Behind Closed Doors: Authorship of Government Legislative Proposals in Multiparty Presidential Systems

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1. Introduction

One of the defining features of presidential systems is the direct election of the president by the people for a fixed term. In presidential systems, the president also has nearly complete control over the formation of the cabinet, which must earn Congressional approval at the time of appointment, but may not be dissolved or modified by it once in place. This arrangement contrasts with that of parliamentary systems where both the prime minister and the cabinet are elected from the parliament and must maintain its confidence to stay in office. In presidential systems the cabinet does not figure as an important player; cabinets are seen as epiphenomenal to the office of the president, congregating a combination of technical experts and presidential confidants who remain in their posts to the extent that they are useful to the president in fulfilling her agenda. We argue in this paper that cabinets matter in presidential systems where there are more than two political parties represented in the legislature. We use the case of Brazil to investigate the role of the cabinet in the production of legislative bills.

The lack of attention to cabinets in presidential systems is perhaps due to the focus on the case of the US as the ideal type presidential system. In the US, the stability of the two-party system precludes the formation of coalitions and makes gridlock and divided government the focus of analysis. In such systems, the cabinet has no role in the negotiation between the branches. As we move away from the case of the US to presidential systems in Latin America and we abandon the condition of two dominant parties, the dynamics of the system began to change, and the cabinet, we argue, becomes an important player.
Existing research on coalition presidentialism in Brazil has shown that the cabinet is formed to represent a parliamentary coalition in support of the president and is necessary for the president to obtain the votes she needs in the legislature. Not much is known, however, about the internal dynamics of the cabinet and the extent of its influence on policy-making.

The central claim that motivates this research is that the manner in which executive authority is constituted in presidential systems matters to the process of law-making and to policy outcomes. Like in parliamentary systems, the process of decision-making within the presidency can be expected to vary with partisan composition, the size of the cabinet, the types of links ministers maintain with their parties, and the strength of the legislature relative to the executive branch. Models of cabinet decision-making in parliamentary systems are used to generate hypotheses for the case of Brazil.

2. Brazil’s *presidencialismo de coalizão*

The independence of the branches that defines presidential systems often leads to the conclusion that presidents have no incentive to form coalitions that include other parties besides their own. As we observe in the case of the US, when the president’s party does not have a majority in the legislature we expect presidents to adjust their legislative strategies to a situation of divided government. In the context of two dominant parties, there is no opportunity to form a coalition. Multi-party coalitions are thought to belong to parliamentary systems, where in the absence of a majority a coalition becomes a necessity. Cheibub, Przeworski, and Saiegh (2004), however, show that coalitions are not exclusively creatures of parliamentary systems. They find that
coalitions form in presidential systems as well, at a rate of over 50% in situations of divided government (for the period 1946-1999) (574). So while presidents always have the option to “govern alone” (568) and negotiate legislative support on an ad hoc basis, they just as often opt to formalize the support they receive from other parties by forming a coalition and distributing ministerial portfolios in exchange for legislative support.

In terms of the legislating powers of the executive, the Brazilian executive could be expected to opt to govern alone. The Constitution gives the president ample legislative prerogatives. The president has the power to initiate legislation concurrently with the legislature. Additionally, Article 61 gives the president exclusive authority to initiate laws creating government employment and establishing government salaries, reorganizing the public administration, and managing the Armed Forces. Article 165 gives the Executive exclusive authority to initiate the budget laws.

The prerogative that has received the most attention is the one that allows the president to initiate laws via provisional decrees (Medidas Provisórias, MPVs). Article 62 allows the president to pass MPVs with the force of law. Between 1988 and 1998, four Brazilian presidents accounted for a total of 516 decrees (average of 4.25 per month), with an average rejection rate by Congress of 5 percent (Pereira, Power and Rennó 2005, 185). Congress made changes to the rules governing MPVs in 1998, when it increased the ability of legislators to introduce amendments and influence their content, and in 2001, by prohibiting the re-editing of decrees that were allowed to lapse by the legislature, but blocking the legislative agenda so as to force Congress to pay attention to the MPV. The use of MPVs did not decline with the introduction of these
changes (Pereira, Power and Renno 2008; Renno 2010). In the period 2002-2009 the average rate of introduction of MPs was 5 per month (Balera 2009).

The president may also initiate legislation via ordinary bills; according to Figueiredo and Limongi, the executive is responsible for introducing 86 percent of all bills enacted into law (2000, 155). The president has other prerogatives, such as the line-item veto and the ability to discharge bills from committees through urgency petitions. Urgency petitions are used frequently by the president contributing to the high rate of approval for the president’s agenda.

It would appear that in the case of Brazil the president has ample powers to govern and can dispense with legislative support. Yet coalitions, with varying degrees of proportionality between legislative seats and ministerial portfolios, have been the norm since 1985. This is consistent with the findings of Cheibub, Przeworski, and Saiegh that coalitions are more likely to form when legislatures are fractionalized and there are a large number of parties (567). The effective number of parties for the lower House in Brazil has been above 6 since 1945, which according to Sartori puts Brazil in the range of “extremely pluralistic” (cited in Samuels 2000, 241). Furthermore, parties in Brazil have been characterized by “their fragility, their ephemeral character, their weak roots in society,” and the autonomy of its members (Mainwaring 1995, 354). These characteristics make ad hoc coalitions difficult and expensive to form, increasing the incentives to form formal coalitions with representation in the cabinet.

The combination of multiple and weak parties, a strong form of federalism, and a presidential system with a bicameral legislature creates for Brazil an “institutional dilemma” that makes legislative coalitions a necessity (Abranches 1988, 7).
government coalitions since 1985 has ranged from two parties, in the case of Sarney’s second coalition, to ten parties, during Lula’s second presidency, and coalitions have reflected anywhere from 26 to 93 percent of the seats in the legislature. The distribution of ministerial portfolios has also varied, with cabinets under Fernando Cardoso showing the highest correspondence between portfolios and seats (70%) during his second presidency (Amorim Neto 14).

The literature on Brazil’s coalition presidentialism has focused almost exclusively on the success of the presidential legislative agenda. Figueiredo and Limongi report a rate of legislative success for the president’s agenda of 78 percent for the period 1989-1997 (2000, 155). They also document voting behavior in support of the president that is much more disciplined than what could be expected given the number and weakness of political parties. Figueiredo and Limongi explain these outcomes as follows:

“[Brazilian presidents] obtained political support more or less the same way as prime ministers, by building government coalitions through the distribution of ministries to political parties and thereby securing the votes they needed in congress” (158).

The existence of government coalitions and their importance to Brazil’s national politics is well established in the literature. With respect to the attributes of coalitions and cabinets, Amorim Neto (2002) analyzes cabinet coalescence (i.e. proportionality between cabinet seats and legislative seat shares) and finds that roll call votes track cabinet coalescence. Cox, Amorim Neto, and McCubbins (2003) also analyze roll call votes and identify an effective majority government during Cardoso’s first term in office, with roll rates below 5%. Pereira, Power and Renno (2005) argue that in better managed coalitions, when cabinet coalescence is high in minimum winning coalitions,
the relationship with Congress is more consensual and there is more delegation to the Executive. Finally, Pereira, Power and Raile (2010) explore how the president manages the coalition, using the offices constitutionally defined powers of the purse and of political nominations, components of the president’s so-called tool kit to allocate perks in exchange for policy. Alston and Muller (2005) also follow this line, arguing that presidents exchange pork for policy when negotiating with the majority coalition.

Figueiredo and Limongi also clearly state that:

“Data shows that the Executive Branch organizes the support for his legislative agenda on partisan basis. Similar to parliamentary regimes, the head of government distributes cabinet positions with the objective of obtaining support from the majority of legislators. Parties that receive cabinet positions become members of the government and should behave as such in Congress, voting in favor of bills the Executive branch initiates” (1999, 13).¹

Figueiredo and Limongi (2009), however, claim that the construction of the governing coalition is based on preference congruence between members, instead of pork or nominations. They go beyond even their earlier work, claiming that the role of the coalition in Congress is not just to support presidential bills and legislative initiatives but to collaborate in the formulation of a single, shared agenda (2009). Hence, in their view, there is no difference between a legislative and an executive branch agenda, but between a majority, or governmental agenda, and a minority, or opposition agenda.

¹ Translation by the authors.
They argue that the governing coalition shares a communal political project and that the executive’s legislative proposals represent the interests of all members of the coalition.

Nonetheless, Figueiredo and Limongi present limited data to back their claim that Brazilian coalitions share a same agenda. They point to common budgetary goals between Congress and the Executive Branch by arguing that there is a correspondence between the proportion of expenditures in the annual budget on different themes proposed by the two branches of government. However, the evidence presented is limited and there is still space for more research on the theme.² Hence, more data is necessary to investigate how coalitions function in Brazil.

In sum, not much else is known about the participation of the cabinet in the conduct of government. This paper focuses on yet another unexplored facet of Brazil’s coalition government: the internal dynamic of the cabinet and its effect on legislative production.

3. The cabinet and the presidency

There is no question that the formulation of the governments’ policy agenda in multiparty presidential regimes is a key unexplored question on the comparative politics literature. This paper seeks to test whether the cabinet matters to policy-making in Brazil. More specifically, the main question is which ministers more often participate in

² In table 2 of their 2009 work, there is no real test of the convergence between the themes (Limongi e Figueiredo 2009, 82). Visual inspection of the abovementioned table provides no conclusive evidence that the order of priority in both branches of government is even moderately related. Only two items of the 14 budgetary categories analyzed coincide in the order of preferences for the Congress and the Executive Branch.
the formulation of the executive branch’s legislative agenda. Furthermore, how does the political and institutional context affect the formulation of such agenda?

This topic has been studied, to a certain extent, in European parliamentary regimes. We start our search for answers to the above questions examining this literature and deriving empirically testable hypotheses applicable to multiparty presidential regimes. We will do so with an eye in the institutional particularities of the Brazilian political system, the case in which we will test the hypotheses with an innovative dataset of bill endorsement by ministers. Adapting theoretical claims made with a specific context to another requires investigating the institutional nuance of the new context. We see this as a fundamental task to make theories travel. Finally, by combining theoretical claims and institutional detail we hope to design a first outline of a theory of cabinet participation in the decision-making process of multiparty presidential regimes.

The approach proposed here, therefore, is not primarily concerned with the formation and termination of cabinets, but in the cabinet’s participation in policy-making process, in what happens in-between formation and termination (Martin and Vanberg 2004). It deals with the dilemma of which cabinet members participate in the decision-making process within the Executive Branch. Consequently, our study is one of executive-legislative relations in presidential regimes, but our focus shifts to the Executive Branch, instead of on how the legislative branch reacts to the governmental agenda, which has been extensively studied in Brazil.

A first point is that in multiparty presidential regimes, government is composed not just by the executive branch but also by members of Congress. Hence, we agree
with Limongi and Figueiredo (2009) that it is more appropriate in multiparty presidential regimes to speak of a government or majority agenda versus a minority or opposition one, instead of executive versus legislative agendas. This clearly differentiates the logic of executive/legislative relations in multiparty presidential systems from two-party systems with divided or unified government.³

A second important point is that the full extent of the government’s policy agenda cannot be defined in a binding agreement when the coalition is formed (Nousiainen 1994). New problems emerge and new solutions need to be re-negotiated during the course of the government. Furthermore, the government formation agreements may be broad and very general, leaving the details to be discussed when the government is in place. Hence, early government formation negotiations may not be binding that there is need for constant negotiation within the cabinet. In such instances, discussing how the coalition is managed in-between elections is fundamental to understand the policy-making process in coalitional systems. A disclaimer here is required. The scenario above may not apply to all countries. As Muller-Rommel argues for the case of Germany, ministers are clearly bound by the coalition policy “treaty”, “which is a very precise agreement over draft bills and leaves hardly any room for deviation or interpretation” (1994, 165). Furthermore, career bureaucrats monitor the implementation

³ Minority governments in multiparty presidential systems would approximate the logic of divided government. However, such configuration of power rarely exists in Brazil and is not preponderant in most presidential systems of Latin America, which combine presidentialism and multiparty systems.
of the treaty. Hence, there is variation in how closely the coalition formation treaty is followed during the administration. Still, space for negotiation is a possibility.

Therefore, our main concern is in identifying ministers’ opportunity to influence the government’s legislative agenda. It has to do, therefore, with ministers’ autonomy in the policy-making process vis-a-vis collective responsibility. Therefore, we must consider what are the institutional mechanisms that generate cooperation among cabinet members. This is also a matter of which policy proposals gain precedence in the government’s agenda. The dilemmas generated by joint policy-making among members of different parties require efforts of coordination within the government and the construction of consensus in the majority in Congress.

The forms of constraint over individual ministers vary cross-nationally, making evident the impressive diversity among parliamentary systems (Laver and Shepsle 1994, 285). The same is true for presidential regimes (Shugart and Carey 1997). We focus below only on coalition systems, which interest us more closely when we think about the multiparty presidential systems of Latin America, leaving out majority party government systems. As will be seen, mechanisms for making ministers accountable to the collective cabinet vary tremendously.

In some countries, such as Norway described by Strom (1994), there are cabinet meetings in which there is a search for consensus in defining the government’s position. If such consensus is not met, then a vote is taken and the majority wins. In the Netherlands, Andewega and Bakema show that ministers are also accountable to the cabinet collectively when it comes to most decisions that extrapolate their immediate jurisdiction (1994). In addition, the once week prime minister has become ever more
present in coordinating the cabinet decisions, not by imposing her will or agenda over coalition members, but by articulating and moderating the propositions born in the different ministries. On the other hand, in Ireland, the Taoiseach (prime minister) is extremely powerful in curtailing minister’s autonomy (Farrell 1994) as is the prime minister in the French Fifth Republic (Thiébault 1994). In fact, in France, all minister’s decisions must be countersigned by the prime minister (Thiébault 1994, 140).

Another source of control over individual ministry’s autonomy is the role played by the Minister of Finance (Farrell 1994). Tight financial control, especially in moments of economic hardship, imposes a significant constraint on minister’s capacity to innovate and advance policy.

Finally, political parties also impose limitations on the functioning of ministers. For instance, in Finland, parties are extremely important in affecting the choices ministers make. As Nousiainen argues, “decision making in coalition cabinets tends to approximate a federalist model, with separate spheres of power for the central power (cabinet) and various subsystems” (1994, 88). There is division and perpetual conflict between coalition interests and party interests and in Finland the latter prevails.

In Brazil, as in all presidential systems, the president appoints cabinet members, who don’t answer directly to Congress, unless explicitly convened to do so by a specific committee. Ministers mostly respond to the president and to their own parties. There is no institutional congregation of the ministers, such as Council of Ministers. The president calls for individual informal meetings with ministers and meets with the full cabinet every once in a while, but this is done mostly as a public event, to state the general outlines of the coalition and to assess its performance. Specific decisions about
public policy within the Executive Branch are done behind closed doors.\textsuperscript{4} Furthermore, negotiations within the coalition also seem to be ongoing during the term. There is no evidence that initial coalition treaties are binding. Quite the contrary, there seems to be a detachment between the initial government program and the annual budgetary law.\textsuperscript{5}

The closed doors we mention above are located in the Palácio do Planalto in Brasília, the President’s official office, and even more specifically, in the Casa Civil, a minister-status position within the Office of the President (\textit{Presidência da República}) that has as main attribution the definition of which proposals from the cabinet will be submitted to Congress. The Ministro Chefe da Casa Civil, or Chief of Staff, is

\textsuperscript{4} The Brazilian government has developed, among several electronic mechanisms to manage information, the \textit{Sistema de Geração e Tramitação de Documentos Oficiais do Governo Federal, SIDOF}, which contains all legal propositions implemented in the Executive Branch, including the internal processing of legislative proposals initiated by all ministers. This system would allow us to map all the legislative initiatives of the ministries, even those that were not successful in being submitted to Congress. However, access to the system, as can be seen in the website \url{http://www.sidof.planalto.gov.br/sidof/}, is limited by Decree nº 4.176 of March 28, 2002. Not even the recently installed freedom of information law in Brazil has opened access to the system, which would be indispensable to follow internal cabinet discussions about which propositions are collectively accepted.

\textsuperscript{5} What more closely approximates the coalition treaty in Brazil is the Plano Plurianual (PPA), submitted in the governments first year and legally valid for four years. The PPA stipulates the general guidelines and main policy projects and goals of the government. How its implementation varies over the years has not yet been systematically investigated. Initial work indicates that there is very little correspondence between the Annual Bugetary Directives Law (LDO), directly derived from the PPA, and the annual budgetary law (LOA) (Pederiva, 20??).
responsible for coordinating the actions of the ministers and formulating the
government’s legislative agenda. The Casa Civil minister meets with the president daily
and often with the other ministers and constructs the articulation between ministries.
Within the Casa Civil, the Subchefia para Assuntos Jurídicos, the Subchefia de Análise
e Acompanhamento de Políticas Públicas Governamentais and the Subchefia de
Articulação e Monitoramento share responsibilities for defining the legislative agenda of
the government, with a more intense role played by the first one.

It is true that “the mere anticipation of parliamentary scrutiny can exercise a
powerful ex ante influence over the content of bills that are drafted by cabinet ministers”
(Martin and Vanberg 2004). However, given the high approval rate of government bills
in Congress in most multiparty presidential systems, it is more likely that the major
hurdle for ministers’ proposals is within the Executive Branch (Figueiredo and Limongi
2000, Saiegh 2010). Therefore, ministers in Brazil must anticipate the reactions of the
Casa Civil and must thoroughly negotiate with it if proposals initiated by the ministers
are to advance to Congress.

Therefore, ministers and their staff must consider the likelihood that the Casa
Civil will accept their proposal. This is the mechanism through which the government
controls that rogue ministers will not abuse their informational advantage over their area
of jurisdiction and impose legislative proposals that are not necessarily in the interest of

6 We believe that congressional amending of executive branch bills is an important research topic in
multiparty presidential systems and shows how active Congress is in affecting policies. But, this is not the focus of
our study here.
the majority. After all, ministers are cross-pressured by partisan, constituency and coalition demands with the latter probably ranking lower in their order of preference.

The Casa Civil, therefore, is the last line of defense for the coalition within the executive branch. It has agenda setting and gatekeeping powers within the executive branch, defining what is submitted to Congress and what isn’t.

Hence, cabinet members must anticipate first how the Casa Civil in the Presidência will react to their proposals. Similarly to the review process in parliament, which is the focus of Martin and Vanberg’s study of Germany and the Netherlands, the Casa Civil also is an “institutional structure that provides tools for parties in the governing coalition to ‘keep tabs on their partners’” (2004, 17). The Casa Civil is the institutional mechanism through which the coalition monitors and decides which proposals from drafting ministers are more in tune with the government’s overall agenda.7

In a way, the centralized process of the Brazilian presidential system seems to be part of a broader movement towards recentralization in many parliamentary and presidential systems (Dahlstrom, Peters and Pierre 2011). The increasing complexity of society and of governing, with ever more present intersectoral policy programs, that cut-across ministries and require coordinated inter-ministerial efforts have increased the need for more steering from the center (Dahlstrom, Peters and Pierre 2011, 267).

7 Legislative scrutiny through the amendment of executive branch initiated proposals is another way in which this happens. But, in Brazil, this is probably secondary to the gate-keeping role of the Casa Civil. Further search on amending is necessary.
Furthermore, there is also an increasing demand for the center of government to monitor and audit the functioning of independent government agencies and multilevel governing structures, so as to assure the quality of public policy (Dahlstrom, Peters and Pierre 2011, 268). What one sees, as a consequence, is an increase in the organizational complexity of presidential and prime ministerial offices as well as more political appointees in the center of government. This process has been inconsistent throughout developed democracies, but the tendency is clearly towards more centralization.

In broader theoretical terms, we can fit the Brazilian case within Laver and Shepsle’s (1994) models of decision-making within cabinets. These range from purely bureaucratic, where cabinets do not matter and decisions are made by appointed bureaucracies, to strictly legislative government, where the cabinet simply follows the directives of the legislature and does not have policy discretion (5-6). The contributors to the Laver and Shepsle volume find no support for pure models of bureaucratic and legislative government, and it is reasonable to rule those models out for the case of Brazil. As implied in the description in the previous section, the legislature in Brazil is too weak for the latter model to be applicable. The power of the president to reshuffle the executive bureaucracy and appoint thousands of civil servants also makes bureaucratic government an unlikely model for Brazil.

The other models of cabinet decision-making discussed in Laver and Shepsle volume range in terms of the collective strength of the cabinet relative to the power of the prime minister, the autonomy of ministries over their portfolios, and the discipline that parties exert on ministers. The typology is based on the effect of partisanship—
overall composition as well as allocation of portfolios—on government policy (8). In the model of prime-ministerial government the partisan composition of the government matters, but the allocation of portfolios across member parties and party factions does not. Brazil’s coalition presidentialism is closest to the prime-ministerial model of government where the chief executive is dominant, ministers are weakly responsible to their parties and have low autonomy over their portfolios. The following section describes the main attributes of presidential cabinets in Brazil we believe influence the production of the executive agenda.

4. Cabinet Attributes and the Presidency

Coalitions since the return to democracy in Brazil have varied in terms of the overall size of the cabinet, the number of parties represented, the weight of the president’s party in the cabinet, and the number of technical, or non-partisan, ministers. Other relevant attributes of the presidency include the number of extraordinary ministries and special secretariats, and the participation of the Casa Civil. The metric of cabinet participation in policy-making used in this paper, and described in more detail in the following section, is the number of ministerial endorsements in legislative bills produced by the executive. We interpret a higher rate of ministerial endorsements of executive bills as an indication of cabinet participation in collective executive policy-making. We interpret a lower number of endorsements, the more frequent endorsement of bills by ministers of the president’s party, non-partisan ministers, or a small number of loyal ministers, to be indicative of policy-making centralized in the hands of the president with low cabinet participation. Overall productivity may also be affected by the ability of the cabinet to act collectively.
SIZE: Since 1990 cabinets have ranged in size from 12 to 23 ministers (Inácio 2006, 18). The overall size of the cabinet, independently of the number of parties represented, may result in lower cabinet participation in policy-making because of the greater difficulty of coordinating a larger number of ministers.

PARTISAN COMPOSITION and IDEOLOGICAL DISTANCE: as mentioned above, Brazil has a large number of parties and high ideological heterogeneity. The number of parties represented in the cabinet has ranged from 2 to 11 in the period 1985-2010 (Amorim Neto, 14). A cabinet with a larger number of parties and/or parties that are ideologically further apart can be expected to have greater coordination challenges and be less productive, and/or rely on a small number of loyal ministers to endorse the president’s legislative agenda.

NON-PARTISAN MINISTERS: the percentage of non-partisan ministers peaked at 63.2% at the end of Cardoso’s second presidency and was the lowest during Lula’s second term, at 12.3% (Amorim Neto, 14). Reliance on ministerial endorsements from non-partisan ministers would indicate a strategy of avoiding the difficulties of decision-making across party lines and policy-making centralized in the presidency.

PRESIDENT’S PARTY: A cabinet that has a higher proportion of ministers from the president’s party should produce more bills with a higher rate of endorsements as collective action problems are lower.

THE CASA CIVIL: the Casa Civil is a ministry linked directly to the President with official advising and coordination functions. All legislative proposals within the cabinet are vetted by the Minister (Chefe) of the Casa Civil, whether initiated by the president or by a line ministry. Unlike other cabinet members, even those belonging to the
president’s party, the loyalty of the Chefe da Casa Civil to the president is unquestioned, and despite not being responsible for any specific policy portfolio the minister is frequently charged with priority policy initiatives of the president. A high rate of endorsement exclusively from the Casa Civil is indicative of a centralized pattern of policy-making and low partisanship.

THE PRESIDENT: holding structural conditions constant, the political skills of the president can improve/hinder collective cabinet policy-making.

5. Endorsements: measuring cabinet participation in policy-making

The internal workings of the presidential cabinet are difficult to examine. Unlike parliamentary systems, where coalitions are formalized in written and publicly disclosed agreements, presidential systems have no formal rules for the formation of coalitions and cabinet decision-making. Media reports and policy case studies provide a glimpse into the president’s style: for example, whether the president ever convenes the entire cabinet; the extents to which presidents rely on the Chefe da Casa to manage the relationship with the cabinet, the reliance on advisers without formal appointment to a cabinet portfolio, etc.

Ministerial endorsements are used in this research to measure cabinet participation in the process of law making. The Ministers who propose the legislative initiative sign it, so we can identify authorship of the Executive Branches initiatives that were processed through the Casa Civil and submitted to Congress. All initiatives were collected from the archives of the Presidency, available online at http://www4.planalto.gov.br/legislacao. In table 1 we present all the different types of legislative proposals coded from January 1995 to July 2011, totaling 4638 initiatives.
This is the first systematic data set of all executive branch initiatives containing their authorship within the government in multiparty presidential systems. We can, therefore, clearly assess who among coalition members participate in the formulation of the government’s legislative agenda.⁸

Table 1 shows that ordinary laws are the most common outcome of the government’s legislative activity.⁹ All the Ordinary Laws and Complementary Laws below have been approved by Congress and were converted into law (approved in the revisionary house and sanctioned by the President). However, as we will explain ahead, several of the ordinary laws are initiated as Provisionary Measures. Since, 79% of Provisional Measures (MP) were approved, a good portion of the laws above were originated through this extraordinary means of legislating.¹⁰

Table 1 also presents the frequency and percentage in which extraordinary budgetary credits are requested through ordinary legislation and Provisionary Measures. This type of legislation requests authorization from the Congress to increase

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⁸ We do not have access to legislative proposals within the Executive Branch that do not make it to Congress. Law, as mentioned in footnote 4, protects such information.

⁹ Keep in mind that the count of the ordinary and complementary laws is based on the data the law was published in the Diário Oficial, the official registrar of the government. However, this date is the culmination of a very complex process that involves approval in two legislative houses and sanctioning by the president. So the approved law could have been initiated many years before, by a distinct administration.

¹⁰ 4% of all MPs were rejected, Congress was still analyzing 8% of them when data collection was completed (January 2012), and the remaining were archived or lost effectiveness because another bill or MP replaced it.
the budget of specific ministries or bureaucratic agencies, including the National Development Bank, given unpredicted rises in tax collection (which occur most often than not). As can be seen below, this type of legislative action is quite common. It does not, therefore, lead to any new law added to codes, but allocates temporarily funds to a specific public organization and then losses validity.

Table 1: Type of Legislative Initiative by the Executive Branch: Brazil 1995-2011

<table>
<thead>
<tr>
<th>Type</th>
<th>Other Legislation</th>
<th>Credit Request</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinary Law</td>
<td>2057</td>
<td>1413</td>
<td>3.47</td>
</tr>
<tr>
<td></td>
<td>(59.28)</td>
<td>(40.72)</td>
<td>(100)</td>
</tr>
<tr>
<td>Complementary Law</td>
<td>57</td>
<td>0</td>
<td>57</td>
</tr>
<tr>
<td></td>
<td>(100)</td>
<td>(0)</td>
<td>(100)</td>
</tr>
<tr>
<td>Provisional Measure</td>
<td>699</td>
<td>156</td>
<td>855</td>
</tr>
<tr>
<td></td>
<td>(81.75)</td>
<td>(18.25)</td>
<td>(100)</td>
</tr>
<tr>
<td>Constitutional Amendment Proposal</td>
<td>14</td>
<td>0</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>(100)</td>
<td>(0)</td>
<td>(100)</td>
</tr>
<tr>
<td>Legislative Bill</td>
<td>242</td>
<td>0</td>
<td>242</td>
</tr>
<tr>
<td></td>
<td>(100)</td>
<td>(0)</td>
<td>(100)</td>
</tr>
<tr>
<td>Total</td>
<td>3069</td>
<td>1569</td>
<td>4638</td>
</tr>
<tr>
<td></td>
<td>(66.17)</td>
<td>(33.83)</td>
<td>(100)</td>
</tr>
</tbody>
</table>

Figure 1 presents the evolution of the executive branch’s legislative agenda over the years in absolute values for the total number of initiatives and the two most common forms, MPs and Ordinary Laws. The percentage of the total per year is presented in the x-axis, along side the year.

2001 was the year with the highest number of legislative initiatives: 392, totaling 8.45% of all 4638 initiatives in the dataset. Of the 392, 129 were provisionary measures. All other legislative proposals had similar values as prior years. The 2001 peak, therefore, occurred because of the MP reform of September 11, 2001, which
prohibited the re-edition of MPs. Hence, the days prior to the reform saw great MP activity because the new rule stipulated that all MPs in existence at the time of the reform would be transformed into law. So, the executive branch took advantage of the situation and rushed to implement policy through this mechanism (Pereira, Power, and Renno 2005). Hence, with the exception of 2001 (and maybe 2009, also a year that follows relevant reactions from the Legislative and Judiciary branches regarding MPs (Renno 2010)) the legislative productivity of the government per year is quite uniform.\footnote{The steep downfall in 2011 is because we have data only for half the year then.}

Figure 1: Executive Branch Legislative Proposals over time, Brazil from 1995-2011.

It must be highlighted that some of the MPs are transformed into law, but they have different authors within the executive branch. For instance, MP 511 of 2010 was signed by the Ministry of Finance, Guido Mantega of the PT, but when it was transformed into law it was co-signed by Mantega and three other ministers: Planning, Industry and Development, and Transportation. The content of the Law is much more detailed than that of the MP and the processes for the elaboration of both initiatives are distinct, involving different actors. Hence, they must be analyzed separately.
Figure 2 contains information that pertains more closely to our research questions. It presents the percentage of legislative proposals signed by different numbers of ministers. Therefore, this provides some evidence of how often we should expect collaboration among ministers. A single minister signs the majority of cases (over 60% of the legislative proposals). Hence, coordination among ministers and crosscutting legislation that deals with intersectoral projects are in the minority. The scope of most legislative proposals, apparently, is concentrated in the jurisdiction of a single ministry.

Based on the above figure, we also have some insight about the role played by the Casa Civil. Apparently, the Casa Civil does not sign a relevant number of legislative initiatives: 4% of all initiatives. Of these, a third were advanced by the Casa Civil alone, which totals 68 cases of the entire universe analyzed. Of the all the legislative initiatives that were initiated by a single minister, those authored by the Chefe da Casa Civil correspond to only two percent. Hence, we can discard the hypothesis of centralization in the Casa Civil of legislative proposal authorship within the government. In fact, given the high incidence of legislative proposals initiated by a single author, as shown in Figure 2 below, the tasks of inter-ministerial coordination in the elaboration of joint proposals apparently is also uncommon. Does this mean the Casa Civil has a limited role in organizing the agenda? Not really, the story here is that it serves a role of gatekeeping in the government: defining which proposals make it or not to Congress. Studies based on interviews with occupants of this position provide some evidence in this direction.
Figure 2: Number of Ministers who co-sign Legislative Proposals, Brazil 1995-2011.

Figure 3 shows which ministries are more active in Brazil. Planning, Finance and Justice are the top three authors of legislative proposals within the Executive Branch. This is expected since the jurisdictions of these ministries are quite broad, affecting the functioning of the entire cabinet. This replicates the situation of the European parliamentary regimes mentioned above, where the Minister of Finance, along side the Prime Minister tend to have more influence over the collective decisions of the cabinet. In Brazil we add to this the ministers of planning and justice. The former has influence because government decisions are, to a great extent, aimed at changes in the administrative structure of the government, with the creation of new agencies and changes in career structures, all of which directly involve the planning ministry. The justice department is responsible for legal counseling of the proposals and for laws that
regard changes in legal codes. Following those, one sees relevance in the ministries of education, development, industry and commerce and transportation. Hence, by using this dataset, one can also propose a ranking of the importance of ministries within the organizational structure of the executive branch, something that has been elusive to prior research on coalition management. In the appendix we rank the ministers by each administration regarding their participation in the formulation of the executive branch legislative agenda.

Figure 3: Authorship of Legislative Proposals by Ministries, Brazil 1995-2011

The next issue is which ministers from the different parties are more active in signing executive branch legislative proposals? The results clearly indicate the leadership of the presidents’ parties in the formulation of policy within the cabinet. The Workers’ Party (PT) and the Brazilian Social Democratic Party (PSDB), from presidents
Lula and Dilma and Cardoso, respectively, are the top two actors in defining the legislative agenda of the executive branch. A distant third place is that of the Brazilian Democratic Movement Party (PMDB), which has been a major partner of both the PSDB and the PT in government. A third interesting finding is that the parties of the vice-presidents, Republic’s Party (PR) under Lula and Democrats (DEM, former PFL) under Cardoso also made their mark. Technical appointees are also major legislators within the executive branch.

It is interesting to note that there a significant number of members of Congress (CN) that join the executive branch in co-signing a legislative bill. This indicates that, in some occasions, members of Congress participate in the decision making within the Executive branch. Furthermore, the process of decision-making within the executive branch is usually conducted by individual ministers, who sign legislation attaining to their jurisdiction and that cooperation between ministers is rare.

Figure 4: Total Number of Proposals by Party, Brazil 1995-2011.
The data above gives us an idea of the legislative activism of the Executive Branch and of the distribution of legislative proposals' authorship by the cabinet. We’ve learned that the process of lawmaking in the Executive has been dominated in the past 16 years by the two parties that head the governing coalitions: the PT and the PSDB. We’ve learned that the ministers of Finance, as expected, but also Planning and Justice are central participants in the executive’s legislative formulation process. We also were able to test one of our hypothesis: the Centralization of power in the Casa Civil. If that power does exist, it is much more one of gate keeping than of positive agenda setting, of proposing legislation, especially unilaterally. Two thirds of the time the Chefe da Casa Civil is involved in lawmaking, this is done in collaboration with other ministers. Even though descriptive, this data provides new insights about how cabinets function in multiparty presidential systems. Next, we test our hypotheses about how the structure of the cabinet, its composition, coalescence and size (in relation to the number of seats held by the coalition in Congress) affect the autonomy of ministers in proposing legislation.

6. Cabinet Characteristics and Legislative Initiative

In the analysis that follows, we explore the determinants of legislative authorship by the cabinet. To do this, we collapsed our dataset into a monthly time-series format, covering the period between January 1995 and December 2010. Our main dependent variable is the ratio of legislative production by ministers from the president's party. This is a measure of concentration of the legislative agenda and an indicator of how inclusive the coalition is to the formulation of legislative proposals. We also test the determinants
for the concentration on technical ministers. Are there contextual factors, therefore, that explain the two dimensions above of how the cabinet functions in its lawmaking ability?

We focus on three major sets of explanations. The first and most important for us refer to the characteristics of the cabinet. Our main hypothesis here is that more ideologically heterogeneous the cabinet, the more likely it is for there to be concentration of the legislative agenda in the President’s party. The reasoning behind this hypothesis is simple: a more heterogeneous cabinet is one in which policy agreement between the parts is lower than in more homogeneous cabinets. Therefore, the President’s party may have more divergences with other members of the coalition and delegate less space for them to influence the collective agenda of the Executive Branch. In fact, there might be a trade-off going on: the President allows the minister from a different party, not necessarily aligned with his own party, to freely maneuver within its jurisdiction in exchange for not participating in the construction of what becomes the Executive Branch’s legislative agenda. Hence, the more heterogeneity there is, the more concentration of power in the President’s party.

We use a unique measure of ideological preference provided by Zucco and colleagues. The cabinet heterogeneity variable was created based on survey responses by Brazilian federal deputies in all legislatures since 1990. It uses composite indices of ideological positions based on survey items generated by Zucco and Lauderdale (2011) and Zucco and Power (2011). In the original dataset, these indices are first calculated at the level of deputies and then aggregated at the party level. The ideological divide variable is the mean difference in the ideological positions of the parties that compose
the governing coalition. This is our central independent variable in the analysis that follows.

We also include another characteristic of the cabinet as a key explanatory variable: the number of parties in the cabinet. The expectation here is that the more parties in the cabinet, the greater the chance for more fragmentation in the production of the legislative agenda. This is due for purely numerical reasons. However, we expect that ideological divide is a stronger predictor of legislative initiative concentration because it more closely approximates how parties within the coalition interact and negotiate.

We also take into consideration the characteristics of executive/legislative relations when explaining productivity. How the cabinet works should be a consequence of how the coalition is managed within Congress. Hence, we measure cohesiveness of governing coalition, the size of the coalitions, the proportionality in the distribution of cabinet positions among the parties in the governing coalition, and the ideological distance between governing and opposition coalitions.

We measure the degree of cohesion of governing coalitions using the Rice index of cohesion, calculated by an absolute difference in the percentages of those voting yes and those voting no in a coalition. We calculate the monthly index for each of these coalitions on every roll call vote recorded in Cebrap’s legislative database for the Chamber of Deputies.

Patronage and coalition satisfaction are admittedly difficult concepts to measure. We use Amorim Neto’s (2002, 2010) cabinet coalescence rates to measure proportionality of cabinet distribution and, by implication, relative satisfaction among
coalition partners. The Cabinet coalescence rate is the proportionality in percentages between the share of congressional seats in the Chamber of Deputies held by parties in government and their ministerial shares in the cabinet. Ministerial posts give authority over valuable patronage resources and policy and are therefore highly contested positions. Parties in a governing coalition are likely to be more content when the allocation of cabinet posts reflects their legislative weights in Congress, and conversely less likely to be content when there is a substantial gap between their cabinet shares and legislative weights. When there is no correspondence between cabinet shares and legislative seats, the index takes a value of 0 and perfect correspondence between cabinet shares and legislative weights takes a value of 100. The cabinet coalescence rate changes every time there was a change in the cabinet's partisan composition.

The Government-opposition ideological divide is our measure of inter-coalition conflict. This variable was created based on survey responses by Brazilian federal deputies in all legislatures since 1990. It uses composite indices of ideological positions based on survey items generated by Zucco and Lauderdale (2011) and Zucco and Power (2011). In the original dataset, these indices are first calculated at the level of deputies and then aggregated at the party level. The ideological divide variable is the difference in the mean ideological positions of the parties that compose the governing or opposition coalition.

A last variable measuring the level of conflict in Congress is the ratio of obstructionist votes to all votes in a given month. This variable takes into consideration all roll call votes in Congress during the period and calculates the proportion of them related to maneuvers to postpone final decision.
Finally, we take into consideration the characteristics of the agenda. A legislative agenda that is more concentrated in extraordinary means of governing, such as Provisional Measures (MPs), should also concentrate more the legislative production within the cabinet. On the other hand, a larger legislative agenda opens room for more collaboration of coalition members.

In addition, we control for several events that may affect the functioning of the cabinet, such as corruption scandals, electoral and legislative cycles, presidential administration and popularity, among others.

Table 2 summarizes all independent variables and their expected effects on our dependent variables.

Table 2: Expected Effects of Independent Variables on Dependent Variables

<table>
<thead>
<tr>
<th>VARIABLES</th>
<th>Effect Concentration – President Party</th>
<th>Effect Concentration – Technical Min.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive/Legislative Relations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cabinet Size</td>
<td>-</td>
<td>+</td>
</tr>
<tr>
<td>Cabinet Coalescence</td>
<td>-</td>
<td>+</td>
</tr>
<tr>
<td>Size*Coalescence</td>
<td>+</td>
<td>-</td>
</tr>
<tr>
<td>Obstruction Ratio</td>
<td>-</td>
<td>+</td>
</tr>
<tr>
<td>Ideological Difference</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Opposition</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agenda Characteristics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ratio Provisionary Measures</td>
<td>+</td>
<td>-</td>
</tr>
<tr>
<td>Number of Initiatives</td>
<td>-</td>
<td>+</td>
</tr>
<tr>
<td>Cabinet Characteristics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ratio Casa Civil Production</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Number of Parties in Cabinet</td>
<td>-</td>
<td>+</td>
</tr>
<tr>
<td>Cabinet Ideological Heterogeneity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Controls</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lula</td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>Mensalão Scandal</td>
<td>+</td>
<td></td>
</tr>
</tbody>
</table>
Finally, table 3 presents the OLS results for our analysis. The Durbin-Watson statistic does not indicate serious auto-correlation problems, so a lagged dependent variable is not included in the analysis.\footnote{We ran Prais-Winsten Regressions and the adjusted Durbin-Watson statistic fared worst in such models.} We find that our main hypothesis holds: more heterogeneous cabinets lead to more concentration on the president’s party. We also find effects for some variables related to executive/legislative relations, such as the ratio of obstructionism in Congress.

Table 3: OLS Regression for Ministers Legislative Initiatives, Brazil, 1995-2010.

<table>
<thead>
<tr>
<th>VARIABLES</th>
<th>Ratio Pres. Party</th>
<th>Ratio Tech. Ministers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Executive/Legislative Relations</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cabinet Size</td>
<td>-0.01***</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>(0.005)</td>
<td>(0.004)</td>
</tr>
<tr>
<td>Cabinet Coalescence</td>
<td>-0.00</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>(0.002)</td>
<td>(0.002)</td>
</tr>
<tr>
<td>Cabinet Size*Coalescence</td>
<td>0.00</td>
<td>-0.00***</td>
</tr>
<tr>
<td></td>
<td>(0.000)</td>
<td>(0.000)</td>
</tr>
<tr>
<td>Obstruction Ratio</td>
<td>-0.11**</td>
<td>0.05</td>
</tr>
<tr>
<td></td>
<td>(0.046)</td>
<td>(0.034)</td>
</tr>
<tr>
<td>Ideological Difference with Opposition</td>
<td>0.12*</td>
<td>-0.04</td>
</tr>
<tr>
<td></td>
<td>(0.069)</td>
<td>(0.063)</td>
</tr>
<tr>
<td><strong>Agenda Characteristics</strong></td>
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<td></td>
</tr>
<tr>
<td>Ratio MP</td>
<td>0.13*</td>
<td>0.01</td>
</tr>
<tr>
<td></td>
<td>(0.067)</td>
<td>(0.044)</td>
</tr>
<tr>
<td>Initiative</td>
<td>Coefficient 1</td>
<td>Coefficient 2</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>---------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Initiatives</td>
<td>0.00***</td>
<td>-0.00***</td>
</tr>
<tr>
<td><strong>Cabinet Characteristics</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ratio Casa Civil Production</td>
<td>-0.03</td>
<td>0.01</td>
</tr>
<tr>
<td>Number of Parties in Cabinet</td>
<td>0.00</td>
<td>0.01</td>
</tr>
<tr>
<td>Cabinet Ideological Heterogeneity</td>
<td>0.56**</td>
<td>-0.22</td>
</tr>
<tr>
<td><strong>Controls: Events, Rules, Cycles</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mensalao</td>
<td>0.07</td>
<td>-0.05</td>
</tr>
<tr>
<td>Re-election Rule</td>
<td>0.03</td>
<td>0.01</td>
</tr>
<tr>
<td>Second Term</td>
<td>0.12**</td>
<td>-0.06*</td>
</tr>
<tr>
<td>Election Cycle</td>
<td>0.19**</td>
<td>-0.03</td>
</tr>
<tr>
<td>Legislative Honeymoon</td>
<td>-0.08</td>
<td>0.02</td>
</tr>
<tr>
<td>Presidential Popularity</td>
<td>-0.00***</td>
<td>-0.00</td>
</tr>
<tr>
<td>Lula Administration</td>
<td>0.28**</td>
<td>-0.04</td>
</tr>
<tr>
<td>Constant</td>
<td>0.54**</td>
<td>0.21</td>
</tr>
<tr>
<td>Observations</td>
<td>168</td>
<td>168</td>
</tr>
<tr>
<td>R-squared</td>
<td>0.403</td>
<td>0.192</td>
</tr>
<tr>
<td>Durbin Watson Statistic</td>
<td>1.915</td>
<td>1.932</td>
</tr>
</tbody>
</table>

Robust standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

7. Conclusions

This paper provides a first attempt to analyze the construction of the government’s legislative agenda in the Executive Branch. We test different hypotheses about how the characteristics of the cabinet, of executive/legislative relations and of the legislative agenda itself influence the level of concentration in the production of
legislative initiatives in the government. Our main hypothesis, that the more heterogeneous ideologically the cabinet is, the higher the level of concentration in the president’s party. Hence, we now know a bit more about how the government’s agenda is constructed in multiparty presidential regimes.

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