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July 2011
GEG Working Paper 2011/62

Global Economic Governance Programme

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Abstract

Horizontal accountability is a key challenge to new democracies, and especially so in those regimes where "reactive" legislatures face dominant presidents. Although the 1988 Constitution gives impressive legislative and agenda-setting powers to the Brazilian president, it also equips the legislature with a set of oversight tools that can be used to monitor or scrutinize the powerful executive. In analysing a large database of oversight initiatives between 1988 and 2005, we trace broad trends and patterns in the overall usage of oversight tools and attempt to isolate the political and institutional conditions under which they are deployed. We find that the use of oversight mechanisms has risen in recent years; that oversight is mediated by measures of presidential popularity and by the size of the pro-presidential faction in Congress; and that oversight responds to the logic of Brazil's coalitional politics, driven by the shifting context of the executive-legislative relationship under multiparty presidentialism.

Keywords: Brazil, Congress, legislature, oversight, legislative information, hearings.

Introduction

To what extent do reactive legislatures exercise oversight over powerful executives? Under what conditions are they more or less likely to do so? These questions have become particularly relevant to the study of Latin American democracies in recent years. Whether focusing on history, populism or the design of political institutions, scholars have been fairly pessimistic in their assessment of the oversight role of elected assemblies. According to O'Donnell's model of 'delegative democracy', dominant executives should be expected to eliminate, co-opt or neutralise formal agencies designed to generate oversight (O'Donnell, 1998: 117). Similarly, institutionalist scholars maintain that presidents in Latin America enjoy considerable legislative prerogatives, agenda power, informational advantages and expertise (Mustapic 2000, Loureiro, 2001; Siavelis, 2000; Schedler, Diamond and Plattner, 1999). In the latter case, it is constitutional design — rather than historically given conditions or presidential styles — that most clearly militates against Congress (Samuels, 2000; Figueiredo, 2001 and 2003). Can the 'reactive' legislatures of Latin America (Cox and Morgenstern 2001) realistically monitor and check the powerful presidencies in the region?

This paper sheds some initial light on this question via a case study of the oversight experience of the Brazilian legislature between 1988 and 2005. Why Brazil? First, as a reactive legislature par excellence (Reich 2002), Brazil presents a 'least-likely case' of legislative oversight. In the most recent incarnation of Brazilian democracy, the executive has been equipped with an extraordinary range of legislative powers (Pereira and Mueller 2004a), so much so that Shugart and Carey (1992) classified the Brazilian presidency as one of the most powerful in the world. Any legislative oversight that is successfully executed in this unfavourable context has special theoretical and comparative importance. Second, Brazil has operated since 1988 under a single constitutional framework, allowing us to construct a relatively lengthy (1988-2005) time-series database on legislative behaviour. Moreover, with five presidents, four alternations in power and a wide array of interparty coalitions supporting presidents over time, Brazil affords us considerable variation in leadership styles and executive-legislative relations. Finally, the extensive literature on political institutions in Brazil has generated an impressive number of political indicators that we can introduce as appropriate controls in a longitudinal study of oversight. In sum, the Brazilian context is an unusually attractive environment in which to explore the determinants of legislative oversight in reactive legislatures.

This paper proceeds in five sections. We begin by situating the practice of legislative oversight against contemporary debates about accountability in nascent democracies. We then review existing oversight mechanisms in Brazil and their costs and benefits to legislators. In a third section we describe our dataset and introduce our variables and hypotheses. A fourth section presents our data analysis, in which we estimate models predicting the frequency and potency of oversight mechanisms. The concluding section reviews our findings and links them back to debates on horizontal accountability in presidential regimes.

Accountability and Oversight: Conceptual and Theoretical Issues

A key challenge to transitional democracies is accountability. Vertical accountability concerns the role of electoral institutions in allowing voters to reward or punish their elected representatives. Horizontal accountability encompasses oversight performed by an infra-state set of institutions designed to maximise transparency, constrain illegitimate or arbitrary power, and discourage abuses and illegalities perpetrated by the state itself. These mechanisms are intended to offer some degree of protection against authoritarian retrogression and should ideally provide for sanctions against the perpetrators of mismanagement or abuses (O'Donnell, 1998). Relevant institutions include inter-branch oversight, investigatory powers, an independent judiciary, and regulatory arrangements.

Since the mid-1990s, the debate on horizontal accountability has grown in vigour. Two controversies emerged, one concerning the basic conceptual utility of horizontal accountability and the other centred on the preferred institutions for oversight. The first debate saw some scholars claiming that vertical accountability is the only relevant form. The argument is that independent powers vary in their vertical responsibilities, due to distinct mandates and incongruent constituencies, so by definition such independent powers cannot be accountable to each other. Moreover, if each vertical domain is internally functional, then is no need for horizontal accountability (Moreno, Crisp, and Shugart, 2003). We do not dispute the precedence of vertical accountability in democratic theory. However, vertical institutions have obvious shortcomings, including the periodic nature of elections (the substitution of elites does not occur all the time, but only at certain intervals), the daunting size and complexity of the state apparatus, and the relative immunity of bureaucrats, i.e., powerful unelected elites who are responsible only to the head of the executive branch itself (Przeworski, Stokes and Manin 1999: 21). In light of these challenges, horizontal institutions are necessary to fill the gaps left by vertical ones, and mutual reinforcement by both types of institutions enhances democratic accountability.

The second debate in the 1990s centred on the ideal institutional domain for the exercise of oversight: internal systems, the judiciary or the legislative branch? Although some authors privilege the judiciary (e.g. Shapiro, 2003), we argue that *legislative bodies* are particularly well suited to this role, for several reasons. First, oversight is generally a constitutional or statutory function of parliaments. Second, legislatures are subject to vertical accountability, which is seldom the case with judges or regulators. Third, legislatures are more inclusive and plural, reflecting cultural diversity, and carry out more transparent and less insulated decision-making processes than courts or regulatory agencies (Carey, 2003). Of all institutions that can conceivably engage in oversight, legislatures undoubtedly have the broadest and most compelling claim to democratic legitimacy.

Here we examine attempts by the Brazilian Congress to monitor and control the powerful presidency. We understand oversight as a key feature of executive-legislative relations, in which the executive branch owes to the legislative branch certain obligations and/or information (Fox, 2000), and in which legislative monitoring and accountability can be pursued both *ex ante* — during the design and implementation of a program — as well as *ex post*, after its implementation (Ogul and Rockman, 1990; Harris, 1964). We note that the term 'oversight' is commonly preceded by any number of adjectives: horizontal, parliamentary, legislative, political, etc. These all correspond, at some level, to the *supervision* and *scrutiny* of the administration's actions, for which legislatures resort to mechanisms such as hearings, summoning of ministers, resolutions of inquiry, special investigatory committees, and confirmation processes, among others (Oleszek, 1995; Mustapic and Llanos, 2005; James, 2002; Aberbach, 1990 and 2001; Sartori, 1987:189). This definition comprises not only cases of abuses and corruption (i.e., legislative punishment of executive misdeeds), but also many ongoing and 'routine' activities such as information gathering. Pursuit of information is necessary to boost transparency, to correct the informational asymmetry between the branches, and/or to advocate for preferred policies (Scicchiatano, 1986; Aberbach, 2001). These goals are of special relevance in any system, presidential or parliamentary, but especially so in executive-dominant ones.

Legislative Oversight Mechanisms in Brazil

Brazil became a democracy in 1985, when the military surrendered power to civilians after 21 years of authoritarian rule. The Constitution of 1988, promulgated three years after the democratic transition, is *the* landmark of legislative oversight in Brazil. Indeed, it specifies (Art. 49) that the National Congress will have the exclusive prerogative of overseeing the executive.

The 1988 Constitution includes provisions for the impeachment of the president, vice-president and ministers,[i] Senate confirmation processes for a number of key office holders,[ii] temporary parliamentary investigation committees (*Comissões Parlamentares de Inquérito* or CPIs), permanent oversight committees (which can receive requests from any citizen), resolutions of inquiries, compulsory testimony by public officials, and public hearings (Art. 58). In addition, Congress has a higher auditing court known called the *Tribunal de Contas da União* (TCU), defined as the 'main auxiliary agency for the external oversight of the administration' (Arts. 70 and 71).[iii] With the exception of the creation of *Consultorias de Orçamento* (Budget Offices) in both houses in 1993,[iv] the oversight framework has remained basically unchanged since 1988.

The oversight tools available to Congress are many, but in this paper we focus exclusively on four mechanisms. These are Oversight Initiative Bills (*Propostas de Fiscalização e Controle*), resolutions of inquiry, summoning of ministers and public hearings. There are several reasons for this methodological choice. First, data collection would not be feasible for the entire range of oversight possibilities. Second, several studies are already available on some of the higher-visibility mechanisms such as CPIs (Figueiredo, 2003; Calcagnotto, 2005), confirmation processes (Lemos and Llanos, 2006) and the TCU (Pessanha, 2005). Third and most importantly, we wish to examine how Congress performs its oversight prerogatives in the most broad, ongoing and consistent ways. We are interested less in executive abuses or sensational scandals (which would draw our attention to CPIs and impeachment proceedings), and more in the everyday activities that cast a watchful Congressional eye on the executive branch, during or after the formulation and implementation of programmes.

Table 1: Oversight as a Share of Total Legislative Activity 1988-2005

Year	*Lawmaking Initiatives*	*Oversight Initiatives*	*All Initiatives*	*Oversight as % of Total Activity*
1988	1286	99	1385	7.1
1989	3745	406	4151	9.8
1990	1902	381	2283	16.7
1991	3099	1348	4447	30.3
1992	1318	1088	2406	45.2
1993	1125	1114	2239	49.8
1994	646	646	1292	50.0
1995	2215	1827	4042	45.2
1996	1824	1279	3103	41.2
1997	1896	1368	3264	41.9
1998	1173	1190	2363	50.4
1999	3383	2094	5477	38.2
2000	2244	1637	3881	42.2
2001	2647	1608	4255	37.8
2002	1964	855	2819	30.3
2003	3837	2017	5854	34.5
2004	2551	1663	4214	39.5
2005	2496	1967	4463	44.1
Total	39351	22587	61938	36.5

Notes: lawmaking initiatives include all proposed constitutional amendments, ordinary bills, and enabling legislation introduced in both chambers. Of the oversight initiatives, 17 were joint efforts of the two chambers.

Relying on the Information Office and the Archives of the Federal Senate, and also on the Senate Data Processing Centre (PRODASEN), which contains electronic records of almost all Congressional activity since 1988, we were able to construct a time series database of oversight. With one minor exception,[v] we have a complete reconstruction of the use of all four of our oversight mechanisms between 1988 and 2005, and the frequencies are presented in Table 1. On average, the share of oversight activity as a percentage of the total Congressional workload was about 36% in the period studied. This is an estimate, as purely committee-based activities (CPIs, investigations, and testimony) are excluded from this calculation. The figure of 36% is somewhat misleading, however: if one excludes the first three years of the constitution, when legislators faced a learning curve in adapting to the new institutional design, the oversight share rises to 40%. Oversight reached a peak of 50.4% of total Congressional activity in 1998, which was (perhaps not coincidentally) the first year in which a sitting Brazilian president was allowed to seek immediate re-election. Thus, at the most basic level of measurement, the data suggest that oversight accounts for a significant share of legislative activity in Brazil.

The vast majority of oversight propositions were *requerimentos de informação*, or resolutions of inquiry, the preferred instrument of Congress to address the administration. From 1988 through 2005, some 16,437 resolutions of inquiry were introduced in the Chamber of Deputies and 3,517 in the Federal Senate. The second most used oversight instrument was committee hearings, which were held 1,854 times.[vi] Oversight Initiative Bills (*Propostas de Fiscalização e Controle*) were introduced on 420 occasions, and cabinet ministers were summoned to Congress some 341 times. What can account for the more intense use of some formal instruments?

Table 2: Oversight Activity by Type, Originating Chamber, and Presidential Administration, 1988-2005

	Resolutions of Inquiry			Committee Hearings			Ministerial Summons			Oversight Bills			All Types
Session	CD	Senate	Sub-total	CD	Senate	Sub-total	CD	Senate	Sub-total	CD	Senate	Sub-total	Total
Sarney (1988-1989)	401	67	468	Missing	21	21	10	4	14	0	2	2	505
Collor (1990-1992)	2260	396	2656	Missing	28	28	31	22	53	57	0	57	2794
Itamar (1992-1994)	1369	322	1691	Missing	22	22	7	12	19	46	1	47	1779
FHC 1 (1995-1996)	2173	624	2797	137	57	194	27	26	53	57	0	57	3101
FHC 2 (1997-1998)	1891	288	2179	252	53	305	18	13	31	42	1	43	2558
FHC 3 (1999-2000)	2870	323	3193	306	148	454	22	8	30	43	3	46	3723
FHC 4 (2001-2002)	1944	245	2189	57	119	176	43	12	55	39	4	43	2463
Lula 1 (2003-2004)	2433	832	3265	116	180	296	41	19	60	53	5	58	3679
Lula 2 (2005 only)	1096	420	1516	265	93	358	20	6	26	59	8	67	1967
Total	16437	3517	19954	1133	721	1854	219	122	341	396	24	420	22569

Notes: Sarney period begins with promulgation of Constitution (October 5, 1988); Collor period ends with impeachment (September 29, 1992). FHC refers to Fernando Henrique Cardoso. Overall totals do not include 18 summons of ministers before the National Congress meeting in joint session. CD refers to Chamber of Deputies

The modal form of oversight is resolutions of inquiry. This mechanism is a low-cost option for legislators: it is performed individually and has a quick turnaround time. The burden of providing the requested information falls on the executive branch (failure to do so within 30 days means the executive branch has committed a 'crime of responsibility'). Resolutions can be drafted quickly and need only cursory approval from the *Mesas* (Directing Boards) of each house, such that no committee or floor vote is necessary. Because resolutions are proposed by individual legislators, there is no need to negotiate within committees, parties, leaderships, or caucuses. Inquiries can be introduced at any time, which also increases their appeal.

The costs of committee hearings to legislators are higher but not onerous. They include passing a resolution at the committee level by a simple majority, the organizational effort related to scheduling and setting up the hearing (which falls on staff), and the meeting time itself (usually a couple of hours, or sometimes an entire day for the more disputed issues or combative officials). Deputies and senators usually prepare questions. For that, they can count on legislative career experts, party and personal staff, as well as on their own expertise derived from previous experience in the legislative or executive branches.

Oversight Initiative Bills (*Propostas de Fiscalização e Controle*) and summoning of cabinet ministers are the least used oversight tools. The lower number for ministerial convocations can be explained by a preference to hear testimony in committee settings. Summoning a minister to the floor requires a larger majority to approve the resolution, and the ministerial appearance has to be squeezed into a busy schedule. Given that committees have the same power but have fewer members, they can summon a cabinet member or other authorities in a timely fashion to a hearing, which in the end has the same mandatory impact as floor testimony. That is what committees often do, sometimes via joint meetings of several committees.[vii]

Propostas de Fiscalização e Controle stand in contrast to resolutions of inquiry. They are high-cost initiatives and demand time, expertise, collective action and persistence. The burden of producing information about the government's performance falls on the committee, especially on the author and the *rapporteur* of the Oversight Initiative Bill. If approved, the legislation enables the *Comissão de Fiscalização e Controle*[viii] to conduct strict inspections or auditing of the administration, and can be very useful for addressing informational asymmetries as well as qualified policy evaluation.[ix] This demands a work plan of investigations, debates and meetings in the medium to long term.

Our review of these four mechanisms shows that the Brazilian Congress has considerable formal oversight powers and uses them reasonably frequently. Nevertheless, if compared to more powerful legislatures, for example the U.S. Congress, the Brazilian legislature lacks some fundamental prerogatives that would permit a more deterrent or punitive style of oversight. Congress cannot allocate budgetary resources compulsorily (the legislature can approve amendments to the budget, but it is up to the president to release the funds for each amendment) nor can it create, change, or interfere with the operational functioning of the administration (e.g., agencies, personnel, careers and goals).[x] Without the power of the purse, which would allow it to directly and immediately alter presidential behaviour by cutting off funding for activities that harm its preferences, Congress must fall back on other instruments of scrutiny and supervision.

Data, Variables and Hypotheses

Under what conditions is the Brazilian Congress more or less likely to engage in oversight activities? We now proceed to analyze an original dataset on the use of the four mechanisms discussed above. The dataset comprises the sum total of ministerial convocations, Oversight Bills and hearings in the Senate and the Chamber of Deputies in the period under study. However, given the overwhelming frequency of resolutions of inquiry, we opted to include only a randomly generated subsample of this form of oversight.[xi] Thus, although the dataset is very large (*N*=3630), it is partially truncated, and the reader should bear this in mind when evaluating the statistical analyses presented below.

Our dependent variable is 'intensity' of oversight, based on an intuitive coding of oversight mechanisms from the most innocuous to the most serious from the executive's point of view. Resolutions of inquiry are scored as 1, Oversight Bills are scored as 2, a summoning of a cabinet minister to the floor is scored as 3, and public hearings are scored as 4, resulting in a simple four-point index of potency. We analyze the dependent variable both over time, with the data aggregated monthly (N=208), and at the level of individual proposals (N=3630).[xii]

Oversight is an outcome of the game of executive-legislative relations, so our independent variables aim to capture the relative positions of both players. On the executive side, we incorporate several measures of presidential power, strategy, and behaviour (see Appendix for fuller descriptions of variables and sources). These include *presidential popularity* (measured as positive minus negative evaluations of incumbent job approval), the *size of the pro-presidential coalition* in Congress (the percentage of seats held in the Chamber of Deputies by parties represented in the cabinet), *ongoing legislative support* (the average percentage of federal deputies voting with announced executive positions in a given month),[xiii] and *unilateral action* (presidential decrees as a share of the total number of legislative initiatives introduced by the president in a given month). Popularity, decree usage, coalition size, and legislative support are lagged by one month. We expect that the three measures of the political security of the president (popularity, coalition size, and success on roll-calls) will all have negative impacts on oversight by Congress. In contrast, we expect that if the president relies on extraordinary rather than ordinary means of legislative initiative (i.e. on decrees rather than bills), this should provoke a counter-reaction by Congress in the form of greater oversight.

On the legislative side, we assembled information on the *cameral origin* of oversight initiatives (scored as 1 for the Senate, 0 for the Chamber of Deputies), the *political stance* of the proposer vis-à-vis the executive (scored as 1 if the proposer belongs to a progovernment party, and 0 if he/she belongs to the opposition), the reputational *ideology* of the proposer's party (from elite surveys of Congress, using a scale where 1 equals left and 10 equals right),[xiv] and the *level of socioeconomic modernization* of the proposer's electoral constituency (measured using the Human Development Index created by the United Nations Development Programme). We hypothesise that senators, who are more politically experienced and less politically vulnerable than deputies, will engage in more frequent and intense oversight than their colleagues in the lower house.[xv] We expect that membership in a progovernment party will be associated with less intense oversight. Given that in comparative and historical perspective, left parties have been associated with stronger efforts at legislative institutionalization and professionalization (Squire and Hamm 2005: 87), and given that in Brazil, conservative parties have been shown to be less legislatively engaged (Power 2000), we expect that the sign for ideology will be negative (signifying that right-wing parties will be less associated with oversight). Finally, the HDI is an excellent proxy for the strength and complexity of civil society. Adopting a Putnam-like perspective on the role of civil society in 'making democracy work' (Putnam et al. 1993), we expect that legislators representing constituencies with higher levels of human development will be more engaged in holding the president accountable.

These variables do not capture the temporal dimension of the executive-legislative game. Drawing on electoral connection theory (Mayhew 1974), we include an additional variable for *time remaining until the next legislative election*. Following previous research that has shown that Brazilian legislators are less productive as elections approach (Hiroi 2005) or more likely to delegate authority to the president during months of campaigning (Pereira, Power, and

Rennó 2005), we expect the sign on this variable to be positive. Oversight should be most frequent and intense when legislators are less preoccupied with electoral concerns.

Finally, we expect that the dynamics of the executive-legislative game may change in significant ways depending on who occupies the presidency, so we include dummy variables for the Fernando Collor period (1990-92), the Itamar Franco period (1992-94), the Fernando Henrique Cardoso period (1995-2002), and the Lula administration (2003 through December 2005). The excluded category is the first president in the time series, José Sarney (1985-90). Coefficients should therefore be interpreted as comparisons to the foundational period of October 1988 to March 1990 when the lame-duck Sarney was serving as the 'test driver' of a new constitutional framework. These binary variables are intended to capture personality factors, leadership styles and strategies of political accommodation that are not reflected in the more objective indicators of executive-legislative relations.

Empirical Results

We begin with a simple model which examines both the frequency and intensity of oversight over time, and in which the units of analysis are months between October 1988 and December 2005 (Table 3). We include the several measures of presidential strength and legislative strategy, the electoral cycle variable and dummies for presidential administration. Because two measures of presidential support in Congress (the number of coalition seats and lagged presidential success in roll-call voting) are conceptually related, we do not enter them into the same equation but rather report two separate estimations. We believe that the coalition size variable is inferior to the roll-call support variable as an indicator of presidential influence in Congress (given that the former captures 'presumed' support and the latter captures actual behavioural support), but we report both sets of results for the benefit of the reader. The dependent variable is an aggregate measure of (weighted) monthly oversight, in which each type of initiative is weighted by the scoring scheme discussed above. Therefore, we are modelling the *intensity* of oversight over time — what causes a reactive Congress to push back against a dominant executive?

Table 3: Predicting Weighted Monthly Oversight Activity by Congress 1988-2005

	Model 1		**Model 2**	
Variable	*b*	*t*	*b*	*t*
Time to next election	.123	.487	.017	.067
Pres. popularity (lagged)	-.411	-2.859***	-.294	-1.972**
Coalition size (lagged)	1.035	2.880***	--	--
Leg. support (lagged)	--	--	.416	1.840*
Unilateral action (lagged)	-.207	-2.049**	-.217	-2.116**
Collor	39.771	2.287**	11.791	.743
Itamar	18.951	1.262	8.606	.544
Cardoso	57.120	3.913***	53.240	3.369***
Lula	112.043	6.410***	90.952	4.471***
Constant	-60.165	-2.233**	-12.427	-.695
Adj. R^2	.360		.345	
N	208		208	

Notes: Dependent variable is the four-item weighted index of oversight. Entries are unstandardised OLS coefficients. The month of March 1990 (transition from Sarney to Collor) is counted as two units, with March 1-15 assigned to Sarney and March 16-31 to Collor.
*** prob < .01 ** prob < .05 * prob < .10

In Table 3, models 1 and 2 are relatively successful in predicting weighted monthly oversight, each capturing about a third of the total variance in the period studied. What we find is that measures of the political security of the executive have interesting and contradictory effects. Ongoing presidential popularity has a depressing impact on the volume of legislative oversight, as one might expect. However, when we control for popularity, both measures of presidential support in Congress (coalition size and ongoing success in roll-calls) have *positive* effects on oversight, contrary to prediction. One way to read this is that Congress is tolerant of presidents who maintain good standing with the public, but is wary of presidents who dominate the legislature. An alternative way to interpret Table 3 is to infer that oversight in Brazil is relatively consensual, resulting from an *entente cordiale* or political dialogue between the executive branch and the pro-presidential forces in Congress. The latter interpretation finds some support in the negative coefficients for presidential decree usage (unilateral action), which suggest — again contrary to expectation — that presidents who introduce a higher share of their proposals as decrees (rather than ordinary bills) can expect a significantly *lower* level of oversight in return from Congress. This would be in accordance with delegation theory (e.g., Carey and Shugart 1998). However, our aggregate data do not permit us to speculate any further: without data on the substantive content of presidential proposals and of legislative responses (oversight measures), we are unable to resolve this debate. Our data aggregated by month simply permit us an initial, broad view over time, from 1988 to 2005.

The models in Table 3 do not support electoral connection theory: the coefficients for 'time to next election', while positive, do not reach statistical significance. The presidential dummies (for which the referent category is the Sarney administration) are all positive, and the coefficients for the Cardoso and Lula periods are strongest. Oversight has been most frequent and intense for the presidents governing since 1995, both of whom constructed extremely broad multiparty coalitions in Congress.[xvi]

We now estimate a model in which the units of analysis are not months, but rather individual oversight measures. Each measure receives a score for its political 'teeth' vis-à-vis the president. This method has the advantage not only of greatly increasing the number of cases available for analysis (the maximum *N* would be 3630), but also of allowing us to introduce information about characteristics of the *originator* of oversight: the author of the measure. The disadvantage of this is that by including variables such as ideology, party, and constituency HDI, we also lose many cases due to missing data on the independent variables. Ideology scores are missing for some small or ephemeral parties; some measures were introduced by committees rather than individuals; and some initiatives were sponsored jointly, making it impossible to link them to a specific party or geographical area. More importantly, we are forced to exclude public hearings altogether, since they are convoked by committee resolutions and not by individuals. Therefore, we truncate our previous coding system and delete the value of 4 (hearings), but we retain the coding of ministerial summons as 3, Oversight Bills as 2, and resolutions of inquiry as 1. We are restricted to analyzing those cases where we had perfect information about the proposer's party, the ideological position of that party as derived from elite surveys of Congress (Power 2000), and the state of origin of the proposer (socioeconomic modernization is measured by averaging the state's HDI scores in the 1991 and 2000 national censuses). Listwise deletion of missing data reduced the number of cases to 1666 oversight measures.

Note that this alternative approach does not model the frequency or intensity of oversight over time, only the potency of each individual initiative presented. The model should be understood as a merging of contextual variables (electoral time, presidential strength, and the ongoing level of preference congruence between the executive and Congress) with individual-level variables (capturing information about the authors of oversight). Working with a different dependent variable and a different set of predictors should logically give us different results; there is no reason to believe that the patterns observed in aggregate oversight should be replicated identically at the level of individual proposals, especially now that we are introducing information about the characteristics of authors of oversight initiatives. For example, the earlier models in Table 3 make no distinction at all between government and opposition forces.

Table 4: Predicting Potency of Individual Oversight Proposals in Congress, 1988-2005

	Model 1		**Model 2**	
Variable	*b*	*t*	*b*	*t*
Time to next election	.000	.417	.000	.918
Pres. popularity (lagged)	.003	2.915***	.003	2.484**
Coalition size (lagged)	-.004	-1.499		
Leg. support (lagged)			-.002	-1.032
Unilateral action (lagged)	.000	-.232	.000	-.301
Senate origin	-.348	-8.538***	-.347	-8.527***
Government party	-.099	-2.268**	-.109	-2.523**
Ideology (1 left, 10 right)	.019	2.054**	.020	2.123**
Constituency HDI	-.432	-1.392	-.463	-1.494
Collor	.207	1.755*	.288	2.576***
Itamar	.079	.697	.092	.790
Cardoso	.205	1.861*	.200	1.745*
Lula	.120	1.006	.173	1.224
Constant	2.066	6.856***	1.927	6.986***
Adj. R^2	.065		.064	
N	1666		1666	

Notes: Dependent variable is the truncated three-point ordinal scale of oversight potency (public hearings are excluded, see text). Entries are unstandardised OLS coefficients.
*** prob < .01 ** prob < .05 * prob < .10

In fact, when we look at individual initiatives, the results are quite different from the aggregated (monthly) data presented above. For example, presidential popularity, which was negative and significant in the monthly models, is now *positive* and significant in the individual-level models. This signifies that when we specify the potency of individual-level oversight measures and incorporate important information about their individual authors (e.g., cameral origin, partisanship, constituency characteristics and personal stance vis-à-vis the president), we find that more popular presidents tend to be subjected to more sweeping or meaningful oversight initiatives. The two measures of support for the president in Congress (coalition size and roll-call success) lose statistical significance, and change their signs, when we specify a fuller model. For example, it is likely that the legislative support variable loses significance because the individual-initiative model now includes a superior measure for "government party" authorship (membership of any pro-presidential party). With superior specification, our results are more intuitive than in the aggregated monthly models.

For example, in accordance with expectation, oversight initiatives presented by parliamentarians belonging to the pro-presidential coalition in Congress tend to be significantly more innocuous than measures introduced by oppositionists. This is represented by the negative coefficient for 'Government Party' in both models in Table 4. But we also have two individual-level findings that are contrary to expectation. We find that initiatives introduced by senators tend to be significantly 'softer' than those introduced by deputies, net of all the political factors in the model. We also find that the (reputational) conservatism of the proposer's political party has a positive effect on oversight potency. Although the magnitude of this effect is very small, it is nonetheless significant, and it seemingly contradicts the findings of much Brazil-related research which claims that leftist legislators have been more proactive than rightists. However, we should be careful when interpreting these findings and in comparing them to the results of aggregated time-series models. It could be very well be true that left-leaning deputies and senators generate a greater overall *volume* of oversight initiatives, but at the same time present *less far-reaching* proposals. The potency of *individual proposals* could surprisingly rise in accordance with the political conservatism of their authors. The same logic (and the same caveat) applies to our unexpected findings for HDI: legislators representing more socioeconomically advanced constituencies tend to introduce weaker initiatives.

Table 4 suggests that the electoral cycle has no effect on whether a legislative measure will take the form of a resolution of inquiry, an Oversight Bill, or a summons of a cabinet minister to Congress. However, the model does suggest that the potency of individual measures has varied across presidential administrations. All the presidential dummies are positive, suggesting that measures directed toward the first post-1988 president (José Sarney) were more innocuous. Oversight potency is most closely associated with the Collor and Cardoso periods. In fact, when we take all of the statistical estimations together, it appears that Fernando Henrique Cardoso (1995-2002) was subjected to intense oversight both at the aggregate and individual levels. This is unsurprising given that Cardoso's neoliberal reform programme made the most sweeping changes in the Brazilian development model since the 1930s.

Conclusions: Determinants of Oversight and Horizontal Accountability

To what extent do reactive legislatures exercise oversight over powerful executives? Under what conditions are they more or less likely to do so? These are the questions with which we began this essay. In this concluding section we first review our empirical results on Brazil in the 1988-2005 period, and then reflect on how these results speak to emerging debates on horizontal accountability in the nascent presidential democracies of Latin America.

Examining the game of executive-legislative relations in Brazil, we coded more than 3600 oversight initiatives over a period of more than 17 years. We analyzed these data in two ways, once in a monthly time-series analysis of weighted oversight activity, and the second time in terms of the potency of individual measures. Although the models naturally perform differently, when considering them jointly we can still advance some preliminary generalizations.

Both the political prestige of the president and his standing with Congress matter when it comes to oversight, but in interesting and contradictory ways. Utilizing alternative measures of presidential strength, we found that presidents who enjoy strong support in public opinion are likely to invite *less* scrutiny from Congress, while at the same presidents with greater backing in Congress are likely to invite *more* oversight. Legislators appear to be less wary of popular presidents than they are of presidents with wide backing in Congress, whether measured in terms of coalition size or in terms of success in roll-call voting. To the extent that the president persuades more legislators to join his coalition or to back his legislative program, he can expect more intense oversight from Congress.

Note that this finding holds up even when we control for the presidencies of Cardoso and Lula, both of which have been noted for their large, heterogeneous and generally supportive coalitions in Congress. Since 1995, it has become routine for presidents to command the support of up to 70% of deputies in the lower house, and Brazil has become a paradigmatic case of 'coalitional presidentialism' (Abranches 1988; Santos 2006; Figueiredo 2007). Under coalitional presidentialism, Latin American presidents must behave like European prime ministers: they must fashion multiparty cabinets and voting blocs on the floor of the legislature. As Amorim Neto (2002, 2007) has shown, they do this primarily by agreeing to share executive power, e.g. by allocating different ministerial portfolios to other parties, much like an Italian or Israeli prime minister. But this strategy alone is insufficient, and that presidents will seek to seal these unstable coalitions with other forms of political glue such as agenda control, budgetary clientelism and selective use of presidential prerogatives (Raile, Pereira, and Power 2006). Both Cardoso and Lula have done so masterfully and have succeeded in creating oversized and disconnected coalitions in Congress. Although we could not provide an empirical test here, we suspect that increased oversight since 1995 is a response to the crystallisation of these successful governing strategies: as parties enter presidential coalitions and share power, they simultaneously wish to contain the power of the executive by application of selective oversight mechanisms. As the size of the presidential coalition increases, so does the amount of legislative scrutiny, but we suspect that a greater share of it is likely to be intra-coalitional oversight.

Taken together and in light of recent research on executive-legislative relations in Brazil, our findings suggest that oversight is exercised within a context of coalitional politics in which individual legislators seek access to resources controlled by the executive (Alston et al. 2005; Pereira and Mueller 2004b), and in which oversight initiatives may constitute one of the many formats in which legislators may transact with the president. Circumstantially at least, it appears as if there is a negative relationship between the political security of legislators and their use of oversight initiatives. For example, senators in Brazil are far more politically secure than deputies: they are elected in state-wide constituencies for long (8-year) terms, are very often former or future governors, and other things being equal have a greater informal capacity to influence federal spending. Conversely, legislators from underdeveloped states have a far greater dependence on federal largesse and therefore are subjected to clientelistic impulses (Ames 2002). If we were to view the introduction of a given oversight initiative as an introductory transaction with the executive branch — in other words, as an 'opening bid' in ongoing political negotiations between a dominant executive and a reactive legislature — then we should expect senators to present weaker oversight initiatives than deputies, and legislators from poorer states to present stronger initiatives than legislators from richer states. This is exactly what we find in the models. This interpretation is compatible with our finding about legislative support for the president: the greater the support, the more oversight initiatives introduced. If oversight initiatives are understood as a form of political bargaining within an executive-legislative relationship that is (1) hugely asymmetrical in terms of agenda power but (2) increasingly integrated and coordinated via coalitional politics, then the findings about electoral security and political support are fully congruent.

Moving away from the Brazil-specific findings and toward more generalisable propositions, we advance a preliminary conclusion: that oversight is driven by the *shifting context of the executive-legislative relationship under multiparty presidentialism*. Using different dependent variables and various estimations, we find that oversight is mediated strongly by measures of presidential prestige and support.

Our findings, albeit very preliminary, lend some support to the presidentially-centred perspective that spawned the concept of 'reactive' legislatures in the first place (Cox and Morgenstern 2001). Reactive legislatures are not 'marginal' legislatures (Mezey 1979): they are simply reactive, because they are not the first movers. The president is proactive: he or she wields agenda power and is the centre of the political world. Not surprisingly, we find that the best predictors of legislative oversight are in fact the president's standing with the public and with Congress.

The importance of presidential approval ratings in our models is in fact a manifestation of vertical accountability, yet one with clear horizontal implications: Congress is deterred by a popular president. But the equal importance of executive-legislative congruence in our models confirms the importance of horizontal accountability: the more the president dominates the legislature, the more the legislature is likely to respond with scrutiny and supervision. These responses undoubtedly improve horizontal accountability in the long run, yet they remain essentially a reactive strategy.

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Appendix: Independent Variables and Sources of Data

Time to Next Election: In the aggregate models (Table 3), this is measured in months remaining until the next general legislative election; in the models analyzing individual oversight proposals (Table 4), we measure time in days, from the date of introduction of each individual proposal until the date of the next general legislative election. A small number of proposals were introduced *after* a general election in October but before the seating of the new members in February (i.e., the lame duck period of an outgoing legislature); these proposals were assigned a time score of zero.

Presidential Popularity. The data are drawn from the three main Brazilian polling institutes: DataFolha, Vox Populi, and CNI/Ibope. Popularity is measured intermittently by all three institutes, generally 6-8 times per year, so first we interpolated missing values to create full monthly series for all three. We then averaged the three full series to create a single value for popularity for each month in 1988-2005. In Brazil, respondents are asked to rate presidential performance as *ótimo* (excellent), *bom* (good), *regular* (average), *ruim* (bad), or *péssimo* (awful). We calculate presidential popularity by subtracting the negatives (*ruim/péssimo*) from the positives (*ótimo/bom*) and ignoring the intermediate (*regular*) category.

Coalition Size: Nominal size of the pro-presidential coalition in the lower house of Congress. This is expressed as the percentage of legislative seats held in the Chamber of Deputies by the parties represented in the presidential cabinet. Source: Amorim Neto 2007.

Legislative Support: Monthly average of the percentage of legislators following the floor recommendation (*encaminhamento*) of the leader of the Government in the Chamber of Deputies. In cases where the executive recommends a 'no' vote, the denominator is the total of votes cast in the house. In cases where the executive recommends a 'yes' vote, the denominator is the total number of seats in the house. (The use of different denominators captures the ability of the pro-presidential coalition to marshal its forces on the floor and pass legislation of interest to the executive.) This variable captures legislative support for executive initiatives. In months with no floor votes, we carry forward the previous value. Source: Banco de Dados Legislativos, CEBRAP.

Unilateral Action: Original *medidas provisórias* (presidential decrees) as a percentage of all legislative initiatives by the executive in a given month. Source: Câmara dos Deputados.

Senate Origin: Binary variable scored as 1 when the oversight proposal is introduced in the Senate, and scored as zero when the proposal is introduced in the Chamber of Deputies.

Government Party: Binary variable scored as 1 when the author of the oversight proposal is a member of one of the political parties formally participating in the presidential cabinet. Source for classification of pro-presidential parties: Amorim Neto 2007.

Ideology: Reputational left-right placement of the political party to which the author of an oversight proposal belongs, on a scale where 1 equals left and 10 equals right. Based on surveys of federal legislators conducted by Timothy Power in each of the five legislatures studied here (field dates in 1990, 1993, 1997, 2001, and 2005). Party placements are made by non-members of the parties in question; respondents' evaluations of their own parties are excluded when calculating the means. Source: see Power 2000, appendix B.

Constituency HDI: The Human Development Index of the state which the author of a given oversight proposal represents in Congress. The HDI is calculated by the federal *Instituto de Pesquisa Econômica Aplicada* (IPEA), using the methodology of the United Nations

Development Programme. For each state, we take the mean of the scores recorded in the 1991 and 2000 censuses. Source: www.ipeadata.gov.br.

Collor: Binary variable where the value of 1 represents the administration of President Fernando Collor de Mello, from 15 March 1990 to 29 September 1992.

Itamar: Binary variable where the value of 1 represents the administration of President Itamar Franco, from 30 September 1992 to 31 December 1994.

Cardoso: Binary variable where the value of 1 represents the administration of President Fernando Henrique Cardoso, from 1 January 1995 to 31 December 2002.

Lula: Binary variable where the value of 1 represents the administration of President Luiz Inácio Lula da Silva, from 1 January 2003 to the end of data coverage on 31 December 2005.

Endnotes

[i] The Chamber of Deputies authorises impeachment, and the trial is conducted in the Senate. The procedure has been used once, against former President Fernando Collor de Mello in 1992. Although he formally resigned the presidency during his Senate trial, he nonetheless was found guilty and lost his political rights for eight years (Weyland 1993). In 1994, the Supreme Court found Collor innocent of criminal charges but declined to restore his political rights, which he eventually regained in 2000. Collor was elected to the Senate in 2006.

[ii] Confirmation process involves not only questions about the appointee's skills, but it is an opportunity for debating over policies and programs, as well as preferences (James, 2002). Between 1988 and 2004, some 882 officials' nominations were submitted to confirmation in the Senate, which included appointees to Central Bank board, Supreme Court and high court judges, among 36 other offices. The approval rate was 97%, with 1.1% rejected and 1.5% withdrawn by the president. Differently from the United States, military commanders, regular foreign service career employees, cabinet members and federal judges do not undergo a confirmation process. For rules, procedures and a comparative perspective on the confirmation process in Brazil, cf. Lemos and Llanos, 2006.

[iii] Despite the name (which implies that it is an organ of the judicial branch), the TCU is in fact a Congressional institution that performs auditing and/or *ex post* evaluation of government programs and expenditures, either under direct Congressional orders or by its own initiative. Its jurisdiction covers 2,500 public administrative units, and it is intended to be independent and non-partisan.

[iv] The Budget Offices were created after a major budget scandal in Congress, so their origin speaks to internal transparency as much as horizontal accountability. Nonetheless, the *Consultorias* do assist legislators in evaluating and countering the budget proposals by the presidency. The offices produce fiscal and budget reports at the request of individual legislators, as well as give technical support for the Joint Budget Committee during the budgetary process. The *Consultorias* employ only skilled professionals selected through public exams.

[v] The exception is data on hearings. Our data from 1988 to 1994 include only Senate committee hearings, due to the lack of available and reliable information on the Chamber of Deputies side (see Table 2). From 1995 through 2004 we have complete data on hearings in both chambers. If we assume that the ratio of Chamber hearings to Senate hearings in the early years of the constitution was the same as found for 1995-2004 (roughly 1.55:1), this would imply that we are missing data on about 110 cases of Chamber hearings. If these assumptions are correct, the missing data introduce only a minor bias into the dataset, since we would have successfully collected data on 93% of the universe of hearings after 1988.

[vi] Recall again the problem of missing data for Chamber of Deputies hearings between 1988 and 1994. If we make certain reasonable assumptions about those missing data (see previous footnote), the figure here would rise to slightly above 1600 hearings.

[vii] There is also an informal practice in the Brazilian Congress not to use compulsory summoning of ministers but, instead, to 'invite' cabinet members to make an exposition on some issue, as a 'courtesy'. These invitations are not mandatory and do not appear in the system as resolutions, therefore making it impossible to identify and count them. Thus our data underestimate the degree to which ministers actually appear before legislators.

[viii] This Committee had its jurisdiction broadened and was renamed Oversight, Environmental and Human Rights Committee in March 2005 (Resolution no. 1, February 22nd, 2005). It has strong gate-keeping powers, as shown elsewhere (Lemos, 2008): in the Senate, it is the highest-viscosity committee, with 0.2% of bills being reported to the floor.

[ix] Once the bill is approved, the permanent committee functions as a Parliamentary Investigation Committee (CPI), with broad investigative powers, though with not the same public visibility. It keeps the same members and its homogeneity, differently from ordinary CPIs, whose *ad hoc* appointments favour outlier preferences.

[x] Article 61 of the Constitution gives the President exclusive authority to create or rearrange agencies and address career and personnel issues.

[xi] We conducted this procedure for four reasons. First, it is theoretically justifiable to downweight what is clearly the 'easiest' and lowest-cost form of oversight, which has been used on average more than three times per day (including weekends and recesses) since 1988. Second, it proved technically unfeasible to read and code the full sample of nearly 20,000 resolutions. Third, including all of them would mean that resolutions — which make up over 89% of all observed instances of oversight — would dominate the final dataset. Fourth, the easiest solution to this problem — simply deleting resolutions of inquiry altogether from our study — seemed unacceptable to us, given that we would be losing out on some valuable information regarding the content and temporal distribution of resolutions. Thus we adopted a compromise solution: from the universe of 19,954 resolutions of inquiry, we generated a random sample of 998 resolutions (5% of the observed number) and coded their content. We then added this sample of resolutions to complete coverage of the other three forms of oversight. In our adjusted dataset, resolutions of inquiry now make up 30% of the total cases, approximately one third of their weight in reality. These were difficult methodological decisions resulting in a suboptimal outcome, but still we have assembled the most comprehensive dataset available on legislative oversight in Brazil.

[xii] The total number of months should be 195. However, we excluded March 1990 because the first half of the month belonged to the Sarney administration and the second half to the Collor

administration, and we could not determine the target of oversight in some cases. No other month was shared by two presidents.

[xiii] Although we examine oversight activity in both houses of Congress, our coalition size and legislative support variables are based only on the lower house. It is conventional in the literature on Brazil to use data from the Chamber of Deputies as a proxy for the executive-legislative relationship, and moreover politicians and journalists almost always use the Chamber as a yardstick for coalition building and legislative support. The lower house is responsible for 86% of the seats in Congress.

[xiv] Data on the ideology of individual legislators were unavailable, so we are forced to use the left-right placement of an individual's party as a proxy for his/her personal ideology — in other words we assume that every proposer corresponds to the median legislator of his/her party. This procedure leaves much to be desired, but we preferred to adopt this strategy rather than exclude ideology altogether from our models. Moreover, in accepting this measurement error we note that it is sufficiently randomised across more than 3600 cases of individual proposals.

[xv] Senators should be more active in oversight given that (1) senators have longer terms (eight versus four years) and are therefore more politically insulated than deputies; (2) due to the differing electoral systems used for the two chambers, senators have less of an incentive to cultivate a personal vote than deputies (Ames 2002); (3) senators participate in more committees than deputies, allowing them to develop greater levels of expertise (Lemos and Ranincheski 2003); and (4) senators have confirmation powers and exclusive jurisdictions that deputies do not, and thus routinely interact with the executive via 'advice and consent' procedures.

[xvi] Certainly problem of missing data for Chamber hearings from 1988 to 1994 (see note 6) means that we are slightly underestimating oversight in this early period of the constitution. However, it is clear that even complete data from the Chamber side would not alter the basic finding that oversight rose sharply beginning in 1995.

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