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Influence of the Brazilian Congress on the Public Health Legislative Output[1]

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1 Introduction

Against all claims about the chaotic nature of Brazilian political institutions, the constitutional powers have been able to cooperate and generate relevant social policies. The Brazilian Congress[2], home of many different currents of thought and itself a democratic way of solving conflicts, has contributed to the definition of Brazil's health policy. The creation of the National Unified Health System – SUS (a public system supposed to offer health care to all Brazilians) by the Federal Constitution of 1988 has been outstanding. Other accomplishments include the promulgation of the Organic Law of Health (Law nr. 8.080, of 1990 and nr. 8.142, of 1990) and, more recently, the Constitutional Amendment nr. 29, of 2000, which defined specific resources for the health field. However, the difficulty in providing adequate financing for the public health system still reflects the tensions between advocates of private and public solutions for the delivery of health care.

In light of the suggestion that there is a relationship of dependence between the Brazilian Congress and the Executive Power regarding the definition of public policies in general (FIGUEIREDO and LIMONGI, 1999; PEREIRA & MULLER, 2000; ANDRADA, 2004), the study of such relationship gains relevance for the understanding of the decision process also in the health policy field.

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[2] The Brazilian Congress is composed by the Chamber of Deputies (with 513 members, elected every four years) and the Senate (with 81 members, elected for eight year terms).

Such dependence, however, is not absolute and needs to be better characterized, since, in the case of social policies (including health) there are signals of a higher level of influence of the Legislative Power.

It should also be noted that the focus on quantitative aspects of many studies about the Brazilian legislative production, without a deeper consideration about the content of approved propositions, might mask the actual influence of the Brazilian Congress.

This study considers the fundamental contributions of the North-American literature on political science, which offers useful points of view about the democratic parliamentary organization (POLSBY, 1968; MAYHEW, 1974; KREHBIEL, 1990; ARNOLD, 1990; KIEWIET AND MCCUBBINS, 1993); as well as the Brazilian literature, which considers the context of Brazil's "coalition presidentialism".[3]

This paper presents data on the nature of health policies proposed by the Legislative and Executive Power after the promulgation of the 1988 Constitution and also about some institutional mechanisms used by legislators to approve them. It is suggested that the Brazilian political system offers ways to enhance governability, cooperation, and also to limit distributive behaviors associated to inefficiency.

Before presenting such data, some relevant aspects of the Executive / Legislative relationship in Brazil are highlighted in the next section.

2 Executive / Legislative relationship in Brazil

Regarding the Brazilian Congress, Barry Ames (2001) stressed the parochialism and patronage-oriented practices and the excessive number of veto players in the political system. On the other hand, David Samuels (2003) suggested that the career objectives of the Brazilian

[3] In Brazil, the conjunction of presidentialism and a highly proportional electoral system compels presidents to include political parties in the governmental coalition in order to implement their agenda (ABRANCHES, 1988).

representatives are frequently directed towards political positions outside Congress, thereby reducing the parliamentarians' motivation to develop institutional mechanisms to support reelection.

Pereira & Mueller (2000) considered that the legislative process and the functioning of the committee system of the Brazilian Congress would be influenced by the Executive. Such theory of "Executive preponderance" would be based on the Executive's power to legislate (such as, for example, the implementation of provisional measures with force of law, the power to veto laws or parts of laws approved by Congress and the request of the urgency privilege for the assessment of its propositions), the centralization of the decision-making process in the hands of party leaders (determined by legislative procedures) and a relative fragility of Congress´ thematic committees.

Figueiredo and Limongi (1999, 2004, 2007), based on empirical data, valued the party perspective and questioned the idea of the electoral system generating incentives for the personal vote in Brazil. They indicated that the "centralization of the decisive process in the hands of the party leaders affects the capacity of the representatives to approve distributive policies". They also pointed out that recent governments had been obtaining high levels of success in the approval of their bills (since the promulgation of the Constitution of 1988, the success level of the Executive is around 90%).

These authors claim that there is a predominance of the Executive in the legal output (out of 3.042 laws approved between 1989 and 2001, 86% have been proposed by the Executive, which is at a level similar to the one found in countries with a parliamentary regime). They concluded that there is no empirical evidence for the thesis of governmental paralysis in Brazil, which had been suggested by some, based on the possibility of lack of party and parliamentary

support. On the contrary, the Executive has been maintaining its direction and leadership in the legislative agenda. The authors suggested that the Brazilian Congress has institutional mechanisms that organize the decision process, limit distributive behavior, give relevance to political parties in their interaction with the Executive and allow for the necessary stability for implementation of public policies.

Amorim Neto and Santos (2003) suggested the possibility of Brazilian legislative efficiency, questioning the application of Shugart and Carey's Inefficient Secret Model to our context. In that model, party discipline is weak and voters cannot make a clear choice between party competitors regarding national public policies. But, according to Amorim Neto and Santos, the Brazilian voter is able to identify party politicians´ preferences for public policies by observing their participation, or not, in the presidential coalition.

These authors also detected a tendency for the Brazilian Congress to obtain greater success in the approval of bills of national and social interest, while in the economic and financial fields there would be a clear predominance of the Executive. This suggests that the context of "coalition presidentialism" influences the creation of public policies.

As it was suggested by Leany Lemos (1998), the distributive interests could be emphasized in another arena of the Brazilian Congress, as, for example, the field of parliamentary amendments to the Union's budget (which is not the subject of this study, since Brazilian congresspersons may not introduce budget related bills, only amendments to them). Argelina Figueiredo and Fernando Limongi (2008), however, showed that the amount of the Union´s budget available for change by legislative amendment is limited to a portion of the investment spending. The legislative amendments corresponded only to 3.69% of the Union´s budget from 1996 to 2001. Other spending is hard to amend it is related to the functioning of the

federal administration, to social programs (many defined in the Constitution) and to the huge amortization and payment of public debt interest (more than 50% of the Union´s budget!). This institutional arrangement and the macroeconomic restrictions limit the impact of an eventual excess of private-centered behaviors (FIGUEIREDO e LIMONGI, 2008).

Scott Morgenstern, during his lecture as the keynote speaker of the International Seminar: "Brazilian Legislative in Comparative Perspective" (University of Brasília, May 15th, 2008), discussed models of legislative politics and posed the question whether the U.S. model is appropriate for use in studies about Latin America. He indicated that the presumed main motivation of U.S. representatives, reelection, may not explain representatives´ behavior in Latin America (in Brazil, the reelection rate is about half of the USA). Other "hidden assumptions" that need to be considered were also mentioned, among others: the electoral system, party relevance, balance of power between the Executive and the Legislative, committees' power and role of opposition. He recognized that presidentialism might work in a multipartisan context, since coalitions play an important role to overcome conflicts of interest.

As for the definition of health policies, although research on the legislative output is relatively small, the Executive's preponderance in Brazil has also been suggested. Nitão (1997) studied the role of the Brazilian Congress and its relation with the Executive in the creation and implementation of public health policies between 1947 and 1964. He pointed out that, in the period which preceded the constitutional change of 1988, the Legislature was incapable of formulating propositions that would make it possible to build a universal health care system, and it could only perform adjustments to the bills that came from the Executive.

The study of Lemos (1998) about 817 bills concerning education and health introduced by federal deputies and senators between 1988 and 1994 presented some interesting

characteristics of parliamentary action in those areas: a) the members of the Brazilian Congress presented more propositions focusing on diffuse benefits than on concentrated ones; b) propositional activity was greater in the first years of the mandate; c) the most targeted groups for concentrated benefits were the economic and professional groups and also the states; d) the percentage of approval of propositions introduced into Congress was 6,49% (including bills and formal "suggestions" for Executive action); and e) the propositions approved generally kept all characteristics they had when initially presented.

Tatiana Baptista (2003) performed an historical review of the legislative output of the Executive and the Brazilian Congress in the pre-1988 period until 2002. Her data indicated the existence of Executive preponderance in the definition of health policies through the making of laws. According to the author, the Executive's concentrating character persists in the form of the relationship established with the Brazilian Congress. She identified a time pattern for enactment of health-related laws after 1988. Initially, laws about the functioning of SUS were promulgated, following laws about relevant health programs and, more recently, very specific laws about subjects that could be regulated by the Executive. On the other side, she observed the use of infra-legal instruments (operational rules) by the Executive to regulate the financing of health services, often in conflict with determinations of laws.

Rodrigues and Zauli (2002) studied the dynamics of the Executive-Legislative relationship in the decision-making process of health policy between 1985 and 1998, and observed that presidents legislated in the area of health practically without consulting the Brazilian Congress through the reissuing of provisional measures, while Congress was relatively incapable to appreciate and modify the content of the provisional measures. At the same time, the authors suggested a recovery of Congress` capacity to produce laws about social issues,

based on Fabiano Santos' data (SANTOS, 1999, *apud* RODRIGUES & ZAULI, 2002). The authors also highlighted the growing relevance of the Legislature as an author of laws in the health sector.

These data corroborate those of Amorim Neto and Santos (2003), who, as mentioned earlier, identified the Brazilian Congress´ tendency to present a higher level of success on approval of laws of social nature. Data from the Group of Research and Extension on Health Policy of the Chamber of Deputies presented similar results (CARVALHO & GOMES, 2008). It was observed that, of all the ordinary bills of law introduced into the Chamber of Deputies from 1999 to 2006, 428 became law (2.8%), as of March 2007. The successful bill introduced by the Executive was enacted after an average time to complete legislative procedures 2.6 times shorter than those introduced by deputies. However, 53.5% of successful ordinary bills were introduced by Congress members and 38%, by the Executive. The analysis of a subgroup of 4,358 ordinary bills specifically related to health, introduced between 1999 and 2006, observed that, from the 68 ordinary bills that became law (1.6%), 61.8% had been introduced by Congress members, and the remaining 38.2%, by the Executive.

3 Health-related legislative "inputs" and "outputs" from 1999 to 2006

In order to assess the legislative role of the Brazilian Congress on health policies I selected a specific time period, which embraces two Legislatures (1999 to 2006), and applied a thematic classification to all types of bills (ordinary, complementary, Congress bill, constitutional amendment, and provisional measure) presented at the Chamber of Deputies and the Congress in this period. The kind of topics associated to the different types of bills is defined by the Federal Constitution and bylaws of the legislative bodies. This arrangement makes it

easier to assess the content of the bills and, in some extent, their relevance. More details about each type of proposition will be presented in the next sections.

Table 1 shows that ordinary bills were a lot more frequent (82.5% of the selected types of legislative propositions), followed by constitutional amendments (6.4%). Ordinary bills had also the greater proportion of relation to health (28.6%). Table 2 indicates that the rate of conversion into law is extremely high for the types of bill introduced only by the Executive (Congress bill – budget related - and provisional measure). The ordinary and complementary bills had lower rates when they were related to health, but higher in the case of constitutional amendments.

Table 1 Bills of law introduced in the Chamber of Deputies and at the Congress between 1999 and 2006, by type of bill and proportion of relation to health.

Type of bill	Total	% related to health
Ordinary bill	15246	28.5
Complementary bill	743	15.2
Congress bill (budget related)	783	9.2
Provisional measure	512	12.3
Constitutional amendment	1188	12.2
Total	18472	25.8

Source: Study data set based on information systems of the: Chamber of Deputies, Senate and Presidency.

Table 2 Conversion into law of bills introduced in the Chamber of Deputies and at the Congress between 1999 and 2006, by type of bill and relation to health themes, as of March, 2009.

Type of bill	Relation to health			
	All themes	Converted (n / %)	Health themes	Converted (n / %)
Ordinary bill	15246	(583 / 3.8)	4364	(96 / 2.2)
Complementary bill	743	(25 / 3.4)	113	(1 / 0.9)
Congress bill (budget related)	783	(580 / 74.1)	72	(60 / 83.3)
Provisional measure	512	(346 / 77.7)	63	(52 / 82.5)
Constitutional amendment	1188	(21 / 1.8)	145	(6 / 4.1)

Source: Study data set based on information systems of the: Chamber of Deputies, Senate and federal Executive.
Legend: n = number of bills converted into law.

4 Characteristics of ordinary bills

Ordinary bills have the greatest number of potential authors, since they may be presented by parliamentarians, the Executive, the Judiciary and even by citizens (under special rules). Bills are analyzed by committees in both houses (the Chamber has 20 standing committees and Senate, 11). After approval by committees, the bill is voted by the plenary (however, it is possible to pass bills deliberated only by committees) and, then, is assessed by the other house.

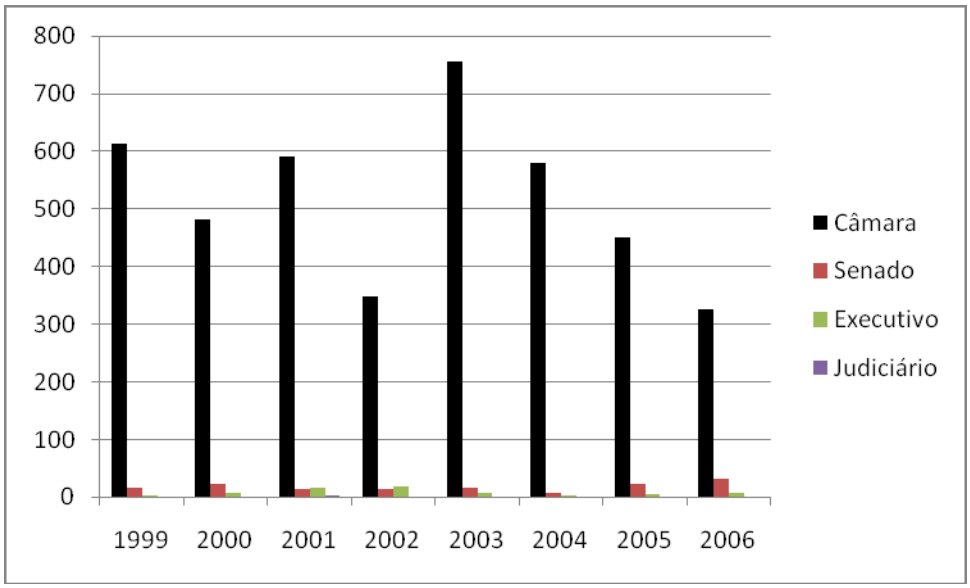
Representatives have instruments to delay the debate of bills, but minorities cannot sustain a “filibuster” based on super majoritarian rules as it happens at the US Senate, since such strategies may be overridden in Brazil by requirements decided under simple majority rule.

If a bill is amended it has to return to the originating house for specific evaluation. Once approved by each legislative house (under a simple majority rule) the ordinary bill is sent to the President, who may sanction (as an ordinary law) or veto it (entirely or in part). The veto may be overridden by 1/2 of the members of each house.

The graph 1 indicates that the first year of the studied legislatures – 1999 and 2003 – received a greater number of propositions from deputies than the last year.

Tables 3 to 5 allow for the observation of relevant patterns of legislative initiation and production associated to authorship and use of special legislative procedures. For example, the Legislature was the author of the majority of successful health-related ordinary bills (70.5%), but the rate of success of the Executive was a lot higher (41.2%) than that of the Deputies (0.8%) and Senate (23,1%).

Graph 1 Annual distribution of health-related ordinary bills of law introduced in the Chamber of Deputies between 1999 and 2006, by authorship.



n= 4365

Note: Câmara= Chamber of Deputies; Senado= Senate; Executivo= Executive; Judiciário= Judiciary.
Source: Study data set based on information systems of the Chamber of Deputies.

Table 3 Percentual distribution of ordinary bills of law introduced in the Chamber of Deputies between 1999 and 2006, by authorship and selected variables.

Variables	Proportions Authorship				
Regime of deliberation[1] (n= 14808)	**Chamber**	**Senate**	**Executive**	**Others(*)**	**Total**
Ordinary	71.7	0.1	0.1	0.0	71.8
Special	0.1	0.0	0.0	0.0	0.1
Priority	15.5	4.0	1.6	0.4	21.5
Urgency	4.9	0.3	1.1	0.2	6.6
Total	92.2	4.5	2.7	0.6	100.0
Type of deliberation[1] (n= 14797)					
Committees	64.1	2.8	1.2	0.3	68.4
Plenary	28.1	1.6	1.6	0.4	31.6
Total	92.2	4.5	2.7	0.6	100.0
Thematic classification (n= 15246)					
Not related to health	65.2	3.4	2.2	0.6	71.4
Health – services	9.1	0.5	0.2	0.0	9.8
Health – risk reduction	8.6	0.2	0.1	0.0	8.9
Health – personal benefits	7.9	0.3	0.1	0.0	8.3
Health – rights, ethics & other	1.6	0.0	0.1	0.0	1.7
Subtotal – Health	27.2	1.0	0.5	0.0	28.6
Total	92.4	4.3	2.7	0.6	100.0
Situation (n= 15246)					
Converted into law	1.4	0.9	1.3	0.3	3.8
Vetoed (totally)	0.2	0.1	0.0	0.0	0.2
No yet deliberated	38.3	2.5	0.8	0.1	41.8
Filed	52.5	0.9	0.6	0.1	54.2
Total	92.4	4.3	2.7	0.6	100.0

Source: Study data set based on information systems of the Chamber of Deputies.
Notes: 1- Bills without information about this variable were excluded.
(*) Including the Judiciary and federal institutions dedicated to oversight the public administration.
Legend: n= total used to calculate the proportions for the specific variable.

The privilege of urgency is not available only to the Executive. As a matter of fact, bills from the Legislature had five times more cases of such procedure than those from the Executive (table 3), but among the converted ordinary bills, those of the Executive had a higher proportion of urgency (71.4%) than those of the Legislature (14.9%). It is worth mentioning that the most frequent type of urgency of health-related laws authored by the Executive was that approved by the plenary (according to the art. 155 of Chamber's bylaws) – 55% - and not the type requested by the President, based on art. 64 of the Constitution (table 3).

Another pattern observed is that ordinary bills presented by the Legislature are more frequently deliberated by the committees (68.8%) and those from the Executive, by the plenary (54.4%). This pattern is still present among the successful ordinary bills of the Legislature, since 77.6% were deliberated by the committees only. On the other side, in the case of the Executive, 71.4% were deliberated by the plenary (table 4).

Tables 3 and 5 show that the content of health-related bills presented are associated to heath services, risk reduction and personal benefits associated to health conditions in similar proportions, although among the laws the first thematic group is more frequent (40%).

Finally, table 5 indicates that successful ordinary bills of the Executive are deliberated a lot faster than those of the Legislature. While the average time of deliberation is of 308 days for the Executive, it is superior to 1000 days for the Legislature. The employment of urgency abbreviates the time of deliberation, but the constitutional urgency (requested by the President), while employed less frequently, was faster (average of 195 days) than the urgency voted by the deputies (average of 637 days). The deliberation by the committees is slower than that of the plenary, what is probably associated to the rule that all bills under urgency must be deliberated by the plenary (with reduction of regular time of deliberation).

Table 4 Distribution of health-related ordinary bills of law introduced in the Chamber of Deputies between 1999 and 2006 and converted into law as of February 2009, by regime and type of deliberation and authorship.

Type of deliberation	Regime of deliberation	Authorship			
		Chamber	Senate	Executive	Total
Committee	Ordinary	24	1	0	25
	Priority	0	27	8	35
	Total	24	28	8	60
Plenary	Ordinary	3	1	0	4
	Priority	0	1	0	1
	Urgency - art. 155 CB	6	4	11	21
	Urgency - art. 64 FC	0	0	9	9
	Total	9	6	20	35
Total		33	34	28	95

Source: Study data set based on information systems of the Chamber of Deputies.
Legend: CB = Chamber's bylaws; FC = Federal Constitution.

Table 5 Time measures of health-related ordinary bills of law introduced in the Chamber of Deputies between 1999 and 2006 and converted into law as of February 2009, by selected variables.

Variables	Time to be converted into law (in days)			
	Average	Maximum	Minimum	N
Authorship				
Chamber	1330	3324	99	33
Senate	1119	3136	151	34
Executive	308	1028	21	28
Regime of deliberation				
Ordinary	1306	3324	99	29
Priority	1043	3136	69	36
Urgency art. 155 CB	637	2052	21	21
Urgency art. 64 FC	195	456	121	9
Type of deliberation				
Committee	1146	3324	69	60
Plenary	622	2528	21	35
Thematic classification				
Health – services	1022	3324	21	57
Health – risk reduction	952	3136	99	20
Health – personal benefits	742	2128	63	13
Health – rights, ethics & other	719	2023	76	5
Total – Health	935	3324	21	95

Source: Study data set based on information systems of the Chamber of Deputies and Centro Brasileiro de Análise e Planejamento (Cebrap).
Legend: CB = Chamber's bylaws; FC = Federal Constitution; n= number of bills converted into law.

5 Characteristics of complementary bills

Complementary bills differ from the ordinary ones because they are required to be passed under an absolute majority rule. Their objects are also explicitly mentioned by the Federal Constitution, since their main role is to complement its text in a few relevant topics. It is also important to note that complementary bills are not allowed to be deliberated by the committees. They must pass the plenary of each house before being enacted as complementary laws.

From all complementary bills presented between 1999 and 2006 (table 6) the rate of success was 3.4% (similar to ordinary bills); but the Executive had a greater success, both in absolute (56% of the complementary laws) and relative terms (rate of success of 53.8%). Urgency was used in 10% of all bills, most of them in bills from the Legislature. Eighty percent of the complementary laws have used an urgency procedure. The average time of deliberation was of 1093 days for the bills of the Chamber and 520 days for those of the Executive.

Health services and personal benefits due to health conditions were the health themes more frequently presented; but only one complementary bill related to health was converted into law and its subject was about financing of social programs, including the health system.

6 Characteristics of Congress bills (budget related)

The Congress bills are related to the federal budget and are introduced only by the President. They are appreciated in conjunct sessions of the Chamber and the Senate and deliberated in only one session, under a simple majority rule, resulting in an ordinary law.

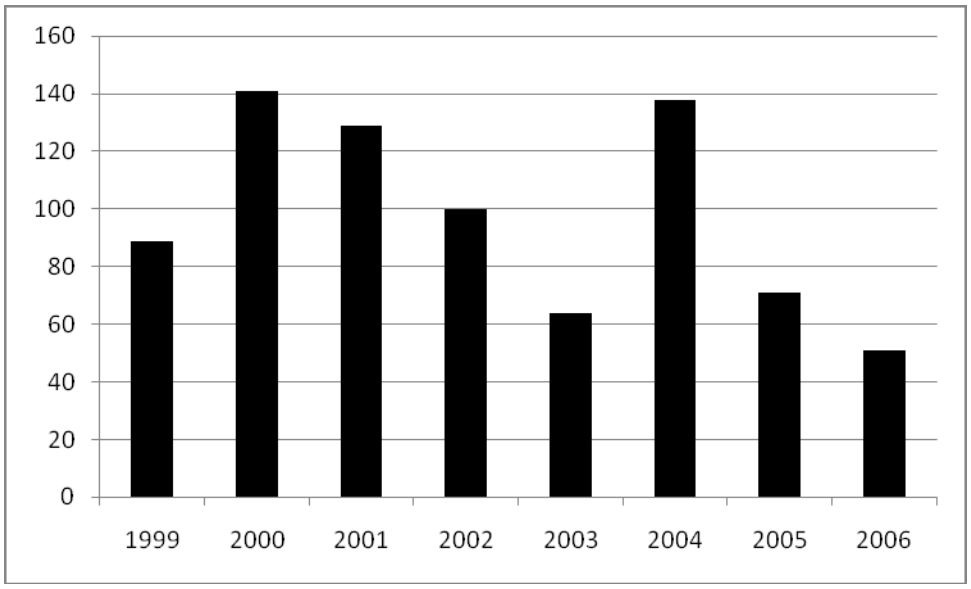
Graph 2 shows that more bills are presented at the second year of each legislature – 2000 and 2004. At least 74% of the bills are converted into law and this pattern also occurs among the health-related bills, which are dedicated to health services. The average time for deliberation was 56 days for all proposals and 77 days for those related to health.

Table 6 Percentual distribution of complementary bills of law introduced in the Chamber of Deputies between 1999 and 2006, by authorship and selected variables.

Variables	Proportions Authorship				
Regime of deliberation[1] (n=719)	**Chamber**	**Senate**	**Executive**	**Others(*)**	**Total**
Ordinary	1.4	0.0	0.0	0.0	1.4
Special	0.1	0.0	0.0	0.0	0.1
Priority	85.0	2.5	0.8	0.1	88.5
Urgency	6.4	1.1	2.5	0.0	10.0
Total	92.9	3.6	3.3	0.1	100.0
Type of deliberation[1] (n= 718)					
Committees	0.0	0.0	0.0	0.0	0.0
Plenary	93.0	3.6	3.2	0.1	100.0
Total	93.0	3.6	3.2	0.1	100.0
Thematic classification (n= 743)					
Not related to health	78.1	3.4	3.2	0.1	84.8
Health – services	5.9	0.0	0.3	0.0	6.2
Health – risk reduction	3.0	0.0	0.0	0.0	3.0
Health – personal benefits	5.9	0.1	0.0	0.0	6.1
Health – rights, ethics & other	0.0	0.0	0.0	0.0	0.0
Subtotal – Health	14.8	0.1	0.3	0.0	15.2
Total	92.9	3.5	3.5	0.1	100.0
Situation (n= 743)					
Converted into law	0.7	0.8	1.9	0.0	3.4
Vetoed (totally)	0.0	0.1	0.0	0.0	0.1
No yet deliberated	43.7	2.3	1.1	0.1	47.2
Filed	48.5	0.3	0.5	0.0	49.3
Total	92.9	3.5	3.5	0.1	100.0

Source: Study data set based on information systems of the Chamber of Deputies.
Notes: 1- Bills without information about this variable were excluded.
(*) Including the Judiciary and federal institutions dedicated to oversight the public administration.
Legend: n= total used to calculate the proportions for the specific variable.

Graph 2 Annual distribution of Congress bills introduced in the Congress between 1999 and 2006.



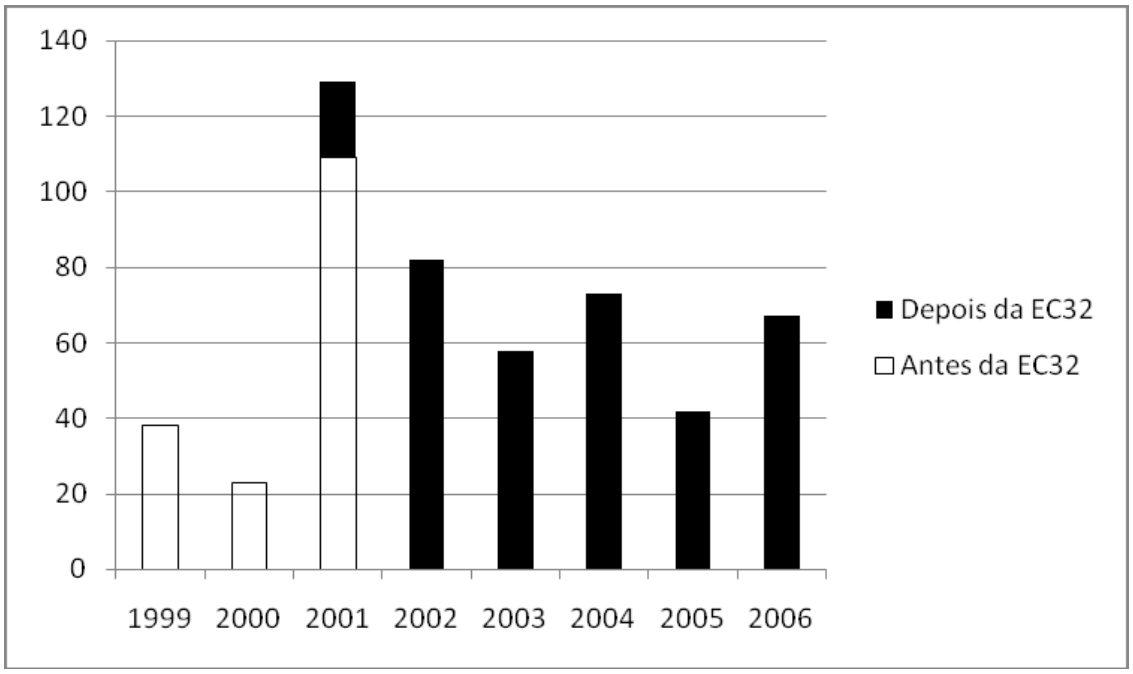
Source: Study data set based on information systems of the Senate.

7 Characteristics of provisional measures

The President may implement "provisional measures" with force of law, which may be valid for up to 120 days before Congress either reject or convert them into ordinary law. After a constitutional amendment in 2001, the President cannot reissue provisional measures on matters not yet considered by Congress, but the agenda of the legislative houses will stall until a decision is made.

Graph 3 shows that after the changes in rules about the provisional measures, which intended to limit their use, their frequency actually has increased. One also notes an increase just before the changes went into effect (in 2001). Table 7 indicates the high level of effectiveness of this type of legislative proposition, since 77.7% were converted into law and those pending deliberation (17.2%) were still producing legal effects. It is relevant to stress that 4.9% were rejected by the Congress. The average time for conversion into law from 2002 to 2006 was 109 days (table 8).

Graph 3 Annual distribution of provisional measures introduced in the Congress between 1999 and 2006.



Source: Study data set based on information systems of the Presidency.
Legend: "Depois da EC32"= After Constitutional amendment 32; "Antes da EC32"= Before Constitutional amendment 32.

Table 7 Percentual distribution of provisional measures introduced in the Congress between 1999 and 2006, by situation and thematic classification.

Variables	Proportions				
	Situation (n=512)				
Thematic classification	**Converted into law**	**Vetoed (totally)**	**Rejected**	**Other (*)**	**Total**
Not related to health	67.6	0.2	4.3	15.6	87.7
Health – services	7.6	0.0	0.4	1.0	9.0
Health – risk reduction	1.6	0.0	0.0	0.2	1.8
Health – personal benefits	0.8	0.0	0.2	0.4	1.4
Health – rights, ethics & other	0.2	0.0	0.0	0.0	0.2
Subtotal – Health	10.2	0.0	0.6	1.6	12.3
Total	77.7	0.2	4.9	17.2	100.0

Source: Study data set based on information systems of the Presidency.
Legend: n= total used to calculate the proportions for the specific variable.
(*) including: not yet deliberated; filed due to deliberation on similar matter; revocation; lost efficacy.

Table 8 Time variables of provisional measures introduced in the Congress between **2002 and 2006** and converted into law as of February, 2009, by selected variables.

Variables	Time to be converted into law (in days)			
	Average	Maximum	Minimum	N
All provisional measures form 2002 to 2006	109	171	41	305
Thematic classification				
Not related to health	109	171	41	264
Health – services	108	159	56	32
Health – risk reduction	112	151	57	7
Health – personal benefits	79	101	57	2
Subtotal – Health	107	159	56	41
Situation				
Converted	109	171	41	267
Rejected	103	169	54	22
Vetoed (totally)	157	157	157	1

Source: Study data set based on information systems of the Presidency and Centro Brasileiro de Análise e Planejamento (Cebrap).

8 Characteristics of constitutional amendments

Constitutional amendments require a super majority (3/5 of the members of Congress) and they must pass each house two times. There are subjects which the Federal Constitution does not allow to be modified through amendments. Constitutional amendments are deliberated by the plenary of the legislative houses and while the Executive may initiate this type of proposition, it may not request urgency.

The overall rate of conversion is lower than for other types of bills, 1.8%; the Legislature was the author of most constitutional amendments (66.7%) and the Executive success rate was 36.8% (table 9). The average time for deliberation was 441 days for proposals from the Executive and 643 for those from the Chamber. Personal benefits due to health conditions was the health theme most frequently presented, however, from the 6 health-related amendments approved, 5 dealt with health services and 1 with personal benefits.

Table 9 Percentual distribution of constitutional amendments introduced in the Chamber of Deputies between 1999 and 2006, by authorship and selected variables.

Variables	Proportions				
	Authorship				
Thematic classification (n=1188)	**Chamber**	**Senate**	**Executive**	**Others(*)**	**Total**
Not related to health	83.2	3.2	1.3	0.0	87.8
Health – services	3.6	0.1	0.2	0.0	3.9
Health – risk reduction	2.0	0.2	0.0	0.0	2.2
Health – personal benefits	4.8	0.3	0.1	0.0	5.2
Health – rights, ethics & other	0.8	0.1	0.0	0.0	0.9
Subtotal – Health	11.3	0.7	0.3	0.0	12.2
Total	94.5	3.9	1.6	0.0	100.0
Situation (n= 1188)					
Converted into law	0.4	0.8	0.6	0.0	1.8
No yet deliberated	49.4	2.9	0.5	0.0	52.8
Filed	44.7	0.3	0.5	0.0	45.5
Total	94.5	3.9	1.6	0.0	100.0

Source: Study data set based on information systems of the Chamber of Deputies.
Legend: n= total used to calculate the proportions for the specific variable.

9 Discussion

The findings presented above still lack a more profound qualitative approach (which will be further developed in this study project) necessary to better understand the Legislature's role in producing legislation on health. They follow an empirical quantitative approach, very often observed in the Brazilian literature, which is a necessary step for understanding such a complex institution as the Brazilian Congress.

The results corroborate the widespread perception that the Executive's agenda and authorship predominate in Brazilian lawmaking. However, such quantitative predominance doesn't mean that this branch predominates as the only policymaker, since the quantity of bills

passed says nothing about their relevance to actual public policies nor about changes promoted by the Legislature.

One should consider the rules defined by the Congress which assign the President exclusive rights to initiate bills about budget and the federal administration. For example, from the 211 health-related ordinary laws generated from bills presented during the period of study (1999 to 2006), at least 60 (28.4%) could only be presented by the Executive.

In such a scenario it is relevant to know the specificities regarding legislatives procedures associated to each type of bill to avoid misinterpretations. For example, in the case of ordinary laws, it is essential to know that they may be generated from different types of bills (ordinary, Congress bill and provisional measure), each of them with specific legislative procedures and very different rates of success and speed of deliberation, as shown above.

It is also worth stressing that grouping all kinds of bills when analyzing rates of success distorts the conclusions towards the characteristics of the more prevalent type, the ordinary bill (overwhelmingly presented by Deputies), which is the one with the lowest rate of success.

This paper has shown that the consideration of each type of bill may reveal specificities, such as an important role of the Legislature in the approval of ordinary laws (70.5% of health-related laws originated from ordinary bills), as well as of constitutional amendments (66.7%, considering all themes), a very relevant type of legislation. But while this improved quantitative role of the Legislature in certain areas is important to oppose a view of complete dependence, it also needs to be further checked for relevance.

The high rate of Executive success in the approval of complementary bills (a way to influence how constitutional provisions should be implemented), Congress bills (relevant to

policy implementation, since it is related to the federal budget) and provisional measures (with immediate legal effects) also corroborate the now increasingly evident proposition that the Brazilian political system is not destined to decision paralysis and chaos.

The previous common sense about Brazilian political institutions may be due to a perception that gave not enough consideration to the potential of a conjunct of institutional changes promoted by the Federal Constitution of 1988. Those changes needed time to consolidate. Some constitutional instruments have promoted governability and the cooperation between the branches. The privilege of urgency, for instance, has favored the proposals from the Executive and also from the Legislature (in smaller scale). In most cases urgency for Executive bills was requested by deputies (in general, the party leaders), as one would expect in a context of coalition presidentialism. The use of urgency leads to the faster deliberation of propositions of the Executive (at least 3 times faster than those of the Legislature).

Only more recently, a constitutional novelty aimed to strengthen the legislative committees (the possibility to pass ordinary laws without plenary discussion) are producing noticeable effects. More than 70% of health-related ordinary laws originated from ordinary bills presented during the period of study were approved by the committees alone!

Thus, the Federal Constitution of 1988 has exerted great influence on recent patterns of lawmaking, either by defining path dependencies, such as the definition of an universal health system (tying subsequent health policy deliberations to a set of general principles), or by creating and changing instruments which are gradually strengthening governability and political efficiency.[4]

[4] In the health field, the very implementation of the National Unified Health System (SUS), since 1988, may be restricting the adoption of clientelistic behaviors by representatives in their relations with voters and with the Executive, since health services are, increasingly, being perceived as rights of citizenship, rather than gifts; and,

The data presented suggest that the Brazilian political system offers a variety of instruments which allow strategic decisions by the governing coalition to achieve legislative goals. The President has at his/her disposal: the Congress bill, with a fast time of deliberation (average of 56 days), to deal with budget topics; the provisional measure, to create new policies in a very fast way (with immediate effects and an average deliberation of about 100 days); and the ordinary bill, whith an average deliberation of 308 days (speeded by two kinds of urgency procedures).

But besides all these advantages, the Executive doesn't rule by itself, since the final decision still lies in the hands of the Congress. For example, 5% of the provisional measures from 1999 to 2006 were rejected by the Congress and, as already mentioned, the Executive was not so successful, in absolute terms, as the Legislature was with some types of bills.

From the Legislature's perspective, its role is being strengthened by the work of the committees, but their production follows a much slower pace than that of the plenary. In this context, it is no wonder that Deputies will try to introduce more ordinary bills in the first year of the legislature to allow more time for deliberation by the committees and avoid filing their proposals toward the end of the legislature.

Time must be considered when analyzing legislative proposals. The very same ordinary bills presented from 1999 to 2006 produced 68 health-related ordinary laws when their situation was assessed in March, 2007; but the number of laws went to 95, when the assessment was repeated in March, 2009.

With respect to the nature of health-related ordinary laws, the topics about health services and activities were more frequent, the same was true among the constitutional

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also, because almost all federal resources transferred to municipalities to finance health services are done directly, without political interference.

amendments. The financing of the health system was a relevant topic for the latter type and also for the only health-related complementary law passed.

The reduced activity on producing complementary laws dealing with the financing of the health system, may not represent a causal finding; actually there are a few of them being considered by Congress since 2003, but it is being hard to achieve a final consensus about the financial source to increase the health system budget.

An interesting pattern is suggested by this quantitative data: the Executive advances its agenda through the plenary (an arena where congress bills, provisional measures and ordinary and complementary bills under urgency are deliberated) and the Legislature is progressively increasing its participation in lawmaking through committees, while keeping strong influence on relevant deliberations at constitutional level. This pattern seems to be valid for the overall legislative "output" and for health-related bills as well.[5]

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[5] The use of a classification with a broad concept of "health" (not only related to services) may have increased the representativeness of this conjunct of legislative propositions.

11 References

ABRANCHES, Sergio. (1988), "Presidencialismo de Coalizão: O Dilema Institucional Brasileiro". Dados - Revista de Ciências Sociais, vol. 31, nº 1, pp. 5-34.

AMES, B. The Deadlock of Brazilian Democracy. Ann Arbor: Michigan University Press, 2001.

AMORIM NETO, O; COX, G ; MCCUBBINS, M. Agenda Power in Brazil's Câmara dos Deputados, 1989-98. World Politics, Princeton University, v. 55, n. 4, p. 550-578, 2003.

AMORIM NETO, O & SANTOS, F. O Segredo Ineficiente Revisto: O que Propõem e o que Aprovam os Deputados Brasileiros. Dados – Revista de Ciências Sociais, vol. 46, nº 4, pp. 661-697, 2003.

ANDRADA, B. Fragilidade da democracia do parlamento contemporâneo. In: Plenarium. Brasília: Câmara dos Deputados; 2004.

ARNOLD, R. Douglas. The Logic of Congressional Action. New Haven & London: Yale University Press, 1990.

BAPTISTA, T W F. Políticas de saúde no pós-constituinte: um estudo da política implementada a partir da produção normativa dos poderes executivo e legislativo no Brasil [Tese de Doutorado]. Rio de Janeiro: Instituto de Medicina Social, Universidade do Estado do Rio de Janeiro; 2003.

CARVALHO, E L & GOMES, F B C. Características da tramitação de projetos de lei ordinária apresentados na Câmara dos Deputados entre 1999 e 2006. Resumo de trabalho apresentado no Seminário Internacional Estudos sobre o Legislativo. Instituto Legislativo Brasileiro. Senado Federal, 2008 (in press).

FIGUEIREDO, A C & LIMONGI, F. Executivo e Legislativo na Nova Ordem Constitucional. Rio de Janeiro: Editora da FGV, 1999.

_____. Modelos de Legislativo: O Legislativo Brasileiro em Perspectiva. Plenarium, ano I, n. 41 (nov.) - Brasília : Câmara dos Deputados, 2004.

_____. Reforma política: notas de cautela sobre os efeitos de escolhas institucionais. Plenarium, ano IV, n. 4 (jun.) - Brasília : Câmara dos Deputados, 2007.

_____. Política orçamentária no presidencialismo de coalizão. Rio de Janeiro: Editora FGV, 2008.

GOMES, F B C. Estudo exploratório sobre temas e aspectos da tramitação dos projetos de lei ordinária relacionados à saúde apresentados na Câmara dos Deputados entre 2001 e 2004.

Cadernos Aslegis nº 28. janeiro/abril. Brasília, 2006. Available on: http://www.aslegis.org.br/v2/pdf_upload/Miolo28.pdf#page=43 .

KIEWIET, R. & MCCUBBINS, M. The Logic of Delegation: Congressional Parties and the Appropriations Process. Chicago, The University of Chicago Press, 1993.

KREHBIEL, K. Information and Legislative Organization. Ann Arbour, The University of Michigan Press, 1990.

_____. Pivotal Politics: A Theory of U.S. Lawmaking. The University of Chicago Press, 1998.

LEMOS, L B S. O Congresso Nacional e a Distribuição de Benefícios Sociais [Tese de Mestrado]. Brasília: Universidade de Brasília, 1998.

MAYHEW, D R. Congress: The Electoral Connection. New Haven, Yale University Press, 1974.

NITÃO F J V. Elaboração de Políticas Públicas de Saúde no Brasil: O Papel do Congresso Nacional, 1945-1964. [Tese de Mestrado]. Brasília: Universidade de Brasília, 1997.

PEREIRA, C & MUELLER, B. Uma teoria da preponderância do Poder Executivo: o sistema de comissões no Legislativo brasileiro. Revista Brasileira de Ciências Sociais, v. 15 n. 43, p. 43-67. São Paulo: ANPOCS, 2000.

POLSBY, N. The Institutionalization of the U. S. House of Representatives. American Political Science Review, vol. 62, pp. 144-168, 1968.

RODRIGUES, M M A & ZAULI, E. Presidente e Congresso Nacional no Processo Decisório da política de Saúde no Brasil Democrático (1985-1998). Dados – Revista de Ciências Sociais, v. 45, nº. 3, pp. 387-429, 2002.

SAMUELS, D. Ambition, Federalism, and Legislative Politics in Brazil. New York, Cambridge University Press, 2003.