

# DELEGATION, AGENDA CONTROL, AND BUDGET REFORM IN BRAZIL, 1999–2008

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*Abstract: How are patterns of delegation between the president and the legislature chosen in multiparty presidential regimes? How do political actors make strategic use of legislative provisions during moments of institutional reform? This essay explores causal mechanisms related to these questions based on a case study of Brazilian budget reform from 1999 to 2008. The main findings are that legislative agenda control can be decisive for the maintenance of delegation patterns that favor governing coalitions; entrepreneurs have a real, but limited, power; and the strategic use of legislative rules may be as relevant for institutional reform as they are for regular policy making.*

How does legislative agenda control matter for the choice of patterns of delegation between the president and the legislature, that is, in different types of institutional equilibria? How successful can entrepreneurs be in an unfavorable institutional context? How do political actors make strategic use of legislative provisions during moments of institutional reform? This article explores these three questions based on a case study of Brazilian budget reform from 1999 to 2008.

The success of coalition management in Brazil owes a lot to the types of delegation processes that go on between the president, party leaders, and backbenchers. There are three main mechanisms through which the president keeps his coalition working in Brazil: budget execution, cabinet and bureaucratic appointments, and policy concessions.<sup>1</sup> This article analyzes how attempts to rewrite the role of budget execution—and thus to change the patterns of interbranch delegation—failed from 1999 to 2008.

This is puzzling because legislators would be better off with a mandatory budget, in which the president would not have a line-item veto for budget execution. I argue that agenda control mechanisms mobilized by the majority coalition were enough to keep intact the “distributive game” of delegation (Weingast 1979), despite there being strong incentives for wholesale reform of the budget process in Brazil, such as recurrent corruption scandals and strong criticism of the current institutions by academics and policy makers. Proposals for rearranging the patterns of delegation have been permanently on the political agenda (Krieger, Rodrigues, and Bonassa 1994; Pontes Lima 2003; Pereira and Mueller 2004). But the country has kept its main budget institutions in place, namely the line-item

1. See Pereira and Melo (2012) for a good review of the first two mechanisms; for the latter, see Melo (2002) and Diniz (2005).

veto prerogative of the president, ensuring full presidential control of budget expenditure.<sup>2</sup>

This case study of budget reform in Brazil shows how and why this happened. A very strong political actor, conservative senator Antônio Carlos Magalhães, cleverly framed his proposal for relevant institutional change (the implementation of a mandatory budget, eliminating the president's line-item veto) and avoided some legislative maneuvers led by the majority coalition (such as the introduction of a "killer amendment" to his bill) but pursued reform unsuccessfully in the Chamber of Deputies after passage of his bill in the Brazilian Senate.

A methodological note is in order. While the qualitative description and historical analysis of the legislative process over time used in this article has some shortcomings, namely the "lack of a sufficient number of observations to estimate the effect of the independent variables of interest,"<sup>3</sup> it is defensible on at least two grounds.

The first is that process-tracing analysis, as I carry out in this article, "can make decisive contributions to diverse research objectives, including: (a) identifying novel political and social phenomena and systematically describing them; (b) evaluating prior explanatory hypotheses, discovering new hypotheses, and assessing these new causal claims; (c) gaining insight into causal mechanisms; and (d) providing an alternative means—compared with conventional regression analysis and inference based on statistical models—of addressing challenging problems such as reciprocal causation, spuriousness, and selection bias" (Collier 2011, 824).

I do not claim that my analysis of Senator Magalhães's efforts to pass a mandatory budget makes all of these contributions, but it does help to evaluate prior explanatory hypotheses about institutional reform and the role of agenda control in Brazilian politics. It also helps, through the detailed analysis of the senator's legislative strategies and the majority coalition's counterstrategies, to flesh out the specific mechanisms that drive reforms, thus contributing to an exciting recent literature on institutional stability and change (Mahoney and Thelen 2009).

In the first section I explain different delegation patterns and show how the Brazilian budget process fits into this literature. The next section analyzes, in some detail, the different budget reform proposals in the agenda from 1999 to 2008; the third section spells out how Magalhães's proposal was approved by the Senate then blocked in the Chamber of Deputies.

#### DELEGATION PATTERNS AND AGENDA CONTROL IN BRAZILIAN BUDGET POLITICS

This section first describes the basics of budget politics in Brazil then considers different patterns of interbranch delegation and puts Brazilian budget politics in

2. In 2013, Congress partially took away the presidential line-item veto for individual budget amendments in some policy areas. The change became permanent after a constitutional amendment passed in March 2015.

3. This is Mahoney's (2010, 124) summary of one of the main critiques of qualitative methods put forth by King, Keohane, and Verba (1994).

the “universalist” vs. “distributive” delegation framework that will illuminate the legislative strategies analyzed in the remainder of the essay.

The Brazilian budget process is characterized by the exclusive prerogative of the executive to introduce budget legislation, by congressional participation in the budget process, and by the nonmandatory nature of the budget law. The 1988 Federal Constitution divides the public budget into three laws: the multiyear plan, the budget guidelines statute, and the annual budget law. The multiyear plan establishes goals to be achieved during a four-year period. The budget guidelines statute establishes goals and priorities for the forthcoming year, as well as some rules of the budget game.

The Joint Budget Committee formed by deputies and senators is the main decision-making locus, along with the economic ministries and the office of the presidency, for budget formulation in Brazil. It is a very centralized process. Working alongside the Finance and Planning Ministries, the budget committee chair is responsible for a report on the fiscal situation of the country for the coming year.

Around 90 percent of the Brazilian budget consists of earmarked revenues assigned to certain policy areas (Velloso 2006). However, the president can choose not to execute some of these expenses, and congressmen cannot react to that choice. Also, through a decree edited early each year, the fiscal ministries constrain how much the other ministries can spend. In 2004, for example, the Ministry of Urban Affairs had been authorized by Congress to spend R\$1.38 billion (Rezende and Cunha 2005, 43), and that amount was revised by the fiscal ministries to R\$ 512 million—a 62.6 percent reduction.<sup>4</sup>

Congressional interference in the budget through amendments is the most important way in which members of Congress affect budget composition and one of the main ways in which they work for their constituencies. The 1988 Constitution mandates that budget amendments can only be attached to a small piece of the budget, that which refers to new investments. Due to the presidential line-item veto, the execution of amendments rests solely with the executive.

The notion that having individual budget amendments executed is one of the most important factors for being reelected (or otherwise continuing the political career at the state level) is supported by general consensus both in the literature (Pereira and Rennó 2003) and among politicians (Carvalho 2003, 154–155; Power and Zucco 2011, 22).

There are also studies showing that the execution of individual amendments is used strategically by the president in order to reward parties and individual congressmen who provide him or her with support (Bezerra 1999; Ames 2002; Pereira and Mueller 2003, 2004; Alston and Mueller 2005; Pereira and Orellana 2009), a notion that is well accepted by the literature. Other authors, like Figueiredo and Limongi (2005, 2008) argue that support for the president’s bills on the floor is driven largely by party affiliation, not by ad hoc factors such as execution of individual budget amendments (see also Vasselai and Minozzetti 2014).

Figueiredo and Limongi (2005, 2008), however, do not emphasize that the ag-

4. See Marques and Mendes (2005); Velloso (2006); Alston et al. (2009) for more details on the Brazilian budget process.

gregate execution of individual amendments might be one of the mechanisms through which party leaders act as agents of their backbenchers. In other words, while the execution of an individual amendment might not matter for a deputy's allegiance on a specific vote on the floor, it might make a difference for his party when considered with other mechanisms. Raile, Pereira, and Power (2011) partly reconcile these two arguments, observing that the presidential tools—cabinet and appointment positions as well as budget amendments—function as “imperfect substitutes.” Cabinet positions, according to these authors, establish an “exchange baseline,” while amendments “cover the costs” of specific decisions on the floor.

Party leaders act as agents for their backbenchers when negotiating all of these things: cabinet positions, political appointments, and budget amendments. A few words about delegation patterns defined more broadly are in order.

### *Delegation Patterns and Agenda Control*

There are, according to Thies (2001, 582–583), four main types of mechanisms that principals might choose to control their agents. From the principal's point of view, they should all, in some way, be superior to the principal doing the job himself or herself. In all of these mechanisms, principals have some chance of incurring agency losses—that is, of having to deal with their agents doing something contrary to the principal's interests.

The first mechanism, says Thies, is choosing agents whose preferences align with the principal's. This is somewhat common when a president chooses cabinet ministers (Amorim Neto 2006) and political appointees (Lewis 2003).

The second mechanism involves writing contracts that specify the responsibilities of principals and agents. This brings to mind bureaucratic agency design (Moe 1989; Melo, Pereira, and Werneck 2010) and how much discretion bureaucrats have to formulate and implement policies (Huber and Shipan 2002).

The third mechanism is when delegates submit important actions for the principal's prior approval. Cabinet politics in Brazil is reminiscent of this: ministers submit their legislative proposals to the presidential office (Casa Civil da Presidência da República) before sending it to Congress (Lameirão 2011; Gaylord and Rennó 2015).

Finally, the fourth mechanism is when the principal, in Thies's words, chooses to constrain an individual agent's ability to act or even to propose policy changes by delegating responsibility jointly to two or more agents, each with different interests. This brings to mind, again, bureaucratic agency design and turf wars between congressional committees in the United States (King 1997; see also Ting 2003).<sup>5</sup>

This article considers two different legislative budget games that have distinct risks of shirking and agency losses for backbencher legislators in Brazil. They are what Weingast (1979) calls the “distributive game” and the “universalist game.”

The distributive game is defined by Weingast (1979) as an  $n$ -person cooperative

5. Lupia (2003), Epstein and O'Halloran (1999, chapters 1 and 2), and Bendor, Glazer, and Hammond (2001) offer excellent reviews of the literature on politics and delegation.

game in which each representative proposes a project with benefits (B) and costs (C). B is larger than C. Benefits go strictly to District I and the taxation system spreads the costs evenly over all districts. If the congressman is a member of the winning coalition, his district receives the benefits (B) of his project and pays his share of the total costs. In the universalist legislative game, however, a congressman does not have to be a member of any coalition in order to receive the payoff. Each representative has the certainty of achieving the payoff for his district due to a mechanism that ensures that all congressmen will see their pet projects executed by the president or some other budget authority. (An example of such a mechanism could be, as I will show, Magalhães's proposal for a mandatory budget in Brazil.)

The current budget system in Brazil, which gives the president a line-item veto, is, in Weingast's terms, distributive. In this game, backbenchers (of parties belonging both to the coalition and opposition) delegate to party leaders the prerogative to negotiate the timing and volume of budget amendment execution with the president. The agents (party leaders) are in touch with their principals' (backbenchers') interests. Agents can, of course, shirk and make the principals suffer agency losses—by preferring to deal in other goods with the president, such as political appointments (Praça, Freitas, and Hoepers 2011), but this is less likely due to the fact that the game is repeated.

If party leaders did not coordinate with the president in the name of the backbenchers, and the legislators themselves had to self-coordinate in the allocation of budgetary resources, coordination costs would be prohibitive. Therefore, by delegating the authority to an external player (the president), and communicating with the president through party leaders, backbenchers face smaller coordination costs. In addition, at least for the faithful members of the majority governing coalition, they may anticipate that their demands (individual and collective amendments to the budget) would have higher probability of being executed, and therefore they would enjoy higher probability of getting reelected.

In contrast, the universalist legislative game entails an even larger reduction of coordination costs (Weingast 1979). Under this game, the expected payoff to each district is greater than the one under the distributive game, and this may of course help the district's member of Congress. The certainty of the payoff reduces the uncertainties representatives face over whether minimum winning coalitions are to be formed, and institutionalizing this type of payoff reduces the time and energy used to negotiate the formation of the winning coalition.

If this game were to be implemented in Brazil, backbenchers would not delegate the execution of individual amendments to the negotiation between the president and party leaders and would themselves decide how to allocate part of the budget. This would possibly "dry up" one of the main mechanisms through which coalitions in Brazil are kept together, while minimizing the backbenchers' agency losses and maximizing their potential electoral gains from budget execution.

The political benefits that the majority of legislators, especially those who belong to the governing coalition, get from the execution of budget amendments would have to be compensated with other goods. But political appointments and cabinet positions are already considered excessive in Brazil, even if most political

appointee positions are taken by career bureaucrats (Pacheco 2010). So it is easy to imagine deadlocks and governability problems if the well of budget amendments at the president's discretion were to dry up. Adoption of the universalist legislative game would be a drastic change in the Brazilian political process, and this is exactly what Senator Magalhães attempted to carry out—though he was ultimately frustrated by the majority coalition's agenda control.

Moe (2005, 223) provides a good starting point for discussing agenda control, considering two different patterns. The first is when actor X denies actors Y, Z, and others the possibility of preserving the status quo, so that the alternatives preferred by the actor X are accepted. This type of agenda control is related to "positive agenda power"—defined by Cox (2000, 173) as the ability to initiate the next step in a bill's progress toward passage. The second way of controlling the agenda happens when actor A uses her institutional prerogatives to deny actor B the possibility of putting forward other alternatives in the legislative agenda.

An entrepreneur might challenge both types of agenda control. Sheingate (2003, 188, *italics mine*) defines an entrepreneur as someone who "shapes the terms of political debate: they *frame issues*, define problems, and influence agendas. . . . Entrepreneurs are a source of innovation: *they invest resources* in the creation of a new policy, a new agency, or new forms of collective action."

This essay illustrates how an entrepreneur attempted to circumvent the second type of legislative agenda control cited above, exercised by the governing coalition. In order to do this, Senator Magalhães had to work persuasively through the strategic use of legislative rules. Before we analyze how he did this, an exposition of different budget reform proposals is in order.

#### REFORMING THE BUDGET PROCESS IN BRAZIL

How would different mandatory budget proposals—all but one of which would somehow eliminate the presidential line-item veto—affect delegation patterns between congressmen, party leaders, and the president? This section describes four possible models of mandatory budget institutions, the first three of which are pointed out by Pontes Lima (2003, 8–9). With a full mandatory budget (henceforth Full MB), the government would be forced to execute the budget exactly as defined by Congress. If the fiscal means to do so were lacking, the president would necessarily create a deficit. With an intermediate mandatory budget (henceforth Intermediate MB), the government could choose not to execute certain expenses due to lack of resources, provided it obtained explicit approval from Congress.<sup>6</sup> There is also the flexible mandatory budget (henceforth Flexible MB), in which the government would not execute certain expenses for lack of revenue, communicating this to Congress, but without needing its explicit authorization. Finally, there is a fourth budget model: the mandatory budget for congressmen's amendments (henceforth Pork-Only MB). In this case, the executive would be obligated to fund all individual and collective budget amendments.

6. This would be similar to the United States' rescission mechanism. See Farrier (2004, 35–36).

The Full MB would lead to three plausible effects: it would strengthen Congress as a collective actor, because it would make it solely responsible for a big part of the country's macroeconomic policies; it would eliminate the distributive advantage of the coalition in executing its own amendments; and it would eliminate the strategic advantage of the executive in timing the execution of the amendments.

As for the effects of Pork-Only MB, congressmen of the opposition would benefit, because the distributive advantage of the coalition—whose amendments are more likely to be spent than those by members of the opposition (Figueiredo and Limongi 2008)—would vanish. An Intermediate MB would require the executive to seek legislative approval if it wanted to suspend the execution of part of the budget.

Among the options mentioned, the Intermediate MB is a second-best alternative for opposition members of Congress. The Flexible MB would only add a formal communication of the executive to Congress regarding cancellations and transfers made by the executive. It would, in practice, mean the maintenance of the presidential line-item veto. Table 1 summarizes the options for budget reform.

Three proposals for an Intermediate MB were suggested by members of the coalition, two in 2000 and one in 2003. The constitutional amendment bill (PEC 22/2000) from Senator Antônio Carlos Magalhães, notorious leader of the right-wing Partido da Frente Liberal in the state of Bahia, stands out. This is the mandatory budget bill that has gone further in Congress and which the next section of this essay analyzes. It was approved in the Senate and rejected by the Chamber of Deputies.

Changing institutions requires effort, time, political influence, and unusual capacity for persuasion. It begs for a strong entrepreneur. The next section discusses how Magalhães was the main entrepreneur of the mandatory budget from 1999

*Table 1 Budget reform proposals and political actors in Brazil*

	Full mandatory budget	Pork-only mandatory budget	Intermediate mandatory budget	Flexible mandatory budget	Presidential line-item veto (SQ)
Economic policy making	Congress	Executive	Congress	Executive	Executive
Distributive advantage	—	—	Small (coalition members)	—	Considerable (coalition members)
Strategic advantage	Congress	Partial (Congress)	Small (Executive)	Considerable (Executive)	Considerable (Executive)
Actor most likely to defend the proposal	Congressmen, mostly opposition members	Congressmen, mostly opposition members	Congressmen, both coalition and opposition members	Executive	Executive, congressmen, coalition members

to 2007, and how his proposal, despite great mobilization and support by most senators, was blocked by the coalition's efficient agenda control in the Chamber of Deputies.

#### INSTITUTIONS VS. ENTREPRENEURS: SENATOR MAGALHÃES'S RELATIVE SUCCESS

Corruption scandals can open up opportunities for institutional reform. At first glance, the case of budget reform seems to be typical of this dynamic. The scarce literature on budgeting institutions in Brazil points to scandals related to budget corruption (Figueiredo and Limongi 2008, 18) or to executive actions considered "arbitrary" (Pontes Lima 2003, 11) as the origin of mandatory budget proposals.

Both perspectives are somewhat off the mark. The first congressional committee that investigated budget corruption, between 1993 and 1994, did not include among its twenty-three suggestions of institutional reform the proposal for a mandatory budget. Although it vaguely stated that the "elaboration of budget bills" should occur "simultaneously in both the executive and Congress," the main goal of the committee was to rid the budget elaboration process from a corrupt cartel that had gotten hold of it (Praça 2013).

Since 1999, sixteen proposals of mandatory budget have circulated both in the Chamber of Deputies and the Senate. A letter from deputy Paulo Bernardo sent in March 2005, when he was chair of the Joint Budget Committee, addressed several topics related to budget reform. One of them was the mandatory budget. Bernardo had diagnosed a "distancing of budget expenditure from the legislative authorization expressed in the budget law, given that the president has a line-item veto." He proposed, among other things, to establish in the budget guidelines statute "rules to minimize the discretionary power of the executive" and to mandate the execution of discretionary expenses approved by Congress.

After Bernardo's letter was made public, a committee was charged with organizing meetings between members of the executive and members of Congress on several items of the budget reform. The mandatory budget was discussed mostly in the manner which I call "Pork-Only MB"—reform that would make mandatory only the execution of budget amendments proposed by congressmen.

Any mandatory budget bill is a constitutional amendment that requires the support of 60 percent of the members of both federal legislative houses in Brazil, in two rounds of votes on the floor of the Chamber of Deputies and the Senate. The main political actor that has enough resources to mobilize that many congressmen around a proposed constitutional amendment is the president. Since a reform of this sort doesn't interest the executive at all, who could propose it? Only an entrepreneur with a lot of political muscle. In the case of the mandatory budget in Brazil, the task fell to Senator Antônio Carlos Magalhães. But even he would face considerable institutional obstacles.

The Brazilian legislative process is organized around three fundamental loci. They are the permanent committees, the Steering Boards (*Mesa Diretora*) of both houses, and the Leaders' Caucus (*Colégio de Líderes*). All bills must go through the permanent committees of each house before reaching the floor. The

committees are run by their chairs, who select the rapporteurs of the bills and organize the deliberative process while the bill is in the committee stage.

The Steering Boards are the administrative bodies that run each house and direct a major part of the legislative process. Another important institution is the Leaders' Caucus, whose members are the party whips. They can direct the votes of party members in the committees or on the floor. The composition of the permanent committees is proportional to the number of seats each party holds. In Brazil, a country where multipartism is the most obvious effect of proportional representation, it is virtually impossible for a single party to hold the absolute majority. The government cannot informally appoint the chairs for all the committees: it must prioritize control over some of them (Santos and Rennó 2004).

It is up to the committee chair to choose the rapporteurs for each bill. The rapporteur is a key figure in the legislative process, for it is based on his or her report that the committee will vote. The report may suggest that the bill should be approved as originally presented; it may offer amendments; or it may present a substitute bill. An unfriendly chair may choose as rapporteur a member of Congress who is against the government's proposal, and resistance to a government bill could start even before it is put to vote in the committee stage (Santos and Almeida 2005).

Say a bill is analyzed by a rapporteur favorable to the government, and he doesn't suggest any changes to it. The report is voted on by the committee. If approved, it goes to the floor. If the floor is the Chamber of Deputies, the bill, once approved, is sent to the Senate. If the bill is rejected in the Senate, it is filed away. If the bill is amended, it will come back to the Chamber of Deputies. If approved by the Senate, it will be sent for presidential sanction. If the Chamber of Deputies does not agree with the changes, the version that stands is the Chamber of Deputies', and the bill goes for presidential sanction. Once sent to the president, he or she may sign it into law or veto it. The veto may be on the whole bill or just part of it. Congress can override the vetoes with a simple majority.

These are the major obstacles that Magalhães would have faced to get his Intermediate MB bill approved. How did the senator manage to be relatively successful, passing his proposal in the Senate but getting shut down by the coalition in the Justice and Constitution Committee (JCC) in the Chamber of Deputies?

There were four clear difficulties for Magalhães. The first was the nature of the proposal. The fact that it was a constitutional amendment bill means that he would need to get the approval of a larger majority (60 percent in each chamber) than the one required for a regular bill. The second has to do with the content of the proposal: the executive has strong incentives to oppose all mandatory budget bills. The third is related to an institutional prerogative: a senator cannot, alone, initiate an urgency provision for a bill in order for it to be processed faster.<sup>7</sup> Finally, since it is an amendment bill, it has to pass both in the Chamber of Deputies and

7. The urgency provision request is commonly used by the executive to speed up the analysis of bills that interest it. In the case of bills proposed by senators, the request for urgency requires the support of at least 25 percent of the members of the house or the party leaders that represent that amount. See articles 336 through 344 of the senate's standing orders.

in the Senate, and the Chamber of Deputies cannot bypass the Senate's changes in the case of a constitutional amendment bill. Magalhães had very little personal influence in the Chamber of Deputies, although he was a respected leader in the Senate.

The senator, however, had some advantages when compared to other congressmen who proposed mandatory budget bills. He was an influential politician, relatively independent of the executive.<sup>8</sup> From 2005 to 2006, he chaired the Senate's Justice and Constitution Committee, having the prerogative of appointing the senator that would report on his constitutional amendment bill in this committee, the most important one in the Senate. Magalhães's party, the Partido da Frente Liberal (PFL), was very strong in the Senate's JCC, which meant that the likely favorable report would have a strong chance of approval. Also, the senator's bill suggested an Intermediate MB—and not a Full MB. The latter would certainly alienate most congressmen who belonged to the government coalition.

Why would Magalhães propose a bill contrary to so many interests? He had not, during his lengthy career, showed interest in budgeting issues (Dantas Neto 2006). It is plausible that the proposal had the intention of denouncing the bad macroeconomic performance at the end of President Fernando Henrique Cardoso's (1995–2002) second term. Another possibility is that Magalhães acted strategically, proposing a bill he knew would be impossible to pass and using it to bargain for other bills in his interest or even an attenuated version of the mandatory budget.<sup>9</sup>

But was he trying to tie the hands of the Worker's Party, which he assumed would win the presidential election in 2002? Was he trying to get his own amendments executed? Was he just trying to strengthen Congress as a whole vis-à-vis the executive?

Some evidence is available. Magalhães's party was more successful in convincing then president Fernando Henrique Cardoso to execute their individual amendments than the president's own Social Democratic Party (Partido da Social-Democracia Brasileira, PSDB) (Figueiredo and Limongi 2005, 746). Data on the senator's amendments are not available, but it is doubtful that he was, in 2000, dissatisfied with Cardoso's treatment of his party.

It is more likely that Magalhães was vying for a better spot in the national scenario, possibly to influence the 2002 presidential election. He affronted the executive in the yearly readjustments of the minimum wage, which is sensitive for the president because it can have inflationary impacts, and it is a highly populist action to try to increase the minimum wage, forcing the president to incur the popularity cost of having to refuse the increase.<sup>10</sup> Even if we can never know all of his motives, the ones spelled out thus far make it clear that the senator had plenty of reasons to fight for a mandatory budget.

Magalhães's Intermediate MB bill had four main points: (1) it proposed an end

8. Magalhães proposed at least one other constitutional amendment bill that annoyed the executive during the beginning of the twenty-first century (Souza 2008, 811–812).

9. Diniz (2005) illustrates how this happens in some policy areas.

10. I thank one of the reviewers for pointing this out.

to the legislative year only after the deliberation of the annual budget law; (2) it proposed that new budget programs could only be proposed after adequate resources for the ones already in place were provided; (3) it made the budget law mandatory—if the president were to disobey, he or she could be charged criminally; and (4) it changed the deadlines for Congress to analyze budget legislation.

The third point is the most important one in the bill and would, if approved, profoundly change the budget process in Brazil. If the president were to ask for a cancellation of any budget project, the request would have to go through Congress with an urgency provision. If Congress were not to deliberate on this request in thirty days, it would be automatically approved. This means that it would be up to members of Congress to coordinate and try to defeat the president's budget cancellations, which indicates that the process would not be so unfavorable to the president as one might imagine.

It is extremely important to note that Magalhães stipulated that the institutional change would only begin "in the first day of the second year subsequent to the bill's approval." Since the senator proposed the bill in May 2000, it is reasonable to assume that he expected it to pass in 2001—a year before the presidential election. It is the opposite of a "sunset provision" (Sinclair 2007, 94)—a mechanism in the United States legislative process that makes a law expire after a certain period.

On hold in the Senate for five years, Magalhães's bill gained relevance when he became chair of the Senate's constitutional committee in 2005. At the time, Magalhães was already a leader of the opposition to President Luiz Inácio Lula da Silva of the Worker's Party. Considering that legislative coalitions led by the executive tend to "allocate to their own members a large share of the official posts to which substantial agenda-setting powers are attached, such as cabinet positions, committee chairmanships etc." (Amorim Neto, Cox, and McCubbins 2003, 551), it is strange that Magalhães got this position, especially because the Senate's constitutional committee is one of the most important committees in the Brazilian Congress, and many senior senators seek to be a part of it (Lemos and Ranincheski 2008, 88, 114).

Something besides Magalhães's personal influence that helped him rise to the constitutional committee was his party's control over the committee in the 1990s (Lemos and Ranincheski 2008, 108). As committee chair, he would try (unsuccessfully) to mobilize the support of other strong political actors for his bill and appoint (successfully) the rapporteur that would guarantee a friendly report to his bill.

Magalhães's first task was to convince some of his closest allies to support his bill. Twelve federal deputies defended, from 2000 to 2005, some type of mandatory budget on the floor. Six of them were from Magalhães's party, and five mentioned the senator's proposal, asking that it be immediately put to a vote. With the exception of one congressman, all belonged to opposition parties. One may infer that Magalhães's bill found more acceptance inside his inner circle with little support elsewhere, failing to create a diversified political group capable of passing the bill in the floor against the executive's will.<sup>11</sup>

11. See speeches by congressmen Confúcio Moura (December 5, 2003), Luiz Carreira (January 22, 2004), Coraaci Sobrinho (January 22, 2004), Antônio Carlos Magalhães Neto (January 22, 2004), Cláudio

The government whip in the Senate—Senator Aloizio Mercadante of the Worker's Party—had the task of blocking the reform. Mercadante suggested public hearings with governors and mayors to avoid passing the bill. This was somewhat risky. Although Brazilian governors are less influential in decisions made by congressmen (Arretche 2007; Cheibub, Figueiredo, and Limongi 2009) than is usually assumed (Abrucio 1998), the support of these actors would certainly not hurt Magalhães. Mercadante and Magalhães disagreed vehemently about the hearings.<sup>12</sup> Magalhães was unlucky: one of the governors sent a letter attacking his bill, and one of the mayors thought it was “uncalled for.”

The appointment of the rapporteur for his bill in the Justice and Constitution Committee was the senator's trump card for its approval. Committee rapporteurs are powerful in the Brazilian political system. According to Santos and Almeida (2005, 699–700), the rapporteur offers his judgment about the bill, suggesting its rejection or approval, incorporating, with some discretion (as we shall see below), amendments presented by the other committee members. The chair gets to choose the rapporteur, and there is no restriction as to which member of the committee might be chosen or how many times the same person may fill that position for different bills.

Rapporteurs often provide expertise for the floor (Santos and Almeida 2005, following Krehbiel's 1991 argument for the US House of Representatives), but are the committees themselves formed by policy specialists? The more specialized the committee members are, the less susceptible they would be to personal pressure such as from Magalhães. According to Lemos and Ranincheski (2008), the Senate's JCC members are less specialized than their counterparts in the Chamber of Deputies. Therefore, it is only possible to truly influence it by being committee chair, a post that Magalhães finally got in 2005, honoring an agreement struck between his own party and the center-right Partido do Movimento Democrático Brasileiro in 2003.<sup>13</sup>

César Borges, a federal deputy of Magalhães's party, was the rapporteur for his budget reform bill.<sup>14</sup> Borges has been described by the media as “oriented” by Magalhães (in Portuguese slang, he was an *afilhado*, *apadrinhado*, *aliado*).<sup>15</sup> His work as rapporteur was unsuccessful in preventing the government, through Senator Aloizio Mercadante, from radically changing Magalhães's bill. Mercadante proposed four amendments to the bill, one of which was a “killer amendment,” defined by Finocchiaro and Jenkins (2008, 263) as “an amendment which, when added to a bill that previously had majority support, causes it to fail.” In more technical terms, a killer amendment to bill B is an amendment A such that with-

Cajado (March 2, 2004), Walter Pinheiro (December 28, 2004), Alceu Colares (February 17, 2005), Costa Ferreira (June 15, 2005), Ivan Ranzolin (June 15, 2005), Agnaldo Muniz (June 15, 2005), and Lincoln Portela (June 15, 2005), [www.camara.gov.br](http://www.camara.gov.br).

12. “PT evita votação do Orçamento impositivo,” *Valor Econômico*, March 24, 2005, A8.

13. “ACM se afasta temporariamente da presidência da CCJ,” *Correio da Bahia*, February 18, 2003.

14. Constitutional amendment bills are analyzed by committees including both deputies and senators.

15. “Oriented,” “PT evita votação do Orçamento impositivo,” *Valor Econômico*, March 24, 2005, A8; “afilhado,” “ACM morre aos 79 anos em São Paulo,” *Diário de Natal*, July 21, 2007, 9; “apadrinhado,” “ACM decide só sair da Bahia após decisão sobre a Ford,” *Folha de São Paulo*, July 8, 1999; “aliado,” “Adversários e aliados se despedem de ACM,” [www.g1.globo.com](http://www.g1.globo.com), July 21, 2007.

out A, the bill (B) is expected to win, but with A, the bill (AB) is expected to lose (Enelow and Koehler 1980, 401)

Mercadante's killer amendment defended the end of the Joint Budget Committee and, therefore, the decentralization of the legislative budget process in Brazil. It is an example of what Wilkerson (1999, 546) would call a "new issue" killer amendment, since it introduces an issue that was not part of the original bill.

This was a clear attempt to insert a killer amendment in the bill because the budget committee is a typical congressional power base, distributing important resources to the congressmen and parties that control it. Strangely, the rapporteur César Borges approved the killer amendment, though he may have had his hands tied since the rapporteur's mission is to analyze strictly legal and constitutional issues, keeping out of discussions on merit.

Mercadante's "killer amendment" came to a vote by the Justice and Constitution Committee in May 2005, just a few months after Magalhães took over the committee chairmanship. It was approved in November 2005 with the support of sixteen out of twenty-three senators.<sup>16</sup> Fifty-six out of eighty-one senators approved the bill in the first round of voting on the Senate floor the same day it was approved by the committee. In the beginning of 2006, Magalhães's bill passed on the Senate floor though a second round of voting, with fifty-five votes, and was taken to the Chamber of Deputies.

As soon as the bill arrived in the Chamber of Deputies, Magalhães saw his persuasive powers greatly diminished. Mahoney and Thelen (2009, 12) note that political actors who find themselves at a disadvantage in a certain institutional setting (in this case, Magalhães at the Chamber of Deputies) may use their influence and status in another institution (in this case, the Senate) to advance their proposals for reform. Alas, the conservative senator couldn't push his bill through the Justice and Constitution Committee of the Chamber of Deputies.

The Chamber's JCC is strategic to all parties because it can kill a bill unilaterally (Freitas 2010, 89). Parties allocate their posts in this committee to their most loyal members. Ricci and Lemos (2004, 110) argue that the Chamber's JCC is extremely active and favors internal specialization. Considering the importance of this committee for the Chamber's legislative process, it is not odd that the majority of its members belong to the coalition and that it manages its work in order to achieve certain results. It does so by appointing rapporteurs and/or mobilizing a majority of deputies to vote against reports from the opposition's rapporteurs.

These mechanisms were used by the coalition to avoid the passage of mandatory budget bills in both the Chamber of Deputies and the Senate. The coalition strategically refrained from appointing a rapporteur for some bills, thus preventing them from ever coming to a vote in committee (Bills 218/2004; 205/2004; 195/2004; 385/2005; 46/2007; 96/2007; 281/2008; 321/2009). The coalition appointed a rapporteur that proposed the rejection of some bills (Bills 87/2003, 4786/2005), and it appointed a rapporteur that did not present a report, thus preventing the

16. Nine out of eighteen of the PFL/PSDB coalition; four out of fourteen of the government's PT/PSB/PL/PPS coalition; two out of twelve of the PMDB; and one out of two of the PDT.

bill from ever being voted on (Bill 169/2003). For these twelve bills, the executive's power as leader of the coalition was discreet and successful.

A similar process happened with Magalhães's bill in the Chamber of Deputies. Federal Deputy Paulo Maluf (of the right-wing Partido Progressista), despite being a member of the coalition, offered a positive report of Magalhães's bill in the constitutional committee in April of 2007.<sup>17</sup> Magalhães passed away in São Paulo in July 2007. The coalition was mobilized in March 2008 to help defeat the bill, through deputies Antônio Carlos Biscaia, Colbert Martins, and José Genoio. They asked to review Maluf's report, thus delaying the voting for a week in the constitutional committee.

The final decision on Magalhães's bill in the Chamber of Deputies was taken in April 2008. Federal deputies Paulo Magalhães (PFL), Felipe Maia (PFL), and Silvinho Peccioli (PFL) dissented, signing a report favorable to the mandatory budget bill. José Eduardo Cardozo, of the Worker's Party, also presented a separate opinion to Maluf's report, arguing against Magalhães's bill. The opposition noticed that it would not have the legislative stamina necessary to pass the bill and opted to withdraw it from the constitutional committee.

How is it possible to measure Magalhães's success? It is undeniable that, in spite of his budget reform proposal ultimately being withdrawn, the senator obtained relative success. It was a bill highly unpleasant for the most powerful actor in the Brazilian political system, the president. Magalhães managed to take it to the Senate floor—something that happened to only 9 percent of the unapproved bills in the Senate from 1991 to 2003 (Ricci 2008, 255)—and obtained a favorable report from the rapporteur in both the Chamber of Deputies and the Senate. Also an indication of Magalhães's success is the fact that the bill was not rejected on the Senate floor, which was the case for 83 percent of rejected senatorial bills from 1991 to 2003 (Ricci 2008, 251).<sup>18</sup>

To sum up, it is fitting to cite three requirements, pointed out by Campbell (2004, 86), that make a successful entrepreneur: capacity to fit an innovative proposition to the institutional context; ability to mobilize political support around the proposition; and financial and administrative viability of the proposal. Senator Magalhães's ability to mobilize support partially compensated for the stunning inadequacy of his intermediate mandatory budget bill in the Brazilian institutional context.

## CONCLUSIONS

This essay has argued that legislative agenda control is decisive for the maintenance of delegation processes that favor governing coalitions; that entrepreneurs have a real, but limited, power when it comes to changing institutions; and,

17. Maluf, a former mayor of São Paulo, was a notorious enemy of then president Luis Inácio Lula da Silva. Therefore, his characterization as being part of the government's coalition must be taken with a pinch of salt.

18. The remaining 17 percent were rejected by the Chamber of Deputies.

finally, that the strategic interpretation of legislative rules may be as important for institutional reform as they are for regular policy making.

The first argument touches on well-known literature about agenda control in democracies (Cox and McCubbins 1993; Cox 2006) and adds to the literature on institutional reform in new democracies (Smith and Remington 2000; Taylor 2009). The second argument points to novel ways—rarely explored by the literature on comparative political institutions—in which political actors strategically use and interpret legislative rules in order to best achieve their goals.

Specifically for the Brazilian case, this article helps us to think about how the multitude of political actors affect the country's institutional dynamics, traditionally associated with gradual and incremental processes of institutional change (Whitehead and Sola 2006; Armijo, Faucher, and Dembinska 2006; Power 2010).

By pointing out the distinction between “distributive” and “universalist” legislative games, the essay explains why Magalhães's budget reform proposal was ultimately unsuccessful using a theoretical framework that could be relevant for the analysis of congressional budget reforms in Brazil and other countries.

Despite the fact that the reduction of uncertainty implicit in the reform would be particularly useful to members of the opposition and a little less so for members of the coalition, legislative agenda control is very much determined by the president and the president's coalition, making it very difficult to change the pattern of delegation from a distributive to a universalist game.<sup>19</sup> This is why despite much strategic maneuvering, rhetorical framing, and political persuasion by Magalhães, the nature of the budget process in Brazil remained the same until 2015. But that is another story.

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19. Baum (2007) makes a similar argument in her study about administrative reform in East Asian democracies.

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