

MISLEADING INFERENCES, OR THE 'POWERFUL' BRAZILIAN PRESIDENCY

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Comments to the workshop “Brazilian Political Institutions in Comparative Perspective: How can Legislative Bodies be Empowered in Order to Qualify Democracy in Presidential Systems?”, organized by the Centre for Brazilian Studies, St Anthony’s College, Oxford University, May 28-29, 2001.

The question posed by this workshop is which institutions should be introduced in order to empower parliaments new democracies like the Latin American ones. The assumptions behind are, first, that good governance depends on good institutions, which will be improved as long as they are democratically approved by parliaments, instead of being in some way imposed by the executive; second, the executive branch in the new democracies like the Brazilian one are too powerful.¹

I have no contention about the first assumption, but the second is just unacceptable in the case of Brazil. It true that the executive in Brazil has constitutional power of setting the parliament’s agenda, of issuing decrees with law-power, authority of initiating budget bills, and of requiring urgency for given law projects. But this should not be viewed as a way of undermining congress, but, first, as a kind of trade-off to the fact that legislator refuse to change the electoral system in order that the winning political party be able to achieve political majority in parliament, and refuse to demand party discipline on

¹ - In the workshop’s programme we read the following: “The great majority of presidential systems, especially in Latin American countries, have been characterized by the concentration on the executive of a huge amount of legislative powers (agenda setting, decree power, exclusive authority of initiating specific bills, presidential veto, urgency time limits, centralization of distributing political and financial benefits, etc.) thus undermining legislative bodies”. (Written by Carlos Pereira, who organized the conference).

congressmen. Second, the special executive powers should be viewed as the outcome of a long and democratic debate, in Brazil, during years and years, before the 1988 Constitution, asking for larger executive powers within a democratic framework.

Actually, despite these powers, the executive branch is not too powerful in Brazil, contrarily to what became widely accepted among political scientists after the research on the subject conducted by Cheibub and Limongi, whose work is one of the bases of the present seminar.² The president may be able to pass in Congress most of the legislation he wants, but certainly not the more important. The data presented by Cheibub and Limongi do not distinguish the major legislative issues from minor problems. Take, for instance, the social security reform. The distance between what the executive wanted and what it got from Congress is enormous.³ Besides, there is a selection bias to be considered. There are many bills that the executive branch would like to have approved, but does not even essay to formulate a project, knowing in advance that it will be rejected. The best example is the political reform, and particularly the “voto distrital misto”, combining majoritarian districtal vote with political parties’ list.

The research by Cheibub and Limongi led many, and particularly the authors, to conclude that political reform is not a major problem in Brazil. That presidentialism represents no problem to the country. That the country may well continue with its odd proportional and open list system, and have no party discipline requirement. The president may not achieve the majorities that a first-past-the-post system usually (not necessarily) assures, but this would be no problem, since it eventually gets everything it wants approved... The authors make these inferences explicitly in the introduction of their book to make these inferences. They start by criticizing the idea, defended among others by

² - Argelina Cheibub Figueiredo and Fernando Limongi (1999) *Executivo e Legislativo na Nova Ordem Constitucional*. Rio de Janeiro: Editora Fundação Getúlio Vargas.

³ - The researches obviously have an answer for this question. According to them “the difficulties faced by the administration to pass the social security reform, as well as the results achieved, may be explained by the nature of the proposed legislation and by the internal rules in the Congress, and, so, are independent of other characteristics of the Brazilian institutional system” (1990: 194). Thus, the inferences that they draw from their research are not secondary, but central to the authors’ argument.

Bolívar Lamounier,⁴ saying: “despite the absence of systematic research on the theme, negative judgments and catastrophic predictions on the behavior of the parliament and on the role of Congress in the national decision-making process proliferate – judgments and predictions directly deducted from the government system, and from the existing electoral and party system...”. And conclude: “we believe that the results presented in this book contradict most of what was seen as consecrate truth on the working of the Brazilian political system”.⁵

Although far from being true, let us assume that the Brazilian president is able to pass in Congress most of the legislation he needs. At what cost? Carlos Pereira did not measure this cost – that is impossible – but he demonstrated in his research that in order to have a majority and to get legislation approved in the Brazilian political system, the president is supposed to “buy” the legislator – to buy them with money in the budget, with loans in Banco do Brasil, with positions in the administration.⁶ This is well-known in Brazil, but the scientific demonstration of the fact is relevant. It is specially relevant given the fact that, with the process of democratization, this kind of practice ceased to be politically acceptable. Every time that the president is constrained to recur to this practice, the Brazilian newspapers are full of indignant indictments, that the presidency’s image, and create serious legitimacy problems. Referring to the last episode of this kind, when the executive used ‘hard’ ammunition to avoid a parliamentary large inquiry on corruption, that would only make the political situation that have been deteriorating recently even more unstable, Denis Rosenfield observed: “Public morality does not seem to be a criterion. Bargains of various types dominate the scene. Negotiations are part of political

⁴ - See, for instance, Bolívar Lamounier (1995) “Brazil: Inequality against Democracy”. In Larry Diamond, Juan J. Linz, and Seymour Martin Lipset eds. (1995) *Politics in Developing Countries – Comparing Experiences with Democracy*. Boulder, Co: Lynne Rienner Publishers, 1995, pp. 127-130.

⁵ - Cheibub and Limongi (1999: 7-9). In an article published in *República, Primeira Leitura* (August 2001) Fernando Limongi and Jairo Nicolau limit the proposals of a political reform into small changes: 1) end of colligations in proportional elections, 2) increase in time requirements to change from one political party to another, 3) to limit the number of candidates, and 4) to change rules related to free time in the media and access to official funds.

⁶ - Carlos Pereira (2000) *What Are the Conditions for the Presidential Success in Legislative Arena?*. Ph.D. Dissertation, Faculty of Political and Social Sciences of The New School University.

life, but what needs to be seen is if they are they legitimate, if they do not endanger the democratic institutions.”⁷ *The Economist*, reporting the same problem, says: “The president’s actions this week smacked of panic”.⁸ A group of respected jurists addressed to the Chamber of Deputies a representation asking for the impeachment of President Cardoso for the open practice of park barrel.⁹ The president himself gave a indignant interview, in which he justified his actions: “I had to advance with backwardness. But without this type of alliance the country would not have changed”.¹⁰

Given all this, I have to admit to myself that the conclusions drawn by Cheibub and Limongi from their competent research program, and the terms of reference of this workshop bring to mind Wright Mill’s old caution about the “formal and empty ingenuity” that he viewed in “abstracted empiricism”.¹¹ Empirical research is a wonderful thing, but inferences from it may turn particularly misleading.

President Fernando Henrique Cardoso, in the beginning of his administration, said: “it is easy to govern Brazil”. I am sure that nothing makes him regret more than this phrase. Brazil is extremely difficult to govern. Not only because it is a large and complex country: also because political institutions are not fitted to good governance.

Researches like the ones conduct by Cheibub and Limongi are an important milestone in political research in Brazil. On the other hand, the correlated affirmation that the Brazilian president possesses constitutional powers that other presidents – like the American – do not have, are correct. But they do not legitimate inferences suggesting that the Brazilian presidential system is characterized by undue concentration of executive power, nor that the electoral and party system do not require major institutional changes.

⁷ - Denis Rosenfield, “Esgot(a)mento”. *O Estado de S. Paulo*, May 21, 2001.

⁸ - *The Economist*, May 12, 2001, p. 41.

⁹ - The representation, that does not have chance of being successful, is a measure of civil society’s reaction against the political practices that make the Brazilian presidency ‘powerful’. It was dated of May 18, 2001, and signed by Celso Antônio Bandeira de Mello, Dalmo Abreu Dalari, Fabio Konder Comparato, Goffredo da Silva Telles Junior e Paulo Bonavides.

¹⁰ - *O Globo*, May 23. Interview to Tereza Cruvinel.

The Cheibub and Limongi research program told us that the executive gets much of it wants to Congress; Pereira's research told us how this is done.¹² Or, this way of doing politics is terrible for the presidents' legitimacy.

In conclusion, I have my doubts that just empowering the legislative body will make Brazil more democratic, will achieve representativeness and accountability, unless we are speaking of establishing parliamentarism. In the present presidential system, we have to empower legislative bodies, but we also need institutions that assure governability by reducing the number of political parties, providing stronger parliamentary majorities, and stronger party discipline.

In the United States the president does not count with some powers – the power to initiate legislation, the power to issue provisory presidential decrees, the power to 'manage' the budget – but it counts with a majority system in electing the House, that tends to allow for majority government. Anyway, United States, with its presidential system, is not an example in matters of political institutions. Economic growth took place in this country rather despite government than due to good governance. In Great Britain the prime minister also does not enjoys special powers. Yet, I would suggest that in their respective countries, the American president and principally the British prime-minister are substantially stronger than the Brazilian president.

¹¹ - C. Wright Mills (1959) *The Sociological Imagination*. Oxford: Oxford University Press.

¹² - It is interesting to observe that Carlos Pereira did not realize how conflictive were his findings with the inferences Cheibub and Limongi draw from their respective research – inferences that the terms of reference to this workshop that he wrote seem to confirm.