

**WHEN INSTITUTIONS MATTER:  
THE POLITICS OF ADMINISTRATIVE, SOCIAL  
SECURITY, AND TAX REFORMS IN BRAZIL**

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## **Introduction<sup>1</sup>**

This paper aims at discussing the politics of state reform in Brazil in the 1990s with reference to the role played by institutional factors and to variables pertaining to the nature of the decisional arenas of the three issue areas under scrutiny, namely, social security, tax and administrative reform. Each of these issue areas exhibits a particular pattern of strategic interaction among actors involved in the decision-making process and a unique coalitional dynamics that have to be considered and theoretically articulated with the analysis of the institutional factors. By contrasting administrative reform with other issue areas I believe we can highlight the distinctiveness of policy reform in this area. Also, by comparing issue areas, rather than countries, we can assess the explanatory power of the variables selected for examination. Comparing sectors in a single country holds constant other potential explanatory factors. One of the central conclusions that comes out of the comparison of the three types of reform is that the distinct ways through which federalism affects actors in each issue area are crucial determinants of their chances of success. This conclusion might not come out so strongly in single case analysis of administrative reform, so the value added of cross sectoral analysis is to identify these pivotal players.

The paper is organized in five sections. In the first section, I discuss how the analysis of the institutional constraints to policy reform can be combined with a consideration of the specificities of each issue area. The second section of the paper focuses on the formation of the agenda of state reform in the Brazil in the 1990s. The third section provides a summary of the evolution of reforms and of the legislative process in the Chamber of Deputies and in the Senate in each area. In the fourth section I discuss the explanatory power of the variables selected. The concluding section offers a preliminary conclusion on institutional explanations of state reform.

## **The Politics of Reform and the Role of Political Institutions**

The reform of the state in Latin America has attracted a number of empirical and theoretical studies (Haggard 1995; Kauffman 1997). A small but growing number of studies have focused on the institutional determinants of policy reform (McCubbins and Haggard, forthcoming). Our approach to administrative reform has been inspired by this new institutionalism literature but we also consider various dimensions associated with what Schneider and Heredia (this volume) call coalitional approaches or types of

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<sup>1</sup> I would like to thank Ben Ross Schneider and Blanca Heredia for detailed criticisms which greatly helped me to improve the argument. I would like also to thank the participants in the preparatory meetings of the research project, especially Stefan Haggard, Bob Kauffman, Judith Tandler, and Susan Rose-Ackerman for helpful comments and suggestions. I also thank my co-authors and partners in related projects, Pedro Barros e Silva and Sérgio de Azevedo for innumerable discussions whose findings are somehow reflected in the paper. The usual disclaimer applies.

explanations. I therefore follow Haggard (1995) who emphasizes the centrality of politico-institutional factors in shaping state reform, but we argue that the issue-specific incentive structures underlying strategic choices by the actors are crucial for an understanding of how institutions matter.

In Brazil, institutional issues have acquired centrality in the research agenda as a result of the recurrent episodes of constitutional choice which the citizenry have been exposed to in the last decade. These include the writing of the new constitution in 1988, the plebiscite on the system of government, the revisionist constituent assembly (*Assembleia Revisora*, and the constitutional reform initiated by President Cardoso.<sup>2</sup>

The research agenda on institutional issues has been primarily organized around the effects of the system of government (presidentialism) and electoral rules (open list proportional representation) on policy outcomes. More recently the internal organization of Congress and the legislative process have attracted a number of studies (Limongi e Figueiredo 1995; Figueiredo e Limongi 1995; Figueiredo e Limongi 1994). Studies of policy formation in Brazil has largely ignored the congressional dynamics. They have focused on the patterns of interest intermediation between organized interests, the bureaucracy and the political executive. Under military rule this focus was justified because Congress played a marginal role in policy formation. In contrast, Congress has played a key role in the process of state reform in the late 1980's and 1990's, not only because of democracy but also because reforms have required changes in the Constitution. While the procedural obstacles for approving constitutional amendments are less stringent than in most existing poliarchies they are far more severe than in ordinary legislation (Melo, 1998, forthcoming).

In the light of the literature on the institutional determinants of policy outcomes the cross sectoral comparison of a successful administrative reform in Brazil is analytically relevant for two reasons. The first reason is that it allows us to examine how reforms can be enacted in a political system that is depicted by the comparative literature as an extreme case of political fragmentation.

The argument that stresses that fragmentation in Brazil predicts reform deadlok. It is based on the effects of the following traits of the Brazilian political system: i) Open list proportional representation. By encouraging individualistic behaviour by politicians, it undermines party leaders' ability to advance national party lines. Furthermore, it undermines ideological and programmatic orientations on the part of legislators. Parties

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<sup>2</sup> Institutional analysis acquires relevance and attracts continuing and systematic interest only in the context of democracy. Institutional volatility and the weakness of the electoral connection in authoritarian regimes reduces the explanatory power of institutions. However, the very volatility allows us to study institutions as endogenous, and to explore key conceptual questions regarding institutional choice (Bates 1990, p. 47).

have become a collection of factions and cliques that lack a minimal coherence. In addition, it is argued that proportional representation fosters multipartism and hinders the formation of stable coalitions; ii) presidentialism. Because presidents and legislators are elected separately, they respond to different constituencies generating separation of purpose between the actors, thereby producing gridlock.

Recently this consensus was challenged by work by Limongi and Figueiredo (1994) which argue that parties exhibit surprisingly high levels of vote coherence and are distributed consistently along an ideological continuum. The 'efficient secret' of Brazilian presidential multipartism is to be found in the internal organization of Congress and in the ways parliamentary rights and agenda power is organized. The conclusion is that the latter are strongly structured along party lines and inherently biased for the executive. These factors account for strong predictability in president x legislative relations in Brazil. This assumption hypothesizes high levels of success in policy reform initiatives.

In the light of the argument that stresses fragmentation, the success of administrative reform is all the more puzzling considering the procedural hurdles that a constitutional amendment has to pass to get the reforms approved. On the other hand, in the light of the argument that would predict high levels of success, the extremely time consuming, erratic and conflictual pattern of negotiations that surrounded presents a paradox. More importantly, the sheer defeats in tax and social security do not fit comfortably in the more general analysis. The very distinct patterns of policy outcomes in the various issue areas, therefore, begs an explanation.

The second reason, the following analysis is analytically relevant is that it allows us to investigate "when and how institutions matter". Referring to the new institutionalism literature, Haggard and McCubbins (forthcoming) aptly argue that while these lines of research "powerfully demonstrate that institutions can matter, the issue of when such institutions matter and how they affect policy outcomes has received much less attention. Institutions surely do not matter at all times and in all situations." (Haggard and McCubbins, forthcoming). I argue that the following analysis shows how this institutional analysis can greatly benefit by a considering the particular dynamics of each issue area.

### *Politics engenders policy? Issue areas and institutions*

A central assumption in this crosssectoral approach is that each type of reform generates specific reactions from political actors, depending on the redistributive losses and gains generated by the institutions. In other words, sectors or issue areas matter. Lowi's (1964) insight that politics follows policy (and not the other way round, as common sense would suggest) was an important analytical tool for the study of public policy making. The common sense notion that interests – "politics" – shape and influence policy decisions frequently leads the observer not to pay attention to the processes of interest formation itself. Interests come into being on the basis of the actors's subjective evaluation of the

costs and benefits of policy decisions. Lowi (1964) went farther and argued that the nature of policy determines the pattern of interaction between actors in a decisional arena. Although his typology of arenas is essentially static, allowing no account of the strategic interaction among actors, and also proved to be of little use in analysing concrete situations, his basic insight is illuminating and should be retained.

Shepsle, one of the central figures in the new institutionalism argues that Lowi's approach "does not fit comfortably with recent neoinstitutionalist analyses in political science and economics" (Shepsle 1985, p. 231). In fact, Lowi makes *tabula rasa* on the role of institutions in policy formation. I believe, however, as suggested by Tsebelis (1995, p. 307) that institutional analysis can benefit from a consideration of the characteristics of each issue area. In his analysis of veto players, Tsebelis (ibid) contends that the "very number of veto players varies according to issue".

Interests come into being as a result of the distributional characteristics of sectoral decisional arenas and institutions facilitate or impede collective choice. Institutions also represent the incentive structure to which actors respond strategically (Shepsle 1989). The distributional effects – or else the subjective perception of these effects – are crucial for determining when and how institutions matter for policy outcomes. Thus I hypothesize that some institutions are crucial for determining the success of reform in one sector or issue area but not in others. Losses and gains of policy decisions, particularly in highly complex matters, are not immediately perceived by the actors and the object of an individual cost-benefit calculus. Actors behave on the basis of *ex ante* expectations and bounded rationality and these expectations are socially constructed.<sup>3</sup> Policy advocates and shared beliefs about causal effects of policy decisions are important factors underlying the social construction of these losses. Policy advocates play a crucial role in influencing actors's beliefs on policy outcomes. Processes like policy bandwagoning and selective emulation, and argumentation and persuasion – not to mention ideology - through policy advocacy play an important role in the social construction of losses and gains. Because political actors want to be associated with policies that work, they are interested not only in sponsoring particularistic projects but also in good policy (Arnold 1990). Expertise and ideas about causal relations are therefore important for them.

An important theoretical implication of the arguments outlined above is that there are modal types of reform or political conflict in each sector. In despite of the important differences between these areas (discussed later in the text), the three cases under scrutiny can be categorized, paraphrasing Weaver and Pierson (1993) as "loss imposition" types of reforms. This seem to be a characteristic of second wave reforms which impose concentrated costs to losers and do not create natural support coalitions (Schneider and Heredia, this volume) because they do not have clear winners.

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<sup>3</sup> I am indebted to Robert Kauffman for comments on this point. See also (Weir 1992).

Haggard and McCubbins (forthcoming) has recently outlined a general framework to explaining the conditions under which institutions matter and how they affect policy and political behavior. They focus on the conditions under which the separation of powers is an important constraint on policy making. Separation of powers refers to the existence of multiple veto points in the legislative process and is generated by key structural features of any political system namely, presidentialism; bicameralism; federalism; judicial review; and the independence of the military. A central conclusion that comes out from these studies is that the separation of powers will only have important effects when it coincides with a separation of purpose. Separation of purpose refers to the existence of actors with varying interests.

The authors contend that neither separation of powers or purpose is a necessary, but not sufficient, condition for explaining policy stability or inertia. The sufficient conditions for gridlock and stalemate depend on critical elements of legislative procedure: agenda power, veto players and reversionary policy. Respectively, these procedural elements specify who can propose changes to a policy, who must agree to policy changes for them to take effect, and what policy is implemented in the absence of agreement among veto players. By specifying the actors who possess agenda and veto power, and how the reversionary policy shapes their incentives, we can gain an understanding of when policy will change and when it will not (Haggard and McCubbins, forthcoming). I contend that by specifying the characteristics of issue areas we also gain an understanding of when and how institutions matter. In addition, we are in a better position to analyse the timing and above all the specific content of reforms – questions that pure institutional analyses are generally silent about .

In the case of state reforms, two of these structural features have attracted recent scholarly attention : presidentialism and federalism. The impact of presidentialism refers to the difficulties of the political executive in garnering in the support of legislators for his/her proposals. These difficulties arise from the fact that the President and Congress respond to distinct constituencies (Mainwaring and Shugart eds.1997; Stepan 1997). The impact of federalism refers to the ability of the state governors in undermining nationally defined party lines (Abrucio 1998). We hypothesize that the impact of these institutions varies according to the sectors or issue areas. Federalism is an important determinant of the success or failure of reform. To preview one of my central conclusions I argue that governors were crucial for success in administrative reform, defeat in tax policy, and indifference in social security. Where governors did not play a role other factors acquire explanatory power: nature of actors and coalitional characteristics, fragmentation of opposition, policy advocacy, and packaging of reform. In this case we do not have only the possibility of separation of purpose but also indifference of purpose. Lack of active support or opposition by governors seems to be a key factor. In a fragmented system, governors play a catalyst role for or against a proposal. If they are indifferent, federalism as an institutional variable loses much of its explanatory role.

### **The Formation of the State Reform Agenda in post-1988 Brazil.**

The formation of the agenda for state reform represented, to a large extent, a reaction against the agenda that prevailed during the works of the Constituent Assembly in 1987-1988. This latter agenda was dominated by a number of important issues: a consensus on the need to decentralize and restructure current intergovernmental relations, granting more fiscal autonomy and decision making capacities to states and municipalities; a widely held view that it was necessary to enhance social control and transparency of public policy through participatory institutional arrangements; a consensus that the social debt should be redeemed, and social policy should be granted high priority in public expenditures. This agenda was to be replaced by a new one centered on market reforms. Central to this new agenda was the notion of reducing the *Custo Brasil* – an imperative for the country's competitive integration to world markets. This required revamping public administration and making institutional changes in the Judicial system, labor legislation and tax structure. A major short term priority was ensuring macroeconomic stability – as opposed to the former strategy of promoting growth, even if this produced distortions like inflation and so on).

The sequence of stabilization and economic reforms and democratization in Brazil produced a very complex situation. The 1980's agenda reflected the new social and political demands engendered by the process of democratization. The fact that democracy preceded the efforts at the stabilization of the economy had important consequences, because it empowered actors who could offer resistance to reforms. It created a political environment inimical to market reforms. Important actors during the transition such as trade unions and former opposition politicians were pressing primarily for social spending and pro-growth economic policies. In a similar vein, the fact that financial decentralization and devolution of powers to state and municipalities was implemented before stabilization undermined market reform efforts. Responding to social demands and to the expanding political market, mayors and governors embarked on a spending frenzy that ushered the states into heavy indebtedment.

The new agenda's organizing principle that of a 'governability' crisis. And this was viewed as having several dimensions (Melo 1995). In the area of public administration the extension of tenure to former all state employees (formerly called CLT workers) through the Unified legal system (RGU) for the public administration was viewed as having created a rigid system of personnel that exacerbated state inefficiency. The RGU prohibited different pay levels to account for distinct performance levels by state employees. It established the principle of isonomy of pay for categories of functions at the state, municipality and federal government levels. It also granted tenure and secured a 100% (in several cases up to 130%) replacement rate for civil servant pensions. In the new agenda, the 1988 Constitution also created or strengthened very bureaucratic and time consuming mechanisms for competitive biddings and for personnel recruitment thereby na incentive structure tha encouraged inefficiency.

In the area of fiscal and tax issues, the emphasis was put on the perverse fiscal effects of decentralization, and the need for convergence dictated by globalization. The fiscal autonomy of governors and control of state banks and their ability to undermine central bank regulations were seen as a major threat to stabilization (Sola 1995). The states' newly acquired rights to set different rates for the ICMS ( a tax on the consumption of goods and services that accounted for one third of the country's tax revenue ) was seen as the cause of fiscal war among them. This was seen as undermining national and regional industrial policy and depressing the country's tax revenue, thereby exacerbating fiscal problems.

In the area of intergovernmental relations, excessive decentralization was deemed to have disorganized sectoral public policies and caused more inefficiency. The creation of over 1,200 new municipalities after 1988 was regarded as the symbol of centrifugal forces fragmenting the institutional system and of the expansion of patronage. More importantly, it was argued that the dramatic increase in the share of the budget absorbed by social security payments, debt service and automatic transfers to subnational governments had reduced the degree of fiscal liberty ushering into an unprecedented public finance crisis. In the area of social security, several constitutional innovations, including equalization of the value of rural and urban pensions; universalization of access to health care; and generous entitlements conditions were seen as jeopardizing the country's financial equilibrium.

This is the backdrop against which the constitutional reforms were formulated in the 1990's. The Cardoso administration's specific agenda for state reform contains important similarities with past reform efforts by the governments of Collor de Melo (1990-1992) and Itamar Franco (1993-1994), particularly with the failed comprehensive reform initiative by the latter. It could be argued that Collor de Melo's were more akin to first wave reforms and Cardoso's to second wave reforms. From a comparative perspective, a distinctive feature of Brazilian reforms is that the country can be seen as a reform laggard (Haggard and Kauffman 1992; Haggard and Kauffman 1995); and therefore various types of reforms are conflated in time.

## **Summary of the Evolution of Reforms**

### *Administrative reform*

The Cardoso Administration presented its proposal for administrative reform in October 1995 and it took Congress 32 months to approve it in a slightly revised form. The Government learned from the vicissitudes of the legislative process of social security and submitted its proposal following a protracted period of negotiations led by the architect of the reform, Minister Bresser Pereira. Unlike the proposals for constitutional amendment (thereafter PEC) in tax and social security, the administrative reform's (PEC 173) was packaged as an integral part of a comprehensive and ambitious master plan the *Plano Diretor da Reforma do Aparelho de Estado*, drafted by Minister Bresser.



Bresser's advocacy for the proposal has been widely recognized by legislators and the press. The *Plano Diretor* was strongly influenced by the *new public management* (NPM) and Bresser's policy advocacy made him a key actor in the diffusion of NPM ideas. While essentially informed by NPM, it also had strong Weberian components: it aimed at insulating key sectoral bureaucracies which the master plan considered strategic and in charge of typical state functions, such as central banking, planning and budgeting.. Aiming explicitly at enhancing state capacity, it is much in line with second wave reforms.

Bresser's strategy for the approval of PEC 173 was designed in the light of the fate of social security reforms. In his own testimony:

“we looked at the Constitution's chapter on public administration. And then we started deleting the articles. I reached the point when I told my advisers ‘delete them all’. Then I figured that the proposal would be considered a blank check for the government and that it could never get approved. ... rather than withdrawing provisions from the constitution I had to propose new things, positive things. That was the problem with social security [reform], you cannot just de-constitutionalize, you have to propose. That was the role of the *Plano Diretor*” (Bresser Pereira, Interview).

In fact, the substantive content of the articles to be deleted from the Constitution would have been voted subsequently in ordinary bills (leis ordinárias e complementares) whose legislative process is far less stringent than that used for constitutional amendments. Deleting the articles was considered by the opposition as a blank check because of it would be easy for the government to resort to its agenda power to approve subsequent bills on the subject (José Genoíno, interview).

At the beginning, the PEC encountered fierce resistance in the Chamber of Deputies. The rapporteur in the CCJ, Deputy Prisco Viana (from the PMDB of Bahia), argued that there were five unconstitutional provisions, including one pertaining to the most important single issue of the proposal : the flexibilization of job tenure. This triggered an open crisis and intense political opposition in the subcommittee on Constitutional and Judicial Matters (CCJ).<sup>4</sup> The rapporteur changed the content of PEC 173 by introducing various amendments. Arguing that the CCJ should restrict his job to judging the constitutionality of the proposal , the President of the House decided that the *ad hoc* special commission should work on the governments original proposal rather than rapporteur's one (substitutivo). A pivotal move by the government's was Bresser 's mobilization of the 27

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<sup>4</sup> The rapporteur's amendments were to be voted separately by the plenary. “Bresser inicia lobby contra parecer de Viana”, *Gazeta Mercantil*, 3/10/95, p. a-9; “Bresser ameaça abandonar reforma e “ir à praia”, *Gazeta Mercantil* 27.09.95 ; “Reforma começa já em clima de guerra”, *O Globo*, 27.09.95

governors which signed a motion indicating their support. <sup>5</sup> This mobilization and agenda power combined to ensure approval.

The PEC's rapporteur in the *ad hoc* special commission on tax reform of the Chamber of Deputies, Moreira Franco – a congressman from Rio de Janeiro's PMDB –, delayed his final report until the official deadline. A key issue in the agenda of negotiations before the PEC was formally submitted to Congress involved the question of the flexibilization of job tenure. In the new proposal, public employees could be fired for bad performance. Existing legislation was not made it very difficult, allowing dismissal only in very especial cases, such as in case of crimes. According to Bresser "Party leaders from the government's support coalition insisted that with changes in it, it would not be approved" (Bresser Pereira, Interview). The solution was reached when the government accepted a proposal by party leaders permitting firing of tenured employees only in cases when personnel expenditures exceeded 60% of government's net revenue in the federal government, the municipalities and the states. This ceiling was the final target stipulated by the *Camata* Law and was to be applicable to states and municipalities in January 1999. In case a state did not meet the target, it would be subjected to a variety of sanctions including, *inter alia*, not being eligible for federal loans. While conceding to pressures from party leaders, by linking the flexibilization of tenure to the *Camata* law, the Government was also able to curb important *foci* of opposition within the federal bureaucracy. This was so because personnel expenditures were declining at the federal level since the early 1990's and reached 43% of net revenue in 1997. In addition, during the negotiations in the first plenary vote in the Chamber, government agreed to exclude employees in planning, budgeting, among others, from the new dismissal rules. Federal employees were secured job tenure at least in the near future.

In the course of the discussion of the reform, two distinct periods can be identified. At the beginning the proposal acquired little visibility in the agenda of constitutional reforms and little support from the president and the planning and finance ministries. As a result of Bresser's relative political isolation – he was criticized publicly by both the Health Minister and the President's right hand, Minister of Government (Chefe da Casa Civil) – the administrative reform was seen by political actors as an individual crusade for a program based on an intellectual fad that had little political centrality in the political agenda safe for isolated measures that generated strong resistance such as those involving job tenure. In addition, the administrative reform was perceived by these actors as not having fiscal impact, in the short term, again with the exception of the issue of personnel.

Two facts led to a radical change in the way the reform was perceived and ushered into a distinct period from the former (Bresser Pereira, Interview). The first of these refers to the ex post incorporation of new political actors that proved to be crucial for the subsequent fate of reforms. The state governors. The governors became increasingly interested in the

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<sup>5</sup> "Bresser inicia lobby contra parecer de Viana", *Gazeta Mercantil*, 3/10/95, p. a-9

reform for two reasons.<sup>6</sup> The first is the fact that the flexibilization of tenure would be instrumental for patronage games at the state level. The second reason was the approval of the constitutional amendment allowing the reelection of incumbent governors and mayors, and President. This produced a significant change in the incentive structure of governors. It helped them to extend the time horizons underlying their political calculus. Facing the possibility of a new term of office, the governors's started to assess the future fiscal benefits that could accrue to the states as a result of the reform.<sup>7</sup> In fact, that personnel expenses in the states had escalated to the point that it consumed all state revenue. It is significant that the watershed in the relationship between governors and the executive was during the deadlock in the Constitutional Commission (CCJ).

The second fact leading to a greater centrality of the reform in the agenda was the debt crisis affecting the states that reached a critical point at the end of 1995. The crisis produced a realignment of forces for the proposal within the political executive. For the finance and planning ministries, the reform was an important opportunity for reducing the states's debt. (Bresser Pereira, Interview). The government exchanged the refinancing of the states' debt for support for the reform.<sup>8</sup>

The legislative process of the reform was also characterized by bargains involving the rapporteur's opposition to issues such as tenure and ceilings for paylevels (and particularly its applicability in the cases of accumulation of more than one job position or pensions). The setting of a value for the 'extrateto' – the value exceeding the the legal ceiling – concentrated a great deal of the negotiations.<sup>9</sup> This ceiling imposed concentrated losses for 141 legislators which received (frequently generous) public pensions plus the pay for the elective office. The conflicts also involved the Judiciary and the Legislative as autonomous entities, because the setting by the executive of pay ceilings at the municipal and state levels (known as "subteto") were regarded as violating the constitutional separation of powers. As regards these two measures "government had to give away the rings so not to lose the fingers" (Bresser Pereira, Interview). In the vote on the *subteto*, the government had 301 votes for (seven less than necessary), 142 against and 11

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<sup>6</sup> "FH pede apoio de governadores", *O Globo*, 17.10.95; "Lula fica irritado com os governadores", *Gazeta Mercantil*, 26.10.95; "Planalto busca apoio de governadores", *O Globo*, 26.06.95

<sup>7</sup> For a similar conclusion regarding tax reform cf. "Possibilidade de reeleição reduz resistência a projeto", *O Estado de São Paulo*, 19/05/1998.

<sup>8</sup> "Reforma administrativa: governo endurece. Até a renegociação das dívidas dos estados entra na barganha." *Gazeta Mercantil*, 17.10.95

<sup>9</sup> "Parecer mantém a estabilidade do servidor", *Gazeta Mercantil*, 10.07.96; "Governo fará emenda contra a estabilidade". *Gazeta Mercantil*, 11.07.96; "Fim da estabilidade divide base governista", *Gazeta Mercantil*, 12,13e14.7.96;"FHC já admite acordo para estabilidade"., *Gazeta Mercantil*, 16.07.96;"Acordo facilita dispensa do servidor.(Líderes governistas fecham propostas flexibilizando estabilidade do funcionário público), *Gazeta Mercantil*, 18.07.96; "Líderes recuam e mantêm estabilidade", *Gazeta Mercantil*, 19,20,21.7.96.

abstentions.<sup>10</sup> was defeated. After agreeing with these concessions the PSDB and sectors from the PMDB, however, subscribed a document denouncing the agreement as spurious. After protracted criticisms against the agreement, President Cardoso endorsed it and argued that in a democracy one is not able to approve reforms *in totum*.<sup>11</sup> The attempt at renegeing on the agreement, however, reduced the PSDB's ability to make credible commitments in subsequent deals.

The reform was approved in the first round of vote by just one single vote more than the qualified majority required for constitutional amendments (309 votes, one more than the 3/5 of a congress of 508 members). In the second round of votes it was approved by 351 votes for and 133 against it. In a similar pattern to the vote on the social security reform proposal, there occurred a strong fractionalization of vote within the PMDB and PPB, and medium to high cohesion for PFL and PSDB.

Along with *extra teto* and the *subteto*, the government experienced defeat in the amendment on temporary hiring of personnel. This prompted the government to issue a *medida provisória* (MP) on related aspects which did not require changes in the constitution – a much contested interpretation. This led to very intense reactions from the opposition, societal actors and the Judiciary. As a trade union confederation put it : “with the dictatorship of the MP, President Cardoso is closing the Congress as far as the administrative reform is concerned”.<sup>12</sup> Although less contested, the government also resorted to MPs for setting up the social organizations and executive agencies.<sup>13</sup>

The main issues of the reform package was in fact approved and these include revamping the RGU; the setting up of the legal foundations for social organizations and executive agencies, as well as performance contracts within the public sector; and the flexibilization of tenure (that aimed at mid to low ranking state and municipal employees).

#### *Social Security*<sup>14</sup>

The constitutional amendment proposal for the reform of social security (PEC 33) was presented to Congress in March 1995, shortly after Cardoso's inauguration, and was

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<sup>10</sup> Despite losing the vote, the government approved in the same package tenure for 10.800 employees from the former federal territories (now states) that were recruited in patronage deals. This was part of the negotiations involving the support of the legislators from these states to the reform.

<sup>11</sup> “Reforma administrativa: FHC aceita alterações”, *Gazeta Mercantil*, 4.4.97

<sup>12</sup> CUT diz que terceirização é um golpe no Congresso”, *Jornal do Brasil*, 02/05/1997;

“MP é solução para reformas”, *Jornal do Brasil*, 02/05/1997

<sup>13</sup> This led to a legal problem because the MPs would have to be voted before PEC 173. If the latter was to be approved before, the MPs would lose their effect. This was so because in 1995 Congress passed a constitutional amendment prohibiting the issuance of MPs on matters contained in constitutional amendments.

<sup>14</sup>This section draws on Silva, Melo e Matijascic (1998).

voted still being voted in the second semester of 1998. The legislative process of PEC 133 exhibits an unusual path. It acquired high visibility and it was the only reform area where the government was defeated in eleven rounds of voting. The proposal was voted in two rounds in both the Chamber of Deputies and the Senate and returned to the Chamber, following changes in the Senate. In fact, in the Senate the government was able to reformulate the entire *substitutivo* approved by the Chamber, and proceed with a new one prepared by a loyal senator.

The first defeat for the government was procedural rather than substantive. The rapporteur in the Subcommittee on Constitutional Matters proposed that the proposal should be disaggregated in four pieces. A clause granting the president exclusive rights in the proposition of legislation on social security was judged unconstitutional. The central issue of contention in the CCJ and subsequently throughout the legislative process concerned primarily the issue of “future rights” – that is benefits that should accrue for current workers in the future. The resistance against the proposal – both from legislators and from organized interests, including pensioners associations and trade unions, was greater than the government had anticipated.<sup>15</sup> As a result the government decided to proceed cautiously and make concessions. In the words of government’s chief political architect “the commanding order is less speed and more discussion”.<sup>16</sup>

The setting up of the Special Commission on Social Security was strategically delayed for almost five months and the negotiations became extremely politicized. Despite being members of the governments’ support coalition in Congress (PMDB and PFL, respectively), the commission’s rapporteur and its president were openly critical of the proposal; their professional experience allowed them independence and political autonomy. The latter was formerly a minister for social security and a president of the National Institute for Social Security (INSS). In its turn, the rapporteur was a federal deputy from the state of Amazônia and had links with one of the most important interest group in the arena of social security, the National Association of Social Security Tax Inspectors (ANFIP). The reform lacked a strong policy advocate; Stephanes, the Minister of Social Security - himself a beneficiary of an early retirement -, lacked legitimacy to persuade reform resisters of the inequities of the system.

In line with the strategy adopted by government, the trade unions were invited by the President to debate the reform. The two largest labour confederations, the pro-government *Força Sindical* and, the more militant and the leftist, *CUT*, participated in

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<sup>15</sup> The reform was resisted by private pension funds that were also important losers. Attempts at setting a much lower ceiling for the value of public pensions (currently US\$ 1,000) – thereby opening up a market for private pension funds- , would affect the funds because their policies would cover the difference from an average of past salaries and this ceiling.

<sup>16</sup> ” Sarney aprova medida do governo de priorizar a votação na área econômica”, *Gazeta Mercantil*, 29/03/95, p. 8

the debates . After demonstrations from the rank and file and accusations of treason, the unions withdrew from the roundtables. In fact the governments' strategy backfired because the very design of the proposal strengthened the coalition of the sectoral interests of public employees and the much larger group of private sector employees. As most of the changes in social security were to affect public sector employees, and only one important measure affected private sector workers (the abolition of the so called 'retirement for time of service' or early retirement), the government expected to exchange support from the unions for concessions in its proposal for private sector workers. This de-linkage, however, was not viable because the PEC encompassed the proposed changes in both private and public sector pensions, and it had to be voted at the same time. As recognized by one of the chief presidential advisers, the fate of the proposal was somehow doomed by this strategic mistake in reform packaging. "to make changes in both pension systems through the same PEC helped the reform enemies from the public sector to manipulate the private sector workers and use them as shock troops against the reform" .<sup>17</sup>

Another key problem in the design of the proposal had to do with the fact that it deleted articles in the Constitution *tout court*, without introducing new proposals. As mentioned before, the central issue in de-constitutionalization was not only the substance of reform but, more importantly, the procedural dimension involved.

The rapporteur's *substitutivo* was submitted to the Especial Commission with changes in the original proposal. Noting that the reform was becoming politically unfeasible, the government resorted to much contested procedural mechanisms. When an open conflict broke between the leader of the government coalition and the Commission President (because of his alleged connivance with disruptions of the works), the President of the Chamber of Deputies, arguing that the time limit of 40 sessions had been reached, dissolved the commission and sent the proposal to the floor of the House. However, the rapporteur's *substitutivo* that incorporated many changes but which retained the basic points of the reform was defeated by 190 votes for the proposal, 294 against it and 8 abstentions. According to the Chamber's rules of procedure the government's original proposal had to be voted, but instead the party leaders of the government coalition submitted a newly formulated proposal that was approved.

In the second round of voting - of in fact a reformulated proposal, the *emenda superaglutinativa*, merging the original proposal and amendments - the government amassed the majority required for approval. However, it was defeated 8 times in a total of 33 voting rounds on specific items of the proposal<sup>18</sup> (Figueiredo e Limongi 1997). Key items were defeated including the, arguably, two most important of all, the one prohibiting early retirement and requiring an age limit for entitlement, and another one imposing

<sup>17</sup> Eduardo Graeff, confidential memorandum to President Cardoso, 19/12/95. And he went on to advise "separating out the issues in order to divide the enemies".

<sup>18</sup> In August 1998, three items (DVSs) were still up for vote.

reductions of up to 30% in the replacement rate (currently a 100% of the value of past salaries) of pensions exceeding US\$ 1,200.

### *Tax Reform*<sup>19</sup>

The tax reform proposal of the Cardoso's administration was submitted to Congress in August 1995, and was discontinued by the government following a protracted process of resistance by various actors and interbureaucratic infighting. The constitutional amendment for tax reform (PEC 175) was presented shortly after the social security proposal was put forward for discussion. Unlike social security and administrative reform, it took an exceptionally long period in Congress and the rapporteurs's amended PEC (*substitutivo*) was not formally presented by party leaders for vote in the *ad hoc* special commission. Consequently it never reached the floor. The Government abandoned the proposal as a result of three developments.

Firstly, it anticipated that it would face fierce opposition in Congress. It learned from the experience with the social security PEC that the risks involved were too high. Therefore it postponed several times the discussion and subsequently decided not to advance it.

The second development refers to the choice of a hostile rapporteur in the especial commission on tax reform. Although a member of the loyal PFL, he was a former tax bureaucrat and state finance secretary for the northeastern states of Piauí and Ceará, and enjoyed the support of key northeastern politicians.<sup>20</sup> The government's ability to negotiate with the rapporteur was undermined by infighting within the executive among pivotal actors such as the Internal Revenue Service (SRF), and the Planning, Finance and Health Ministries.<sup>21</sup> Formulated by the Planning Ministry, the reform envisioned a transition stage for the new tax system to be fully implemented, whereas the Finance Ministry favoured a more radical approach. In the version presented, the tax on industrialized products (IPI) would be eliminated and the federal government would be able to collect a tax similar to the ICMS. The Finance Ministry's proposal the ICMS would be abolished and a newly created value added tax (IVA) would replace it. In several occasions it became apparent that the government lacked a policy advocate.

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<sup>19</sup> For a detailed analysis of tax reform cf. Azevedo e Melo (1997). In the following we discuss the reform of the taxation of consumption and not of personal income because it was not included in the constitutional reform package.

<sup>20</sup> "Para relator, Estados perdem com a proposta", *Folha de São Paulo*, 7/9/97, p. 1-6; "Relator quer Mudar Emenda Tributária", *Gazeta Mercantil*, 27-29, 10, 95, p. a-9; "Para Relator, emenda do governo não passa", *Folha de São Paulo*, 8/11/95, p. 1-5

<sup>21</sup> The problems of health financing in Brazil acquired an unprecedented visibility and, following several scandals, became the central issue in the political agenda in 1995-6. This issue interdependence between health financing and tax reform overloaded the tax reform agenda. "Proposta de Mudanças Tributárias ainda Divide Fazenda, Planejamento, e Receita", *Gazeta Mercantil*, 8/3/95, p. 6; "Briga Entre PSDB e PFL Atrasa Reforma", *O Globo*, 3/8/95, p. 3; "Reforma Tributária em Clima de Guerra", *O Globo*, 1/8/95, p. 3; "Estados vão Definir a Reforma Tributária", *Folha de São Paulo*, 7/8/95, p. 1-5.

The third development had to do with the aggregation problems associated with collective decisions in Brazilian federalism. The governors were the central players in these conflicts. These conflicts involved three issues of the reform agenda: i) the elimination of taxes in exports; ii) the proposed changes in the place of collection of a sort of the consumption tax (ICMS) from the state where a product is manufactured to the state where it is consumed; iii) and the introduction of a scheme that set, in practice, a national rate for the ICMS, thereby cancelling the effects of lower taxes set by states governments in their struggle to attract investment in the so called “fiscal war”).<sup>22</sup>

The resulting stalemate prompted the government to designing a new strategy to save at least parts of the reform. Recognizing that the elimination of export taxes did not require changes in the constitution, the government submitted an ordinary bill with this purpose. With the governments’s backing Deputy (and subsequently Planning Minister) Antonio Kandir proposed the setting up an *ad hoc* subcommission on tax reform that was set up to examine the various bills on the matter. The setting up of the subcomission which was made up legislators with interests in tax reform (many of whom were also economic professors) was a clear strategy to undo the deadlock. Kandir conducted a survey among its members’ policy preferences which came up with important results: 93% of those interviewed was against changes in the revenue sharing mechanism enshrined in the constitution; 73% of those interviewed favoured a standard national rate for the value added tax; and 60% opposed changes in the place of taxation (place of production *versus* place of consumption). Bearing in mind that these legislators were typically ‘preference outliers’ or ‘high demanders’, and that the high level of technicalities involved tend to produce consensus among specialists, the results indicated strong levels of opposition to the reform.

Government proceeded then with the bill on the elimination of ICMS in exports and discontinued the initiatives in other specific issues. Even this latter measure would be difficult to pass. But then party leaders had at their disposal a variety of procedural mechanisms that guaranteed agenda power and ‘irreversibility’ of policy decisions, as in the case of executive provisional measures (*medidas provisórias*). The proposal was then approved and the bill which came to be known as Lei Kandir (law 87/96) was finally enacted. After several failed attempts, the government’s party leaders managed to vote it in the ‘urgency rule’ (*regime de urgência*) – but not applicable for proposals on constitutional amendments - by which a bill jumped the vote line.<sup>23</sup> Its most

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<sup>22</sup> “Estados Fazem Exigências para a Reforma”, *Folha de São Paulo*, 8/08/95, p. 1-6; “Governadores cobram Detalhes do Projeto”, *Folha de São Paulo*, 8/8/95, p. 1-7; “Fundo de Compensação poderá ter R\$6 bi”, *Folha de São Paulo*, 10/8/95, p. 1-10; “Governadores querem mudar Projeto”, e “Perda dos Estados ainda Preocupa”, *O Globo*, 23/8/95, p. 3; “Governadores Querem Controlar o IVA”, *O Globo*, 26/7/95, p. 3.

<sup>23</sup> The implementation of Lei Kandir has been extremely controversial and became political currency in important political negotiations in Congress in other issue areas. Cf. “FEF transforma-se em moeda de troca contra lei Kandir”, *Gazeta Mercantil*, 3/09/97, a-8



controversial aspect refers to mechanisms it stipulated compensation for the concentrated losses incurred by some states.

Three years after the proposal reached the House the government made public its intention to proceed with the reform. The new proposal was formulated by the finance ministry, and it implied in more radical changes in the consumption taxes than the proposal by the planning ministry. It called for the creation of a new value added tax (IVA), to be collected by the federal government. This regarded as an infringement of the states' constitutionally guaranteed prerogatives. The rapporteur insisted that "if there were no basic conditions that ensure that the state's revenue would not decline, I will not make concessions in my report".<sup>24</sup> In addition, he was against changing the privileged tax conditions of Manaus – a tax free zone in the amazon – and other regions. If the rapporteurs did not incorporate the changes in his *substitutivo*, the government would have to submit a new PEC which, in turn, would have to follow the legislative routine from the beginning, implying in significant and unpredictable delays. More importantly, the government would have to bear the costs of defeating the *substitutivo*. As a legislator pointed out: "there emerged a confrontation climate, and the *substitutivo* will have to be defeated"<sup>25</sup>. The other strategy, that was in fact adopted by the government, was the no vote strategy – and that ushered into a deadlock situation. In this context, the government postponed the reform for an eventual new term of office.

A recent government move aimed at overcoming the gridlock is illuminating about the institutional constraints to reform in this area. Through federal deputy Kandir - whose authorship of the reform is in itself significant – the government has submitted a constitutional amendment creating an *ad hoc* 'mini-constituent assembly' with powers to make constitutional changes pertaining to a limited number of issues: division of powers among municipalities, states and the federal government; taxation and judicial matters and the electoral system.<sup>26</sup> According to this amendment this assembly would gather for a period of six months, and would be unicameral – thereby cancelling the role of the Senate – and would adopt a simple majority rule rather than the current 3/5 required.

### **Explaining Differential Patterns of Policy Reforms**

In this section the reforms are discussed from a comparative perspective. Table 1 presents a summary of key factors affecting the reform in the three issue areas and also contains a

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<sup>24</sup> "Relator já admite assumir proposta de Parente", *O Estado de São Paulo*, 12/04/1998. For the states' opposition see "Estados resistem a aceitar propostas sobre tributos", *O Estado de São Paulo*, 14/05/1998; "Mudança tributária gradual pode ser mais viável", *O Estado de São Paulo*, 14/04/1998;

<sup>25</sup> "Reforma Tributária: secretário executivo diz haver espaço para negociação", *Folha de São Paulo*, 11/03/1998. See also "Fazenda e Câmara mantêm divergências sobre o tema", *O Estado de São Paulo*, 11/03/1998.

<sup>26</sup> "Governo apoia a Mini-constituente em 1999", *Folha de São Paulo*, 19/09/1998.

summary of its important characteristics. The data allows us to explore analytically the differential impact of institutions in each issue area.

The reforms in the three issue areas impose important concentrated losses for key constituencies. The politics of these kind of reforms was aptly called by Weaver and Pierson (1993) the ‘politics of loss imposition’. Administrative reforms entail concentrated losses in the case of flexibilization of job tenure, cuts in public sector salaries, and introduction of new administrative procedures. The losses become very significant in first wave reforms because of its emphasis on downsizing. In second wave reform, by contrast, the losses are less pronounced but equally important. These reforms entail long term realignments of institutions, incentives and coalitions, affecting power and privilege. As Schneider and Heredia (this volume) argue, in the first type of reforms, the opposition is weakened because key actors – like public sector employees - lose their jobs and capacity to resist, whereas in the second type of reforms they retain the command of important organizational resources and are therefore in a better condition to resist. These therefore reforms are more likely to face problems in implementation rather than in policy formation.

In the Brazilian case, a crucial constituency was to be affected by one of the items of the reform package, a group of 141 legislators who accumulated pensions and pay for the elective office in excess of the stipulated limit of R\$ 12,000 (about US\$10.000). In fact, this group was able to block a few sessions until this provision was eliminated.

**Table 1**

**Issue Areas of the State Reform**

<b>Characteristics</b>	<b>Social security</b>	<b>Administrative reform</b>	<b>Tax reform</b>	
Duration of legislative process	42 months up to augusto 1998	30 months	Abandoned by the government	
Number of defeats in legislative process	10 two in CCJ; one in the Plenary of House; 8 in item vote (DVS)	Two	Not voted	
<b>Explanatory Variables</b>				<b>Enabling Conditions for success (where applicable)</b>
Coalitional characteristics and actors involved	Institutional and societal actors (burocrats, experts, public employees, trade unions)	Institutional (governors) and societal actors (burocrats, public employees, trade unions)	Predominantly Institutional actors (governors, mayors, burocrats, experts). Business associations, trade unions. (weak)	-

Individual and social rights affected?	Yes	Yes	no	no
Distribution of losses and gains	Concentrated in losers (existing pension funds; legislators; public sector employees) without clear winners	Concentrated in losers (public sector employees, legislators) with clear winners (governors, public managers)	Concentrated in losers (states); uncertainty about gains generates inherent status quo bias.	Diffuse losses and/or clear winners
Compensation to losers	No	Yes, selectively	Not credible	yes
Influence of federalism	No	Yes (positive; governors support it)	No (negative; governors oppose it)	Governors' support
Visibility of reforms in political arena	High	High	Low	Low
role of ideas	Strong	Strong	Strong	-
<i>policy advocate</i>	Yes (weak)	Yes (very strong)	No (very weak)	Strong if ideas matter
Consensus within the executive	Medium	Medium to high (increasing during reform)	Low	High
Fiscal implications of reform in the short run	Very significant gains	Very significant gains	Very significant clear costs; High uncertainty possible gains	Very significant gains
<b>Policy Initiation</b>				
Role of fiscal crisis	None	None	none	
Policy badwagoning And convergence	Medium	Yes (positive)	medium	-
<b>Implementation</b>				
Issue interdependence	High	Low	high	low
Technical complexity of reforms	Medium	Very high	medium	low
administrative capacity required ?	No	Yes, high	Yes, medium	No

The administrative reform, however, produces benefits to important groups, including governors; core bureaucracies in planning, budgeting and others areas; and public sector managers. It should be noted that this more mixed balance of losses and gains stemmed directly from the combination of managerial and Weberian dimensions of the Brazilian reform. A central conclusion that comes out of the comparison of the three types of reform is that governors are crucial, for success in administrative reform, defeat in tax policy, and, indifference in social security. Their incentive structure changed when the possibility of reelection opened up in the second semester of 1996, and was finally promulgated in June 1997.

The senior career servants (of the so called *carreiras típicas*) at the federal level would also potentially benefit from the reform. By good packaging the government was able to attract their support. Strong signalling (pay rises, opening up of new posts to be occupied through competitive examinations), was instrumental to secure their support. This is not surprising because administrative reforms can be construed as attempts by the President and Congress to reduce agency losses between these actors acting as – in the language of economic new institutionalism, principals and public employees as agents.<sup>27</sup> The proposed flexibilization of tenure, in fact, aimed at lower rank career employees. As Johnson and Libecab (1994, p. 8) argue regarding the USA there are fewer gains from shielding low rank public employees from political competition and manipulation because they play a more peripheral role in policy formation and execution”. It should be noted that the rules that protect these individuals are due largely to the actions of federal unions, both in Brazil and, according to these authors, the USA. This is a direct consequence of the 1988 Constitution which permitted, for the first time in history, unionization of public sector employees.

In their turn, public sector managers were to benefit from the reform because of the increased autonomy they would enjoy. It should be noticed that this support was not anticipated by the reformers from MARE. In fact the large number of public organizations which consulted with MARE in order to voluntarily adopt the ‘social organizations’ model surprised top officials in this Ministry (Interview with MARE’s advisers). A survey with high ranking bureaucrats shows indeed strong support for the reform (75% percent of DAS holders supported the reform). Support among the public for the reform was less significant. The reform was supported by public opinion. 50% of respondents in a survey with elite groups and 66% of respondents in a Ibope poll supported the proposed flexibilization of tenure of tenure.

Because they have as leitmotif the fiscal problems caused by a combination of demographic and financial problems, the social security reforms of the 1980’s and 1990’s, in virtually industrial that initiated reforms, entail severe losses to current pensioners and workers, to public sector employees, among other groups. In most

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<sup>27</sup> See Kiwet and McCubbins (1989)

industrial countries, these costs are linearly distributed, as in the case of changes in retirement age, social security rates, introduction of stricter eligibility conditions, or plain elimination of certain benefits. In Brazil, besides these costs, many of the measures affect smaller groups of beneficiaries, as in the case of especial pensions for certain occupational groups, such as teachers and legislators (who were also affected by provisions prohibiting accumulation of pensions and pay for elective office). As noted, these groups were able to form a loose coalition with private sector workers. It should be stressed that in both social security and administrative reforms, many of these losses were seen as social and individual rights rather than privileges. Even in the case of especial privileges, it was widely held that future rights were constitutionally guaranteed. The Judiciary played an indirect role through articles and speeches by their members, thereby signalling possible attempts at nullifying legislative decisions in the Courts.

Existing private pension funds were also important losers. The pension funds of public sector companies were under attack from the government which were attempting to restrict the companies' generous payments to the funds, but they could only offer a diffuse resistance<sup>28</sup>.

In the case of tax reform, the losses were highly concentrated in the states. The gains were diffuse and to be generated in the future as a result of an increase in competitiveness of the country as a whole. We have a collective action problem here. These gains were in fact public goods for the population as a whole. In the case of the elimination of ICMS in exports, some states which were heavily dependent upon export revenue would incur in potentially colossal losses. Total losses were estimated at US\$1.5 to 3.0 billion (Table 2). For the states of Pará and Amapá these accounted for losses of 35% to 29% of their ICMS revenue. The solution proposed involved the creation of a compensation fund through an ordinary bill, and is surrounded by very intense reactions by the governors as a result of the difficulties in measuring losses to be compensated in the future. Although "each governor examines the proposal with a calculator in their hands" (Industry Minister Francisco Dornelles, Interview), there is an intertemporal dimension involved. As noted by Governor Britto "nobody will agree in paying cash for the losses and to get deferred credit for future compensations".<sup>29</sup>

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<sup>28</sup> Although the government did not propose to privatize the system, the funds were important veto players in this connection. Attempts at setting a much lower ceiling for the value of public pensions (currently US\$ 1,000) – thereby opening up a market for private pension funds – would affect the funds because their policies would cover the difference from an average of past salaries and this ceiling.

<sup>29</sup> It should be noted that the states faced a moral hazard problem because they would have an incentive to collect less taxes and a disincentive to increase tax collection. "Estados resistem a aceitar propostas sobre tributos", *Estado de São Paulo*, 14/05/1998.

In turn, the inability of the federal government to commit to a credible compensation scheme for losses resulting from the change in the place of collection of ICMS led to a stalemate. These changes in fact were colossal. While the elimination of ICMS on exports affected primarily small and predominantly backward states, and consequently the amount of compensation relatively small, in this latter case the losses would be borne by the most industrialized states, in particular, São Paulo.

Although the conflicts in the arena of tax reform were significant they acquired low visibility because the actors are primarily institutional (governors, mayors, associations of state finance secretaries) and the issues highly technical. Although low visibility potentially facilitates the building of consensus, the fact that the losses were highly concentrated and had short term effects seemed to have blocked this possibility in tax reform.

<b>Table 2. Concentrated costs associated with Tax Reform</b>			
Estimates of losses incurred by the states by the elimination of tax on exports			
Estado	% perdas*	Estado	% perdas
Acre	0,98	Minas Gerais	10,14 (7)
Amazonas	1,55	Espírito Santo	22,01 (3)
Pará	34,84 (1)	Rio de Janeiro	3,09
Rondônia	3,30	São Paulo	2,73
Amapá	28,46 (2)	Paraná	13,03 (5)
Roraima	0,74	Santa Catarina	5,32 (10)
Tocantins	0,49	R. G. do Sul	7,50
Maranhão	15,12 (4)	Mato Grosso	10,19 (6)
Piauí	1,12	M. G. do Sul	6,14 (9)
Ceará	3,78	Goiás	4,03
R. G. do Norte	4,06	D. Federal	0,08
Paraíba	0,52		
Pernambuco	1,87		
Alagoas	8,37 (8)		
Sergipe	0,72		
Bahia	4,44		

- Relative losses: ICMS tax on exports as % of total ICMS . The number in brackets represent the ranking of losses. Source: Subcomissão de Reforma Tributária do Congresso Nacional.

The same pattern of resistance is found in the case of the losses resulting from the setting of similar rates for the ICMS, and by replacing the ICMS by the IVA. It was strongly resisted by the governors. Governors faced a prisoner's dilemma. The states would individually benefit from lower taxes because they attract investment, but they would lose as a collective because this weakens their position vis-a-vis firms, and more importantly because it pushes down the national tax revenue. Even the future gains for states are

uncertain because it will depend on jobs created and future revenue. In social security or administrative reform there was no possibility of compensating the losers. The crucial difference between the two issue areas is that in the latter case the reform had winners.

The reforms differ in their short term fiscal implications. The gains from second wave tax reforms are diffused and deferred to the future. More importantly, uncertainty about the effects of changes in taxation in revenue collected blurs the perception of gains. In addition, it explains the widely shared belief among tax bureaucrats that “good taxes are old taxes”. A bias for the status quo, therefore, is inherent in tax politics. As the mentor of the tax reform proposal put it: “the reform is timid because we have to evaluate the impact of the introduction of the ‘federal ICMS’ on total revenue .... and only then proceed to reduce the number of taxes collected”.<sup>30</sup>

Second wave reform gains refer to increasing systemic efficiency and competitiveness, and not tax rises. Tax reforms implies in short term losses for the central government too because of loss compensation. The only short benefits relate to improving the countries reputation in international markets and among multilateral institutions. In contrast, the reforms in the other issue areas generate short term savings.<sup>31</sup> These acquired high visibility in the political agenda, and was exploited recurrently by the actors involved with reference to the Plano Real.

The fiscal gains from the social security and administrative reforms was a key issue in political discourse during the negotiations. A number of government and societal institutions including business associations presented estimates of savings resulting from various measures contained in the reform packages.<sup>32</sup>

As already discussed, the perception of losses has an important subjective dimension in so far as it is socially constructed.<sup>33</sup> Policy advocates and shared beliefs about causal effects of policy decisions are important factors underlying the social construction of these losses. Policy advocates play a crucial role in influencing actors’s beliefs on policy outcomes. Several factors affect their ability to accomplish this, including policy bandwagoning and emulation of international success stories publicized by multilateral institutions (Melo and Costa 1995; Figueira and Martinez, this volume); and policy legitimacy conferred by epistemic communities. In these three arenas the politics of ideas was very pronounced. As suggested by Peters (1991, 4), politics in the arena of tax policy may involve mustering experts as well as mustering interest groups (Beam et al 1990).

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<sup>30</sup> “Porque a reforma tributária é tímida”, *Gazeta Mercantil*, p. a-8

<sup>31</sup> For assesment of the gains from administrative reform and costs of tax reforms, from several relevant actors see “Tática do Planalto será atrasar ajuste Tributário”, *O Estado de São Paulo*, 8.2.96.

<sup>32</sup> The The National Industrial Confederation (CNI) estimated the gains Confederation A CNI estimou os ganhos em 1,5 do PIB (US\$12 bilhões) e o MARE em 0.5% do PIB. “A Reforma administrativa e a redução das despesas com o pessoal do setor público”, Confederação Nacional da Indústria, 1997

<sup>33</sup> I am indebted to Bob Kauffman for insightful comments on this issue.

Policy advocacy is indeed a function of the importance of ideas in a policy arena. When the later is important, policy advocacy becomes crucial. The cases suggest a continuum from very strong to very weak, in administrative and tax reforms, respectively, with social security falling in the middle.

The role of Minister Bresser as a policy advocate is indeed suggested by an editorial from the conservative *O Estado de São Paulo*: “the victory should be credited to the obstination of Minister Bresser Pereira ... and his capacity for persuasion, that guaranteed almost total fidelity to the original proposal ... To the victor, Bresser, the potatoes” (19.05.1998).

Policy advocacy is made difficult when there is intense bureaucratic infighting and fragmentation of reform leadership within the executive. The case of administrative reform is particularly relevant here. At the beginning the proposal enjoyed very little support within the executive. The managerial aspects of the reforms – the setting up of semi-autonomous bodies, social organizations and executive agencies – was regarded as not relevant by the other ministries. This paradoxically contributed to advance the reform because despite lukewarm support, it was opposed by virtually nobody within the executive. However, a coalition pro-reform began to coalesce when the governors, and planning, and finance ministries were attracted by its potential benefits. The approval of the proposal for the reelection of governors and the timing of the roundtables on the refinancing of the states’ debt were instrumental in providing a new incentive structure favorable to the reform. Bresser proved to be very able to explore this new incentive structure.

An entirely different picture emerges in the case of tax reform. Tax reform was plagued with dissent among the various branches of the executive, including the Planning Ministry and its Institute for Applied Economic Research, the Finance Ministry, the Internal Revenue Service, and even the Health Ministry. This lack of sponsorship is consistent with the findings in the literature on tax policy. As Peters (1991, p. 4) put it “a distinctive feature of tax policy is that politicians can rarely use this policy area for their advantage in electoral politics.”<sup>34</sup>

The strategic choices of state reformers in shaping the political costs of different types of reforms is evident in Bresser’s decision not to simply delete articles in the constitution (‘de-constitutionalize’); but also to stress the innovative and positive points of his proposal. Conversely, the linkage between reforms in public and private sector pensions produced perverse effects, namely an alliance between the powerful private sector Confederation of trade unions (*Centrais*) and the much weaker sectoral public sector unions. As mentioned, the consequences of this linkage was not anticipated by reformers *ex ante*, but by a top presidential adviser *ex post*.

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<sup>34</sup> For a new institutional analysis of Tax policy see Steinmo (1993)



There appears to be an apparent inverse correlation between the role of leadership and advocacy and reform sustainability. It is predictable that when leadership disappears the reform sustainability would be at a risk. Sustainability has to do with the difficulties in implementing reform. Despite being too early to conclude anything in relation to the reforms, it could be argued that social security and administrative reform are apparently polar cases. The former requires little administrative capacity and its implementation entails primarily changes in rules of entitlement. In contrast, administrative reform implies long term realignments of institutional arrangements, organizational power bases and resources. In addition, it exhibits a much higher technical complexity, requiring monitoring and compliance mechanisms. Although less problematic than administrative reform, it could be argued following Peters (1991, 4) “that a great deal of tax policy is made while it is implemented”. This policy is likely to experience less severe but equally important implementation problems.

The most important evidence that issue areas matter is offered by an analysis of the vote pattern during the constitutional reform. Table 3 contains data on vote fractionalization in several areas of the reform, including other issue areas not considered in this paper. The data suggest extremely differentiated fractionalization patterns across issue areas. Extremely high levels were found in the cases of social security and administrative reform. It reached its highest level in the cases of the PMDB, PPB and PTB. Even within the most loyal party, the PFL, fractionalization was high and reached 0.75. It means that 85% of legislators voted differently than the other 15 %.

**Table 3. Constitutional Reform. Vote by issue area**

Parties	Issue area				
	Administrative Reform	Social security	Legal statute of national enterprises	State monopoly of Telecommunications	State monopoly of Oil production
PDT	1.00	0.85	0.96	0.96	0.96
PFL	0.85	0.75	0.93	0.97	0.88
PMDB	0.58	0.16	0.60	0.46	0.57
PPB	0.71	0.31	0.92	0.84	0.81
PSB	1.0	0.92	0.62	0.92	0.77
PSDB	0.98	0.73	0.99	0.79	0.74
PT	1.00	0.96	1.00	1.00	0.94
PTB	0.98	0.34	0.79	0.86	0.79

\* Rice index:  $R_{i,x} = |\% \text{ of yes votes} - \% \text{ of no votes}|$ , Sources: Secretaria da Mesa da Câmara dos Deputados. Vote on the *substituto* in the Plenary of the House (first round).

## Conclusions

Institutions matter as well as issue areas. In the preceding analysis several important institutional features of the Brazilian political system were explored in connection with the specific policy dynamics of each issue area. The former include the role of governors and of the legislative and congressional dynamics, including the role of agenda and procedural powers and reversionary policy.

A central conclusion that comes out of the analysis is that governors were pivotal for success in administrative reform, defeat in tax policy, and indifference in social security. Where governors did not play a role other factors acquire explanatory power: nature of actors and coalitional characteristics, organizational fragmentation, bureaucratic infighting, policy advocacy, and packaging of reform. Our analysis suggests that there could be not only the possibility of separation of purpose but also indifference of purpose. Lack of active support or opposition by governors seems to be a key factor. In a fragmented system, governors play a catalyst role for or against a proposal. If they are indifferent, federalism as an institutional variable loses much of its explanatory role. By focusing exclusively on political parties, existing political models of administrative reforms such as Geddes' (1991; 1995), does not incorporate important institutional variables such as separation of powers, federalism, or the internal organization of Congress. I contend that these factors have strong explanatory power.

The use of *medidas provisórias* (MPs) is an important example of the usefulness of considering reversionary policy. Because its effects are immediate, the legislators are faced with a *fait accompli*. They make choices comparing the state of affairs created by the MP (including the costs of reversing it (i. e. of cancelling decisions that produced immediate effects in society and economy) and the state of affairs *ex ante*, rather than between the latter and a hypothetical state to be created by the legislation (Limongi and Figueiredo 1997). As noted agenda power, coalitional factors, packaging and policy advocacy was instrumental for the success of the administrative reform.

Institutional analysis *per se* has important limitations. The most important of these refers to making *tabula rasa* of policy content. The analysis is unable to tell whether a policy outcome (i.e. a deadlock or veto) has to do with the fact that it was either too ambitious or too cautious. Therefore it can greatly benefit from issue area analyses. It helps explaining “not just whether reform happened or not, but also when it happened when it did, what model it followed, how comprehensive it was in scope, and how it fared in the process of implementation” (Blanca and Heredia, this volume).

## Referências

Abrucio, Fernando Luis (1998), *Os Barões da Federação, Os governadores e a redemocratização brasileira*, São Paulo, Hucitec/USP.

Arnold, Douglas, (1990) *The Logic of Congressional Action*, Yaly University Press, 1990

Beam, David R.; Conlan, Timothy J. and Wrightson, Margaret T., “Solving the Riddle of Tax Reform: Party Competition and the Politics of Ideas”, *Political Science Quarterly*, Winter, 1990.

Azevedo, Sergio e Marcus Melo, “A Política da Reforma Tributária: Federalismo e Mudança Constitucional”, *Revista Brasileira de Ciências Sociais*, vol 12, no. 35, 1997, pp. 75-100.

Bates, Robert (1990) , “Macropolitical Economy in the Field of Development”, in Alt, James E. e Kenneth A. Shepsle, *Perspectives on Positive Political Economy*, Cambridge, Cambridge University Press, pp. 31- 56.

Figueiredo, Argelina e Fernando Limongi (1994) “ O processo legislativo e a produção legal no Congresso pós-constituente”, *Novos Estudos Cebrap*, n. 38, p. .

Figueiredo, Argelina e Fernando Limongi (1995) “Mudança constitucional, desempenho do legislativo e consolidação institucional”, *Revista Brasileira de Ciências Sociais*, 29, pp. 175-200.

Geddes, Barbara (1995) *Politician’s Dilemma: Building State Capacity in Latin America*, Berkeley, University of California Press.

Geddes, Barbara (1991), “A Game Theoretic Model of Reform in Latin America”, *APSR*, June, , no. 2 , pp. 371-392. 1991.

Haggard, Stefan and McCubbins, Matthew eds. (forthcoming), *Political Institutions and the Determinants of Public Policy: When Do Institutions Matter?*

Haggard, Stephan & Kaufman, Robert (eds.) (1992). *The Politics of Economic Adjustment: International Constraints Distributive Conflicts and the State*. Princeton, Princeton University Press, 1992.

Haggard, Stephen & Kaufman, Robert. (1995) *The Political Economy of Democratic Transitions*. Princeton, Princeton University Press, 1995.

Haggard, Stefan, (1995) *The Reform of the State in Latin America*, paper prepared for the Annual Bank Conference on Development in Latin America and the Caribbean , Rio de Janeiro, 12-13 junho.

Johnson, Ronald N. e Gary D. Libecap (1994), *The Federal Civil Service and the Problem of Bureaucracy: The Economics and Politics of Institutional Change*, The University of Chicago.

Kauffman, (1997) , “The Politics of State Reform: A Review of Theoretical Approaches”

Kiewet, D. R. e McCubbins, M. (1989), *The Logic of Delegation*, Michigan University Press.

Limongi, Fernando P. e Argelina Figueiredo (1995), “Partidos Políticos na Câmara dos Deputados”, *Dados*, 38, no. 3, 497-526.

Limongi , Fernando e Figueiredo, A. (1997) “Processo decisório no Congresso e comportamento parlamentar: Plano Collor e a Reforma da Previdência”, paper apresentado no Encontro Nacional da ANPOCS.

Lowi, Theodore (1964), "American Business, Public Policy, Case-studies and Political Theory", *World Politics*, 16 (julho), 677-715.

Mainwaring, Scott (1997) “Multipartism, robust federalism and presidentialism in Brazil,” in Mainwaring, Scott and Shugart, Matthew S. eds. (1997), *Presidentialism and Democracy in Latin America*, Cambridge, Cambridge , Cambridge University Press.

Mainwaring, Scott and Shugart, Matthew S. eds. (1997), *Presidentialism and Democracy in Latin America*, Cambridge, Cambridge , Cambridge University Press.

Melo, Marcus (forthcoming) “A Política da Escolha Constitucional: escolha racional e constitution-making”, no prelo, *Lua Nova*,no, 43.

Melo, Marcus C e Sérgio de Azevedo (1998) . *A Política da Reforma Constitucional: o processo decisório das Reformas da Seguridade Social e da Reforma Tributária no Brasil, 1990-1996*”, ENAP, Brasília, Cadernos Para Discussão, 105 pp.

Melo, Marcus C (1997) “As Reformas Constitucionais e a Previdência Social (1993-1996””, in Eli Diniz e Sérgio de Azevedo orgs., *Reforma do Estado e Democracia no Brasil*, Editora da UNB, 1997, pp. 295-351.

Melo, Marcus C (1995 and Costa , Nilson “A difusão das reformas neoliberais: Análise estratégica, atores e agendas internacionais”, in Elisa Reis, Maria Hermínia T de Almeida e Peter Fry (org.) *Pluralismo, Espaço Social e Pesquisa*, Hucitec/Anpocs, pp. 153-175.

Melo, Marcus C. (1997) “O Jogo das Regras: a Política da Reforma Constitucional, 1993-1996””, *Revista Brasileira de Ciências Sociais*, no. 33, ano 12, fevereiro, 63-87.

Melo, Marcus C, (1995) “Ingovernabilidade: desagregando o argumento”, in Lícia Valladares e Magda Prates, *Governabilidade e Pobreza no Brazil*, Rio de Janeiro, Civilização Brasileira, pp. 23-48.

North, Douglas, (1990) *Institutions, Institutional change and Economic Performance*, Cambridge University Press.

Peters, B. Guy. (1991) *The Politics of Taxation: A comparative perspective*. Cambridge, Blackwell, 1991.

Schneider and Heredia , This volume

Schneider, Ben Ross, (1995) “Collective Action, the State, and Business Politics in Brazil and Mexico”, paper apresentado no Seminário The Challenge of Democracy in Latin America: Rethinking State/society Relations Rio de Janeiro, 4-6 outubro.

Santos, M. H. Castro; Rua, Ma. das Graças e Machado E., (1993), Interesses Sociais, Poderes Constituídos na Política Fiscal e Tributária dos Governos Collor e Itamar Franco, UNB.

Sola, Lourdes (1995), Estado, regime fiscal e ordem monetária, *Revista Brasileira de Ciências Sociais*, 27, 10, 29-59.

Steinmo, Sven, (1993) *Taxation and Democracy. Swedish, British and American Approaches to Financing the Modern State*, New Haven, Yale University Press.

Stepan, Alfred, Toward a New Comparative Analysis of Democracy and Federalism, paper for the Conference Democracy and Federalism, Oxford University, June 1997.

Shepsle, Kenneth (1985), “Comments” to T. Lowi "The State in Politics: The Relation Between Policy and Administration", in Roger Noll (org.) *Regulatory policy and the social sciences*, University of California Press, pp. 67-96.

Shepsle, Kenneth (1989), “Studying Institutions: some lessons from the rational choice approach”, *Journal of Theoretical Politics*, vol 1, no. 2., 131-147.

Silva, Pedro Luis Barros; Melo, Marcus and Matijascic, Milko, (1998) *Reforma da Seguridade Social no Brasil*, Research Report, Núcleo de Estudos de Políticas Públicas, NEPP/UNICAMP.

Tsebelis, George, (1995), “Decision Making in Political Systems: Veto Players in Presidentialism, Parliamentarism, Multicameralism and Multipartism”, *British Journal of Political Science*, July, p. 289-326.

Weaver, R. Kent e Bert Rockman orgs. (1993), *Do Institutions Matter? Government Capabilities in the US and Abroad*, Washington, Brookings Institution.

Weir, Margareth, “Ideas and the politics of Bounded Rationality”, in S. Steinmo, K. Thelen and F. Longstreth, *Structuring politics. Historical Institutionalism in Comparative Analysis*, Cambridge, Cambridge University Press, 1992