

El Senado Brasileño: Deberes y facultades en un escenario de cambio institucional

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Introduction

- Brazil is a presidential system and federate State with 27 federated units: 26 states and the Federal District.
- It is a bicameral system at the federal level and unicameral at the state and municipal levels (5565).
- At the federal level there is the Chamber of Deputies and the Federal Senate.
- At the state level there is the State Assembly, with State Deputies and at the municipal level, the Chamber of Councilpersons (vereadores).
- Brazil is a multiparty system with 20 political parties represented in the Legislative Branch; 9 effective political parties after the 2022 elections (Second most fragmented legislative in the world).
- Legislative elections are open-list proportional representation in the Chamber of Deputies and a plurality system in the Senate.

The Brazilian Senate: Basic Facts

- 81 Senators representing the Brazilian federated units: three (3) senators per state and the Federal District.
- Senators and collectivities in the Senate (caucuses, parties, committees) can initiate legislation on almost any topic (except those dealing with the organization of the executive branch and its budget).
- The Legislative Branch can amend the Annual Budgetary Law initiated by the Executive Branch through the so-called Budgetary Amendments.
- Senators have eight (8) year mandates, without term limits, with alternated renovations of 1/3 and 2/3 every four years.

Brazilian Symmetrical Bicameralism

- Navette System of decision making.
 - Senate is revising house for bills originated in the Executive Branch, introduced first in the Chamber of Deputies.
 - Senate and Chamber are initiating houses for all types of legislative propositions: Law Projects, Constitutional Amendments, Complementary Laws, Legislative Decrees, procedural requests.
- Hierarchical structures are very similar in both houses.
- Senate committees have terminative power: bills only go to the floor if requested by 10% of Senators. Same as in the Chamber, where it is called conclusive power.
- Senate and Chamber have identical bill proposition and procedural requests prerogatives.
- President of the Senate is also the President of Congress for joint meetings, including the Joint Committee that analyses Medidas Provisórias.
- President of the Senate has more control over legislative agenda than the President of the Chamber of Deputies, who decides with the Colégio de Líderes.

Explaining the Functioning of the Brazilian Political System.

- Multiparty presidentialism poses challenges for governability: need for coalitions to construct majorities in Congress.
- Presidential preponderance in the legislative process based on centralization of powers:
 - Discretion over the federal budget (contingency measures);
 - Extraordinary means of legislating (medidas provisórias);
 - Nomination over offices in the Executive Branch.
 - Centralization of decision making in the Chamber of Deputies and Senate: President of each house defines the agenda of the floor.
 - Predominant role of the Chamber of Deputies in bills originated by the Executive Branch.

Legislative Aggrandizement

- Continued processes of institutional change favoring the Legislative Branch have weakened Presidential preponderance:
 - Individual and State Caucus Budgetary Amendments are mandatory after reforms in 2015, up to 2% and 1% of the Current Federal Revenue and 50% must be destined to the Health Ministry.
 - Senators can propose 25 amendments allocating R\$69,6 Million (US\$12,7 Million).
 - Federal Deputies can propose 25 amendments allocating R\$37,8 Million (US\$6,9 Million).
 - Significant restrictions on the use of Medidas Provisórias over continuous institutional changes.
 - Prohibition of re-editions.
 - Enhanced amending of MPs by Legislators.
 - Loss of validity after 120 days if not deliberated by both Chambers.
 - Presidential Vetoes voted by both houses; significant number of vetoes overturned after 2013.

New political dynamics: redefining governability

- Increased conflict between Senate and Chamber of Deputies' Presidents, given legislative aggrandizement. Dispute for power.
- Increased conflict between a more conservative Congress and a more liberal Supreme Court, with limited and decreasing involvement of the Executive branch:
 - Discussions on abortion and drug decriminalization.
- Increased polarization: emergence of radical right with Jair Bolsonaro and the strengthening of the Partido Liberal (PL).
- Executive branch focuses on economic agenda; silent on moral and social issues. Policy concessions in the absence of other negotiation tools.
- Is Brazil moving closer to a parliamentary system?