

# Beyond coalition presidentialism: evidence of a subnational pressure in the Brazilian legislative

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In Brazil, literature tends to emphasize the political power of the federal executive in the legislative process. The objective of this paper is to revisit the position of prominent actors (federal Executive and party leaders), especially in fiscal matters. In order to do so, we will analyze processes in which the influence of state governments in Congress is visible, with an emphasis on fiscal measures adopted since the 1990s. We used process tracing and content analysis, based on several legislative documents (propositions, technical advice, votes, and technical notes) and 12 interviews of central actors in the process of renegotiating debts that took place in 2018. The subnational governments (governors and mayors) pressure parliamentarians to paralyze any proposal that involves a change in the tax collection system in federated entities. Beyond fiscal matters, the federalist structure has also affected intergovernmental relations in other areas of public policy, such as building the legal framework for basic sanitation. Our results indicate that the centralization of federal Executive power in Brazilian legislative process is not absolute. The articulation by the federal government was fundamental in the construction of agreements. There are incentives linked to an electoral aspect, partisan ideologies, and pressure groups that oppose changes to the rules of sanitation services as well as in many fiscal and budgetary matters.

**Keyword:** parliamentary behavior, fiscal federalism, legislative process

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DOI: <https://doi.org/10.21874/rsp.v72.i3.4699> | ISSN: 0034-9240 | E-ISSN: 2357-8017

[Submitted: April 23, 2020. Accepted: June 7, 2021.]

[Original version]



## Além do presidencialismo de coalizão: evidências da pressão subnacional no Legislativo brasileiro

No Brasil, a literatura tende a enfatizar o poder político do Executivo no processo legislativo. O objetivo deste artigo é revisitar a posição de atores proeminentes (Executivo federal e líderes partidários), especialmente em questões fiscais e orçamentárias. Para tanto, analisamos processos nos quais a influência dos governos estaduais no Congresso é visível, com ênfase nas medidas fiscais adotadas desde a década de 1990. Utilizamos rastreamento de processos e análise de conteúdo, com base em diversos documentos legislativos (proposições, pareceres técnicos, votações e notas técnicas) e 12 entrevistas de atores centrais no processo de renegociação de dívidas feitas em 2018. Os governos subnacionais (governadores e prefeitos) pressionam os parlamentares a vetarem partes de projetos que envolvem mudança no sistema de arrecadação de impostos dos entes federados. Além das questões fiscais, a estrutura do federalismo impacta as relações intergovernamentais em outras áreas de políticas públicas, como na construção do marco legal para o saneamento básico. Os resultados indicam que a centralização do poder Executivo federal no processo legislativo brasileiro não é absoluta. A articulação do governo federal nos casos selecionados foi fundamental para construção de acordos e consequente aprovação. Existem incentivos ligados a questão eleitoral, as ideologias partidárias e aos grupos de pressão, que atuaram contra mudanças nas regras dos serviços de saneamento, bem como em muitas questões fiscais e orçamentárias.

**Palavras-chave:** comportamento parlamentar, federalismo fiscal, processo legislativo

## Más allá del presidencialismo de coalición: evidencias de la presión subnacional en el Legislativo brasileño

En Brasil, la literatura tiende a enfatizar el poder político del Ejecutivo en el proceso legislativo. El objetivo de este artículo es revisar la posición de actores prominentes (Ejecutivo federal y líderes partidarios), especialmente en cuestiones fiscales y presupuestarias. Para ello, analizamos procesos en los que la influencia de los gobiernos estatales en el Congreso es visible, con énfasis en las medidas fiscales adoptadas desde la década de 1990. En el caso de los gobiernos subnacionales (governadores y alcaldes) presionan a los parlamentarios a paralizar cualquier proyecto que implique un cambio en el sistema de recaudación de impuestos en los entes federados. Además de las cuestiones fiscales, la estructura del federalismo impacta las relaciones intergubernamentales en otras áreas de políticas públicas, como la construcción del marco legal para el saneamiento básico. Los resultados indican que la centralización del ejecutivo federal no es abstracta en el proceso legislativo brasileño. La articulación del gobierno federal fue fundamental para la construcción de los acuerdos. Existen incentivos vinculados al aspecto electoral, ideologías partidistas y grupos de prensa, que actúan contra cambios en las reglas de dos servicios de saneamiento, así como muchos temas tributarios.

**Palabras clave:** comportamiento parlamentario, federalismo fiscal, procedimiento legislativo

## 1 Introduction

This paper aims to discuss whether the position of the Executive and party leaders represents the “dominant” orientation in the Brazilian legislative arena when matters affect the interests of subnational governments in the fiscal and budgetary sphere.

How should the processes in which the coordination of the governmental coalition has no power in the decision be analyzed? It is important to understand that it is not always possible to keep the coalition under control. Therefore, it is limiting to assume that congressional dynamics only exist within the framework directed to the Executive and party leaders, as many political scientists have done (Figueiredo & Limongi, 2001, Santos, 2003, Pereira, Power & Rennó, 2007, Cheibub, Figueiredo & Limongi, 2009, Arretche, 2013). This literature about Executive and party leaders, dominant among Brazilian political scientists in the last two decades, neglects the fact that parliamentarians can organize their actions by alternative means. Among other situations, it is evident in cases in which party discipline alone cannot explain the decision-making process. The logic of the coalition presidentialistic paradigm tends to collapse when state or municipal fiscal matters are on the agenda.

The recent economic recession and the impeachment of Dilma Rousseff’s government in 2016 undermine the thesis that the formation of coalitions by the President is enough to ensure its support (Bedritchuk, 2016). Studies that analyze the elements that challenge the coordination between the Executive and party leaders of the coalition are limited.

The legislative processing of fiscal matters demands theories capable of explaining the regional impact, even when there is regimental, partisan, or government obstacles. How can we explain the difficulties in approving a robust tax reform in the last three decades? Are patronage resources and pork-barrel not enough to shape the behavior of parliamentarians around the interests of the federal government?

In the study presented here, we deal with elements that highlight the performance of state governments in national parliamentary dynamics. The hypothesis is that when fiscal issues are in focus, congressmen defend the interests of the predominant region in which they were elected, even when the state’s interests contradict a political party’s position.

Parliamentary dynamics and the performance of the state governments are analyzed using examples from the fiscal and budgetary control, focusing on the most recent round

of debt renegotiation (2013-2018) and the recent case involving the legal framework of the Brazilian basic sanitation (2018-2019). A detailed study has been performed to understand which orientations have shaped parliamentary behavior in these processes. Process tracing (George & Benett, 2004) and content analysis (Collado, Lucio & Sampieri, 2006) were used, based on several legislative documents (propositions, technical advices, votes, and technical notes) and 12 interviews of central actors in the process of renegotiating debts that took place in 2018.

In the sequence of the paper, we first show a critical review of presidential coalition. Then follows the methodology, based on this re-interpretation, where we identify and analyze the fiscal and budget cases of governors' pressures after 1988 and the performance of state governments in the recent debate on basic sanitation legislation.

## 2 Revisiting the literature about Coalition Presidentialism

The traditional papers of coalition presidentialism usually explain the legislative process from a macro perspective and defend that the Executive and party leaders would be much more efficient and powerful in coordinating their preferences than states (Figueiredo & Limongi, 2001; Santos, 2003, Limongi, 2006, Pereira, Power & Rennó, 2007, Cheibub, Figueiredo & Limongi, 2009, Arretche, 2013).

In summary, the literature emphasizes the president's ability to assemble a disciplined, majority coalition to approve legislative measures of interest (Santos, 2003; Limongi, 2006). Considering the multiparty system, the management of the legislative coalition is not an easy task, and it depends on political practice (Bertholini & Pereira, 2017).

In the legislative agenda, there are incentives for cooperative relations or conflicts between the actors. The President of the Republic has significant institutional power and the capacity to restrict subnational fiscal behavior. The president is also responsible for hiring ministers and defining budget expenditures and the government's agenda (Pereira, Power & Rennó, 2007).

There are critical perspectives about the costs of negotiations and the stability of this system (Rennó, 2006, Abranches, 2018a; 2018b). However, even the critical authors do not refute the Executive's political power in the legislative arena.

Recently, the Coronavirus outbreak worldwide has put in check countries' ability to manage the pandemic situation quickly. In Brazil, the lack of coordination between

president Jair Bolsonaro and the state governors affects the health policy. Given the federal sphere's inaction, governors introduced the first measures of social isolation in the country (Koga *et. al*, 2020). The reduction in public revenue over the last few years, the corruption scheme denounced by the so-called *Lava-Jato* operation, and the 2013's street protests were key factors for the deterioration of Dilma Rousseff's image that resulted in her impeachment in 2016. This event has weakened theories that emphasize the strength and power of the federal government to coordinate political coalitions in Brazil. The political stability and capacity for governability started being questioned (Bedritichuk, 2016).

Our previous studies point in a new direction, as we believe that political games are much more complex. There are multi-players interacting, and the Legislative agenda also depends on conjunctural/political aspects. Therefore, the Executive will only succeed when there is no significant opposition.

It is important to understand that coalition control is not always possible. Silva (2014) points out the omissions in the approach to the performance of parliamentarians and other political actors in the legislative process, ones that are often underestimated by the excessive emphasis on the power of the Executive and party leaders. The formation of state coalitions and parliamentary fronts with a thematic basis demonstrate that parliamentarians also organize their actions in alternative ways. Unfortunately, the majority of the literature about coalition presidentialism, which overestimates the supremacy of the Executive and party leaders, neglects the influence of other forms of collective action present in the legislative processes.

Abranches (1988) emphasizes that the formation of political coalitions in Brazil follows a logic that has two branches: the partisan and the regional (states). For Abranches, this element clarifies the occurrence of "big coalitions, since the basis of political support of the government is not only partisan-parliamentary, but also regional" (Abranches, 1988, p. 22, own translation). This concern about the regional logic is often overlooked when people reference this author. We have tried to fill this disparity presenting debates that involve fiscal issues in the federalism structure. The political power of state governments still matters, even though it has weakened since the barony thesis (Abrucio, 1998) faded with the renegotiation of debts and the closure of regional banks during Fernando Henrique Cardoso's government (Monteiro Neto, 2013; 2014).

Within the scope of state debt renegotiation, the congressman is expected to have better payment conditions approved for his or her home state. In the discussions on fiscal federalism, as the territorial costs and gains generated are often identified, it is not plausible to expect that one parliamentary vote favorably to a serious loss for his or her home state revenue, which could represent a serious electoral threat. As Abrucio (1998) mentions, voting during electoral years and the possibility of “married elections” between parliamentarians and governors tend to change the parliamentary orientation in favor of regional policies. Besides that, due to the uncertainties of the political scenario in the electoral years, the chances of voting on structuring and controversial matters become reduced.

Apart from the political structure, regional defense in federal conflicts by parliamentarians, rather than the accommodation of private interests, represents a way of seeking legitimacy for their own mandates by serving the bases that elected them, especially in federal issues that affect, directly or indirectly, the governors’ ability to collect taxes. The issue is sensitive for senators who are elected according to federalist logic but also are relevant in the Chamber of Deputies since the Brazilian electoral district is equivalent to the territory of the states.

### 3 Methodology

The filtered data collection stage comprises the most relevant information in the cases selected. We analyze a set of situations in which there is evidence of relevant action by subnational governments impacting the decisions of the Brazilian National Congress, with a focus on fiscal federalism.

We used process tracing (George & Bennett, 2004) and content analysis (Collado, Lucio & Sampieri, 2006), based on several legislative documents (propositions, technical advice, votes, and technical notes) and 12 interviews of central actors in the process of renegotiating debts that took place in 2018.

Regarding the legislative process, the main sources of collection were the portals of the Chamber of Deputies and the Federal Senate. We sought to understand the legislative process in detail and the main events in each of the processes of the complementary laws.

Studies that only address the final approved legislation and the parliamentary votes in the field of Brazilian legislative studies are not self-sufficient in explaining all

the relevant phenomena in the arena. Through conducting interviews, it is possible to capture the negotiations done on the backstage and everything that is not formalized in the legislative process: the decisions behind and the black box of the decision-making processes (Leite, 2005). We also tried to bring concrete evidence of governors' pressures in decision-making processes that affect the structure of federalism.

The documental research of the legislative process was followed by process tracking (process tracing). Collier (2011) interprets this technique as "pieces" or "traces" of diagnostic evidence of the object of the study. It is quite common in research to have few samples and a qualitative approach, increasing the information available to understand the political decision-making process (Bennett & Checkel, 2015).

We also focus on the content analysis, a procedure derived from the ability to extract information from a data source (texts, documents, and interviews) in order to make valid and reliable inferences (Collado *et al.*, 2006).

It is possible to affirm that the analysis of the content of the documents associated with the process tracing disciplined the narrative with a wealth of details and exposed the temporal and logical chain in the processing of legislative proposals.

#### **4 Evidence of subnational power in fiscal and budget legislative processes**

The dominant approaches about parliamentary behavior (that aim to identify uniform patterns of action) seem to have been unable to sustain themselves over time, at least to explain part of the functioning of the real legislative process. The 90's fiscal restrictions weakened the literature that extolled the power of state governments in the federative context (Monteiro Neto, 2013; 2014), just as the recent economic recession alongside the process of impeachment in Dilma Rousseff's government weakened the theory that the formation of coalitions by the Executive is enough to guarantee political support for the federal government (Bedritichuk, 2016; Abranches, 2018a).

We will analyze the main fiscal measures adopted since the 1990s, focusing on the renegotiation of state debts and, in sequence, the emblematic case that resulted in the rejection of the adjustments in the legal framework of Brazilian basic sanitation in 2018. Subnational pressures had a direct impact on the outcome of these legislative processes, especially the state governors' influence in Congress.<sup>1</sup>

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<sup>1</sup> The limits of federative action with focus on municipalism have already been well pointed out by the literature (Souza, 1996, Fernandes & Wilson, 2013).

#### 4.1 Post-1988 general context

Firstly, it is important to recognize the operational capacity and the importance of the legislative body/branch in the decision-making processes (Silva, 2014). In the fiscal and budgetary arena, many events point in this direction. The exclusive competence of the Federal Senate to elaborate resolutions that rule the contracting of internal and external credit operations of subnational units (Brazil, 1988, Article 155, § 2, item V), the changes made by the parliamentarians in budget laws, the approval of an authoritative status to parliamentary amendments (Constitutional Amendment n. 86/2015), and the frequent postponement of the approval of Budgetary Guidelines Law are some of most relevant examples.

In accordance with Article 165, paragraph 9, item I, of the Federal Constitution, complementary law should provide rules for “the financial year, the term, the periods, the preparation and the organization of the multiannual plan law, the budget guidelines law and the annual budget law” (own translation). However, this general law does not yet exist, and the guidelines for approving the budget laws are still those that are established by the Temporary Constitutional Provisions Act. Since 1988, this legal divergence seems to show that the Executive’s ability to coordinate parliamentary behavior has limitations.

A similar situation occurs concerning the *Imposto sobre Operações relativas à Circulação de Mercadorias e Prestação de Serviços de Transporte Interestadual e Intermunicipal e de Comunicação* (ICMS) [Tax of Circulation of Goods and Provision of Interstate and Intermunicipal Transportation and Communication Services]. There is a fiscal war between states resulting in the reduction of tax rates in order to attract investment from the industrial sector to stimulate jobs and the local economy. Effectively, this war provokes predatory disputes and affects the states’ competitive capacity and general revenue collection (Monteiro Neto, 2013; 2014; Afonso, 2016a).

Art. 146, item I, of the Federal Constitution establishes that “it is the responsibility of the complementary law to dispose of conflicts in tax matters between the Union, the States and the Municipalities” (own translation). Even with evident global losses generated by the fiscal war, a federal complementary law that will discipline and make compatible the 27 existing state legislations about ICMS has not been created yet. The lack of constitutional regulation after three decades brings to light the impact of federal conflicts in the legislative process. There seems to be no political space for the appropriation of such legislation.

It is common that federative tensions generate reactive behavior from the subnational levels in relation to the central government. This may explain, at least partly, the postponement of the fiscal adjustment and the obstacles involved in the approval of the Brazilian Tax Reform. Rejection of structural reforms such as proposed by *Imposto sobre Valor Agregado* (IVA)<sup>2</sup> [Value Added Tax] and the approval of merely punctual adjustments derived from the tax legislative debates are evidence of governors' veto power related to changes in this arena.

For example, the *Lei Kandir* [Kandir Law], Complementary Law n. 87/1996 that regulates ICMS, is portrayed in literature as one of the biggest losses for the exporting states (Arretche 2009, p. 389). However, the law itself has established a fund to compensate for these losses.

Considering the largest measure of economic recovery post-1988, the *Plano Real* (Real Plan), Abrucio (1998) found that the proposal was only approved due to the capacity of state political actors to behave cooperatively for the approval. Without the mobilization of the governors allied with the President, the Real Plan probably would not have passed.

Fiscal measures adopted since the 1990s<sup>3</sup> have not represented serious damage to tax collection capacity and subnational autonomy. The measures were a consequence of the primary objective to restore the fiscal balance of the country and recover state economies (Leite, 2005, Afonso, 2016b).

The thesis that defends the "power of governors" has not been supported empirically since the 1990s, mainly because of the fiscal debts of the states and progressive fiscal centralization in the central government (Monteiro Neto, 2013; 2014). According to this, how is it possible to explain the difficulty in approving structural reforms in the fiscal area since 1988? Are patronage resources and pork-barrel not enough to shape the behavior of parliamentarians around the interests of the Executive?

As an indication of the power of the governors in the legislative processes, we should cite the oil royalties bill (Law n. 12,351/2010). With the discovery of oil in the pre-salt layer in 2009, the royalties derived from the strip in the coastal area of the Southeast, which were mostly from two states of the region (Rio de Janeiro and Espírito

<sup>2</sup> The IVA proposal establishes that taxes should be on consumer goods rather than on personal income (Junqueira, 2010).

<sup>3</sup> Though the creation of constitutional funds, such as the *Fundo de Emergência Social* (FSE) [Social Emergency Fund]; the *Lei de Responsabilidade Fiscal* (LRF) [Fiscal Responsibility Law], which consists of rules designed specially to hold subnational spending levels; rules uniting expenditures to specific areas such as health and education; and the *Desvinculação de Receitas da União* (DRU) [Executive Revenue Unttached], which increases the federal Executive's freedom to allocate revenues.

Santo), would be equally distributed with all other Brazilian states. In Congress, the states numerically favorable to the measure were more than the opposing. The conflict ended up being arbitrated by the Judiciary, which opted for the unconstitutionality of the approved law,<sup>4</sup> maintaining the initial logic that would favor only the producing states (Junqueira, 2010, p. 82).

The cases presented above weaken the thesis that the orientation of the federal Executive is always predominant in the legislative arena. They are examples in which the state interest can prevail. It should be noted that most studies in the area of parliamentary fiscal behavior are focused excessively on the parliamentary amendments in the federal budget. It is important to highlight that the fiscal and budgetary field is complex, involving the tax system, public finances, and the federative arrangement itself. Considering the Brazilian reality, this area still remains unexplored in legislative studies.

The most recent round of renegotiation of state debts (2013-2018) seems to be representative of the current parliamentary behavior in fiscal affairs, considering the extreme gravity of the financial situation of some Brazilian states. Successively, we will explain the agenda of the renegotiation of state debts and its fiscal repercussions, based on historical facts and the results of process tracing (George & Benett, 2004).

## 4.2 Renegotiation of state debts

With reference to the renegotiation of state debts, one congressman is expected to look for the improvement of the payment's conditions of his or her home state, when there are no effects that counterbalance it. The states use the discussion as an opportunity to pressure the government for more resources (Afonso, 2016b). The defensive performance maintains the status quo and the possibility of vetoing undesirable changes.

We need to contextualize events because there are historical, institutional, and conjunctural factors that explain the renegotiation over the years. In the 1980s, the autonomy of state banks and low fiscal responsibility made banks the major creditors of municipalities and state governments themselves. As a result, the debt of the subnational spheres grew dramatically over the 1990s (Monteiro Neto, 2013; 2014, Abrucio, Franzese & Sano, 2013).

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<sup>4</sup> Direct Action of Unconstitutionality n. 4.917. Source: Superior Federal Court of Brazil.

Although the Federal Constitution has granted the distribution of the administrative and legislative functions in a cooperative model in which the competences and tax revenues are shared among the federated spheres, the fiscal crisis in the states turned out to require federal interference. This happened mainly in the government of Fernando Henrique Cardoso (1995-2002) through national economic plans (Real Plan - 1994) and the imposition of fiscal austerity on the renegotiation of state debts.

There were three laws about the renegotiation (Law n. 7,976/1989, Law n. 8,727/1993, and Law n. 9,496/1997) that preceded the LRF. However, only in 2000, after the approval of the LRF, were the accounts and the fiscal framework rebalanced. The LRF had had relevant political support; even the governors themselves (who should not have been happy about a fiscal tightening) sought fiscal adjustment and economic recovery (Leite, 2005).

According to Tavares (2005), “our political-administrative culture until the approval of the *Lei de Responsabilidade Fiscal* (Fiscal Responsibility Law) was characterized by a lack of institutional commitment to the debt” (own translation). Beyond targets and limits on personnel expenses and debts, institutional sanctions for noncompliance cases have become more rigorous, prohibiting new renegotiations between the spheres of the federation, as provided in Article 35 of the LRF. This law was the most centralized response to the fiscal behavior of federalism arrangement since the 1988 Federal Constitution. The most visible impact was the certainty of fiscal discipline at different levels of government through strong fiscal constraints on the allocation of revenues at subnational levels.

After the 2000s, renegotiation was discussed again only in 2013, with the *Projeto de Lei Complementar* (PLP) [Complementary Law Project] n. 238, authorizing the changes of the debt indexer in order to reduce inflationary distortions in debt payment rules.

In recent years, the discussion of public debt and federal deficits has become more complex because of slowing economic activity and fiscal laxity, resulting in the reduction of investment on infrastructure in the states between 1998-2006 (Gobetti, 2010). At the same time, from 2007 to 2012, personnel expenses have increased compared to revenues (Rezende, Carneiro & Rezende, 2014, p.13).

The growing of state debts and distortions of payment conditions became worrisome as the contracts with state governments had not been revisited for more than ten years. The emergency situation of financial calamity in which some Brazilian states now are, such as Rio de Janeiro, Minas Gerais, and Rio Grande do Sul, forced the federal Execution to

rediscuss the monetary indicator with the *Lei Complementar* (LC) [Complementary Law] n. 148/2014. This LC opened space for the resumption of the agenda about the renegotiation of state debts. This new phase involving the renegotiation of state debts and emergency aid is composed of LC n. 148 (2014), LC n. 151 (2015), LC n. 156 (2016), LC n. 159 (2017), Law n.13,631 (2018), as well as their respective legislative processes, whose contents are set out in Table 1.

**Table 1 | Laws of the renegotiation of the state debts (processes 2013-2018)**

<b>Complementary Law (LC) n. 148/2014</b>	Changes the Fiscal Responsibility Law and the debt indexer.
<b>LC n. 151/2015</b>	Authorizes the changing of the debt indexer.
<b>LC n. 156/2016</b>	Establishes the State Aid Plan and measures to stimulate fiscal rebalancing.
<b>LC n. 159/2017</b>	Establishes the Tax Recovery Regime of the States.
<b>Law n. 13,631/2018</b>	Concerns about the renegotiation of credit operations.

Source: own elaboration. Retrieved from [www.planalto.gov.br](http://www.planalto.gov.br).

Considering the data collected in previous work, it was possible to understand in depth the interaction and negotiation process among the actors who participated in the most recent round of state debt renegotiation (2013-2018). If state crises persist, the federal government will probably take other tax measures to rebalance the public accounts.

The interviews conducted and the process tracing provided information that went beyond formal processes. We tried to show a more complete and reliable view of parliamentary behavior and bring concrete evidence of governors' pressures in decision-making processes that affect the federalist structure.

This theme is sensitive in Congress due to the fact that institutional changes in this field take time and are gradual. In addition, since subnational levels have a direct impact on the fiscal structure, it is expected that they also act in the legislative processes. The problem is when incremental changes become a constraint to effective change, leading to a breach of rules. It is known that each new government action becomes incremental and constrained by previous rules (Souza, 2006).

This is what happened at LC n. 148/2014, since the Executive did not apply the law, under the justification of the economic crisis, yet the states already expected the

application of the new indexer, as approved by the law. Consequently, the Judiciary had to arbitrate this federative conflict between federal government and subnational levels.

Regarding the performance of the federal government, the Executive assumed a centralized behavior on fiscal federalism during the period 2013-2018. The President operated within Congress through technical authorities of the Civil House and the Ministry of Finance (specifically the National Treasury), besides the parliamentarians of the coalition. However, this centralization was not absolute. During the process, the federal Executive lost space, especially in the plenary, where there is more pulverization of political forces, as well as other aspects that shape parliamentary dynamics (pressure from state governments, pressure from public servants, ideological-partisan conflict, and others, as evidenced in process tracing).

The effort of the Legislative Houses to act more independently in the debates about renegotiation was noticed, which was reflected in the behavior of the rapporteurs. The importance of the federative dimension in the legislative discussions is reflected in the fact that six of the eight rapporteurs of the complementary laws are representatives of states that would be more intensively contemplated by debt renegotiation (Rio de Janeiro, Santa Catarina, Rio Grande do Sul, and São Paulo). Parliamentarians' autonomy in the plenary was evident, marked by the independent action of the rapporteurs and by the pronouncements of congressmen. This agenda was highly expected due to the distortions of payment conditions. The party leader's internal agreement mean that the matter should be processed faster than other legislative proposals in Congress.

Considering the Plenary votes, the possible party orientations are: favorable (yes), opposite (no), liberation of the party members, or obstruction. The recurring party liberations in the studied processes are signs that there was dissent between the partisans in the votes. Other demands such as regional pressures may have been presented and forced the leaders to liberate the parliamentarians.

The biggest ideological conflict that was perceived in the processes was related to the level of tolerance in the requirements imposed by the federal government, especially in relation to the privatization of state enterprises, since left parties clearly stood against the measure. The requirements that implied a reduction in expenditure in the last renegotiations (LC n. 156/2016 and LC n. 159/2017) mobilized categories of public service, which pressured parliamentarians to reject this part because they could imply reductions of personnel expenses.

Based on Nicolau's research (1999), we elaborated on the State's Loyalty variable by state,<sup>5</sup> which consists of the total number of parliamentarians of a state who were followed by their votes with the most favorable indication to their home states, divided by the total number of members of that state. In some votes, this variable was significant, suggesting that parliamentarians from these states voted accordingly.

As an example, there is the voting of the Agglutinative Amendment n. 1 in the project that resulted in LC n. 148/2014. This amendment limited the cost of the refinanced contracts in 1993 and was approved with 264 favorable votes and 111 opponents in the Chamber of Deputies. The regional dimension seems to be affected by the vote. Table 2 presents the data according to state and partisan loyalty:

**Table 2 | LC n° 148/2014 – Voting of Amendment n. 1**

PARTISSAN LOYALTY		STATE LOYALTY	
PcdoB	100,0%	GO	100,0%
PRP	Liberation	SE	100,0%
PT	96,7%	ES	100,0%
PP	Liberation	MA	92,3%
PROS	Liberation	PB	90,9%
PSD	Liberation	PR	90,0%
PR	87,0%	RJ	88,6%
PMDB	90,4%	DF	75,0%
PTB	93,3%	RR	75,0%
PDT	100,0%	SC	73,3%
PV	100,0%	MS	71,4%
PMN	Liberation	MG	69,4%
PRB	Liberation	SP	69,1%
PTdoB	Liberation	MT	66,7%
PSDB	100,0%	TO	66,7%
PSOL	100,0%	PE	63,2%
DEM	94,7%	AM	60,0%
PSB	94,7%	AP	60,0%
PSC	90,0%	RS	60,0%
SD	82,4%	CE	58,8%
PPS	71,4%	AL	50,0%
<b>TOTAL</b>	<b>92,9%</b>	RO	50,0%
		BA	48,4%
		PA	44,4%
		AC	40,0%
		PI	37,5%
		RN	33,3%
		<b>TOTAL</b>	<b>67,9%</b>

Source: own elaboration.

<sup>5</sup> In order to avoid selection bias, this index was controlled by others, such as party loyalty.

There has been liberation in seven parties, which indicates dissent within the parties. This divergence should have been the reason for some parties (even from the governmental coalition) to have chosen to liberate the parliamentarians. The coordination by unit of federation was significant considering that the representatives voted similarly to their most favorable voting position to their home states. Even though the organization in states is formed by parliamentarians from various parties, deputies voted in a coordinated way. One good example is the state of Goiás (GO): the 13 deputies, from 8 different parties, voted in the same way.

It is important to notice that the governors who went to Congress personally and participated in meetings, as verified by process tracing, acted by offering technical suggestions. They proposed ideas that would benefit themselves. There was direct pressure from the governors (personally or by telephone) on the parliamentarians of their respective states. The discourses of congressmen have often expressed critical positions in defense of their home states. The states' pressures were active to approve what had already been established in favor of them and ensure that the benefits granted were extended. However, the governors acted in a reactive way as well through the rejection of the circumstances imposed by the federal Executive.

The individualistic and isolated fiscal relationship that normally occurs among states in the so-called "fiscal war" is not being reproduced at the states' performance in the National Congress. Leastwise in the renegotiation of state debts, the results brought collective gains.

We can conclude that the centralization in the legislative arena is not absolute as there are other pressures that shape parliamentary dynamics in a relevant way. The capacity of actions of different pressure groups was not equal in all the processes studied. They varied according to the issue and political event. The articulation by the federal government was fundamental in the construction of agreements. The agenda required a minimum of consensus among parliamentarians, federal government, opposition, parties, state governments, and public servants to move forward, since the fiscal issue involves a multidimensional area with disagreements and interests that are ambiguous and contradictory.

## 5 Provisional Measure on Basic Sanitation<sup>6</sup>

The legislative debate on the new rules of basic sanitation policy is directly related to the conflicts between the federal government, state, and municipal levels, as well as the discussions about the privatization of state enterprises, a subject that was present in the negotiations discussed in the previous section.

The Provisional Measure is created by the Executive, and the legislative process in the National Congress is accelerated. It produces legal effects of law already at the date of its edition (Pereira, Power & Renno, 2007).

In the military regime (1964-1985), the federal Executive managed a large number of resources for water and sewage services through the *Plano Nacional de Saneamento* (Planasa) [National Sanitation Plan]. From the determination of the federal government, these services started being carried out in most of Brazil by state companies that formally act as concessionaires of the municipalities, but in practice autonomously (Galvão Jr. & Alceu, 2009). This organizational model is still very present in the country, but recently with a little more control by local governments based on renegotiations and contracts. These new contracts have been performed by part of the municipalities since the expiration of concessions of Planasa.

Until Law n. 11,445/2007, there were no laws of national application with guidelines about the issue. The Basic Sanitation Law was the result of three sequential legislative processes. One proposal was presented to the Chamber of Deputies in 1991 and was approved by the National Congress in 1994 but was vetoed fully by President Fernando Henrique Cardoso in the same year. In 2000, a new parliamentary project was presented. In the following year, a proposal of the Executive was added, focusing on the privatization of state companies. Lula's government extinguished this project and presented his own version in 2005, which became law in 2007.

After a decade, the federal government decided to change it in two ways: the delegation to the *Agência Nacional de Águas* (ANA) [National Water Agency], related to the Ministry of the Environment<sup>7</sup>, to edit national standards for sanitation services; and the adoption of an explicit option for the privatization of services. The inclusion

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<sup>6</sup> This section has an explanatory character, in order to bring other examples outside the fiscal area. We are currently developing a detail research of environmental licensing.

<sup>7</sup> In the Bolsonaro's government, ANA was transferred to the Ministry of Regional Development. For more information, we recommend the reading of MP n. 870/2019.

of the ANA in this theme implies a relevant innovation and, clearly, empowerment of the central government. Considering these objectives, the *Medida Provisória* (MP) [Provisional Measure] n. 844 was edited in July of 2018. This normative act has generated a big controversy.

This Provisional Measure was approved at the end of October 2018 by the committee of deputies and senators which, according to the Federal Constitution, analyze this type of normative act. The MP did not get voted on by Parliament, losing its effectiveness in November. What matters to this paper is the fact that this provisional measure was not voted on by direct pressure from the subnational governments. Entities representative of state companies joined forces with municipal entities, in a rare meeting in the sanitation sector.

Governors who were in power and governors elected to start in January 2019 signed a letter requiring the rejection of MP n. 844, totaling 24 signatures. It was an unprecedented political movement that showed the strength of the state sanitation companies that control almost 80% of water and sewage services in the country and the power of the governors.

In the last days of 2018, another version of the proposal was edited by Temer's government (MP n. 868), despite the fact that the provisional measure lost its effectiveness in June 2019.

## 6 Final considerations

There is still little literature concerning the impact of states on national legislative processes. It is important to consider that the 1988 Constitution provides a cooperative model in which competences are shared among the federated entities and there is a division of administrative and legislative functions. Regional governments are autonomous with their own interests, power, and private competences. They are a part of the federative pact and are not just passive agents on the national institutional context.

We believe that the relevance of the subnational levels in the legislative dynamics is frequently present in the decision-making process, as demonstrated by the movement of the governors and municipalities opposed to changes in sanitation services rules, as well as in many fiscal and budgetary matters. Subnational pressure is capable of vetoing points of legislative projects.

In other words, the centralization in the legislative arena is not absolute, as there are other pressures that shape parliamentary dynamics in a relevant way. During the analyzed processes, the president lost space, owing to multiple political forces. There are incentives linked to electoral issues and pressure from subnational groups that mostly move through the rejection of the conditions imposed by the federal Executive. The capacity of different pressure from mass action was not equal in all the processes studied; they varied according to the issue and political event. The articulation by the federal government was fundamental in the construction of agreements.

This paper also has limitations. We studied a specific part of cases, which does not allow generalizations on how the Legislative works. As we focus on the state level, there is a need for a deeper effort to explain federal and other pressures. Increasing the number of observations and theories could be a solution.

Political scientists should study how much power these actors have in the legislative arena, and when and how they use it. It is a fact that the federative dimension must contemplate all subnational spheres and thematic areas because, depending on the sensitivity of the theme or nature of public policy, the political outcome may have different results. Fiscal and administrative decentralization in many areas of public policy has affected intergovernmental relations.

The process of implementing the *Sistema Único de Saúde* (SUS) [Health Unic System] in Brazil, for instance, has opened space for the union of states in the regional and inter-municipal articulation. Recently, the lack of coordination between President Jair Bolsonaro and the state governors on the global pandemic affects health policy.

At the same time, other public policies, such as ones in the environmental area, require federal articulation. In other later developments, environmental licensing, the main tool of environmental policy in the country, should be explored. In May of 2021, a new version of the project (n. 3,729/2004) was approved and dispensed the majority of environmental licensing for activities in Brazil. This is another case of federative tension in which the state governments seem to have prevailed.

We recommend future research involving thematic areas in which decentralization occurs. The state issue should be reinforced in legislative studies not only in Brazil, but also in other countries that adopt the federative system.

We defend medium range theories because the political and economic scenarios are determined by the ways in which parliamentary dynamics operate. We recommend

the analysis of legislative processes that involve fiscal federalism in order to check whether the agenda continues and whether the findings of this paper can be expanded. It is a fact that the federative structure is present on the legislative agenda and should be more approached by legislative studies.

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