exhibit a redistributive character across states. Our findings show that a governor's partisan alignment with the president or with the president's government coalition are important factors in determining higher resource allocation for his/her state, and that states that are overrepresented in the lower chamber are favored. We have also found a redistributive character associated with federal discretionary transfers, favoring states with lower Human Development Index (HDI) rankings.

Keywords: Federalism; Fiscal federalism in Brazil; Federal discretionary transfers.

Introduction

This work will analyze how the federal government allocates discretionary fiscal resources to the Brazilian states. More specifically, it will investigate the factors that account for the distribution of Brazil's federal government discretionary transfers, the

Transferências Voluntárias da União (TVU), to the states from 1997 to 2008. From this perspective, this work is embedded in the debate about Brazilian fiscal federalism.

A main feature of the Brazilian federal system is the tripartite configuration of its political power. The federal government, the states, and the municipalities have governments of their own, and their own financial resources and administrative authority. Hence, understanding the Brazilian public sector entails understanding these three power entities and how they relate to each other. Intergovernmental fiscal relations, the so-called fiscal federalism, are a key feature of the configuration of the Brazilian State. To further our understanding of Brazil's fiscal federalism an analysis may be conducted on the distribution of public resources and expenses across governmental levels, on what defines the level of resource decentralization, and on how vertical relations (intergovernmental) and horizontal (national Executive and Legislative) bear on the federation's sharing of revenues and expenditures.

In this work we aim to explore one of the dimensions of fiscal federalism, Brazil's TVUs, which are, as aforementioned, discretionary transfers from the federal government to the state governments. These transfers represent one of the three main sources of funding of these subnational units, the other two being the taxes they levy and mandatory federal transfers as laid out in the constitutional charter. However, unlike the taxes they levy and the constitutionally-mandated transfers, which are revenues that are guaranteed to the states, federal discretionary transfers are within the competence of the federal government, more specifically of the national Executive branch, which has full freedom to set amounts and geographic destinations for these discretionary funds, in addition to the public policies that are to be benefited. We also know that tax collection across states is very unequal, evidently benefiting the richer states. From the opposite perspective, constitutional transfers have a markedly redistributive character, for they are aimed at minimizing the effects of the country's deep economic differences. But what can be said of the federal discretionary transfers?

We do not know how they occur; nor do we know the rationale guiding the allocation of such resources to the state governments. The aim of this article is to further the understanding of the relations between the governmental bodies of the federation. This is an important theme, particularly in the present context of severe fiscal constraints imposed on the states. The recent evolution of the Brazilian federalism has curtailed the spending freedom of subnational entities, while increasingly compromising their revenues with mandatory expenditures, especially in health, education, and the payment of public debts. If payroll expenses are added to that, for both active and retired staff, plus the cost of maintaining the public machine, the conclusion is that the state budget has scarce resources and very little leeway. Hence, discretionary transfers represent important additional resources for the states toward optimizing their public-policy execution capacity. What's more, these transfers also represent an important instrument of federal power in the central

government's relations with the states and the national legislature, as legislators also seek to channel part of these resources to their constituencies.

Two factors must be considered if we wish to understand the resource allocation dynamics of the federal government's discretionary transfers: the partisan-political factor and the social-redistributive factor. The first reveals that the partisan-political competition logic can influence the manner whereby the distribution of resources by the Union is defined. For example it is reasonable to assume that the federal government will privilege states whose governors or a large number of federal deputies belong to the president's power base. Under the social-redistributive perspective, we may expect poorer states to be granted more federal resources, as a measure to promote greater regional equalization. Determining which of these factors matter is the investigative task we have set ourselves to undertake. In order to attain such purpose, we have sought to analyze data on the federal discretionary transfers during the 1997-2008 period, thus comprising the two last years of the first administration of president Fernando Henrique Cardoso (Partido da Social Democracia Brasileira (PSDB), in the Portuguese acronym) and his entire second term of office, the first administration of Luiz Inácio Lula da Silva (Partido dos Trabalhadores (PT), in the Portuguese acronym), and the two first years of his second term of office.[1]

A third relevant factor for the analysis concerns the efficiency of the states in attracting funds. We may expect that better structured and more efficient states with regard to project design and intergovernmental negotiation should raise a bigger slice of the discretionary transfers. However, a lack of good indicators to that effect does not allow us to make a more accurate analysis of such factor at the moment.

The article is organized in four sections. In the first one we define the theoretical boundaries of the research subject, federal discretionary transfers, within the debate on the Brazilian fiscal federalism. The second section presents data on the apportionment of federal discretionary monies for the 1997-2008 period, highlighting total funds transferred and comparing their allocation across states and municipalities, and showing their importance in the composition of each state government's revenues. Most importantly, we describe how these transfers have been apportioned to the states, those who have been favored and those who have been passed over. The third section presents and seeks to explain, through statistical analysis, how the federal government has allotted discretionary transfers, that is, which criteria it has used to choose their main beneficiaries, whether political or reallocative. The findings show that a state governor's alignment with the central government, political overrepresentation in Congress, and redistributive criteria tend to increase the volume of federal discretionary funds transferred to state governments. Lastly, we close the article with some final considerations, indicating an agenda of studies for the deepening of the theme and breakthroughs on other fronts.

Federalism and Public Resources in Brazil

Federalism is a form of organization of the political power characterized by dual territorial autonomy. This entails the existence of two autonomous territorial spheres of government: one central, which constitutes the national government, and a decentralized one, which constitutes the subnational governments. The autonomy of the subnational units, a factor distinguishing the federation from the unitary state, is premised on the independent constitution of a government, of separate legislative and administrative structures and authority, and of financial autonomy. Thereby, intergovernmental relations of a fiscal nature represent a relevant aspect in the analysis of federative political systems, characterizing themselves as a separate field of studies, which is named fiscal federalism.

Fiscal federalism presents six dimensions that lend themselves to observation and analysis which are, according to Arretche (2005, 72), "a) the setting of exclusive taxing areas; b) autonomy of government spheres to legislate on matters regarding own taxes; c) tax authority over carryovers; d) a system of fiscal transfers; e) earmarking of revenues; and f) borrowing autonomy". These dimensions show how public resources and spending are set and distributed across government spheres, thus allowing the verification of the required condition of fiscal autonomy for the actual coming into force of a federation and its level of fiscal decentralization.

As for the Brazilian case, we have observed wide fiscal federalism variations throughout the country's republican history, with periods of greater and lesser decentralization. Part of these oscillations is associated with the instability of the political regime in the last century. We have also observed shifts in the degree of fiscal decentralization in the current democratic period, in which we have identified two distinct phases: 1980 to1994, when there was a decentralization process; and the post-1994 phase, characterized as a recentralization period.

Fiscal decentralization period: 1980-1994

The Brazilian redemocratization was followed by a process of fiscal decentralization that spanned the 1980s, as the share of the subnational spheres in the tax "cake" changed, as can be seen in Table 1. The tax reform that came into effect with the 1988 Constitution corresponded to the culmination of this process, which not only was unique in the Brazilian history, but also catapulted Brazil in terms of fiscal decentralization into the international scene (Afonso 1994, 356).

Parallel to the decentralization of revenues there was a decentralization of public expenditures. Yet, such process was conducted in an uncoordinated way, as attested by

the gaps and confusions regarding the division of competences between the federative spheres in the 1988 Constitution. There was a concentration of competences in the federal government, with few competences assigned to the subnational entities, notably to the states. Moreover, several government functions were established as concurrent competences, something complicated in a federative structure lacking the constitutional and institutional mechanisms designed to promote communication and cooperation between federal entities (Souza 2005).

Table 1. Tax resource allocation for three levels of government (1980-1993)

Government level	1980	1988	1993	Variance
Federal	69%	62%	58%	-1594%
State	22%	27%	26%	+18.18%
Municipal	9%	11%	16%	+77.78%
Total	100%	100%	100%	--

Source: Afonso and Affonso (1995).

Another problematic aspect of the decentralization process was a lack of fiscal accountability rules at the state and municipal levels, entities that came to enjoy a greater volume of revenues, and fiscal freedom to incur in expenses and enter into loan contracts. The result thereof was the states' rising indebtedness, stemming from the use of state-level banks as loan agents, further compounded by inflation and the high interest rates in force.

Post-1994 fiscal recentralization period

Several studies (Abrucio 1998; Kugelmas and Sola 2000; OECD 2001) contend that there has been a process of federative recentralization in Brazil since the 1990s, particularly in the post-1994 period. The federal government concentrated fiscal resources while simultaneously managing to achieve a higher degree of freedom to spend them and furthering the implementation of a stringent fiscal responsibility law for the federated entities. The analysis of the period, especially of the two presidential terms of Fernando Henrique Cardoso (1995-2002), points to a process of recentralization of tax revenues with the central government, of rising earmarking of revenues and implementation of a national legislation focused on expenditure control and fiscal accountability by governmental entities. The recentralization of tax revenues was done, predominantly, through the creation of or a rise in rates of the so-called social contributions (federal sources of revenue earmarked for social spending which are not subject to the constitutionally-mandated federative tax sharing provision), whose share in total tax revenues rose from 32.1% (1985-1990) to 41.4% (1991-1998), according to the OECD (2001, 83).

The period was also marked by greater earmarking of state and municipal revenues for education, health and payment of public debts. Article 122 of the 1988 Federal Constitution set forth a minimum level of 18% for federal government spending in education, whereas states and municipalities have to comply with a 25-percent minimum earmarking of all tax revenues and resources from transfers. The Fourteenth Constitutional Amendment of 12 September 1996 created the Fund for the Maintenance and Development of Fundamental Education and Valuation of the Teaching Profession ((Fundef), in the Portuguese acronym), which laid out new rules for the allocation of education-related resources: 15% of the 25% of the states' and municipalities' overall revenues should be channeled to a special state revenue fund to be redistributed, within each state, so as to ensure a minimum spending level per student in the state and municipal basic education systems; and 60% of the remaining 10% of the resources should be geared to universalizing education and the basic education teachers' payroll. The Twenty-Ninth Constitutional Amendment of 13 September 2000 set a minimum level of resources to be invested in health: 12% and 15% of total state and municipal, respectively, tax revenues and intergovernmental transfers, a rule that came into force in 2004.

Control of subnational expenditures and indebtedness through a national law was another key feature in the process of limiting the financial autonomy of state and municipal governments. The first measure approved was the "Camata Law" (Brazil 1995), which limited federal, state, and municipal payroll expenditures to 60% of net current revenues.

The privatization of state-level government-owned banks through the Program to Stimulate the Reduction of the Government Sector in the Financial Sector (Proes), created by Provisional Measure 1,514/96 and implemented in February 1997, deprived the states of an important source of public-spending funding and indebtedness. In addition, state debt restructuring agreements were reached, a process which took place between September 1996 and January 1997, when the federal government negotiated the debt of 22 states of the Federation. Terms ranged from 15 to 30 years and, as guarantees for compliance with the agreed upon accords, the states put up their revenues of Tax on the Circulation of Goods and Services (ICMS) and State Revenue Sharing Fund (FPE) (OECD 2001, 91).

The search for fiscal discipline at the subnational levels reached its climax in the year 2000 with the publication of Complementary Law 101 (Brazil, 2000), the so-called Fiscal Responsibility Law. This law constrained indebtedness at the three levels of government and set the following limits for payroll expenditures, in percentage of net current revenue: 50% for the federal government and 60% for states and municipalities. Penalties for noncompliance were laid down in the Fiscal Crimes Law, which was enacted in October 2000 (OECD 2001, 95-7).

The outcome of all these measures was a reshaping of the Brazilian fiscal federalism,

marked by a greater volume of non-earmarked tax resources concentrated with the central government and rising accountability and control of state and municipal expenditures.

In this context, discretionary transfers gained in attractiveness, as they allowed subnational governments to enhance their capabilities to implement public policies, especially investment expenditures. They also represented for the national Executive a powerful political coordination tool in intergovernmental relations with states and municipalities (vertical relations) and in negotiations with Congress (horizontal relations), given the legislators' interest in grabbing a bigger slice of the discretionary transfers to their constituencies.

The Distribution of Federal Discretionary Funds to the States: Who Wins and Who Loses

Federal discretionary transfers account for one of the three major sources of state revenues, which are:

1) Own tax revenues: taxes, fees and improvement charges collected by the states, such as the Tax on the Circulation of Goods and Services (ICMS) and the Tax on the Ownership of Automotive Vehicles (IPVA).

2) Resources from constitutional or mandatory transfers: constitutionally-mandated transfers from one federative entity to another. In the Brazilian case the most important federal transfers to the states are the State and Federal District Revenue-Sharing Fund (FPE); the Fund for the Maintenance and Development of Basic Education (Fundeb); and the Export Compensation Fund (FPEx) (National Treasury Secretariat 2008b).

3) Resources from federal discretionary transfers: pursuant to the Fiscal Responsibility Law, a discretionary transfer is "the assignment of current or capital resources to another entity of the Federation, for the purpose of cooperation, aid or financial assistance, not required by any legal provision, or those earmarked for the Single Health System" (Brazil 2000).

These three sources of funds can be distinguished in terms of fiscal autonomy. Own tax resources and constitutionally mandated transfers are revenues guaranteed to the states pursuant to the law. Discretionary funds are under the authority of the national Executive, which has full control over these resources and can set the volume to be transferred, the states that are to be benefited and the public policies to be targeted.

Thus, it is incumbent upon us to ask what these resources represent for the state governments and what has been the behavior of the federal government in their

apportionment. Would the federal government be first and foremost benefiting states in which it has political allies, while also making use of such resources to reduce the country's regional inequalities, as occurs with constitutional transfers?

Volume and allocation of federal discretionary transfers to subnational units (1997-2008)

Over the 12-year period analyzed, federal discretionary transfers to states and municipalities amounted to 103 billion reals, inflation adjusted, i.e., 8.6 billion reals a year on average. This amount represented 1.7% of the 2008 budget's total expenditures, which totaled 509.7 billion, excluding all intergovernmental transfers. This is of a magnitude similar to the expenses incurred by the federal government with the cash-transfer Family Allowance Program, which accounted for 2.1% of total expenditures for fiscal 2008 (National Treasury Secretariat, 2008d). This amount is, therefore, capable of generating impact on the political relation between the federal Executive branch and the other entities of the federation, especially on the less developed states.

Table 2. Federal discretionary transfers to state and municipal governments 1997-2008 (in thousands of reais)

Year	State government		Municipal government		Total
	Discretionary Transfers	% of total	Discretionary Transfers	% of total	
1997	6.819.937	71,1	2.773.775	28,9	9.595.709
1998	7.674.549	65,2	4.099.848	34,8	11.776.395
1999	4.836.796	62,3	2.924.202	37,7	7.762.996
2000	5.026.365	58,0	3.637.970	42,0	8.666.336
2001	6.196.046	64,6	3.400.546	35,4	9.598.593
2002	3.855.435	53,0	3.415.594	47,0	7.273.031
2003	3.375.052	48,1	3.643.588	51,9	7.020.643
2004	3.576.315	47,6	3.936.097	52,4	7.514.416
2005	3.756.050	46,1	4.381.096	53,8	8.139.151
2006	3.861.100	44,2	4.872.783	55,8	8.735.889
2007	3.841.852	43,8	4.924.564	56,2	8.768.423
2008	3.567.198	42,1	4.902.501	57,9	8.471.708
Total	56.386.696	54,6	46.912.564	45,4	103.299.260

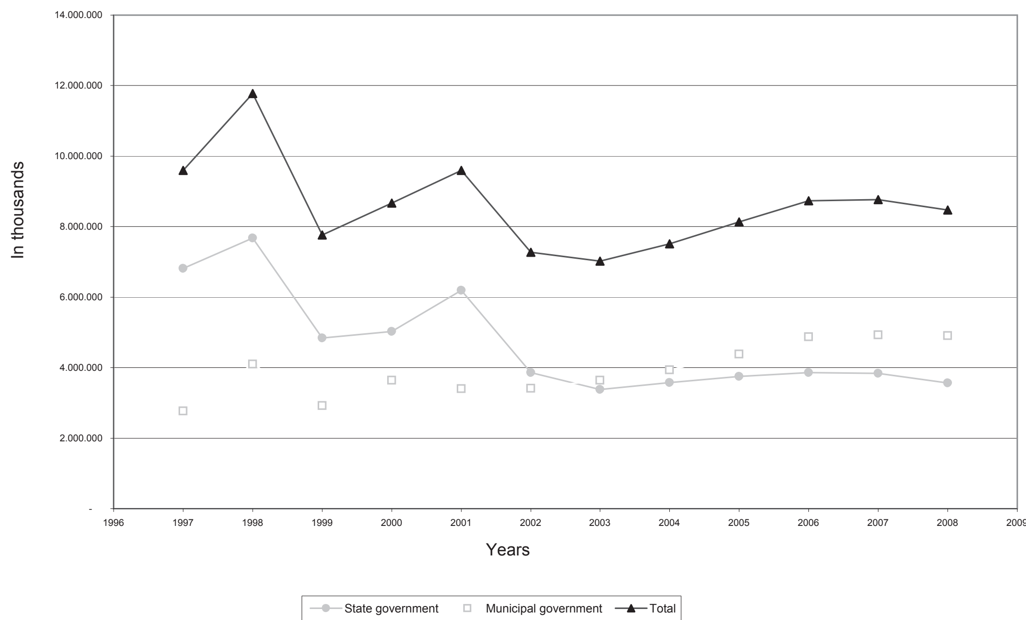
Note: Deflated to June 2010, by IPCA index of Brazil's national statistics office IBGE.
Source: STN (2008c).

Table 2 presents discretionary transfers by subnational level. Total transfers to states and municipalities exhibited a random behavior, with higher amounts transferred in the

beginning of the time series and a dramatic drop in 1999, 2002 and 2003, a fact that seems to be associated with the economic crises the country went through, with poor Gross Domestic Product (GDP) growth and greater commitment of federal resources to public debt-related financial expenses.

Another highlight for the period, as illustrated in Graph 1, is an inversion of priority in terms of federal transfers to the federated entities that benefited the municipalities. The "municipalist" perspective in the distribution of these resources cannot be fully accounted for within the scope of this work, but it might be yet another expression of the "municipalism" that has pervaded the Brazilian fiscal federalism during the current democratic period, as municipalities are elected as privileged entities in the decentralization of fiscal resources, to the detriment of the states (Rezende 2010). The increasing preference for municipalities also seems to be related to the decentralization of social policies, highlighted by the actions of the Ministry of Social Development and Combat against Hunger which, over the period, is the body that transferred the most discretionary resources to governmental entities.

Graph 1. Discretionary transfers to State and Municipal Governments (1997-2008)



Note: Deflated to June 2010 by IPCA index, of national statistics office IBGE.
Source: STN (2008c).

Federal discretionary transfers to state governments and their impact on state revenues

Total accumulated federal discretionary transfers to the states vary widely from state to state. To better assess the importance of these resources for state revenues Table 3 shows

aggregate data for tax revenues collected, constitutionally mandated transfers and federal discretionary transfers per state for the entire period.

Table 3. Own tax revenues, constitutional transfers and federal discretionary transfers to state governments, 1997-2008 (in thousands of reais)

State	Own Tax Revenues (RT) (1)	Constitutional Transfers (TC) (2)	Discretionary Transfers (TVU) (3)	TVU/RT (%)	TVU/TC (%)
AC	3,824,157	13,367,517	1,327,551	34.71	9.93
AL	13,089,843	16,262,485	1,548,745	11.83	9.52
AM	34,181,636	14,761,233	459,966	1.35	3.12
AP	2,981,694	13,706,897	1,118,668	37.52	8.16
BA	84,590,853	44,905,439	3,516,180	4.16	7.83
CE	40,322,209	29,235,403	3,193,386	7.92	10.92
DF	50,126,033	3,315,251	1,351,325	2.70	40.76
ES	51,599,350	13,211,948	597,357	1.16	4.52
GO	54,909,840	17,623,077	1,741,652	3.17	9.88
MA	17,988,521	29,032,080	1,663,390	9.25	5.73
MG	189,969,071	49,848,664	1,324,535	0.70	2.66
MS	29,208,075	8,742,665	1,177,247	4.03	13.47
MT	34,387,570	14,042,757	5,522,254	16.06	39.32
PA	32,390,108	29,442,833	1,767,288	5.46	6.00
PB	16,909,159	19,449,664	2,211,358	13.08	11.37
PE	51,964,309	30,170,093	1,946,309	3.75	6.45
PI	9,995,419	16,741,843	3,544,906	35.47	21.17
PR	100,702,688	30,662,146	2,008,472	1.99	6.55
RJ	186,935,028	21,939,682	2,041,045	1.09	9.30
RN	20,075,251	17,408,934	2,114,472	10.53	12.15
RO	13,503,886	12,051,978	1,961,198	14.52	16.27
RR	2,482,341	10,134,285	692,487	27,.0	6.83
RS	132,521,085	33,519,687	593,100	0.45	1.77
SC	60,979,424	17,639,222	1,449,263	2.38	8,.2
SE	11,940,125	16,357,010	8,095,507	67.80	49.49
SP	645,194,511	99,841,350	1,287,476	0.20	1.29
TO	8,022,180	17,445,311	2,131,559	26.57	12.22
Total	1,900,794,391	640,859,455	56,386,696	2.97	8.80

Note: Deflated to June 2010 by IPCA index of IBGE.
(1) STN (2008a) / (2) STN (2008b) / (3) STN (2008c).

The first finding is that the amounts of own resources collected by each state vary widely. At the extremities we have Roraima, with 0.38% of what the state of São Paulo collected. Even within the "wealthy" group, Minas Gerais or Rio de Janeiro did not reach a third of what the state of São Paulo collected while, together, the three states collected more than 50% of the total collected by all the other federative entities. The share of the nine states

of the Northeast region in total tax collection was 14%. Constitutional transfers, however, exhibited a different pattern. São Paulo participated with 16%, Minas Gerais with 8% and Rio de Janeiro with 3%, totaling 27% of all constitutional transfers. By contrast, the Northeastern states' share was 34% of total constitutional transfers. Lastly, federal discretionary transfers also exhibited a distinct share per state, something we shall detail below.

The second aspect to be highlighted, which can be observed in Table 3, is the importance of federal discretionary transfers for the state revenues. In the aggregate they corresponded to 3% of total tax revenues collected by the states and 9% of all constitutional transfers to states. However, in a context of sharp regional economic disparities, the weight of federal discretionary transfers for state revenues varies widely. At the extremes, total federal discretionary funds transferred to the state of Sergipe over the period corresponded to 68% of its total tax revenues, while to São Paulo federal discretionary transfers represented a meager 0.2% of tax revenues.

State governments ranking by receipts of federal discretionary transfers

In order to rank the Brazilian states in terms of resources received from federal discretionary transfers it does not suffice to use the absolute figures presented: these figures must be weighted to take each state's population into account. Table 4 presents federal discretionary transfers per capita for each state government over the period. As can be seen, ranking top as major beneficiaries are the entities of the North region, followed by the Northeast and Central-West regions. What could account for the central government's preference? Perhaps the answer lies in the economic situation of these regions: the assumption is that the central government would be allocating its discretionary resources to the poorer states. Such redistributive perspective seems to be corroborated when we compare each state's federal discretionary transfers per capita ranking with the state's GDP per capita ranking.

Still, if the data seem to assign a redistributive character to the discretionary transfers, they are far from signaling an unquestionable convergence between federal discretionary transfers and income. For example, the state of Acre was better ranked than nine other states with lower per capita income. São Paulo, ranking second in per capita income, received more resources than other four states ranked lower in terms of income. The assumption is that other factors have influenced the differences observed in resource allocation. At any rate, it seems reasonable to assume that social factors, combined with political factors, operate in determining success or failure of subnational entities in receiving discretionary resources from the federal government.

Table 4. State ranking - Federal discretionary transfers and income per capita (1997-2008 average)

State	Discretionary transfers per capita	Rank	Income per capita	Rank
AC	186.37	1st	3800.65	18th
TO	145.80	2nd	3364.95	21st
RR	140.43	3rd	4413.47	15th
AP	72.95	4th	4573.34	13th
RN	61.40	5th	3466.18	20th
SE	57.68	6th	4005.02	16th
PI	57.50	7th	2108.96	27th
PB	52.55	8th	2847.50	24th
DF	51.96	9th	18371.70	1st
MS	45.53	10th	6069.51	11th
AL	44.47	11th	2764.54	25th
MT	42.01	12th	6684.28	8th
RO	39.98	13th	4569.59	14th
PE	36.37	14th	3696.93	19th
CE	34.54	15th	3054.40	23rd
AM	31.12	16th	6501.36	9th
GO	27.61	17th	5201.42	12th
MG	24.95	18th	6106.93	10th
MA	23.75	19th	2121.54	26th
PA	22.61	20th	3329.74	22nd
BA	21.90	21st	3809.83	17th
SC	21.70	22nd	8409.39	5th
SP	17.55	23rd	10827.63	2nd
PR	16.46	24th	7535.39	7th
RS	15.63	25th	8454.12	4th
ES	15.43	26th	7589.61	6th
RJ	11.49	27th	9505.36	3rd

Note: Amounts deflated year on year to June 2010, by IPCA inflation index of Brazil's statistics office IBGE.
(1) STN (2008b).
(2) Estimated population, IBGE/DPE/Department of Population and Social Indicators (2010).
(3) State average GDP at constant prices (Brazil's real as at year 2000). Deflated by National GDP Implicit Deflator (1997-2007).
Source: Ipeadata (2010).

How Does the Federal Government Assign its Resources?

In a context of multiple political actors (governors, federal deputies, senators, among others) competing for and negotiating discretionary resources controlled by the federal government, we are referred back to the core question underlying the present work: which factors influence the distribution of federal discretionary transfers to state governments?

We seek to explain such dynamics by building on two dimensions: the partisan-political and the social-redistributive.

Partisan-political dimension

In the new constitutional order, control over the Union's budgetary process is centralized in the national Executive branch, which is responsible for drafting three laws: the Multi-year Plan (Plano Plurianual (PPA)), the Budget Guidelines Law (Lei de Diretrizes Orçamentárias (LDO)) and the Annual Budget Law (Lei Orçamentária Anual (LOA)), all of them submitted to Congress for discussion and amending, and thereafter to the president of the Republic to be sanctioned or vetoed.

The Annual Budget Law is an authorization for the federal government to incur in expenses, not an obligation, which means that certain budgeted expenditures may not come to be executed, including federal discretionary transfers. In practice, this is further evidence of the power of the federal Executive to set volumes and destinations of discretionary transfers. Moreover, budgeted execution of these resources has been recurrently frozen by the federal government, which also applies to budget-related amendments passed by the legislature.

Thus, the bottom line is that the distribution of federal discretionary transfers involves several institutions, actors and moments. A state may succeed in approving the inclusion of provisions of its interest in the Annual Budget Law at the moment the proposal is drafted in the ministries or during the legislative process, through amendment bills.[2] In the execution of the budget one may even seek to bargain for discretionary resources while at the same time trying to release funds agreed upon during the budget formulation process.

There is an important discussion in the literature concerning the criteria adopted by the Executive to transfer budget amendment bills, criteria which would be used as pork to ensure party discipline and support in the Legislature. For instance, Pereira and Mueller (2001; 2003) argue that the federal government executes a lawmaker's own budget amendment bill in exchange for support for the passage of legislation of the interest of the Executive. Figueiredo and Limongi (2008), in turn, contend that the lawmakers' individual amendment bills have no centrality in Executive-Legislative relations, as they are the ones with the lowest execution rates. According to these authors, the greatest concern regarding budget freezes, as well as with regard to amendment cutting, is the convergence of proposed expenditures with fiscal targets and the federal government's established public policies priorities. In the view of Figueiredo and Limongi, the overarching principle in amendment execution is partisan, more specifically whether the lawmaker's party belongs or not to the government's power base in Congress, rather than related to individual lawmakers.

Thus, the political dimension of national-level Executive-Legislative relations constitutes a key variable in the search for understanding discretionary transfers to the

states. Hence the assumption that the logic underlying the partisan-political competition does matter when it comes to the federal government's allocation of resources, and that the president's party or the parties that make up the president's power base, as held by Figueiredo and Limongi (2008), are favored in the allocation of discretionary transfers. Therefore, states can benefit more if they possess larger government-supporting delegations in the Chamber of Deputies.

Nevertheless, over and beyond the horizontal dimension of the Executive-Legislative political relation, other factors related to the federative dynamics can explain federal discretionary transfers to state governments. Mostly, it must be stressed, because federal discretionary transfers are significantly much higher than all of the individual budget amending bills, plus the fact that the execution dynamics of individual budget amending bills is not captured accurately in the allocation of discretionary resources. From the standpoint of intergovernmental relations strictly we can assume that governors can attract more resources to their states when they belong to the same party as the president or the government coalition.

The support lent by the states toward electing a president may also be a relevant aspect in explaining how much the states receive. For one, as stated by Arretche and Rodden (2004, 554), based on Cox and McCubbins (1986), it is likely "that risk-averse rulers will tend to invest in regions from which they received support in the more recent elections". However, still according to Arretche and Rodden (2004), rulers can also favor those districts with more undecided constituencies, with lower ideological alignment, and, thereby, more susceptible to respond positively to government spending-related incentives.

Social-redistributive dimension

In the debate about the advantages and disadvantages of the federation, May (1969) contends that the federative system reproduces and tends to increase regional inequalities, favoring the richer regions to the detriment of the smaller and poorer. This would occur for two reasons. First because the larger regions have larger electorates, thus greater influence over representatives. Second because their larger wealth is leveraged politically to pressure the central government. To attenuate the problem, May (1969) describes how the government acts toward establishing the system's balance through fiscal transfers:

> The function of fiscal transfers therefore is to allocate revenue, given the distribution of governmental functions, so as to achieve the greatest satisfaction of all governments. This implies a redistribution of income between units such that the benefits to small and poor units are sufficient to maintain their interest in federation, while the sacrifice of revenue by large and rich units is not considered by them to be greater than the benefits accruing from federation. (May 1969, 56)

In Brazil, a country characterized by sharp regional inequality, constitutional transfers have worked as a mechanism for the promotion of greater equalization and balance across states and regions. The poorest receive more resources than the richer. The main form of redistributive transfer is the State and Federal District Revenue-Sharing Fund (FPE), which amounted to more than R$ 38 billion, in 2008. Pursuant to Article 159 of the Constitution, 21.5% of the net collection (gross revenue minus fiscal incentives and rebates) of taxes levied on income and miscellaneous earnings (income tax) and on industrial products (IPI) is to be earmarked for the State and Federal District Revenue-Sharing Fund. Complementary Law 62 (Brazil 1989) set forth that 85% of FPE resources are to be allocated to the Northeast (53.5%), North (25.3%) and Central-West (7.17%), while each state's quota share is set on the basis of population size and an inverse income per capita factor.

We can assume that federal discretionary transfers may have a similar perspective and this seems to be more reasonable when we consider that, in order for the states to receive federal funds, the Budget Guidelines Law has set, over the last years, offsetting funds on the basis of state location, favoring the poorest regions.[3] Yet it is clear that the differentiated offsetting funds guideline only creates an incentive for the states situated in the North, Northeast and Central-West regions to access these resources, while the federal government holds the discretionary power to favor these regions or not.

Therefore, the explanation for governmental transfers to states is not simple. It entails elements of the two dimensions proposed, while an adequate analysis must consider them jointly. The purpose herein is that of verifying to which extent variables of a political nature – specifically party alignment and the president's electoral strength in the states – influence these transfers, by controlling variables of a social, economic and redistributive character.

Hypotheses and variables

Building on the information and discussions above we may establish as working hypotheses that the federal government transfers more discretionary funds to states:

H1: where the governor's party is the same as the president's;

H2: where the governor's party is a member of the national government coalition;

H3: which have fewer inhabitants per federal deputy (greater overrepre-sentation);

H4: which have a higher proportion of federal deputies in parties that are members of the government coalition, considering the state's total number of deputies;

H5: which exhibited a higher percentage of votes for the president in the most recent election and

H6: which have lower Human Development Index (HDI).

Given the strong asymmetry in the allocation of funds across states, we have decided to logarithmize the dependent variable – per capita volume of federal discretionary funds

transferred to state governments for each year of the period selected. As independent variables we have: 1) a dichotomous variable, a dummy, to measure if the governor's party is the same as the president's, by assigning a value of "one" to such condition and "zero" if otherwise;[4] 2) another dummy to measure if the governor belongs to one of the federal government coalition parties, codified as "one" for "yes" and "zero" for "no"; 3) a variable informing about the number of inhabitants per federal deputy in the state; 4) the proportion of federal deputies, in the state, that are part of the national government coalition.[5] Other independent variables are: 5) the percentage of votes received by the president in a given state at the time of the president's election to that post in the first round; 6) a dummy for FHC or Lula, with "one" for Lula and "zero" for FHC and 7) the state's HDI.

Arretche and Rodden (2004) is a main reference for the analysis we are undertaking, as the authors presented a similar model to explain federal discretionary transfers to the states for the 1996- 2000 period. However, some findings were distinct, a fact we may attribute to the different time frames analyzed, certain independent variables used, for example, they used GDP while we used HDI, and the regression technique applied.

Analysis of the findings

In order to test the hypotheses we used regression models whose dependent variable is the volume of federal discretionary funds per capita transferred to state governments. As we used time-series cross-section data, these models are subject to problems of heteroscedasticity, cross-correlated residuals and contemporary correlation of errors, that is, an error related to one state may be correlated with errors in other states for the same year. To solve these problems we will use the technique known as the "panel-corrected standard error", which is based on the traditional ordinary least squares (OLS) method, to correct the structure of the errors. The OLS method was proposed by Beck and Katz (1995), having since then become an important methodological innovation in political science.

In the models that follow, assessments were carried out of the impact that variables of a political and social nature have on funds' transfers to the states, such as whether the governor belongs to the same party as the president or to the president's government coalition; disproportionate state representation, as a function of the number of inhabitants per deputy; the proportion of federal deputies, elected in the state, that are part of the federal government's coalition; the percentage of votes received by the president of the Republic in the state in the most recent election; whether the state government is pro Lula, and the HDI.

It is important to bear in mind that the HDI is related to disproportionate state representation in the Chamber of Deputies (Soares 1973; Soares and Lourenço 2004). Accordingly, there remains the problem of finding out if greater resource outlays to

overrepresented regions can be accounted for only in terms of political motivations, mostly aimed at Legislative support, or if it is also related to these federative entities' needs. By using the two variables in the same model, HDI and disproportionateness, we are controlling for reciprocal effects.

In Table 5 we present two similar models. The only difference between them regards changing the variable that informs if the governor is affiliated with a party that belongs to the national government coalition for a variable informing if the governor is a member of the president of the Republic's party or not. As the latter is subsumed in the former, including both in the same model would generate multicollinearity problems.

Table 5. Determinants of volume of federal discretionary funds transferred to Brazilian states (1997-2008)

Dependent variable: Discretionary transfers per capita received by states, in logarithms	Model 1	Model 2
Governor belongs to president's party	-	0.24*** (0.06)
Governor belongs to national government coalition	0.16*** (0.06)	-
Number of inhabitants per deputy	-0.005*** (0.000)	-0.005*** (0.000)
Proportion of state's federal deputies that belong to national coalition	- 0.12 (0.22)	-0.02 (0.22)
President's votes in state	0.005 ** (0.002)	0.005 (0.002)
Lula government	0.28*** (0.11)	0.29*** (0.10)
HDI	-3.17*** (0.58)	-3.15*** (0.57)
Constant	6.49*** (0.49)	6.41*** (0.48)
N	324	324
R2	0.50	0.50

*** p > 0.01 ** p > 0.05 (Standard error)

The figures suggest that the political relationship between the federal government and the governor does indeed matter with regard to the volume of discretionary transfers to the states. In the first place we can observe that the fact that they belong to the same party showed a high statistical significance in explaining the dependent variable. In the second place comes the fact of whether the governor is a member of one of the parties of the central government's coalition, which also showed a significance level of 1%. Both behaviors were confirmed as had been anticipated: the central government favors those governors who belong to the president's party in the allocation of resources and, to a lesser

extent, governors of the government's power base. It is worth recalling that these parties hold important ministries, bodies playing a key role in resource allocation.

The proportion between the number of deputies and the size of the population – indicative of the size of a state's disproportionate representation – also proved to be an important variable in explaining resource transfers, in both models. The bigger the number of inhabitants per deputy, the bigger the number of votes required to elect a deputy, and the lower the outlays tend to be in proportional terms. In other words, the president seems to favor overrepresented states to the detriment of the underrepresented. The hypothesis is that the president seeks to "cheapen" the cost of Legislative support by transferring more resources per capita to states where the cost is relatively lower. These results are convergent with the findings of Gibson, Calvo and Falleti (2004), who identified overrepresentation in the Chamber of Deputies as the most important variable in accounting for the distribution of government expenditures in Brazil, Argentina, Mexico, and the United States.

The variable related to the president's electoral performance in a state also presented statistical significance, a 5-percent level, in the first model. The data show that the votes the president received in the most recent election help explain, with a 5% significance level, the quantity of resources that were transferred. This result is in line with the result found by Arretche and Rodden (2004, 568) that "the president rewarded with federal discretionary transfers the states that most supported him in the 1994 and 1998 elections". This suggests that the president is more concerned with consolidating the support received than with improving his electoral performance in states where he was poorly voted. This interpretive possibility goes counter the argument by Lindbeck and Weibull (1987) that candidates (or parties) tend to concentrate efforts on marginal districts, that is, on those where they failed to get a majority of votes, though by a narrow margin.

The variable controlling information on the presidential term shows that, proportionally, Lula made more transfers than Fernando Henrique. For the sake of speculation, we could say that Lula's behavior would have been a way of making it up to the relatively smaller power base he had in the legislature. It could also have been a way Lula found to reinforce the strategy of increasing his party's embedding in less developed regions, which received more resources particularly during his administration.

Another variable that proved highly significant was the one controlling each state's level of development, herein measured by the HDI. The negative sign shows that the more developed the state is, the lesser the federal government tends to allocate funds of a discretionary nature to it. The result suggests a redistributive perspective in the action of the central government, transferring resources to the neediest states, a perspective similar to that of the mandatory transfers. We may again assume that this is also a strategy adopted by the president to seek "cheaper" political, electoral, and governmental support, that is,

in states that are more dependent on federal funds, where the impact of and the return on the resources invested may be proportionally bigger.

The proportion of deputies belonging to the government coalition did not prove significant, in either of the two models. A suggestive explanation of such result is that in a system as polarized and fragmented as the Brazilian is the government cannot simply limit itself to meeting only the demands of its consolidated power base; it must also make use of the flexible resources it has available to grab additional votes from the opposition. Figueiredo and Limongi (2008) showed that the central government executes both budget amendments submitted by deputies from its power base, though to a higher degree, and by those of the opposition, and that, in executing individual lawmakers' amendments it takes into account its own priorities in terms of public policies. With this we are suggesting that a similar rationale underlies discretionary transfers of resources: both the states with many deputies in the government's power base and the states with a greater number of political adversaries receive discretionary resources. We should also highlight that amendment bills represent a smaller share of the discretionary transfers. This means that the government might be prioritizing its allies' amendment bills, but not exactly these allies' states; even more so because, as our models indicate, the central government is also looking at the political allies at the head of subnational governments.

These results also contribute to the debate by characterizing federal discretionary transfers as yet another tool available for the Executive branch to set the Legislative agenda, in addition to those already described by the literature on the field, such as the president's legislative powers and rules conducive to the centralization of the decision-making process (Figueiredo and Limongi 2001), power of agenda and patronage (Santos 1997), appointment of ministerial posts (Neto 2000), and execution of budget amendments (Pereira and Mueller 2001).

In short, though we were unable to establish a causal relation, the data suggest that the amount of resources that are arbitrarily allocated by the federal government to the states depend on the political relation with the governor, the state's level of development, and disproportionate representation in the lower chamber. The last two are related and can be traced back to an old discussion in the Brazilian political science that suggested a "promiscuous" relation between federal government and the less developed states (Soares 1973). The idea is that the discretionary distribution of resources to the poorest, and overrepresented, states would be an additional tool in the hands of the president of the Republic toward strengthening the Executive's political capital and reducing filibustering. That would be so because the effect of a given quantity of resources in needy regions, with a relatively large number of representatives, generates a much greater impact than in richer regions exhibiting a representation "deficit". This is, however, a highly speculative

hypothesis we do not intend to test herein. The concern in this article was merely to identify the important variables in explaining the central government's motivation when it transfers resources to this or that state. To have a more accurate view of its consequences for the legislative arena, new research must be conducted that should take into account the deputies' role in the budget-making process and the lawmakers' behavior in roll-call votes, in addition to other aspects of the lawmaking action.

Final Considerations

This article sought to analyze federal discretionary transfers to state governments. First it characterized, through concepts and values, the meaning of these transfers. Next, it ranked states according to the different allocations of such resources, demonstrating how some states were much more benefited than others in terms of resources received from 1997 and 2008. In the third section we sought to mobilize some factors that might prove instrumental in accounting for differences in federal discretionary transfers across states and we performed a statistical test with some variables. We found out that the alignment of a governors' party with the president or with the president's government coalition impacted positively on the revenues received annually by the state. States with greater disproportionate representation in the Chamber of Deputies were also benefited. Lastly, less developed states, in HDI terms, were favored in the allocation of federal discretionary funds, which points to a redistributive perspective that may be associated with a central government strategy of seeking "cheaper" political support.

Nonetheless, this is a new agenda of studies that may gain much larger contours than the ones outlined in this article. Deepening the issue requires adopting a similar perspective toward the municipalities and seeking to describe and understand their position toward such resources. In parallel, it is also critical to examine the types of public policies favored in the states and municipalities, which have been given priority in the allocation of resources. Furthermore, a cross-section study of discretionary transfers, focused on the lawmakers' amendment bills, may help to clarify the connection between budgetary resources and the Executive-Legislative relation at the national level. New steps in the research will advance the field of study of fiscal federalism, plus constituting a source of information for greater transparency and control of public resources by society.

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Notes

1 Time period choice was dictated by data availability at the National Treasury Secretariat. Coincidently, it provides us with data on a 12-year period, six for each of the two last governments.

2 Amendment bills are submitted by federal deputies and senators for the purpose of nullifying, introducing or reallocating appropriations in the Executive's budget proposal. With regard to their introduction, amendments can be submitted by a single lawmaker, a state's delegation, a regional delegation, and Senate and Chamber permanent committees.

3 To receive federal discretionary funds, the states must contribute with a required minimum percentage of the amount received, the offsetting funds. The 2010 Budget Guidelines Law set forth in Article 39 that such percentages shall be: a) 10% and 20% for priority states as established by the National Policy for Regional Development (Política Nacional de Desenvolvimento Regional (PNDR)), in the areas supervised by regional development agencies (Superintendência de Desenvolvimento do Nordeste – (SUDENE), Superintendência de Desenvolvimento da Amazônia (SUDAM) and Superintendência de Desenvolvimento do Centro-Oeste (SUDECO)); and b) 20% and 40% for the all other states (Brazil 2010).

4 The electoral data used to feed the data base, for instance the governors' parties, were taken from Nicolau (2006).

5 In determining the governor's and federal deputies' states, first, we set out on the basis of the state of the candidate's election and then updated the data taking party switching into account, drawing on two databases kindly made available by Carlos Ranulfo. Data on government coalition were taken from databases kindly offered and made available by Octavio Amorim Neto.

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ARTICLE

Policies of Space and the Space of Politics: The "Negotiated Expansion" of the Belo Horizonte Metropolitan Area[1]

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The aim of this article is to analyse the process of expansion of the Belo Horizonte Metropolitan Area, created in 1973 with 14 municipalities, which today comprises 34 municipalities, making it the second largest MA in Brazil. After the redemocratization, more specifically after the promulgation of the State Constitutions in the late 1980s, several new metropolitan areas were created in the country, and all nine MAs instituted in the early 1970s increased their number of member municipalities, in a context of low prioritization of the MAs by the federal government. The article highlights the factors of a legal, institutional, symbolic and political/electoral nature that explain the expansion of the BHMA, also very present in other regions. It underscores the impact of the model of metropolitan management adopted after the 1989 State Constitution on the capacity to produce cooperative action in the metropolitan sphere. It also analyses the manner in which the dilemma of collective action for the management of the MAs in the state of Minas Gerais was sought to be overcome, by means of adopting a new institutional model, in the mid-2000s.

Keywords: Belo Horizonte Metropolitan Area; Metropolitan management; Constitution of the state of Minas Gerais; Federalism; Intergovernmental relations.

When the 1988 Brazilian Constitution delegated to the Brazilian federal states the autonomy to formalize and manage regional entities (metropolitan areas, urban clusters and micro regions), it not only enabled the country's metropolitan areas (MAs), as institutional phenomena, to multiply, but also the number of municipalities belonging to

the already constituted MAs to increase. The first nine MAs had been created by means of federal legislation in the early 1970s, a number that was gradually increased when the State Constitutions were promulgated in 1989.[2] Today (March 2010), there are 35 MAs in Brazil (Observatório das Metrópoles 2010).[3]

From 1973, when Complementary Law no. 14 was created, until 1988, the Belo Horizonte Metropolitan Area (BHMA) kept its original dimensions, comprising 14 municipalities. After the promulgation of the Constitution of the State of Minas Gerais in 1989, the BHMA rapidly expanded, and today includes 34 municipalities. 20 new municipalities were incorporated as members of the BHMA from 1989, on 6 separate occasions, in a process that reflected: (a) the expansion dynamic of a metropolitan cluster itself, as a social/urban planning phenomenon; (b) the creation of new municipalities (6 out of the 20 new members); and particularly (c) the new political game created around the metropolitan phenomenon, arising from the aforementioned delegation of autonomy by the 1988 Federal Constitution to the federal states to institutionalize regional entities. As we will see in greater detail, this process of expansion was not exclusive to the BHMA.

In this process of expansion, which was mostly negotiated, the difference between the MA's "spatiality" and "institutionality" increased (Moura and Firkowski 2001), in the sense that the expansion bore little relation to the growth of the urban cluster and its dynamism. This was because the municipalities incorporated into the BHMA were not very integrated into the metropolitan dynamics and some were even predominantly rural. Put another way, the outer limit of the BHMA became even more distant from the metropolitan cluster's "urban sprawl". It is worth pointing out that this expansion was implemented at a time when the MAs found themselves to be generally "orphaned from political interest" in the country (Ribeiro 2004) and in Minas Gerais, in spite of the innovative character of several aspects of the state Constitution.

The aim of this article is to analyse this process of expansion, highlighting the impact of the model of metropolitan management adopted after the state Constitution, and the political motivations behind the expansion, as well as the bargaining tools and the nature of the bargain. It is worth mentioning the non-existence of academic research specifically dealing with this issue, which is doubtlessly a large gap in the specialist literature. This piece of work also aims to contribute towards filling in this gap.

Although our focus is mainly on the experience of the BHMA, our work frequently seeks to compare it to that of other MAs in the country. As the development of the BHMA and its metropolitan management mechanisms is paradigmatic in many aspects (by the radical nature of its expansion and the innovative character of its institutions), this research will be of interest to all of those interested in the metropolitan issue in Brazil.

As we shall see, the expansion of the Brazilian MAs took place in a generalized

manner, and in the majority of cases, widened the mismatch mentioned above. The academic bibliography on metropolitan management commonly highlights that the main dilemma – which does not only occur in the Brazilian MAs – concerns the difficulties in producing cooperation in order to overcome shared problems within the space of the metropolis – known as the dilemma of collective action. The phenomenon analysed in this article, that is, the increase in the number of municipalities that make up an MA, is thus central to understanding the efficacy of metropolitan institutions. If collective action is made difficult by an increase in the number of actors whose action must be coordinated, the greater the number of municipalities that make up an MA, the greater the difficulties in generating concerted action will be. As we will later see, the new model of metropolitan management adopted in the BHMA in the mid-2000s was implemented in a very specific context. However, the factors of a legal, institutional, symbolic and political/electoral nature that favoured the expansion of the BHMA in the recent past, which will be discussed in this paper, are essentially the same as the ones that led to the expansion of other MAs in the country.

With these objectives in mind, the article will be structured as follows. In the first section, we will seek to characterize the process of creation of the new MAs in Brazil after 1989 and the increase, in the same period, in municipalities pertaining to the first-generation MAs; that is, the nine instituted in the beginning of the 1970s. The federal policy on metropolitan space started to give way to a new policy on space that was predominantly under the auspices of the state. The second section will discuss the impact of the provisions of the Constitution of the state of Minas Gerais, more specifically the impact of the new model of metropolitan management adopted by the state on the behaviour of the Mineiro (native of the state of Minas Gerais) political agents, given it created incentives for expanding the BHMA. Here, the new post-1988/89 institutions, children of the past federal policy and moulded by a certain image of the metropolitan space, began to guide a new policy on space in the sphere of the state. The third section specifically discusses the motivations of the state's governors, state deputies and mayors to increase the number of municipalities that made up the BHMA, and highlights the bargaining tools and the nature of the bargain. In this section, it is a question of discussing the space occupied by politics in the process of expansion of the BHMA, to the detriment of the physical and urban planning aspects, which, in theory, should frame the metropolitan management space. We shall observe how regional politics develop in the microcosm of the state, bounded by a certain image and a new institutionality of the metropolitan space. The fourth and final section will discuss the proposals from the beginning of the 2000s to create new MAs in the state of Minas Gerais, which caused great mobilization to seek to supersede the second-generation, post-1989 model of metropolitan management. The final considerations briefly show how the new model of metropolitan management, implemented in the state of Minas Gerais and

the BHMA in the mid-2000s, promoted a concentration of power in the state government and the more developed metropolitan municipalities, and put an end to a certain policy on space in the sphere of the state. It thus created another policy, still in the process of being structured today.

The "Metropolization of Brazil" in the Post-1989 Period and the Process of Expansion of the First-Generation Metropolitan Areas

In this article, our focus is on the institutionalization of metropolitan areas, in a process which, at least in Brazil, is not always closely related to metropolises thought of as urban clusters. In order to render the issue more precise, it is pertinent to initially present a definition of the so-called "metropolitan problem". According to Alberto Lopes (2006, 139),

> The specificity of the metropolitan [question] comes from the fact that the elements of space (environment, infrastructures, social subjects) keep a close, systematic and daily interdependence, manifested in a concentrated fashion, in a certain fraction of the territory, fragmented by the current politico-administrative division.

As we will see in greater detail, technical and urban planning criteria relative to this "close, systematic and daily interdependence" were not always decisive in the institutionalization of the MAs in the country. At times, they were also neglected, such as in the incorporation of new municipalities to the first-generation MAs. This term, "first-generation" MAs, refers to the nine MAs instituted by the federal government, still during the military regime in the early 1970s, among which was the Belo Horizonte MA.[4] Put differently, in theory, only municipalities belonging to the metropolis' urban sprawl, which transcend the municipal boundaries or have a high level of integration into the metropolitan dynamic in social and urban planning terms, should belong to the metropolitan area as an institution. However, it also makes sense to think that municipalities should be incorporated into an MA, if, for example, independently from the level of their integration into the cluster dynamics, they possess water reserves or are willing to house solid waste produced by the metropolitan municipalities in their territory. However, what Moura and Firkowski (2001) termed the "mismatch between the spatiality and institutionality" of the country's MAs could already be noticed since the first generation of MAs in the country,

As discussed by Moura and Firkowski (2001, 105), this mismatch seems to have been present in the very origin of the MAs in Brazil, as there is evidence to show that the military government's decision about which municipalities would belong to the nine first-generation MAs was not solely based on technical criteria. According to the authors:

The inclusion of certain cities in the group [of MAs] created at that moment showed signs of weakness in the conception of the criteria that guided the selection. Such weakness became evident in the case of [the MAs of] Belém and Curitiba. In it, the metropolitan dynamic showed itself, according to some authors, to be even less intense than ones in other areas of the same state, such as in the axis formed by the cities of northern Paraná. A similar situation took place in the case of Campinas and Brasília, discarded, among others, from the federal process of institutionalization. The fact that the nine [MAs] had their respective state capitals as their seat, and that political interests prevailed to the detriment, in some cases, of a qualitatively metropolitan issue, results from this process.

Thus, it seems possible to state that, initially, the greater the “mismatch between the spatiality and institutionality” of the MAs, the greater tends to be the incidence of political factors in the constitution of the MAs, to the detriment of technical or social/urban planning considerations. In the case of the BHMA, it has already been said that the municipality of Caeté, an original member of the MA, was only included because it was where the then state governor, Israel Pinheiro, hailed from (Fernandes 2004).

Table 1 shows a classification of the municipalities that initially made up the nine first-generation MAs. If we consider the data in the second column, the large variation in the number of municipalities of those MAs – between 2 (MA of Belém) and 38 (MA of São Paulo) – becomes immediately clear. The MAs of Belo Horizonte, Curitiba and Porto Alegre, with 14 municipalities each, occupied the post of MAs with the second greatest number of member municipalities.

Table 1. Spatiality and institutionality of first-generation MAs

First-generation metropolitan areas	Number of municipalities incorporated in 1973	Non-metropolitan municipalities incorporated in 1973	% Non-metropolitan municipalities incorporated in 1973
Belém	2	0	0.0%
Belo Horizonte	14	1	7.1%
Curitiba	14	4	2.6%
Fortaleza	6*	2	33.3%
Porto Alegre	14	0	0.0%
Recife	9	0	0.0%
Rio de Janeiro**	10	0	0.0%
Salvador	9*	2	22.2%
São Paulo***	38	4	10.5%
Total	116	13	11.2%

Source: Author’s own work, data taken from the Observatório das Metrópoles (2004; 2008).
* The municipalities of Maracanaú, from the Fortaleza Metropolitan Area, and Dias D’Ávila, from the Salvador Metropolitan Area, were included in 1986. / ** The Rio de Janeiro Metropolitan Area was created in 1974, after the fusion of the state of Rio de Janeiro with the state of Guanabara. / *** The Vargem Grande Paulista municipality was incorporated into the São Paulo Metropolitan Area in 1983.

Columns 3 and 4 in Table 1 show the number and percentage of "non-metropolitan" municipalities incorporated into the first-generation MAs, respectively. The idea is to gauge the mismatch between spatiality and institutionality from this indicator, which, as we will next discuss, should be seen as a proxy.

The "non-metropolitan" municipalities are those which have a level of "integration into the cluster dynamics" considered to be Low or Very Low, according to classification developed by the Observatório das Metrópoles (2004) presented in the document titled Análise das Regiões Metropolitanas do Brasil: Identificação dos espaços metropolitanos e construção de tipologias (Analysis of Metropolitan Areas in Brazil: Identifying metropolitan spaces and building typologies"). For a definition of the "levels of integration", the following indicators were used: average geometric population growth rate 1991-2000; population density; number and proportion of people that make "pendular movements" (live in one municipality and commute to work in another); proportion of non-agricultural jobs; presence of functions specific and indispensable to the movement of people and merchandise, such as location of ports and airports and the capacity to generate income through the local economy, expressed by participation in the region's GDP. As a result of this, five integration categories were created: Very High, High, Average, Low and Very Low. We should reiterate that municipalities with a Low or Very Low degree of integration were considered to be "non-metropolitan".

The indicators, however, were produced from data referring to the 1990s and the beginning of the 2000s. This being so, in truth, columns 3 and 4 from Table 1 show a classification that does not refer to the early 1970s, when the first-generation MAs were constituted. Given the difficulty of re-doing the calculations with data from the 1970s, and because we consider it is normal that the degree of integration of the municipalities into the metropolitan cluster should grow instead of shrinking as the decades go by, it seems possible to use this classification to at least signal, in some way, the existence of the "mismatch between spatiality and institutionality" since the beginning of the institutionalization of the MAs in the country. It seems quite likely, however, that low integration municipalities originally incorporated into the first-generation MAs increased their links with the metropolitan cluster. It is reasonable, thus, to expect that when these nine MAs were constituted, the mismatch between spatiality and institutionality was significantly greater.

This aside having been made, and bearing in mind the above considerations on the other motivations to technically justify the incorporation of municipalities not belonging to the urban sprawl into the MAs, let us now explore the data in Table 1 in greater detail.

First, it is worth highlighting that the data back up the comments made by Moura and Firkowski (2001) on the specificity of the Curitiba MA, which in Table 1 appears next to the São Paulo MA, as the first-generation MA with the greatest absolute number of non-

metropolitan municipalities (four). Problematic as though it may be, this indicator generally suggests that criteria for defining member municipalities other that the technical ones were given much importance, as five out of the nine MAs that incorporated municipalities, to this day, have a Low or Very Low degree of integration (considered to be non-metropolitan). These are the MAs of Belo Horizonte, Curitiba, Fortaleza, Salvador and São Paulo.

Having made these considerations and presented the mismatch between the institutionality and spatiality of the first-generation MAs, let us now continue with an analysis of the "metropolization" process in the post-1989 period in Brazil, or, more specifically, of the institutionalization of the several new MAs in Brazil – or second-generation MAs – in order to then analyse the process of expansion of the first-generation MAs, also in the post-1989 period.

The creation of new MAs in Brazil after 1989

The nine MAs created by the military regime in the early 1970s still exist today, even if their capacity to promote intergovernmental cooperation in the metropolitan sphere suffered serious setbacks as early as the 1980s, with the economic crisis and the dismantling of the superstructure of support for urban development that had been articulated by the federal government during the military regime (Lopes 2006). Aside from the nine remaining first-generation MAs, another 15 were instituted in the country after 1989 (according to other sources, this number is much higher. See footnote 3). Table 2 shows these new MAs. It might be worth recalling that the nine original MAs, whose management model was reconfigured from new state regulations in the post-1989 period – as was the case of the BHMA –, today could also be characterized as belonging to the second generation, even if their "institutional memory" has had implications on their acting capacity.

We can see that 12 of the 26 states of the Federation (almost half of them) instituted new metropolitan areas after the transfer of responsibility from the Union to the states enabling them to do so. Three of these states created two new MAs – Maranhão, Paraná and São Paulo. Paraná and São Paulo today have three MAs each, as they already had MAs whose poles were their respective capitals. These 15 MAs grouped a total of 152 municipalities, while the nine first-generation MAs were composed of 115 municipalities when they were created in the early 1970s. Today, after the post-1989 process of expansion of the first-generation MAs, their member municipalities total 188. Regarding the implementation dates of these new MAs, it is worth noting that: (a) the country's second-generation metropolization process began in 1995, with the constitution of the MAs of Greater Vitória and Aracaju. The six year gap between the promulgation of the new State Constitutions and the actual creation of the first of the second-generation MAs seems to

suggest a certain lack of priority to the issue on the part of subnational political agents, who were still deeply steeped in the "autarchic municipalism" conception;[5] (b) 11 out of the 15 new MAs were constituted between 1995 and 2000 and (c) the other four MAs were instituted between 2003 and 2007.

Table 2. MAs instituted in Brazil after 1989

	State	Metropolitan area	No of municipalities	RM's year of implementation
1	Alagoas	Maceió	11	1998
2	Amapá	Macapá	2	2003
3	Amazonas	Manaus	8	2007
4	Espírito Santo	Grande Vitória	7	1995
5	Goiás	Goiânia	13	1999
6	Maranhão	Grande São Luís	6	1998
7	Maranhão	Sudeste Maranhense	8	2005
8	Minas Gerais	Vale do Aço	26	1998
9	Paraíba	João Pessoa	9	2003
10	Paraná	Londrina	8	1998
11	Paraná	Maringá	13	1998
12	Rio Grande do Norte	Natal	9	1997
13	São Paulo	Baixada Santista	9	1996
14	São Paulo	Campinas	19	2000
15	Sergipe	Aracaju	4	1995
	Total		152	

Source: Author's own work, data taken from the Observatório das Metrópoles (2008).

These brief considerations on the process of "metropolization" in post-1989 Brazil having been made, we shall now continue with an equally brief evaluation of the expansion of first-generation MAs during this period.

The expansion of the first-generation MAs after 1989

In order to later examine the expansion of the Belo Horizonte MA from a less regionalist viewpoint, from which we can appreciate the Mineiro experience based on more general comparisons, we will now present the expansion of the first-generation MAs in the period following the promulgation of the State Constitutions in 1989.

Table 3 presents the total number of municipalities incorporated into the nine original MAs after 1989, also highlighting the number and percentage of non-metropolitan municipalities that became members of those MAs. The definition of a non-metropolitan municipality is as per the previously made specifications.

Table 3. Non-metropolitan municipalities incorporated into first-generation MAs after 1989

First-generation metropolitan areas	Total number of municipalities incorporated into the MA from 1989	Non-metropolitan municipalities incorporated from 1989	% Non-metropolitan municipalities incorporated from 1989	Total number of municipalities today
1. Belém	3	1	33.3%	5
2. Belo Horizonte	20	10	50.0%	34
3. Curitiba	12	8	66.7%	26
4. Fortaleza	7	3	42.9%	13
5. Porto Alegre	17	5	29.4%	31
6. Recife	5	1	20.0%	14
7. Rio de Janeiro	6	0	0.0%	16
8. Salvador	1	0	0.0%	10
9. São Paulo	1	0	0.0%	39
Total	72	28	38.9%	188

Source: Author's own work, data taken from the Observatório das Metrópoles (2008).

In the early 1970s, the São Paulo MA was – and still is today – the MA with the greatest number of member municipalities (37 in 1979 and 39 today). New members were added to all nine first-generation MAs after 1989. The Belo Horizonte MA, however, expanded the most, having incorporated 20 municipalities. The Porto Alegre MA incorporated 17 new members, while the Curitiba MA incorporated 12. All other MAs incorporated up to a maximum of seven members.

Regarding the degree of integration into the metropolitan cluster dynamic, it is initially worth recalling that the indicators here are more precise than those presented in Table 1, as they are less out of date. Having mentioned the indicators' weakness, we should note that: (a) only three out of the nine first-generation MAs did not incorporate municipalities considered to be non-metropolitan: the MAs of Rio de Janeiro, Salvador and São Paulo; (b) the Belo Horizonte MA is the one that incorporated the greatest number of non-metropolitan municipalities (10), having been the one in which perhaps the technical criteria weighed the least when the decision to incorporate new municipalities was made; (c) when we consider the percentages, we find that all six MAs that incorporated non-metropolitan municipalities did so in at least 20% of cases; (d) more than half of the new members incorporated into the Curitiba MA and half of the new municipalities of the BHMA are today non-metropolitan; and (e) in percentage terms, Curitiba, not Belo Horizonte, was the MA that most incorporated municipalities of Low and Very Low integration.

Thus, it is evident that the 1988 Federal Constitution's act of assigning to the states the duty of caring for the management of their respective territories led not only to the creation of new MAs, but also to the expansion of all first-generation MA´s. However, the

motivations and reasons behind this process, as well as the degree of prevalence of political criteria over technical ones, should be sought in specific enquiries, which will be made in the following sections, but only for the Minas Gerais case and for the case of the expansion of the BHMA in more detail. It is worth noting, however, that the discussion that follows will emphasise the weight of the legal criteria and of the institutional impact (of the model of metropolitan management adopted), with special emphasis on the role of variables of a political nature.

Before we begin this discussion, though, we should draw the reader's attention to an interesting comparison, which seems to us significant, even if we take the deficiencies of the indicator we are using into account. A comparison of the "Total" rows of Tables 1 and 3, which deal with the first-generation MAs and their expansion, respectively, shows that at the moment of inauguration of metropolitan management in the country, 13 non-metropolitan municipalities were incorporated (11.2% of the total), while after 1989, another 28 municipalities (38.9%) considered non-metropolitan were added to the group of nine MAs. Even recognizing that the indicator used underestimates the number of municipalities with low integration into the metropolitan dynamics incorporated into the MAs in the early 1970s, it seems pertinent to suggest that with the transfer of responsibility promoted by the 1988 Federal Constitution, the issue of metropolitan management in the country became even more vulnerable to variables of a political nature, as the mismatch between institutionality and spatiality seems to have grown.[6]

It is also worth pointing out that, if it can repair the exclusions caused by the dynamic of expansion of metropolitan clusters itself, the incorporation of new members into the MA's institutional structure also inevitably implies adding a greater number of actors to the game of cooperation in the metropolitan sphere. If cooperation tends to be more feasible when a smaller number of actors are involved, an outstanding issue is the behaviour of actors who represent municipalities with low integration into the dynamic of the metropolis in these structures (see Faria (2008) on this important issue).

The Constitution of the state of Minas Gerais, the New Model of Metropolitan Management Adopted and the Expansion of the BHMA

The previously mentioned 1988 Federal Constitution's delegation of responsibility to the states to assume their territories' management was, as far as the metropolitan issue is concerned, superseded by the 1989 Constitution of the state of Minas Gerais, in a clear – and, in some aspects, innovative – manner. In Article no. 42, the Mineira Constitution says that the state "can institute, by complementary law, metropolitan areas and urban clusters constituted of groupings of borderline Municipalities of the same geo-economic and

social complex, to integrate the planning, organization and execution of public functions of common interest".

In truth, in this respect, the Constitution of the state of Minas Gerais (CEMG) stands out from other State Constitutions in some important aspects. When she contrasts the treatment given to the metropolitan issue by several different Brazilian State Constitutions, Rovena Negreiros (1992) points out the following peculiarities in the CEMG's original draft: the state of Minas Gerais, as the state of Ceará, might have advanced in its purposes of regional organization by indicating in the constitutional text its concern "regarding the decentralization and deconcentration parallel to regional integration". The CEMG (Negreiros 1992, 314) provided the adoption of "specific integration tools, from policies of planned deconcentration of economic development and of the sharing of community benefits and resources for compensating the effects of polarization". Furthermore, both the CEMG (Negreiros 1992, 315) and the constitutional texts of the states of São Paulo and Ceará sought to outline the specificities of each one of the types of regional unit, even if generically, and defined "a group of factors that must be observed regarding the classification of the municipalities for each regional unit".

As an advancement worth highlighting, Negreiros (1992, 315) also points to the fact that Ceará and Minas Gerais listed and defined the public functions of common interest, classifying them according to the different regional units. Azevedo and Mares Guia (2000, 135), however, state that

> (...) only a low number of State Constitutions exactly define the functions of common interest of municipalities belonging to metropolitan areas. The one that shows up recurrently is that of the public transport/road network system addressed in the constitutions of the Federal District, Amazonas, Ceará, Goiás, Minas Gerais, São Paulo and Paraná. After 'public transport/road network system', among the most cited public functions of common interest are 'water resources', 'land division/ use and occupation' (Federal District, Minas Gerais, Goiás and Amazonas) and 'environment control' (Federal District, Minas Gerais and Amazonas).

Another important specificity of the Mineira Constitution was the definition of the "Metropolitan Necklace",[7] configured – as a planning tool – as a potentially important mechanism for dealing with the impact of the process of metropolization on the surrounding municipalities. These impacts are relative, for example, to the intensification of the division of urban land, to the need for a reserve of water resources and the demand for public transport (Moraes 2001).

Regarding the institutional arrangement for metropolitan management, in its original draft, the Minas Gerais constitutional text proposed the creation of a Metropolitan Assembly that would have among its attributes "the regulatory normative power to integrate planning,

organization and the execution of public functions of common interest" (CEMG, Article 45, Line I). However, in a general manner, the State Constitutions mostly strengthened the need for involvement in the management of the MAs by the "community and/or municipalities (Amazonas, Paraíba, Rio de Janeiro, Espírito Santo, Minas Gerais and Rio Grande do Sul), granting local governments a prominent role in the process of metropolitan decision-making" (Azevedo and Mares Guia 2000, 136). However, in the words of Negreiros (1992, 316), "from the point of view of the institutional arrangement, the management model that most advanced was that of Minas Gerais, whether because of its democratic character or the level of political articulation it suggests". Furthermore, in Minas Gerais, as in Pará, the State Constitutions foresaw the creation of development funds (1992, 317). However, according to Azevedo and Mares Guia (2000, 136), in

> (...) terms of financial support, the constitutions of the states of Paraíba, Minas Gerais and Espírito Santo are the ones that determine specific budget items and/or mechanisms of co-responsibility of the state and municipal governments, geared towards guaranteeing resources allotted to *functions of public interest*.

Faria (2008), recognizing the central role given to municipalities in the institutional arrangements characteristic of the second-generation's models of metropolitan management, considered it pertinent to denominate the modality instituted by the 1989 state Constitutions as being based on a "symmetrical hyper-municipalism", "since the tendency in the sphere of the state was to not discriminate between different roles for member municipalities, according to their economic and demographic particularities and the type of place they occupy in the metropolitan dynamics" (Faria 2008, 56).

According to the provisions of the state Constitution, the Assembleia Metropolitana de Belo Horizonte (Ambel, Belo Horizonte Metropolitan Assembly) would be constituted of mayors, councillors appointed by their respective municipal chambers, a representative of the Legislative Assembly and a representative of the state Executive, appointed by the government. In this way, the BHMA's new institutional structure completely inverted the correlation of forces in the sphere of metropolitan management, giving ample primacy to the municipalities' interests, in contrast with the state-biased emphasis of the Federal Legislation of 1973.

However, the new model, initially perceived as democratizing, would quickly reveal itself to be inoperable. As a possibly unexpected effect, the "hyper municipalism" of the Ambel produced new obstacles to intergovernmental relations in the metropolitan sphere, as demonstrated by several authors (see Azevedo and Mares Guia 2000; 2008; Faria 2008; Machado 2009; Mares Guia 2001). To summarize very briefly, what happened was that the Metropolitan Assembly directorates started to become dominated by coalitions of smaller

municipalities, which opposed the metropolitan economic axis, comprising Belo Horizonte, Betim and Contagem, usually to the detriment of the state government's interest, which as we have seen, was very modestly represented in the Ambel. The reaction by the municipalities of the economic axis and the state government then started being one of emptying the Assembly. It is also worth recalling that, as the Fundo de Desenvolvimento Metropolitano (Metropolitan Development Fund) ended up not being regulated, and the financial issue was not resolved either, which meant, in practice, that the state government kept control of a significant part of the main tools of metropolitan intervention. Such a control was thus largely carried out outside of the institutional structure for metropolitan management created by the CEMG. The Ambel's weakness was such that it did not have resources to count on, not even for the maintenance of a technical-administrative body. Azevedo's and Mares Guia's (2000, 139) argumentation seems to us as concise as it is precise:

> Why should the larger municipalities of the BHMA – Belo Horizonte, Betim and Contagem – and the state government be responsible for the near totality of resources of the said Fund, if formally they have such a modest influence in the decision-making process for the allocation of funds, and therefore irrelevant political gains? In such a situation, the elementary assumptions of the logic of collective action indicate that the behaviour of the state and these municipalities is exactly as expected, since the financial costs would be immeasurably higher than the possible political returns".

According to Machado (2007), when the meetings of the Ambel did take place, they dealt with issues specific to certain municipalities, leaving the great metropolitan problems in second place. As was pointed out by Azevedo and Mares Guia (2008), the majority of mayors and councillors who participated in the Ambel remained firmly rooted to a localist attitude of exclusively defending municipal interests, and had difficulty adopting a regional view, vital to creating intergovernmental cooperation in the metropolitan sphere. At other times, municipal governments clearly bowed to the state government representative. Still according to Mares and Guia (2000, 138),

> (...) when the sole representative of the state Executive participates in meetings, he/she inexorably takes the central position Although, in theory, the metropolitan decision process essentially depends on an agreement between municipalities, the state Government holds the control of a substantial part of the relevant metropolitan intervention tools (public services such as inter-municipal transport, water supply, sewage collection, electricity, building and maintaining roads, among others).

Another interesting fact is that the devices relative to metropolitan management contained in the state Constitution were only regulated in 1993, by means of Complementary

Law no. 26. As highlighted by Machado (2007), this considerable time lapse can be thought of as more evidence of the little attention dedicated by the state government to the management structure of the BHMA, which, as we have seen, would prove to be inefficient.

In order to complete our idea of the deterioration of the management structure of the BHMA, as well as the Ambel's inoperativeness, we should also recall: (a) the weakening and subsequent extinction of the Plambel, the metropolitan planning body, in 1996 and (b) the incapacity of state agencies geared towards the urban issue to cooperate, that is, the difficulty with intergovernmental coordination in the sphere of the state, which also indirectly denotes the little interest of the state government in the metropolitan issue.

As he analyses the transaction costs for states to assume metropolitan management, Machado (2009) concludes that such costs tend to be quite significant due to the following summarized factors: (a) the high political cost for states to establish legal-vertical metropolitan management parameters without the consent of local authority leaderships; (b) legal controversy – currently being discussed in the High Federal Court – about the possibility of the state law for the creation of metropolitan areas making the integrated provision of public services of metropolitan interest compulsory; (c) the low resonance of the metropolitan issue in urban social movements; (d) the lack of support from the federal government to the possibility of states having central roles in metropolitan management and (e) the preponderance of the municipalist/decentralizing paradigm in the political, technical and academic fields.

In this manner, the author adds, the vertical-compulsory forms of organization of metropolitan areas tend to have high transaction costs for the state governments. This might be one of the explanations for the low effectiveness of the management of metropolitan regions created by state laws in the country. According to the analysis of Moura and her colleagues (2003, 52-53), the metropolitan areas formally instituted by the state:

> (...) are not anchored in an institutional framework that actually structures their complex dynamics. They are, recognizably, spaces of economic and social expression, but not of Law, as they do not circumscribe territories able to normatize, decide or exert power, and are located in a hiatus between a municipality's autonomy – endorsed by the 1988 Constitution – and the Union's competency regarding management for development. (...) The realization of social and territorial pacts collides against the fragility of the complex legal-institutional environment of the regions, under pressure from hegemonies and political powers, and from politico-party disputes, which damage decision-making in the regional sphere .

In turn, as Souza (2003) analyses the trajectory of the institutionalization of metropolitan areas in Brazil, she argues that the states' difficulties in assuming the metropolitan issue more effectively can be understood based on the notion of path

dependence. To the author, the model of metropolitan management created by the military in the 1970s, as well as being stigmatized as a mechanism of authoritarian acting in metropolitan spaces, was incapable of generating lasting incentives for intergovernmental cooperation, as it did not generate a collective conscience or a sense of regional identity around the importance of metropolitan issues, either. Furthermore, the essentially technical character of the metropolitan agenda during that period "went against the grain" of the demands for more pluralist and decentralized public management formats during the redemocratization period. This might have caused the Union and the states to practically fall silent about issues relative to the management of metropolitan spaces, which would partly explain the decadence and/or extinction of the majority of metropolitan entities until then in existence.

Thus, the Brazilian states did not succeed in creating second-generation metropolitan management mechanisms capable of offering the state government a more significant acting space. Furthermore, the now prevalent metropolitan area conception may also have broken with the then current concept of MA in the 1970s, in which the political variable was of relative importance, given considerations of an economic and physical-spatial nature were given priority. The very creation after 1989 of several MAs in the same state could be a sign of rupture with the previous, first-generation MA model, and closer to the North-American model. In this model, qualifying an urban sprawl as "metropolitan" depends on the existence of a pole-city with at least 50,000 inhabitants, circumvented by urban counties; that is, locations identified by the Census as possessing a large expanse of a continuous area with high population density. Machado (2009) observes that the concept of metropolitan area in the United States is more important statistically than for intergovernmental relations.

Given this general outlook of low prioritization of the metropolitan issue in the country there arises an interesting question: if the metropolitan areas were, to some degree, "abandoned", becoming "orphaned of political interest", as per Ribeiro's (2004) incisive statement, one might ask why so many MAs were created in Brazil after 1989 (in truth, after 1995, as shown in Table 2).

The model of metropolitan management adopted after the Mineira Constitution and the governor's lack of concern are central elements to understand the expansion of the BHMA. The next subsection is dedicated to this question. In the last section of the article, we will discuss the attempts to create new MAs in Minas Gerais.

The expansion of the BHMA

The BHMA is today composed of 34 municipalities. As we have seen, out of the 24 MAs currently instituted in Brazil (see footnote 3), the BHMA is the second largest in

number of member municipalities. Only the São Paulo MA comprises a greater number of municipalities (39). It is also worth noting that only the SPMA, the BHMA and the MAs of Porto Alegre (31 municipalities) and Curitiba (26) are constituted of more than 19 municipalities. Table 4 presents the makeup of the BHMA and some of the basic characteristics of the 34 municipalities that compose it today.

Table 4. Constitution and basic characteristics of the municipalities of the BHMA

(1)	(2)	(3)	(4)	(5)	(6)	(7)
Municipalities of the BHMA	Integration into the cluster dynamic	Year of integration into the BHMA	Resident population in 2000	Distance from the capital (Km)	Area (Km2)	Population density (2000) (inhabitants/ km2)
Belo Horizonte	Pole	1973	2,238,526	0	331.9	6718
Contagem	Very High	1973	538,017	16	195.2	2748
Ibirité	Very High	1973	133,044	25	73.3	1812.3
Ribeirão das Neves	Very High	1973	246,846	15	154.6	1595
Santa Luzia	Very High	1973	184,903	12	234.4	788.1
Vespasiano	Very High	1973	76,422	14	70.3	1085.7
Betim	Very High	1973	306,675	30	346.8	875.4
Sabará	High	1973	115,352	17	304.4	376.3
Caeté	Average	1973	36,299	31	542.7	66.8
Lagoa Santa	Average	1973	37,872	22	232.7	162.3
Nova Lima	Average	1973	64,387	22	429.7	149.6
Pedro Leopoldo	Average	1973	53,957	24	291.9	184.4
Raposos	Average	1973	14,289	23	72	198.2
Rio Acima	Low	1973	7,658	35	228.7	33.5
Esmeraldas	High	1989	47,090	38	912.3	50.2
Igarapé	Average	1989	24,838	46	110.3	220
Brumadinho	Low	1989	26,614	44	634.3	41.9
Mateus Leme	Low	1989	24,144	53	303.4	79.5
São José da Lapa*	High	1993	15,000	13	48.8	307.6
Juatuba*	Average	1993	16,389	43	97.1	162.3
Sarzedo*	High	1997	17,274	31	62.1	277.6
Mário Campos*	High	1997	10,535	36	35.3	298.2
Confins*	High	1997	4,880	21	42.1	113.9
S. Joaquim de Bicas*	Average	1997	18,152	42	72.7	249.7
Florestal	Very Low	1997	5,647	51	194.9	28.9
Rio Manso	Very Low	1997	4,646	62	232.8	19.9
Matozinhos	Average	1999	30,164	32	253.6	118.6
Capim Branco	Average	1999	7,900	34	94.5	83.4

Table cont.

Itaguara	Low	1999	11,302	85	411.9	27.4
Nova União	Very Low	1999	5,427	42	172	31.6
Baldim	Very Low	1999	8,155	59	556.7	14.6
Jaboticatubas	Very Low	2000	13,530	40	1117.1	12.1
Taquaraçu de Minas	Very Low	2000	3,491	33	330.3	10.6
Itatiaiuçu	Low	2002	8,517	64	295.9	28.8

(*) Municipalities emancipated from others that belonged to the BHMA.
Sources: Observatório das Metrópoles (2004; 2006) apud Faria (2008, 60).

Observing the data presented in Table 4, the great heterogeneity of the BHMA becomes evident, such is the difference in the levels of integration of the municipalities into the cluster dynamic as well as in the resident population, the distance from the capital, the municipalities' area and their population density. Some of these discrepancies must be pointed out: (a) 17 of the 34 municipalities of the BHMA (50%) had fewer than 20,000 inhabitants in 2000; (b) 21 of the member municipalities are located more than 30km away from the capital, and the one furthest away, Jaboticatubas, has an area 31 times greater than the area of the smallest municipality, Mário Campos; (d) Ibirité is the most densely populated (1,812.3 inhabitants per km2), and 14 out of the 34 member municipalities have fewer than 100 inhabitants per km2.

Regarding the heterogeneities in the member municipalities, we should also present data not present in Table 4. It is generally expected that the municipalities that make up an MA have a high degree of urbanization. However, if 16 out of the 34 municipalities of the BHMA had urbanization rates of more than 90% in 2000, according to data from the Population Census, six of them had rates below 60%, and in Nova União and Taquaraçu de Minas the rural population was greater than the urban one. If we take into consideration that the degree of urbanization in Brazil was of 81.2% of its population, we then note that 15 out of the 34 municipalities of the BHMA had urbanization rates below the national average in 2000 (Observatório das Metrópoles 2006, 19, Table III.2).

Such heterogeneities, to which surely must be added those relative to the degree of development of the municipalities and their capacity for administrative and political negotiation, imply a management model based on a "symmetrical hyper municipalism" – the assignation of the same weight in the management structure to deeply asymmetrical political units, which can be seen as an impediment to cooperative intergovernmental relations. On the other hand, it is also possible to think that, as the co-optation of the more fragile members is facilitated, this asymmetry can favour certain articulations in the metropolitan sphere. However, as we saw in our brief discussion on the Ambel, what was found in the specific case of the BHMA was a weakening of the structure of metropolitan management.

As for the "mismatch between spatiality and institutionality", measured by the degree of integration of member municipalities into the cluster dynamics, we note that out of 34 municipalities of the BHMA, excluding the capital, which is the Pole, six show a Very High level of integration, six a High level, 10 an Average level, five a Low level and six a Very Low level. Therefore, according to the criteria adopted, 11 of the member municipalities of the BHMA (the five Low integration ones added to the 6 Very Low integration ones) can be considered "non-metropolitan". All these 11 municipalities were incorporated into the BHMA from 1989, Rio Acima being the only exception. This Low integration municipality already figured among the 14 original members. As we previously indicated, 50% of the municipalities incorporated into the BHMA from 1989 (10 out of 20) can be considered to be "non-metropolitan", which shows the weight of the political criteria on the decision to expand the BHMA.[8] However, as far as the expansion by incorporating emancipated municipalities is concerned, it is important to highlight that this was the case in six out of 20 new members, as shown in Table 4.

At this point in our argumentation, we should point out that this great mismatch between spatiality and institutionality in the expansion of the BHMA is even more surprising when we recall the following provision by the Constitution of the state of Minas Gerais in Article 44:

> Art. 44 – The institution of the metropolitan area will be made based on an evaluation of the totality of the following objectively verified data or factors, among others:
> I – population and demographic growth, with a five-yearly projection;
> II – degree of conurbation and migratory fluxes;
> III – economic activities and development perspectives;
> IV – polarization factors;
> V – deficiency of public services in one or more Municipalities, with implications for the region's development.

It seems evident that strict attention to constitutional precepts, which emphasise technical and objective questions, would have resulted in a much smaller expansion of the BHMA than the one that actually happened. Regarding the inconsideration of the technical/urban planning aspects, it is worth making the following suggestion: the incorporation of new municipalities into the BHMA accelerated from 1997, when 14 out of the 20 new members were added. Whether or not a coincidence, this phenomenon occurred after the extinction of the Plambel, in 1996, the state metropolitan planning body, which at the end of the 1980s survived with difficulty.

The next section of this article will focus on an evaluation of factors of a political nature that seem to have been responsible for a significant part of the mismatch previously referred to.

The BHMA'S "Negotiated Expansion"

Having so far highlighted the impact of legal and institutional factors on the expansion of the BHMA, and indicated the spaces made for the possible prevalence of political factors over technical/urban planning ones in the decisions regarding the expansion, let us now turn to a discussion of the motivations of the political agents, and of the bargaining tools and the nature of the bargain.

Initially, we must point out the existence of strong evidence that the party variable had a low impact on decisions regarding the expansion. As any decision on the expansion of the BHMA must be made in the sphere of the Legislative Assembly of the state of Minas Gerais (ALMG), on which the state governors usually have a strong influence, the following hypothesis can legitimately be raised: municipalities whose mayors are part of a coalition with the governor's support may have their demand to formally join the MA made easier. However, such a hypothesis seems not to stand. This is because a look at the party of the incorporated municipality's mayor and the governor's coalition, carried out in the case of the 20 new municipalities added to the BHMA (whose details will not be presented here due to lack of space), revealed the following: the mayors of only 10 of the incorporated municipalities belonged to parties that made up the governor's parliamentary support base during the decision-making process, whereas the mayors of nine of the incorporated municipalities *did not* belong to the governor's coalition (in the specific case of the mayor of São Joaquim de Bicas, of the Partido do Movimento Democrático Brasileiro (PMDB, Brazilian Democratic Movement Party), this correlation could not be established because only part of the party belonged to the "Todos por Minas" ("All for Minas Gerais") coalition, which gave its support to the then governor of the Partido da Social Democracia Brasileira (PSDB, (Brazilian Social Democracy Party), Eduardo Azeredo).[9]

The process of expansion of the BHMA, as an institution, took place between 1989 and 2002, as shown in Table 4. During this period, Minas Gerais was governed by four different governos: Newton Cardoso, PMDB (1987 to 1991); Hélio Garcia, Partido das Reformas Sociais (PRS, Social Reforms Party) (1991 to 1995); Eduardo de Azeredo, PSDB (1995 to 1999) and Itamar Franco, PMDB (1999 to 2003). In each of the four governments, evaluating the degree of integration of the incorporated municipalities and whether or not the mayors belonged to the governors' support base is interesting, as well as being an important element for our discussion on the space of politics in the process of expansion of the BHMA. It is initially clear that, in the administration of all four governors, municipalities whose mayors *did not* belong to the governor's coalition parties were incorporated. They were nine in total, as we have seen. However, out of these nine, only four were non-metropolitan, and

all were incorporated during Itamar Franco’s government (Nova União, Jaboticatubas, Taquaraçu de Minas and Itatiaiuçu).

During the administration of all four governors, municipalities governed by mayors whose parties belonged to the state government’s parliamentary support base were also incorporated (three in the Cardoso administration, one in the Garcia administration, four in the Azeredo administration and two in the Franco administration, totalling 10). Non-metropolitan municipalities whose mayors were the governors’ allies were incorporated during the Cardoso administration (two), the Azeredo administration (two) and the Franco administration (two).

It must also be noted that all four governors promoted or did not succeed in obstructing the incorporation of municipalities considered to be metropolitan (with Average, High and Very High levels of integration): two in the Cardoso administration, two in the Garcia administration, three in the Azeredo administration and two in Franco’s. Only in the Garcia administration were exclusively municipalities considered metropolitan incorporated (São José da Lapa and Juatuba, only the mayor of the latter being the governor’s ally).

From an exclusively technical or urban planning point of view, the incorporation into the MA of municipalities with a good level of integration into the metropolitan dynamic is desirable, so that spatiality and institutionality can be adjusted. However, as we have seen, in the administration of three out of four governors, the exception being Hélio Garcia’s, non-metropolitan municipalitie whose mayors belonged both to parties allied to the governor and opposition groupings were also added.

The patterns outlined in the previous paragraphs generally suggest the non-determining character of the variables utilized for the incorporation of a municipality into the BHMA, which are: (a) whether the municipality’s mayor belongs the governor’s supporting coalition and (b) the metropolitan or non-metropolitan character of the municipality incorporated. If such factors can have influenced specific decisions, sometimes contrary to expectations, the diversity of situations analysed must lead us to exploring other determining factors, such as the role carried out by the state deputies and mayors.

It must be noted that initially, the deputies who authored the complementary bills and amendments that added the BHMA’s new municipalities all belonged to parties of the then governors’ support base, except those who initiated the process during Itamar Franco’s administration. It is worth recalling, as we have seen above, that if in all four governors’ administrations, municipalities whose mayors did not belong to the governor’s coalition parties were incorporated, only during the Itamar Franco administration were municipalities headed by non-allied mayors, also non-metropolitan, incorporated into the MA.

In order to advance our empirical examination of the motivations and interests of the political agents in the expansion of the BHMA, we also consulted: (a) the reports issued

by the Comissões de Constituição e Justiça e de Assuntos Municipais e Regionalização (Commissions of Constitution and Justice and of Municipal Matters and Regionalization) for the bills that incorporated new municipalities into the BHMA,[10] and (b) the archive of statements by state deputies in the meetings of the Plenário da Assembleia Legislativa de Minas Gerais (Plenary of the Legislative Assembly of Minas Gerais).[11]

Regarding the role of the state deputies, we must initially point out that in some cases, such as that of the proposal to incorporate the municipalities of Itaguara and Itabirito into the BHMA, the initiative was taken to the ALMG without any previous articulation between the deputy who authored the Complementary Bill and the municipality's mayor. Such a fact indicates not only the possibility of autonomous action by the state Legislature, but also that the proposals of incorporation may express possible rivalries between the municipal Executive's leaderships and state deputies who were a majority in the municipality, or who intended to expand their sphere of influence.

Here we must expand our discussion on the motivations of local political actors. Initially, let us point out that the "dynamics that have a bearing on the metropolitan territory tend to direct positive externalities to the central areas, while draining the negative ones to the outskirts" (Lopes 2006, 141), where the smaller municipalities are concentrated. Because of this, for the negatively affected municipalities on the outskirts of the MA, it is important to apply for certain investments, also being demanded by municipalities clearly more integrated into the metropolitan dynamic, in a context of the recurring insufficiency of public service provision. Thus, in spite of the low engagement of governors in the metropolitan issue, discussed in this paper's previous section, an important motivation for the mayors to join the BHMA was undoubtedly the expectation of retrieving large-scale federal funding, as in the early 1970s. A certain institutional memory seems present here, as well as the fact that several government programmes have indeed continued to prioritize the metropolitan municipalities. The importance of these expectations is evidenced by the arguments recurrently employed in discussions engaged in during the analysis of the proposals of expansion in the sphere of the state Legislature.

Another factor must be considered, which seems to us to be of utmost relevance. Even when we recall that in recent years the Brazilian metropolises have become concentrations of a significant portion of the country's "social problems", there is evidence that a conception of the metropolis as a place of progress has subsisted, as made evident by several debates that have taken place in the state Legislature. Such a conception can be inferred from the following example: by the BR 381 motorway, in Itaguara, a municipality of low integration into the cluster dynamic incorporated into the BHMA in 1999, and the most distant from the pole-city of Belo Horizonte, a road sign was placed saying "You are already in the Belo Horizonte Metropolitan area".

On the other hand, as a counterpoint, a state deputy's manifestation on the acrimonious contention on whether or not the municipality of Itabirito should have been added to the BHMA must be recalled. Itabirito ended up being included and then removed from the BHMA, the process having been characterized by a dispute between the state deputy who authored the proposal on one side, and the deputy with the majority in the town and its mayor on the other. The latter two opposed the incorporation, having mobilized the municipality's population. In a statement at an ALMG plenary, the deputy with the majority expressed himself thus:

> I have in my hands the letters of Mr Mayor [and of several other municipal leaderships] manifesting indignation and concern about belonging to and living with the problems of these real monsters that are the metropolitan areas, and that definitely would not reach the town of Itabirito (*Diário do Legislativo* 27/7/1989, 42, column 3).

However, when explaining the swelling of the BHMA after 1989, we should add another explanation related to more immediate interests to these motivations of a material and symbolic character, involving short-term political gains both for the municipal leaderships and for the governors, who have the potential capacity to mediate the expansion decided in the sphere of the state Legislature. It is the fact that formal incorporation into the BHMA implied an important benefit – regular timetabled inter-municipal transport linking the member municipality to the capital, a service provided by the Departamento de Estradas de Rodagem de Minas Gerais (DER-MG, Road Department of Minas Gerais), with a reduced tariff. As the interests in non-expansion were low, since the Fundo de Desenvolvimento Metropolitano was not instituted, and, as we have seen, both the government of the state and the municipalities of the economic axis were alienated from the directorates of the Ambel, the approval of incorporation proposals was easier.

Lastly, it seems evident that full comprehension of the process of expansion of the BHMA, and of the negotiations and bargaining involved in it requires not only tracing each one of the cases in question,[12] but also an attempt to unmask an intricate universe of crossed support, omission due to lack of interest and intergovernmental rivalries between the executive and legislative branches of two levels of government – state and municipal. Given the impossibility of carrying out this type of research, we believe, however, that our discussion about the impact of the BHMA's model of metropolitan management, the expectations, interests and motivations of different actors, even if relatively generalized and with topical explanations, will have at least clarified – even if along general lines – the policies of space and the space of politics in the BHMA.

As the search for superseding this second-generation model of metropolitan

management – which produced an institutional paralysis and provoked the swelling of the BHMA – was also characterized by attempts to create other MAs in the state of Minas Gerais, the last section of this article will be dedicated to a brief discussion about these attempts.

The "Mitigated Metropolization" of the state of Minas Gerais

The state of Minas Gerais today has two instituted MAs (the BHMA and the MA of Vale do Aço, created in 1989). However, in the early 2000s, the creation of nine other MAs was proposed in Minas Gerais, a process that was aborted in the sphere of the state's Legislative Assembly. Thus, we consider it pertinent to state that a process of "mitigated metropolization" occurred in the state.

At the same time as it weakened the formulation of public policies of regional governance, the senseless trend of expansion of the Metropolitan Area of Belo Horizonte – combined with the obsolescence of the state metropolitan management system – also anchored a setting that favoured the reversal of the trend in the early 2000s.

The political movement that made the reversal of the trend possible was the presentation of numerous bills proposing the institution of new MAs in the state. The projects to create another nine new MAs in Minas Gerais (MAs of Vale do Alto Paraopeba; Vale do Rio Grande; of the Triângulo Mineiro (triangular-shaped region in the very western tip of Minas Gerais); Curvelo; Montes Claros; Caratinga; Governador Valadares; Juiz de Fora and Inconfidentes (Ouro Preto region) were incoherent with the local geo-economic and urban planning reality and were presented between 2001 and 2003.

As expected, such projects were presented by parliamentarians with a majority in those regions. The sudden interest in the creation of so many new MAs, in a kind of herding behaviour, also observed in Santa Catarina, was cause for great institutional concern on the part of the Legislative Assembly of Minas Gerais. State deputies at the time denounced the existence of what was termed "a fad". A crucial aspect, which guaranteed the conditions for proceeding to a more all-encompassing discussion on the metropolitan issue, involving social actors of the most different types relevant in this arena, was the institutional prestige and tradition of the Legislative Assembly in organizing large-scale events for the discussion of issues on the agenda.

To start with, several technical preparatory meetings and five regional gatherings were organized between the months of August and November 2003, in five different cities of the state's hinterland. Wide mobilization prior to the event guaranteed a significant amount of participation by several social segments in the activities of the Legislative Seminar on the Metropolitan Issue in 2003. The participants were representatives from groups of organized

society directly affected by the metropolitan issue and representatives from mayorships, as well as researchers and technicians linked to different spheres of government, which made possible the strengthening of the idea of the metropolitan issue as a “problem” to be dealt with in an institutional manner, with society’s participation.

The state Executive, on its part, had designated technicians who were part of the staff of its recently created Superintendência de Assuntos Metropolitanos (Superintendency of Metropolitan Matters), linked to the Secretaria de Estado de Desenvolvimento Regional e Política Urbana (SEDRU – State Department of Regional Development and Urban Planning), active also in the preparatory meetings and regional gatherings. This intense process of meetings and debates gave rise to a large dossier called Documento Síntese das Comissões Técnicas Interinstitucionais (CTIs, Synthesis Document of the Interinstitutional Technical Commissions (ITCs)), containing analyses and dozens of proposals for the institutional reformulation of metropolitan management in the state.

The work done in the Regional Encounters diagnosed that in all the regions in which the institution of new MAs was intended to happen there lacked the basic characterizing elements of a metropolitan area, such as conurbation and the urban metropolitan scale. The advantages and disadvantages of a region becoming an MA were discussed. Among the advantages, the prerogatives for obtaining financial resources by municipalities formally defined as metropolitan were emphasised. However, the Seminar opened up a space and opportunity for technicians and academics to expose the outlook of complete paralysis of the metropolitan management of the state’s main MA, that of Belo Horizonte.

During the Regional Meetings, a change of focus was advocated, and the following items were proposed: priority for the reformulation of the structure of the BHMA’s management, and the adoption of alternative modelling for micro regions for the regionalization of municipal groupings that did not have “metropolitan area” characteristics. In November 2003, the final debates of the Seminar took place, with discussions, voting and approval of 184 proposals for the metropolitan issue in the state. Media coverage reported the presence of more than 700 participants in this final phase. It could be said that the Legislative Seminar, open to the participation of all of society and with a strong presence of academics, ended up serving as a channel for several proposals, considered progressive, for equating the metropolitan dilemmas.

In this way, political support was obtained for some basic premises that would guide the normative changes that followed. One change that stood out was the fact that in the new institutional format, the power of several actors could not be strongly asymmetrical in relation to the basic correlations of force in existence. As a result of this debate, sufficient political capital was gathered, based on Article 44 of the state Constitution, to support the archiving of all bills to create new MAs in the state,

The effects of this initiative, which reversed the trend of creating new MAs in the state, carried on in the following years. In 2004, Constitutional Amendment no. 65, which altered eight articles of the state Constitution, was approved. Such an amendment, inspired by those debates, institutionalized more rigid mechanisms for the creation of new MAs in Minas Gerais, thereby opening up a space for the institutionalization of a new state metropolitan management system for the BHMA, a process which counted on strong support from the state government.

Conclusion

In an address in special meeting no. 65 of 15/12/1999, in the Comissão de Assuntos Municipais da ALMG (Commission of Municipal Matters of the Legislative Assembly of Minas Gerais), which discussed the inclusion of new municipalities into the BHMA, deputy Irani Barbosa stated, in a sarcastic tone: "Mr. President, evaluating the bill after it having been voted, I would like to ask your Excellency if it is also possible to place the municipality of Ibiá (…) into the BHMA, which takes up almost the entire state. We are going to have to create the metropolitan area of the metropolitan area.". As we saw in the previous sections, the swelling of the BHMA came about as a result of factors of different natures, such as legal, institutional, symbolic and political/electoral factors, which most probably could also be considered responsible for the expansion of the country's other MAs.

Having even given rise to joking manifestations such as the one cited above, the process of expansion of the BHMA was halted from 2003. With the alterations in the state Constitution, which created a new institutional apparatus for metropolitan management in Minas Gerais, the process of incorporation of new municipalities into the state's two MAs was also constrained. This because it became compulsory for bills for the institution or alteration of the MAs to be based on technical studies to assess the population, population growth, degree of conurbation and "pendular movement", economic activity, polarization factors and lack of public services, reiterating the original text of the state Constitution of Minas Gerais. According to Ribeiro (2007, 7), such a measure meant "a constraining of political action and its dependence on technical-scientific knowledge".

As it redistributed the power of different government actors, the design of the new metropolitan institutions of Minas Gerais clearly implied a "re-statization" of metropolitan management in the state, as well as the recognition of the differing weight of the municipalities of the economic axis of the BHMA (In the Ambel, which continues with representation from all 34 municipalities, the state today has 50% of the votes on the deliberations. The Deliberative Council is also based on the parity between state and municipalities in the deliberations, and the participation of two representatives of civil

society is also instituted.). It is hoped that the new institutional, third-generation model will guarantee the engagement of actors with greater resources to make a concerted effort in the metropolitan issue.

Evaluating the legislative reforms that recently occurred in Minas Gerais, which, contrary to the country's current conjuncture, made possible for the state to assume a clearer leadership position in the Metropolitan Area of Belo Horizonte, Azevedo, Mares Guia and Machado (2008) argue that the fact that the bills in question were initiatives by parliamentarians and not by the state Executive was a determining factor for the success of these reforms. According to this analysis, the fact that the government of the state supported these proposals in the legislative arena without having had a central role in the discussions allowed the transactional costs in question to be diluted in the sphere of the Legislative, which allowed them to be superseded. Such authors also add that the good political relations between the then governor of the state (Aécio Neves, of the PSDB) and the then mayor of Belo Horizonte (Fernando Pimentel, of the Partido dos Trabalhadores (PT, Workers' Party)) were also a determining factor for the new legislation to be made viable.

As we saw in Minas Gerais, overcoming the institutional paralysis resulting from the model of metropolitan management adopted after the promulgation of the 1989 state Constitution – the second-generation model – was possible thanks to the initiative by the state's Legislature as well as the Executive, in close alliance with the capital's mayor. In the search to supersede the dilemma of collective action in the metropolitan sphere, the relevance of the action by the architects of the policy of renovation of metropolitan management, as well as the selective incentives adopted, must also be highlighted. As a positive selective incentive, the injecting of resources – particularly by the state government – into large projects of metropolitan scope must also be pointed out. As a negative selective incentive, we can recall the threat of reducing the number of member municipalities of the BHMA made in the state legislative sphere.

Lastly, it is also worth making the term "negotiated expansion" clearer. This term is pertinent not so much due to the fact that the BHMA's expansion, in the period 1989-1992, involved bargaining that resulted in agreements between actors whose interest was explicit and whose gains were negotiated. What we saw was largely a business of votes, of the search for the expansion of the sphere of influence and prestige of local political actors. In this game, which should be based on the search for intergovernmental, intragovernmental and inter-sector cooperation, the disinterested, the omissive and the uninformed, as we have seen, played an important role.

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Notes

1 A previous version of this article was presented at the 33rd Annual Meeting of the Associação Nacional de Pós-Graduação e Pesquisa em Ciências Sociais (Anpocs, National Association of Social Science Research and Postgraduate Studies), Caxambu, Brazil, 2009 in the WG The metropolis and the social issue. We, the authors, would like to thank Clarisse Goulart Paradis for her competent and dedicated assistance in the research. We would also like to thank the Fundação de Amparo à Pesquisa do Estado de Minas Gerais (FAPEMIG, State of Minas Gerais Research Foundation), the Conselho Nacional de Desenvolvimento Científico e Tecnológico (CNPq, National Council for Scientific and Technological Development) and the Fundo de Incentivo à Pesquisa da PUC-Minas (Research Incentive Fund of the Pontifical Catholic University of Minas Gerais), which, on different occasions, supported the research of which this article is a product. We must also thank Ronaldo Guimarães Gouvêa, for his attentive reading of the previous version, and the two referees of the BPSR.

2 The Constitution of the state of Rondônia was promulgated in 1991.

3 We must point out that there is not a consensus on the total number of MAs currently instituted in the country, which in itself is a significant fact, indicating the dynamism of the process of creation (and extinction) of the MAs in Brazil. This article, however, will work with a list of 24 MAs produced by the Observatório das Metrópoles (Observatory of the Metropolises) (2008) which, even though out of date, provides vital data for the discussion we will be making here.

4 The nine first-generation MAs are the following: Belém, Belo Horizonte, Curitiba, Fortaleza, Porto Alegre, Recife, Rio de Janeiro, Salvador and São Paulo.

5 However, when we ascertain the time gap between the State Constitutions and the expansion of the first-generation MAs, we have a more ambiguous panorama. This because two of the nine original MAs (Belo Horizonte and Porto Alegre) had already started their expansion process in 1989, and Salvador added a new municipality in 1990. The six other first-generation MAs expanded in 1993 (Rio de Janeiro and São Paulo), 1994 (Curitiba and Recife), 1995 (Belém) and 1999 (Fortaleza) (Observatório das Metrópoles 2004; 2008).

6 This statement is further backed up when we perceive that in the case of the 15 MAs created after 1989, in Table 2, the level of non-metropolitan municipalities that compose them is also high. Available data referring to 11 out of those 15 MAs (excluding the MAs of Aracaju, Macapá, Manaus and Sudeste Maranhense) show that they all incorporated municipalities considered to be non-metropolitan, in a proportion of at least 11% of their members. In six out of those 11 new MAs, more than half of the member municipalities are considered non-metropolitan (Observatório das Metrópoles 2004; 2008).

7 As well as Minas Gerais, the state of Santa Catarina is the only other state in Brazil that identifies "metropolitan expansion areas", which in Minas are termed "Metropolitan Necklaces" (Moura et al 2003). The Urban Necklace of the BHMA is today made up of 14 municipalities: Barão de Cocais, Belo Vale, Bonfim, Fortuna de Minas, Funilândia, Inhaúma, Itabirito, Itaúna, Moeda, Pará de Minas, Prudente de Morais, Santa Bárbara, São José da Varginha and Sete Lagoas.

8 In order to corroborate our word of warning on the frailty of the indicator used, it is worth pointing out that the municipality of Rio Manso – incorporated in 1997 and considered non-metropolitan, as it had a "Very Low" level of integration – is one of the "water tanks" of the BHMA. This was frequently mentioned in parliamentary debates when the proposal to incorporate the municipality was making its way through the Minas Gerais Legislative Assembly.

9 When new members of the BHMA that were not recently emancipated municipalities are evaluated, we have a similar result. Seven of them had mayors belonging to the governor’s support coalition when they were incorporated into the MA, whereas the other seven had mayors from parties that did not belong to said coalition.

10 Available at: <http://www.almg.gov.br/index.asp?grupo=legislacao&diretorio=njmg&arquivo=legislacao_mineira>.

11 Available at: <http://www.almg.gov.br/index.asp?grupo=atividade_parlamentar&diretorio=pronunciamentos&arquivo=pronunciamentos>

12 Inclusion of 20 new municipalities, based on six different legal frameworks – the State Constitution itself, which determined the inclusion of four municipalities, and Complementary Laws nos. 26, 48, 53, 56 and 63.

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BOOK REVIEW

New Interpretations on the Life and Ideas of Raúl Prebisch (1901-1986)

Paula E. Vedoveli

(Dosman, Edgar. 2011. Raúl Prebisch (1901-1986): *a construção da América Latina e do Terceiro Mundo*. Rio de Janeiro: Contraponto)*

Edgar Dosman's *The life and times of Raúl Prebisch (1901-1986)'* is the kind of book that might catch the attention of scholars working within different agendas, research interests and disciplines. Those interested in Latin American history and politics will probably note how Dosman underlines Raúl Prebisch's contributions – both as an intellectual and as a policymaker – to regional and international debates on development and modernization in the Global South. The impact of Dosman's work on the current debates on development, economic growth, and international trade in the face of the emerging countries phenomenon is also worth mentioning. These subjects are more controversial and highly disputed than ever and Dosman's biography on Prebisch's life and ideas could contribute to enhance the quality and diversity of current debates.

On the other hand, scholars working on the emergence of the social sciences in Latin America and the Third World will find Dosman's narrative on Prebisch's role in building up a network of young social scientists during his administration in the United Nations Economic Commission for Latin America worthy of notice. Some of the most actively engaged economists and social scientists in the UNECLA were key public intellectuals and/or politicians and decision-makers in their home countries – for example, Celso Furtado, Fernando Henrique Cardoso and Juan Noyola, to name but a few.

*Original title: Dosman, Edgar. 2008. *The life and times of Raúl Prebisch (1901-1986)*. Ontario: Queens University School of Policy.

For those interested in regional cooperation, Dosman's narrative is full of surprises. They can both retrieve Prebisch's ideas and projects designed to develop regional institutions and appreciate the ambiguous relationship between Brazil and Argentina. They may be surprised to find not only evidence of long-standing problems of regional coordination, but also attempts at close cooperation between the two countries. Finally, scholars interested in the history of particular Latin American countries such as Argentina, Chile, and Brazil, for example, will find Dosman's work full of intriguing remarks on the relationship between Prebisch's personal and political trajectory and the dynamics of regional and domestic politics.

Dosman is very straightforward about the problems that drove him to write a biography on the life of Latin American economist Raúl Prebisch. At the beginning of the book, Dosman states that his aim is to present a reasonable narrative on Prebisch's contribution to the development of international institutions and development theory during the 20th century, something for which there is surely a great need. Until Dosman's book was published in 2008, there was no biography available on the life of Raúl Prebisch. His contribution to development and modernization theories is still as underexplored as his personal character remains controversial. His professional legacy and ideas on the nature of the economic system and development are still surrounded by institutional disputes. This can explain in part why his memory was left almost untouched after his death in 1986.

The end of the Cold War meant that the life of some of its main characters remained undisclosed. This was the case of Raúl Prebisch, an Argentine economist born in 1901. Prebisch was a key player in some of the major events that shaped Argentine and Latin American development in the 20th century. He was responsible for the creation of the Argentine Central Bank and acted as head of the UNECLA for over a decade, a period during which he had great influence over some of the most powerful Latin American countries. From the late 1960s onwards, he was the principal name behind the United Nations Conference on Trade and Development (UNCTAD). As one of the most influential Latin American policymakers in the UN system for more than four decades, it is interesting to see how Prebisch's memory has been almost intentionally left underexplored.

Dosman does not sufficiently stress the importance of the mysterious destruction of the UNECLA and Prebisch archives by the UN after the end of the Cold War. Neither does he further explore the consequences of the relative lack of documentation on his personal and professional trajectory. Due to the lack of documents available, he conducted an extensive number of oral interviews, while collecting documents in archives all over the world. His extensive research is one of the book's greatest merits. It is also worth noting that Prebisch's memories were collected, organized, and maintained by his first and second wives – Adelita and Eliana Prebisch. They both created institutions designed

to preserve Prebisch's documents in Santiago (Adelita's *Prebisch Papers*) and in Buenos Aires (Eliana's Prebisch Foundation). As Prebisch's first wife, Adelita, was the main keeper of his documents and memoirs, this may be the reason for which there is not a single photograph of Prebisch's second wife, Eliana Prebisch, in Dosman's book but plenty of photos of Adelita and Prebisch in different occasions until the late 1970s, when they separated. Here, the politics involved in accessing memory could have been a constraining factor, as in the case of the contemporary debates over Carlos Prestes' memory in Brazil (in many ways similar to Prebisch's).

The choice for a biographical approach in order to recover Prebisch's contributions is not devoid of tension, as Dosman's work shows. Although a biography can present itself as a relatively impartial account of someone's trajectory, it is more keenly defined as an exercise in memory production. As a historiographical genre that has witnessed a recent boom after decades of virtual lack of interest, a biography can hold some traps even for the most experienced researchers. For example, there is danger in assuming sympathy for the life of the character being analysed. This can lead to unsupported or overemphasized features of the subject's personality. In Dosman's book, this problem exists and is more acute when the author is referring to Prebisch's childhood and early development.

Dosman's narrative on Prebisch's early years is largely based on an interview conducted by Mateo Margariños. As a late recollection of his childhood, Prebisch's interview retraces and reconstructs some controversial personality features such as his early commitment to Argentine society and politics and his outstanding genius. These are two central points of Dosman's narrative on Prebisch's childhood. It is interesting to note that for Prebisch, these two could also be seen as the most important (and controversial) personality issues in his history. Firstly, because his commitment to the development and growth of Argentine society was disputed and denied on a number of occasions, in part due to his stance on the political environment in Argentina. And secondly, because Prebisch's academic status remained ambiguous (he did not even conclude his bachelor's degree) and because of his resentment over the relative disadvantages and constraints faced by Third World intellectuals. These controversial issues can explain why it was so important to stress his early intellectual aptitudes and his natural commitment to Argentine history. Unfortunately, Dosman overlooks these tensions in his narrative.

Dosman's work, however, is a great example of how to avoid defining a man's trajectory as a self-fulfilled prophecy. Prebisch's lifespan makes it easier to see his trajectory as a reflection of conjectural events: he lived in what is considered the longer 20th century and took part in its most important developments, especially for the countries of the Global South. Prebisch's ideas and decisions could easily be taken as by-products of structural incentives and constraints.

Dosman shows us otherwise. The author is successful in showing that Prebisch was mostly responsible for his actions and decisions. Although the author argues there is coherence and unity of purpose in Prebisch's development, his narrative underlines Prebisch's agency and the unintended consequences of his actions. Dosman also stresses the importance of Prebisch's changing network of allies and adversaries in defining the success or failure of his personal and political projects (see, for example, chapter 3) – the death of certain politicians, for example, contributed to enhance or decrease the chances for a political appointment or even resulted in ostracism.

The author also depicts Prebisch as a personality who sometimes made wrong decisions or was unable to interpret the political environment in his favour. The learning period in the UN, when Prebisch witnessed first-hand the dynamics of bureaucratic and world politics, did not make him less prone to make unbeneficial decisions, such as in the case of his return to Argentina in the 1980s, for example. Prebisch's trajectory is not a continuous flow of events in Dosman's narrative but rather a curious story that underlines Prebisch's own agency in responding to the limits and possibilities presented by the contemporary political and social environment. As Prebisch's career was turning global, he had to deal with a changing and challenging political international environment. In the end, Dosman creates a narrative in which Prebisch is not always successful in reaching his desired objectives, and not only due to structural or conjectural constraints. In this sense, Prebisch's career could denote the relative prominence and decline of the South – and especially of Latin America – in world politics.

Dosman's contribution could be seen as ambiguous due to the lack of reference to evidence and documents in the text. There is no doubt that the book was extensively researched, the lack of documents available in public and private archives notwithstanding. In spite of this, social scientists and historians interested in the history of Latin America, of the Third World and of development and modernization theories – as well as in many other themes that emerge from Dosman's narrative – will probably find this book both fascinating and frustrating.

On countless occasions, for example, when Dosman refers to documents, talks, conversations, or when he specifically quotes Prebisch, his works, or data, there is simply no reference to the sources of evidence provided in the text. Researchers interested in going back to the sources or reading more than what is mentioned in the text will find themselves (more often than not) lost in the multitude of archives and interviews listed at the end of the book. It is not only a matter of being able to replicate and/or wade through the evidence used to support arguments. In some cases, the possibility of assessing the quality or the character of the evidence presented is not open to the reader. It is easy to see why an interview (especially one conducted in later years) has different implications from personal

or official documents when it is used to support an argument. Each one has its limitations and possibilities. The author, however, does not offer the reader the possibility of analysing claims based on evidence in cases where it would certainly be necessary to do so.

This problem also arises when Dosman defines the events in which Prebisch took part or that had some kind of impact over his life and/or ideas. Most of the time these events are presented as descriptions rather than as analyses. References to works that guided Dosman's interpretation about some still controversial themes are missing from the text. Prebisch's role in creating a global strategy for the Third World at the UN or his commitment to programmes of reform in Latin American countries, and his relationship to authoritarian governments in the 1960s and 1970s in the region have different interpretations in the literature. Besides that, Dosman's analysis can sometimes become confused with Prebisch's understanding of contemporary issues. Prebisch's ideas are, in some cases, justified by how Dosman develops his narrative, as he attempts to define how Prebisch would have responded to certain events. Therefore, it is difficult to draw a line between the author's narrative and Prebisch's own recollection.

The analysis component is also missing when Dosman presents the relationship between his preferred interpretation of these events and Prebisch's ideas. Although Dosman argues that he is looking for the unity between Prebisch's life and his ideas (and he chooses the biographical approach in order to retrieve Prebisch's contribution), this is neither an intellectual biography nor a work of intellectual history (or the history of ideas). Dosman is primarily concerned with the political impact of Prebisch's actions and ideas, and this is the framework established to present and interpret the development of Prebisch's intellectual contribution to contemporary debates. At the same time, Dosman shows how Prebisch's ideas were deeply influenced by his personal and political achievements and setbacks as well as by the political projects he assumed during his life.

Nonetheless, the tensions mentioned above do not put the contribution of Dosman's book to a number of fields in any doubt. Dosman attains his stated objective: he is successful in stressing Prebisch's contribution both to the development of international institutions and to debates on modernization and development theories. He shows that Prebisch was a key agent in some of the most important developments for Latin America and the Third World during the 20th century. His ambitions and complex personality, combined with his inability to take advantage of the political environment and the much emphasised constraints faced by actors from the South in international society, account for his successes and failures as much as the structural and conjectural factors.

A biography can stress certain features while leaving others (intentionally or unintentionally) underexplored. Interestingly enough, the Brazilian translation of the title chose to portray a unique view of Dosman's biography as it chose a different subtitle. *A*

construção da América Latina e do Terceiro Mundo (The construction of Latin America and the Third World) is only one part of this multifaceted book. A biography does not consist of a description of the principal events in a character's life – it is an act of memory production. Dosman's book is part of this scholarly exercise. Although extensively based on well-conducted research, Dosman's biography on the life and times of Raúl Prebisch is not the ultimate work on this controversial historical figure. Prebisch's ideas and political projects still remain to be further explored through different lenses and frameworks. Dosman's work on Prebisch's life and ideas should be seen as a leading contribution that has not yet put an end to the tensions and debates in the literature.

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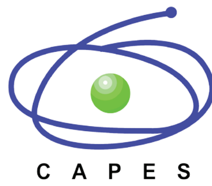

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