Filling Gaps in the Brazilian Legislative Studies

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ABSTRACT

It is the purpose of the authors of this study to identify and analyze aspects of the research carried out in the field of legislative studies in Brazil which may need deeper focus and improvement. Through the analysis of key-points presented in published papers regarding the relationship between the National Congress and the Federal Executive branch, the political parties, the parliamentary committees, and other themes concerning the Legislative, the article highlights the necessity to fill gaps and redirect some efforts, considering in particular a major attention for the legislative processes and procedures.

1. Introduction

The Brazilian legislative studies have been quite prolific in approaches about the political system established by the Constitution of 1988. These studies have reached consistent conclusions about the broad formal powers of the Executive branch, which give it a significant range of possibilities that ensure the dominance in the conduct of the legislative agenda.

Although highly developed, Brazilian legislative studies, especially those dealing with the relationship between the Executive and Legislature branches at the federal level, still have many gaps that remain to be filled, since the activity of making laws and the interaction between political actors are extremely complex and dynamic. However, it seems that this perspective is not shared by part of the researchers, professors and students, who has used published papers in a limited extent, analyzing the conclusions as principles almost dogmatic.

It is essential to understand the complexity inherent to the law production process. One cannot ignore that the Executive branch explores strategically the elements at its disposal to control and approve its legislative agenda. Even taking into consideration that the actions of parliamentarians occur under heavy restrictions, they are far from negligible, and have to be studied. The Legislative has its tools to limit the impositions of the Executive.

In this work, we highlight some gaps that we consider important in such studies and suggest paths for research development, ensuring more realistic analyses regarding the performance of the Brazilian National Congress.

2. Executive branch's dominance: legislative Leviathan?

Brazil records a huge amount of federal laws proposed by the Presidency. This situation is usually associated by the researchers with the passivity of the Legislative branch, which needs to maintain cordial relations with the Executive, holder of several power resources, especially the budget control. Strong institutional incentives have been consolidated so that the Executive could set its agenda and would not be held hostage by impositions of the Legislative, as used to happen before 1964. There are different institutional mechanisms within the Brazilian Constitution of 1988 that allow the Executive to place legislative proposals in advantage over the parliamentarians' ones, such as the adoption of provisional decrees with force of law (*Medidas Provisórias*), the permission to request urgency for the processing of

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bills of law, and the initiatives that are exclusivity granted to the President on the presentation of legislative proposals about certain governmental issues, not to mention the set of assignments held by party leaders inside the Congress, especially those from the governmental coalition. These tools would be essential to ensure political stability and governability.

The process of creation of laws in Brazil is largely "favorable" to the Executive branch. From 1989 to1994, 85% of the federal laws enacted are originated from proposals by the Executive, through pattern similar to the one observed during the military regime between 1964 and 1984 (Figueiredo and Limongi 2001, 50-51). This information about the legislative process, quoted in several studies (Pereira and Mueller 2000; Amorim Neto and Santos 2003; Pereira, Power and Rennó 2005a; Amorim Neto 2006), appoints the Executive as the main legislator *de jure* and *de facto* (Figueiredo and Limongi 2001, 41).

These works emphasize the formal initiative of the bills of law and the outputs from the final approval of the Executive's legislative agenda. Thus, the legislative processes and procedures are not studied with attention, nor is the participation of parliamentarians in the decision making processes.

Most commonly, the performance of the Executive and Legislative branches is analyzed only by the binomial form “approved/unapproved” proposals, assuming that the resulting law results mainly to the efforts of the Executive. Moreover, there is a tendency to choose the quantitative verification of legislative production as a symbol of the good performance of the activities either of the Legislative or the Executive. It is not pondered, *inter alia*, that the rejection of laws, in certain political contexts, may reflect Parliament effectiveness.

On the aftermath of the statistics, the passivity of the Parliament, on presumed accordance confirmed by the "success rate" of the proposals submitted by the Executive, is highlighted. Furthermore, the profile of the law production, with the predominance of the Executive’s agenda, casts a dense mist over the bills of law authored by the parliamentarians themselves, as well as over their work on the conception and processing of these proposals. Efforts are needed to fill the gaps of the literature on this regard.

Among the aspects that will be discussed further are the amount of laws enacted, the participation of parliamentarians in the discussion of the Executive’s proposals, and the construction of one own agenda by the Legislative, as well as the complex relationship that is evidenced by the phenomenon of *appropriation* of the Legislative’s agenda by the Executive (Silva and Araújo 2010).

2.1 The initiative of laws

There are important issues in which the presentation of legislative proposals is an exclusivity of the Brazilian President, as provided for in Article 61, Paragraph 1º, of the Federal Constitution. There are limitations regarding the Federal Government administration (functions and administrative organization), the federal territories, the Armed Forces, and the organization of the Public Prosecution Service and the Federal Public Defenders Office. Budget laws are also initiated by the President, in accordance with Article 165 of the Federal Constitution. Even considering that these prerogatives open channels to an extensive law production, there is still a long list of themes that can be handled concurrently by the Legislative and the Executive branches.

Nunes (2011), one of the few authors to emphasize this aspect, explains that the origin of the laws of administrative and authorizing nature does not impede, but rather provides an opportunity for the Legislative to somewhat control the Executive. He observes that many decisions related to such matters can have this characteristic, requiring little effort from the Parliament with respect to changes on the proposed text. It cannot be said, however, that the legal text is not discussed by the parliamentarians.

There are also large amounts of bills of law authored by the Executive concerning the periodic updating of the set of rules regarding governmental organization in the strict sense, for instance laws that deal with the varied careers of federal public servants and the structure of the public agencies.

We have carried out a research on bills of law of eight years (2003-2010) authored by the Brazilian President, as well as provisional decrees, with themes that did not constitute exclusive initiative, and found

that these proposals represent 48% of the total submitted by the Executive[3]. Thus, there is an important field for proposals that may be subject of convergence or competition between the Legislative and Executive branches.

Focusing the laws enacted, we have found that slightly more than 42% of the laws approved after 1988 refer to specific legislative acts that deal with budget credits and specific legal authorizations to administrative acts. Without disregarding the relevance of the budget issues or the management of state, this number shows that the legislative profile of the Executive, characterized by an administrative content, does not necessarily indicate "legislative capacity", or in other words, ability to create new agendas, lead discussions and approve proposals. To assess "capacity", the proposals whose themes are shared between the Executive and the parliamentarians should be used at the comparison.

It should also be mentioned that, commonly, proposals sent by the Executive are attached to older ones of parliamentary source. This aspect needs to be considered on the analysis about the authorship of the approved federal laws. Furthermore, there are several factors involved in the process from the presentation of the proposal and the outcome of this action.

2.2 Hybrid and complex strategies

An interesting aspect which exposes limitations in the analysis focused on the number of laws approved and its formal initiatives, is the use of hybrid strategies for the approval of the governmental policies. In these cases, there is more than one type of legislative proposition being used to approve a matter of interest for the Executive branch.

Let's take the example of the approval of the "University for All" program (Prouni), object of Act 11096/2005. On the first year of Lula da Silva's administration (2003-2010), a bill of law (*Projeto de Lei* - PL) 2853/2003 was presented, creating the Student Support Program for Undergraduate Studies, in order to provide financial aid to students as a reward for volunteer services. The proposal was presented by the Executive without constitutional urgency. Realizing that it was not advancing, the Government decided to change the direction of the policy, incorporating the idea of awarding scholarships in private universities, as well as tax exemption to organizations that offered vacancies for this purpose. A new proposal was presented, the PL 3582/2004, which outlined the model of Prouni. Unlike the previous proposal, the Government clearly used tools to accelerate the discussions (constitutional urgency and creation of a special committee in the House of Representatives). The parliamentarians, however, submitted 292 amendments to the bill. Noticing that the debate could undermine the urgency to implement the public policy, the Executive decided to adopt a provisional decree (*Medida Provisória* – MP – 213/2004), after only four months of procedure of PL 3582/2004. Some of the concerns expressed in the parliamentary amendments were incorporated into the text of the provisional decree (Araújo and Silva 2012).

It can be verified, therefore, that the agenda power held by the Executive is relevant not only to approve matters, but also to overcome problems on the adoption of policies to which the interests of the National Congress impose additional challenges of coordination. In the example, there was only one law approved, while three Executive`s proposals were used in separated legislative processes. We have observed other examples using the same strategy as in Prouni case. Quantitative approaches have difficult to deal with this kind of situation. The concepts of number of laws enacted and authorship of their initial proposals are valid elements of analysis, but insufficient to explain the relationship between the Executive and Legislative branches.

If the Executive detains various power resources, and it is true that it makes use of them, it is also true that these features alone cannot make that the preferences of the Government prevail unharmed. It should be said that at the replacement of the propositions, there might exist a context of overcoming problems created by the Executive branch, which overloads the Congress agenda with provisional decrees, hence preventing the decision about its own proposals. It was noticed that, even with the appropriate tools to assure predominance on the point of view of legislative results, different strategies need to be adopted in face of the priorities and the political context at the moment of the discussion of each issue. It is not sufficient for

[3] There were, until September 2010, 399 provisional decrees and 361 bills of law (ordinary and complementary), of which 178 provisional decrees and 187 bills of law were not subjected, on the thematic point of view, to the restrictions related to the exclusive initiative of the Executive branch (Araújo and Silva 2012).

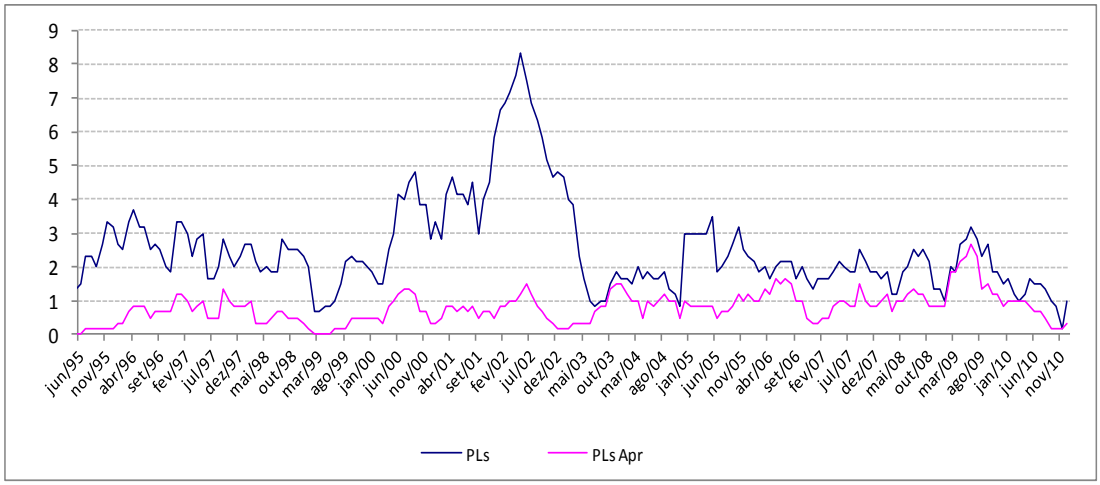
the Executive to have the rules in its favor to get results. It is necessary to use the rules strategically. Therefore, it is important that the researchers go beyond the study of the rules and their effects.

Another issue that deserves attention, explored by Silva and Araújo (2010) and Silva (2013), regards the phenomenon of *appropriation*. As can be seen, the majority of the studies have been devoted to explaining how the Executive relates to the Legislative to have its proposals approved. However, little progress has been made on the investigation of the process of building and conduction of the Executive's legislative agenda, especially about the direct or indirect participation of parliamentarians from different political parties.

Silva and Araújo (2010) and Silva (2013) have verified that the Executive often appropriates the contents of bills of law prepared by parliamentarians, presenting them in as provisional decrees or bills of its own authorship. This strategy may assume various shapes in a continuum that denotes different degrees of appropriation: adoption of the same thematic approach, adoption of similar ideas or even adoption of verbatim copies of the text of ongoing legislative proposals. It can also be verified that several initiatives of the parliamentarians attract the attention of the Executive not towards the use of the idea, but towards the intervention in the agenda by submitting a proposal more tailored to the preferences of the Government. In this sense, it appears that the Executive not only strives to stop the parliamentary initiative, but also to establish a policy or a content modification that represents its interests. There are different possible strategic options according to the situation that defines the appropriation.

From the data obtained in the research (for the period from January 1995 to December 2010), it can be noticed that 672 proposals from the Executive (provisional decrees and bills of law)[4] were not part of the set of initiatives that are an exclusivity to the Executive by imposition of the Constitution. It is precisely in this context that the phenomenon of *appropriation* takes place, bearing in mind that its origin is on the parliamentarian propositions that are already being processed at the Congress. Continuing the research, we have noticed that 18.5% of provisional decrees and 40% of bills of law proposed by the Executive emerged through appropriation of the Legislative's agenda (Araújo and Silva 2012; Silva 2013). These numbers provide a relevant dimension about the legislative capacity of parliamentarians, inasmuch as their work attracts the Government's attention.

Figure 1[5]: Bills of law: total *vs.* appropriated ones



Source: Araújo and Silva (2012).

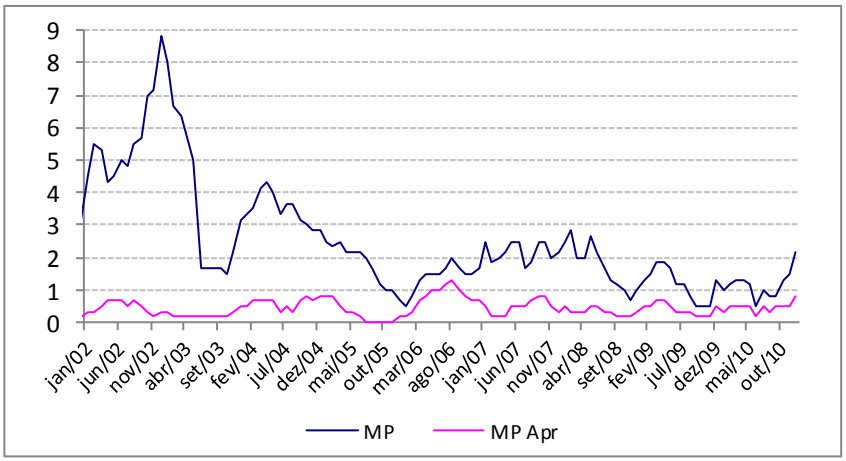
[4] Provisional decrees that were discussed until the Constitutional Amendment (CA) 32/2001 are not included. Constant re-editions and reformulations of these propositions greatly hinder the investigation about the contents appropriated by the Executive. After CA 32/2001, the legislative process is clearer, also concerning the text that actually is submitted to the evaluation of the Congress.

[5] The graphics were built using moving averages with cycles of six months. This choice is justifiable in order to observe more easily some trends on the presentation of legislative proposals.

It was found that 20% of the legislative proposals during Fernando Henrique Cardoso's administration (1995-2002), with the exception of those of exclusive initiative, originated from *appropriation*, while 39.8 % of the proposals during Lula da Silva's administration emerged from this process. These percentages correspond to a total of 205 proposals (65 during FHC's administration and 140 during Lula's administration).

Appropriation was used in both administrations, but with idiosyncrasies. Roughly, it is known that FHC's agenda was formed by a relatively higher amount of proposals that sought to restructure the State and to consolidate economic stability, while the agenda of Lula's administration was more focused on social programs. Assuming these statements are true, the data suggest that the similarities with the proposals in progress in the Congress were more evident during the Lula's administration, considering the higher intersection of the agenda of his government with the agenda of the Congress. The appropriated agenda by Lula's administration also proved to be much more diversified than the FHC one.

Figure 2: Provisional decrees: total *vs.* appropriated ones



Source: Araújo and Silva (2012).

We can conclude that the Executive, despite the availability of various resources of power, still uses additional strategies in order to assert its preferences and agenda. It is essential that the the analysis of proposals from the Executive or the Legislative receive a more detailed assessment, especially if taking into account the mechanisms that underlie the decision making processess. The study of the phenomenon of *appropriation* fits this kind of research agenda, and could bring significant results on the *modus operandi* of the administration of oversized coalitions with respect to the policy-making, or, quoting the words of Power (2011), to the coalition management.

3. Policy formulation and the role of parliamentarians

As stated above, in the Brazilian case, the highlight of the large legislative power of the chief of the federal Executive branch (Shugart and Carey 1992; Pereira and Mueller 2000; Figueiredo and Limongi 2001; Amorim Neto 2006) induces a common interpretation that parliamentarians interfere very little in the outcome of the legislative processes and, therefore, in the design of the public policies. The effective contribution of the Parliament to the Government would be scarce (Figueiredo and Limongi 2001, 72).

We believe that the tendency to restrict the role of parliamentarians only to the proposals of their own that become laws needs to be revised. Given that the number of laws originated from parliamentary proposals is much lower than that of the Executive, one notes *a priori* that the legislative efforts by the congressmen is low, even without proper empirical evidences.

After the Constitution was promulgated in 1988, the number of bills of law proposed increased impressively. A search on the websites of the House of Representatives and of the Senate shows that more than 44,000 legislative proposals were introduced under the initiative of parliamentarians at this period

(Araújo and Silva 2012). Not considering the merits of these proposals, this number stresses a huge challenge to articulate political and social demands. In addition, there is hard work on the analysis of such matters by the parliamentary committees. Although not every proposal is voted, these propositions move the parliamentarians, on terms of whether each one of them is approved or not. This situation fits into a peculiar scenario: few people realize that the rejection and approval of proposals is an important filtration performed by the Legislative branch.

Among the thirty-two national environmental laws enacted after 1988, fifteen were originated from proposals of parliamentarians, setting a parliamentarian's participation rate far higher than the one found by Figueiredo and Limongi (2001, 50-51). Four out of the fifteen laws that were identified as having parliamentary authorship ran in a process to which one proposal by the Executive was attached later.

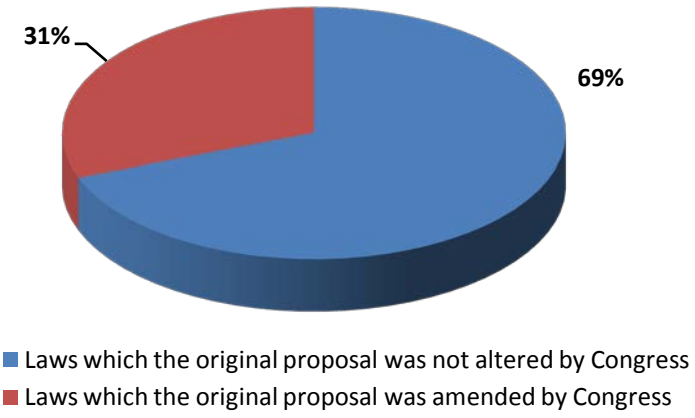
Obviously, environmental policy has characteristics that prevent the expansion of these results to the other fields of public policies, but these data support at least the need to distinguish the legislative propositions that come necessarily from the Executive from the others. Within the sphere in which parliamentarians can make proposals without the restrictions of the Federal Constitution, the picture of absolute dominance by the Executive at the initiative of laws is not the same. It is important to emphasize the need to study specific areas of the policy agenda in order to really understand the relationship between the Executive and the Legislative.

In this respect, political analysts should do sectoral studies to help understand the diversity and complexity related to the Parliament dynamics, and the relationship between Legislative and Executive branches. Sectoral studies have limitations regarding generalizations, but their importance cannot be ignored. There is also the possibility to work on an integrated set of themes that are related to each other, seeking to reach medium range conclusions, as suggested by Merton (1970, 51-60).

The amendments of parliamentarians are another important aspect that should be looked further into. The initiative of the proposals does not ensure by itself that the final product of the legislative process will reflect the preferences of the Executive, as parliamentarians can make many changes to the initial content of proposals. The process of the bills of law frequently leads to a substitute text, or even to several of such texts. This tool is adopted when the proposed changes would require an excessive amount of specific amendments, or in situations in which the intention is to join different proposals into a single text.

It can be noticed from Figure 3 that, even in the case of the provisional decrees, the participation of the National Congress on the laws enacted cannot be disregarded.

Figure 3: Laws enacted in 2010 originated from provisional decrees



Source: authors' elaboration, with data from www.planalto.gov.br.

Picking only the laws enacted in 2010 coming from provisional decrees, there are some cases of large participation of the Congress in the final configuration of the legal text, notably in the areas where the

initiative is potentially shared. At the same time, it is clear that at matters concerning the management of the Government machinery the tendency is the absence of significant changes on the proposals.

Even though the substitute texts and the conversion bills of law show different degrees of innovation compared to the original texts, it must be recognized that this characteristic of the work in the Parliament has not been adequately studied in academic debates in Brazil. We believe that approaches that are focused solely on the authorship of proposals, more easily verified, can lead to misstatements at their conclusions by underestimating the parliamentary action.

There are surely considerable efforts from the Executive to abbreviate the bureaucratic procedures in the Legislative, with the use of institutional tools such as provisional decrees, constitutional or regimental urgency, establishment of special committees, and others. Nonetheless, the use of such tools does not guarantee there will be little change in the original proposals during the legislative debates.

We do understand that the focus should be on the legislative processes and procedures, in order to face preconceived notions that the participation of parliamentarians at the production of laws is small. At least, challenges for a more detailed study on the theme are presented here. If the Congress can still negotiate changes even in the fast provisional decrees, the likelihood increases regarding the bills of law, which usually have longer processes.

Let's take as an example in this sense the Environmental Crimes Act. The proposal authored by the Executive that started the process in 1991 had only nine articles. More relevant than the quantitative aspect is the fact that the initial text was limited to administrative environmental fines imposed by Ibama, Brazil's most important federal environmental agency. This autarchy was facing judicial problems because the values of the fines were established only by infra-legal acts (Brazil 1991, 9674-75).

Beginning in the first decision on the merits at the House of Representatives, issued by the environmental committee, the rapporteur, a Green Party representative, developed an alternative text grouping different penal matters related to environmental crimes. Until then, environmental crimes were sorted through several different laws. Still in the House, another version was produced by the law and justice committee, and sent to the Senate. This version served as the basis to the construction by the senators of another substitute text with relevant innovations, such as the penal liability of the legal entity. The law that returned to the House and was sanctioned in the beginning of 1998 had the text of the Senate as the main base, with punctual adjustments. The Executive acted on this process only subsidiarily, through suggestions written by a group of jurists organized by the Ministry of Justice. (Araújo and Silva 2012).

What elements does the Environmental Crimes Act bring to analysis here? It exemplifies that, on the course of the legislative debates, different and, in the present case, complex substitute texts are often produced, with versions being successively changed. More importantly, the fact that one process is initiated by a proposition authored by the Executive does not imply that the parliamentarians cannot play an active role in the law construction.

We believe that the role of parliamentarians on the function of rapporteurs has been undervalued by the legislative studies in Brazil. In legislative proposals authored by the Executive or the Parliament, especially when complex issues are being discussed, the rapporteur of the processes plays an important role articulating the different agencies of the Government involved in the proposal and the civil society. In general, this kind of work has not been a subject of analysis in the researches.

Take as another example the process of the Law on the National System of Conservation Areas. The proposal on the subject was sent to the Congress by the Executive in May 1992, and the resulting law was signed after eight years of discussion at the Legislative. Mercadante (2001, 190-231) and Santilli (2005, 103-35; 2007, 137-42) have shown in detail that ideas and values associated with the environmental movement, synthesized in the match preservationism *versus* social environmentalism, gained emphasis on the conflicts between the actors involved in the debates, and largely explains the delay on the approval of the law. The initial text presented by the Executive had a preservationist orientation, and did not include mechanisms of social participation on the creation of protected areas (Santilli 2007, 138-39), mechanisms that are present in the approved law. Rapporteurs in the Legislative acted as policy brokers, adopting the term used by Sabatier and Jenkins-Smith (1993, 219), and worked for the conciliation between the green groups.

Without disregarding further lessons that this process could bring, this example shows that the delay on legislative processes can have various causes, among which are ideological differences and conflicting perspectives on public policy tools between the technical and political agents that take part in the social network related to the subject matter. It also shows that the parliamentarian, even individually, can assume an important role on the negotiation between the Government and the agents of the civil society.

A more recent example brings other parliamentarians having a performance as important as the rapporteur. The process that brought forth the Law on the National Policy on Solid Waste has undergone an extremely complex process, slow and contentious. Facing the difficulty to reach a consensus about the matter, the board of the House of Representatives decided in 2008 to constitute a working group to try to propose a new text whose approval would be feasible. The process had already been approved by the legislative committees but the technical and political actors involved in the discussions did not appreciate the substitute text at hand.

The coordinator of this working group, a parliamentarian that had played the same role at the debates of state of São Paulos's law on this theme, after intense negotiations, produced a text very close to the final law, approved after two decades of gridlock (Araújo and Juras 2011, 32-33). It should be mentioned that this process began in 1989 and brought together more than 150 bills of law, of which only one, dated from 2007, was written by the Executive.

In these examples, the legislators who acted as the cornerstone of the negotiations of controversial issues, building consensual texts based on many actors that took part in the debates, can be considered policy brokers (Sabatier and Jenkins-Smith 1993), as well as agenda holders. Each of the said issues was under political control of these parliamentarians at crucial moments of the legislative process.

The concept of agenda holder is strongly associated with the work of Silva and Araújo (2010) about the *appropriation* of the Legislative's agenda by the Executive. Agenda holder is the parliamentarian who is ahead of a certain legislative proposal, and is responsible for the negotiations on the text, acting as a benchmark to the groups, i.e., the main responsible for handling the matter at one of the Houses of the Congress. The agenda holder can be the author of the proposal, the rapporteur or a parliamentarian with equivalent function to the rapporteur.

There are many other examples of agenda holder performances that could be cited (Silva and Araújo 2010, Araújo and Silva 2012, Silva and Araújo 2013).

We can conclude that studies on the lawmaking processes that analyze the participation of parliamentarians and the role of the rapporteurs, especially the agenda holders, should be encouraged. The wealth of details and the complexity of each legislative process can bring elements to enhance the understanding of the political science about the set of negotiations involving the Executive, the Legislative and the civil society in Brazil.

Another interesting question is the field of choice for the role of parliamentarians. It is often said that parliamentarians have essentially local performance, assertion that is not entirely true. The inherent limitations of the general rules under charge of the Union make nearly impossible for laws not inserted in the budget arena to have content targeted to specific states or municipalities. With an environment less affected by the *pork* in the legislative arena, distributional effects tend to be applied to links from the perspective of corporations, economic sectors or groups of different interest, but that generate the possibility of positive outcomes in terms of the image of parliamentarians. In this sense, the electoral connection through the intermediation of interest groups gains relevance (Lohman 1998, 2003).

In Brazil, the political cost to present bills of law is relatively low, and there is no registered evidence of relevant control of the political party over the initiative of legislative propositions by each of its members. Collecting subscriptions or permission of the party leader is not necessary to submit proposals. Besides, the party does not generally interfere in the probability of a congressman getting his proposal approved, because parliamentarians should seek through their personal attributes for aspects that enhance this chance (Amorim Neto and Santos 2003). As stated by Nunes (2011, 36), "the initiatives are put forth to be evaluated in the absence of a prior process of consensus building, probably mostly of them known exclusively by their proponent". It should be noticed that the decision to submit a legislative proposal is

already the result of political calculations of congressmen and, by itself, represents an investment with regards to the growth of the political capital.

Concerning the presentation of bills of law, there is a growing autonomy on part of parliamentarians individually and, as Cain, Ferejohn and Fiorina (1987) stated, the construction of a kind of a symmetrical bargaining system between pairs, in which the authoritative power of the leaders is attenuated. This picture should not be undervalued on the Brazilian political reality, inasmuch as there are extra-party informal or even formal associations, such as the thematic parliamentary fronts, which constitute strong evidence connecting the lawmakers to specific interest groups (Araújo and Silva 2012).

It should be mentioned that, although Brazil's case portrays a reality of weak legislative committees, they they still have importance to the structuring of the Legislative's agenda. It must be pointed out that the academic works about this issue are usually related to the proposals by the Executive, as stressed by Pereira and Mueller (2000). They warn that the complexity of the committee system indicates the necessity of further studies. We do agree with them. The Legislative's agenda is born and nurtured at a slower pace than that of the Executive, and because of this the discussions of the proposals tend to be rich, with multiple steps and with chances of having broad participation from the sectors from outside the Congress. The Brazilian legislative committees are relevant arenas in this sense.

4. The legislative and the budget arenas

By force of the Federal Constitution, the principle of unity applies to the budget legislation. There must be only one budget for each financial year, which will be consolidated at the annual budget law (ABL). In the Brazilian legal system, only the multi-annual plan, the budget guidelines law and the ABL deal with budget issues. In addition to these three key laws, specific laws are required to additional, special and extraordinary budget credits, which represent a large portion of the legislative process. The budget subject is inserted in the exclusive legislative initiative of the President and has a specific forum in the National Congress, the Mixed Budget Committee.

The budget arena has a very particular dynamic. In this arena, in spite of a strong intervention by the Executive, there is clear evidence of *pork* practices (, through which parliamentarians can allocate resources to their electoral territorial base. In this case, parliamentarian acts with a view to a more geographically concentrated personal vote, seeking to gain renowned for his or her efforts towards a region.

Given that, there is an important feature in the analysis of *pork* and distributive policies in Brazil. Generally, parochial rules, directed to one place only, will not be found in laws enacted by the Federal Government, unless the forecast of application of financial resources through ABL is considered. Such kind of political actions should be sought primarily in the budget arena, not in the legislative arena. In Brazil, a law on a specific public policy cannot include provisions of financial resources to be employed therein. Furthermore, as it was previously stated, there is strong evidence that distributivism on the legislative arena is more closely tied to corporations and interest groups.

The studies of the distributive policies in Brazil should, therefore, discern the budget arena from the legislative arena. They are not completely unlinked, but have their own realities that need to be understood and explained with more details by the political science.

This picture seems to also hold some adjustments on the works focused on the analysis of the standing committees in the Congress. Since the budget subject is concentrated on the Mixed Budget Committee, other committees have a restricted field of action to deal with parochial demands. Whether (and how) the standing committees of both chambers are used in this sense within actions outside the legislative process on a direct sense remains to be studied.

Limongi and Figueiredo (2009) call attention to the fact that the substantial policy agendas of the Executive and the Legislative are complementary and not antagonistic, their contents being defined by the political process and related to the preferences of the actors. According to the authors, the agenda manifested is built politically, therefore taking into account the reactions of the Legislative, and the preparation of such is not entirely unconnected to the Legislative branch, but anticipates reactions. They call this the *majority agenda*.

The cited authors defend that the configuration and the actions of the majority would mean coordination between the two branches, and therefore, fusion of policy agendas. Even though we think that the exercise of anticipation is something unsafe and difficult to develop, we believe that their assertion seems to be correct. However, in the same study, the budget arena was used to prove the merger of policy agendas, considering the resources allocated by the Executive and Legislative for investments at the period 1996-2001 (Limongi and Figueiredo 2009, 80). The same authors emphasize that the restrictions imposed upon the individual performance of parliamentarians and the power of party leaders to coordinate decisions about the budget (Figueiredo and Limongi 2002, 306) explain the distributive pattern found on budget laws, including the appropriations by the ministries and programs. To them, the Congress does not change the programmatic coherence of the budget.

If the preliminary observation shows that there is political coordination and consistency of content, the budget data would tend to confirm the thesis of the majority agenda and not the thesis of the dual agenda. Nevertheless, it is necessary to consider the same authors' understanding that the budget process is highly concentrated and its rules, at all stages, are highly favorable to the Executive, a situation that severely restricts analysis of the agendas. In this sense, we evaluate that it is necessary to test the thesis of the majority agenda in the legislative arena and its processes.

5. The performance of party leaders

The analysis related to governability and agenda power almost always highlights the aspect of the preponderance of the Executive through the cooperation of parliamentarians, induced by the powers of the President and the party leaders. The contradictory dimensions of decentralization and centralization of power at force on the Brazilian political system have encouraged Pereira and Mueller (2003) to argue that the political parties in Brazil are strong in the legislative arena and, at the same time, weak in the electoral arena.

Santos (1997) points out the causes of this scenario in his study comparing the political reality during the pre-1964 and after democratization. Centralization turns out to be necessary, under the current conditions, because "the greater the parliamentary rights agenda of the average deputy and the lower the power of agenda of the leaders and the President, the lower the degree of collaboration of the first with respect to the legislative proposals submitted by the Executive" (Santos 1997).

We understand that their importance of the party leaders for the coordination of the legislative works has been confused with their effectiveness, picturing the leaders as actors with almost unlimited capacity to observe and assess the complexity of the legislative process. In fact, these actors, despite the availability of significant resources of power, are subjected to limitations that prevent them from acting effectively at various situations. (Araújo and Silva 2012).

It should be highlighted that most research in Brazil covers the actions of leaders as actors who operate in accordance with the guidelines of the Executive. However, as stated earlier, the political parties do not offer support to parliamentarians in their individual initiatives and, in this sense, the leaders are virtually absent.

Nunes (2011) highlights the different model of the legislative behavior regarding bills of law and other proposals. Considering the diversity of views and interests of parliamentarians, the party leaders often find themselves unable to choose priorities, on the certainty that any that is chosen may bring great risks of dissent. The mentioned author presents a realistic picture of the leaders, without compromising their relevance in the legislative process.

In this respect, it would be important to assess the work of the leaders on issues with a high degree of controversy. There are some cases in which their ability to control the political party is put to the test, not always succeeding.

One of the well-characterized examples on the aspect was the decision of the House of Representatives on the proposal for the new Brazilian forest law that took place in 2011. The Labor Party, which controls the Government, stood divided throughout the process. Part of the parliamentarians gave support to the rapporteur, who produced a substitute text that greatly reduces the degree of environmental protection

provided by the legislation currently in force, and part of them defended greener demands. This division existed also within the Executive. The ministers of agriculture and of the environment have argued heatedly on this matter on the major newspapers.

The situation weakened the role of the Government leadership and eventually led to the defeat of its routing, opposed to an important amendment supported by the Brazilian Democratic Movement Party, which has further reduced the level of environmental protection provided in the text approved in the House of Representatives. One should notice that the forest law has put in doubt the governability of the scheme beneath the presidential coalition. The two largest parties of the governmental base showed serious coordination problems. (Araújo and Silva 2012).

Among other lessons, the discussions about the new Brazilian forest law indicate the need to enhance the analysis of the political actions of the informal or formal thematic groups, especially the parliamentary fronts. There are matters in which the thematic interest is placed above the party and this fact cannot pass unnoticed by the political analyst.

Other controversial issues show that party leaders of the Legislative have undoubtedly an important role, but their power may not be as strong as stated by many studies on the field of legislative studies. The historical difficulties to adopt more structural measures regarding political and tax reforms may be given as examples.

The proposal to adopt closed party lists in the proportional elections, for instance, in the view of many legislators, generates the fear of reinforcing the power of certain groups on their political parties (Rabat 2009, 10). This reading tends to put the representatives with less consolidated political life on conflict with their leaders on the discussions about the political reform, and has so far held back the approval of the mentioned proposal.

Within the tax reform, another political element that may lead to the prevalence of conflicting positions with the guidance of party leaders comes into the agenda: the federation. The tax over the circulation of goods and services, levied by the states as provided in the Federal Constitution, has been a recurring theme of proposals. Those which contemplate major changes on the rules about this tax encounter difficulties to be approved, even when originated from the Executive branch and supported, at least in theory, by the leaders of the governmental coalition.

The cases mentioned above help us see that the statement that the parties are strong in the legislative arena may be relative or conditional.

6. The houses of Congress

It can be seen in the studies of the Brazilian Legislative that little attention is directed towards the differences between the House of Representatives and the Senate in terms of normative bases, political dynamics and organizational culture. Our bicameral system needs more attention on part of the researchers, especially when conclusions potentially applicable to the National Congress as a whole are generated.

Firstly, the House addresses a much larger volume of legislative processes than the Senate. The fact that we have 513 representatives or 81 senators brings a clear difference. Another aspect that matters is the fact that the House has more politicians at the beginning of their careers than the Senate. Representatives on the first or with few legislative terms will usually present more law proposals than the more experienced parliamentarians, a difference that needs to be considered. Probably the beginners will have proposals more focused on the electoral bases than the others, but this statement demands empirical verification.

The analysis of the electoral connection in Brazil deserves a better assessment and a stronger link with the study of the legislative careers, as well as a more accurate account of the differences between the two national legislative chambers. The efforts in order to study the legislative careers, such as the contributions of Leoni, Pereira and Rennó (2003), and Pereira and Rennó (2007), it should be pointed out, have been concentrated on the House of Representatives.

The fact that the Executive's proposals initiate the legislative process in the House of Representatives weighs in the differences in the operation of both houses. Even provisional decrees are beginning are the House, because the mixed committees with deputies and senators, provided for in the internal rules of the National Congress are not, in practice, being installed. In face of this picture, the Senate has consolidated the role of a reviewer chamber, whose political relevance cannot be undervalued.

At different stages of the period after the 1988 Constitution, the Senate has a position of a stronger collision in relation to the determinations of the Government leaders than the House of Representatives. These circumstances need to be defined and understood. Indeed, it may be said that the Senate has been little studied in Brazil, with the exception of works such as the one organized by Lemos (2008).

It should be mentioned that the rules that discipline the legislative process in the House of Representatives and the Senate have differences with substantial political implications. In the House, all legislative processes must pass through the law and justice committee (LJC) at the final stage of the proceedings in the committees. This rule greatly increases the importance of the LJC. Rather than generating new texts, this committee makes an important use of its veto power. In the Senate, the board defines which processes will or will not be analyzed by the LJC. On the other hand, in the analysis of the proposed amendment to the Constitution, the Senate's LJC is the only committee consulted. This concentration of power is even more important to the political parties and to the Government with regard to more complex legal reforms (Araújo and Silva 2012).

7. Conclusion

We understand that the Brazilian legislative studies have not observed the importance of conducting research with more focused targets, which move more towards medium range conclusions than generalizations. The number of strategic possibilities existing in the National Congress is immense, revealing a more complex picture than is usually portrayed. It is necessary to study legislative processes and procedures, and the causal mechanisms associated with them, as well as to understand the peculiarities of each legislative house. In this sense, the combined use of qualitative and quantitative methodologies assumes a great importance.

It should be said that some of the problems found on the legislative studies may not be directly related to the conclusions expressed by their authors, but to the undue expansion of part of their findings. This is observed, for instance, in the application of conclusions about the actions of the Executive to the Legislative, in order to explain the dynamics of the National Congress as a whole.

More consistent analyses in this perspective can affect the theoretical positions about the relationship between the Legislative and Executive branches on the federal level. Many researchers talk about abdication or, more frequently, about delegation of the legislative function by the Parliament. The parliamentarians with remarkably electoral preferences would leave the more complex decisions to the Executive. To which extent do the Parliament and the parliamentarians actually use this delegation? On which political issues and public policies covered by the legislative processes does the delegation effectively occur? Can we analyze the Legislative (and at this point the question can also be extended to the sub-national legislatures) as a single body?

There are important issues to be covered. One could bring the great power of the special committees in the House of Representatives, and the implications of the performance of parliamentary fronts, substituting the political parties on certain situations. Often, the distinction between the legislative and budget arenas does not receive proper attention, as well as that between the House and the Senate in terms of procedural rules and organizational culture.

There are still important challenges to be faced regarding Brazilian legislative studies.

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