

BRAZILIAN PUBLIC ADMINISTRATION, IT'S FEDERALISM AND INEFFICIENCY: A COMPARATIVE STUDY

Julio Freitas Konrad¹
Marcelo De Sa Mendes²
Marina Gondin Ramos³
Ronaldo Neves De Moura Filho⁴

Brazil has a specific kind of bottom-up federalism which public power is located in the autonomy of the free individuals. As DELLAVALLE⁵ argues:

In Hobbes's vision, power is ascending to the extent that it is no longer seen as an element that the given political authority deduces from divine law or from its own alleged natural superiority. Rather, it arises from the original freedom and independence of individuals, who create the sovereign authority by an act of free will, i.e., by transferring their rights to the newly established public power in order to ensure an adequate protection of the individual entitlements on the basis of the legitimacy emanating from the same fundament of social order.

Brazilian federalism was institutionalized by the 1891 Constitution, inspired by United States federalism, however it is far more centralized than it is in Canada or in the United States. It was very important to maintain its national unity. In this sense, ROSENN⁶ when explaining the adoption of federalism in Brazil argues that

Brazil did not adopt federalism for the traditional reasons of uniting polities that had previously been sovereign entities, nor as a device to govern different ethnic, linguistic, or religious groups. Indeed, there was no serious bargaining among the members of the

¹ Possui graduação em Relações Internacionais pela UnB e MBA em Gestão de Negócios pela ESALQ/USP. Atualmente é Assistente Administrativo na BB Seguridade e mestrando em Economia pelo IDP.

² Possui graduação em Direito pela Universidade Federal da Bahia. Pós graduado em Estudos Jurídicos Avançados pela Universidade Autônoma de Barcelona. É especialista em Direito Administrativo e Direito Processual Civil, ambas pelo IDP. Atualmente é Procurador do Estado de Roraima - categoria especial - lotado na Coordenadoria de Brasília da PGE/RR e Mestrando em Economia pelo IDP.

³ Possui graduação em Direito pela Universidade Federal de Santa Catarina, especialização em Administração de Empresas pelo Fundação Getúlio Vargas e especialização em Direito Processual Civil pelo IDP. Atualmente é Sócia da Gondin Ramos e Figueiredo Advocacia e Mestranda em Economia pelo IDP.

⁴ Bacharel em Direito pela Universidade Federal de Uberlândia e especialista em Direito Tributário pelo Instituto Brasileiro de Estudos Tributários (IBET). Mestrando em Administração Pública no Instituto Brasileiro de Direito Público IDP e Servidor de carreira da Anatel desde 2009,

⁵ DELLAVALLE, Sergio; **"Top-down" vs. "Bottom-up": A Dichotomy of Paradigms for the Legitimation of Public Power in the EU**; Perspectives on Federalism, Vol. 9, issue 2, 2017. Available from > http://on-federalism.eu/attachments/258_download.pdf

⁶ ROSENN, Keith S.; **Federalism in Brazil**; 43 Duq. L. Rev. 577 (2005). Available from > https://repository.law.miami.edu/cgi/viewcontent.cgi?article=1168&context=fac_articles. access on 03 Sept. 2019.

federation about its future characteristics; the virtually powerless former provinces were simply converted into quasi-sovereign states, first by military fiat and later by the 1891 Constitution. The Brazilians adopted federalism as a reaction against the Empire's authoritarian, heavily centralized rule in a country with enormous size and distinct regions with quite different traditions.

Moreover, the 1988 Constitution which remains valid and represents the New Republic in Brazil, guarantees to the states only powers that are not forbidden to them. It is not granted any exclusive power to the states themselves. Some of them are established by concurrent powers⁷. This explains why the authority of federal government is so extensive and centralized.

In such a big country like Brazil, the most difficult challenge is to maintain a fair balance between the resources and responsibilities of the federal, state and local government. Brazilian federalism centralizes too much of the resource at a federal level and decentralizes responsibilities to the states and local levels, implicating in a lack of material resources.

The first conclusion is the fact that the Brazilian state is not efficient as it should be once the state and local government don't have enough material and funding resource to build and develop a public policy themselves. It happens because the Constitution don't established the power or authority necessary for state and local government and also because they don't have the necessary budgetary resources.

There is no doubt that government at local and state levels is responsible for many assignments that directly interferes in any citizen daily life, such as: public health, basic education, public transportation and public security, among others. However, such policies always need a high budget, along with strategic and coordinated action with the federal government, which most of the time they are not able to do it.

Ribeiro⁸ analyzing a public health policy in the context of Brazilian federalism concluded that

Brazil's centralized federal system does not produce strong coordination of health policy at local level. The competitive aspect of federalism at the subnational level and socioeconomic factors highlighted in the specialized literature represent stiff obstacles to the effectiveness of redistributive policies and should be the subject of in-depth research as should the failures of state government coordination.

This entire context is even worse because the 1988 Constitution ensures a declaration of individual rights and establishes a proper welfare state in a country with high social inequality, making the challenge even more difficult. Therefore, there is no efficiency

⁷ In the area of concurrent power, the federal government's power is limited to establishing general rules and the states may adopt only supplementary legislation.

⁸ RIBEIRO, José Mendes et al . **Federalism and health policy in Brazil: institutional features and regional inequalities**. Available from > <http://dx.doi.org/10.1590/1413-81232018236.07932018>>. access on 03 Sept. 2019.

delivered to public policies and many controversial constitutional problems are addressed to lawsuits and constitutional acts overloading the Judiciary.

The complexity of the Brazilian federalism responsibilities – fundamental rights, public health and education policies, environmental protection or indigenous lands – leads to the judicialization of political and social relationships. Most of them are caused by the fact that there is no clear position which level of government would have the responsibility or must pay the cost of their implementation.

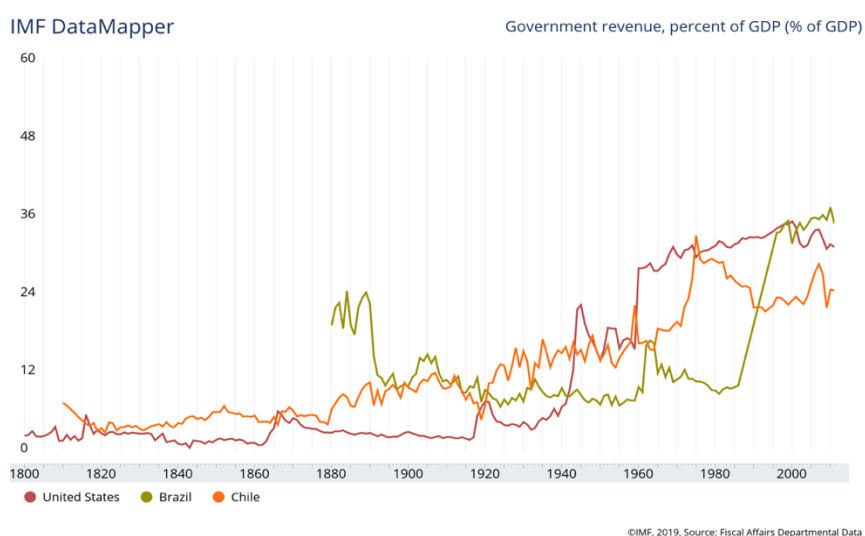
The problem to deliver public policies in such a big country like Brazil is a federalism challenge. Decentralizing power and providing material resources to state and local levels would enable them to delivery their own public policies. As they are closer to the people, they would be able to satisfy the deepest wishes of its people.

Comparative studies on public expenditure and Government Effectiveness

As countries struggle to find balance between a centralized model of public policy or to decentralize state power into a federalist model that distribute some of the power and resources to local governments, the discussion should include the quality of government spending, since the argument of the size of the state relative to the national economy do not provide a clear answer to this issue.

For instance, the size of the government revenue from the economy doesn't always reflects clearly in public spending. In data from the IMF, in 2011, the Brazilian government revenue represented 35.01% of the Gross Domestic Product, and United States stood behind with its revenue taking 31.39% of its GDP and Chile lagging way behind, with a smaller government footprint of 24.72% of the GDP, like shown in Figure 1 below.

Figure 1



Although the size of government impacts deeply in the perception of the burden the state represents in the population, the way governments spend this money is the way

society have to correct some inevitable market flaws. But in the side of expenditure, United States uses 41.45% of its GDP, Brazil 37.63% and Chile 23.30% in its programs (Figure 2). It shows inefficiency both in Brazil and US, constantly increasing their debt:

Figure 2

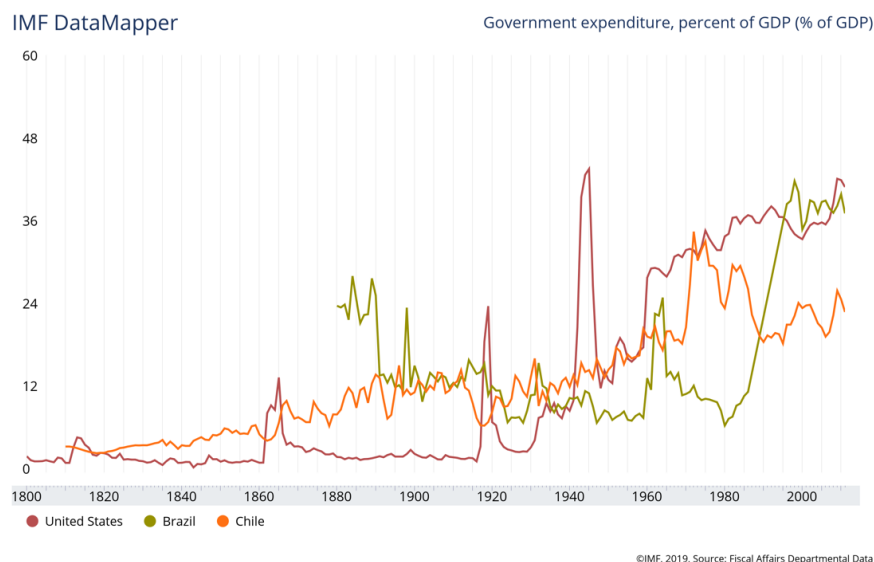


Figure 3

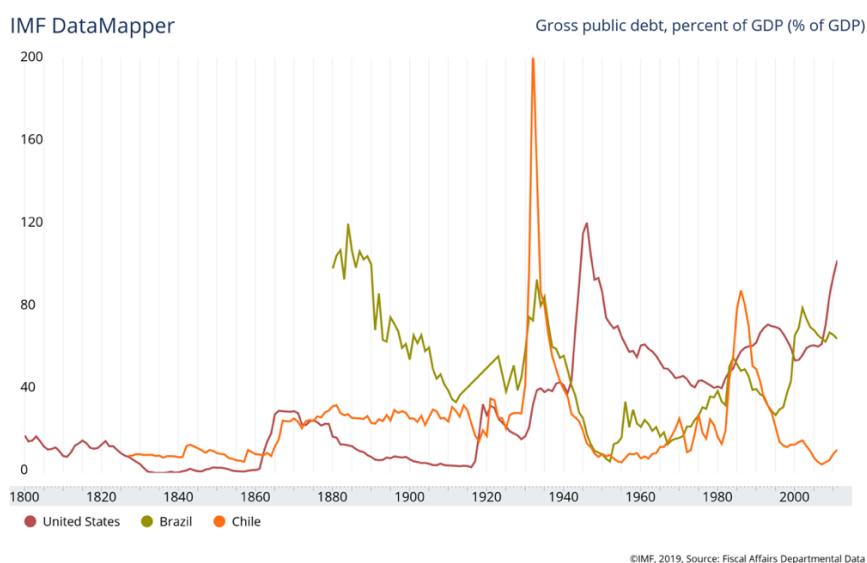


Figure 3 shows the public debt in percent of the GDP, and since it skyrocket in the 1940's and 1980's, Chile adopted a responsible fiscal approach to its public debt and is today, comfortably, sits in 11.25% of the GDP. US and Brazil are now around 102.93% and 64.94% in debt, respectively. The size of the debt and the way government spent tax money reflect directly in the interests paid for its public debts (Figure 4).

Figure 4

United States 	2.27
Brazil 	5.71
Chile 	0.08

Other factors affect the public perception of state efficiency, amongst them, corruption is of uttermost importance for the trust of a population on its rulers, and by inference, in their perception of state effectiveness, as said by Delavallade⁹:

In all countries, and more noticeably in developing countries, corruption is detrimental to state efficiency. It hampers budget equilibrium, diminishes expenditure efficiency and distorts its allocation between different budgetary functions.

Its also stated by Delavallade that Chile is the least corrupt developing country. The sum of responsible spending, low impact in the economy, and control in corruption translates to the better perception of Government Effectiveness by the population. This indicator puts Brazil, with all its 37% of GDP expenditure, with 41.83% of Government Effectiveness, against 77.88% from Chile and 92.79% from the United States.

Indicator	Country	Year	Number of Sources	Governance Score (-2.5 to +2.5)	Percentile Rank (0 to 100)	Standard Error
Government Effectiveness	Brazil	2007	11	-0.21	48.06	0.19
		2012	11	-0.13	49.76	0.19
		2017	10	-0.29	41.83	0.20
	Chile	2007	11	1.28	87.38	0.19
		2012	10	1.26	86.26	0.20
		2017	9	0.85	77.88	0.21
	United States	2007	7	1.65	93.20	0.22
		2012	7	1.53	90.52	0.22
		2017	7	1.55	92.79	0.22

Conclusion

In his work *Political order and political decay* Fukuyama¹⁰ assures that institutions were the products of contingent historical circumstances and accidents that are unlikely to be duplicated by other differently situated societies.

Brazilian institutions are not an exception to this. As commented above there is a long and complex causal chain that resulted in the present frame of federalism and its division of competences.

More than this recognition Fukuyama's insight is a word of caution about simplistic solutions to the challenges faced by any country in the world. This means that improving

⁹ DELAVALLADE, Clara. **Corruption and Distribution of Public Spending in Developing Countries**, Journal of Economics and Finance. 2006/06/01 (P 222 – 239)

¹⁰ FUKUYAMA Francis, **Political Order and Political Decay: From the Industrial Revolution to the Globalization of Democracy**. Profile books, 2014.

our federalism and so the level of our public policies cannot be achieved by copying solutions built in developed countries for example.

Starting from a comprehensive international benchmark could be a way to find new paths toward desirable outcomes. Even a simple comparison as that above explained brings unexpected possibilities. Comparisons between countries that face similar problems could be undoubtedly useful. However, it is never enough.

The success to any change in a country's institutional structure has to be found in a deep understanding of its own history and characteristics. Besides it is necessary a solid commitment between society and the political and bureaucratic structures. A non-functional federalism blocks a full commitment at least for the lack of representation. When this kind of disbalance is accompanied by clientelism and corruption the way towards a better scenario is more uncertain.

This is the reason why solutions to Brazilian problems are not quite simple.

Reference list

DELLAVALLE, Sergio; **“Top-down” vs. “Bottom-up”: A Dichotomy of Paradigms for the Legitimation of Public Power in the EU**; Perspectives on Federalism, Vol. 9, issue 2, 2017

ROSENN, Keith S.; **Federalism in Brazil**; 43 Duq. L. Rev. 577 (2005).

RIBEIRO, José Mendes et al. **Federalism and health policy in Brazil: institutional features and regional inequalities**. Available from > <http://dx.doi.org/10.1590/1413-81232018236.07932018>>. access on 03 Sept. 2019.

DELAVALLE, Clara. **Corruption and Distribution of Public Spending in Developing Countries**, Journal of Economics and Finance. 2006/06/01 (P 222 – 239).

FUKUYAMA Francis, **Political Order and Political Decay: From the Industrial Revolution to the Globalization of Democracy**. Profile books, 2014.