

# The Role and Performance of Supreme Audit Institutions in Brazil

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Brazil's Supreme Audit Institutions (SAIs) have a longstanding tradition in the political system. The Federal Court of Audit (Tribunal de Contas da Uniao) was founded more than a century ago and several States of the Brazilian Federation followed during the first half of the 20<sup>th</sup> century. Today all States and two municipal governments have their own Tribunal de Contas (TC). Due to an obligation imposed by the Federal Constitution of 1988 the institutional design of all TCs is quite homogenous.

TCs' main role in Brazil is to discharge administration of public funds in the light of compliance with the law or holding them possible for wrongdoings. There are strong efforts to turn the actual ex-post control into a control of present administration. The main question is how to prevent abuse of power and waste of resources and how to hold officers in charge accountable.

Brazilian TCs have also the role to give political advice to the Legislative. On all three levels of the Brazilian federation the annual examinations of the governments' accounts by the Legislatures are based on previous statements of the TCs. In the past several Committees of legislatures have requested the TCs support for investigations. But actually this interface between TCs and Legislative is poor in both quantity and quality. Neither the Representatives know much about TCs capacity to give support, nor do TCs see the Legislative as a user of audit results.

Finally, TCs can give advice to administrators. This is an important pattern concerning the municipal administration. Most of the 5,500 newly elected mayors face difficulties to comply with the complex laws and procedures of public administration. Municipal administrators frequently need guidance from the TCs concerning the basic principles of the use of public resources.

Given this specific combination of tasks, we develop a set of indicators to measure the performance of audit institutions. Three indicators are directed towards general institutional characteristics. Three further indicators measure the development of specific dimensions of the above-mentioned main task of discharging administrations.

## 1. Comparing the cost of control

Measuring the cost of audit bodies should not be inspired by the argument that audit bodies have to pay back their cost of public budget. The service delivered by audit bodies is broader than merely saving money for the treasury. The citizen's confidence in responsible public spending is a benefit difficult to quantify. Comparing TCs' cost for the treasuries of states, we observe average rates of about 0,5-1% of all expenditures. These numbers seem high when we have on mind that on the national level this number falls to 0,05-0,1%. SAIs in other countries spend even less.

However these comparisons do not seem to make much sense considering the different role and tasks of those institutions in the context of the national political system. But the same argument does not apply to Brazilian TCs with their highly similar structure. In fact the audit bodies in Brazil demonstrate considerable differences considering their cost for the treasuries. If some TCs content with 0,5% of the budget, why do others need several times this amount?

## **2. Comparing the independence of control**

It is a difficult task to measure the independence of an audit body. Legislative and the head of government appoint members of the TCs. Influence of political criteria over technical qualification in this process of selection is balanced by the concept that members of the TC are appointed for a lifetime. Furthermore important decisions are taken by aboard and not by individual members. These provisions permit a consecutive commitment of former politicians with the new task in the audit institution.

It is an empirical question whether this concept works or other practices prevail. One on the abuses is to recompense political allies with highly paid positions. As a consequence counselors are appointed at the end of their professional career and stay only for a short period before retirement. Another consequence is a general political bias of the whole board of counselors in favor against the government in power. Both abusive situations go together frequently since a high turnover to more appointments by the existing government and turns the board of TCs dangerously homogenous.

## **3. Comparing the qualification and nepotism**

Qualified auditors are a precondition for a serious independent work. However, in practice, positions in audit frequently serve pressures of nepotism and cronyism. The new constitution of 1998 allows contracting civil servants exclusively by competition. This changed the face of many TCs in Brazil. But even with this new rule, the former practices persist by maintaining a large number of political nominated positions. As a result in several TCs the number of human resources working in the proper audit functions is still reduced. This diversity is very high, ranging from 10-50%. This number is a secure indicator for the professional quality of the TCs.

## **4. Comparing the time frames of control**

The audits of TCs take frequently years to pass all the steps through the system until they finally produce a verdict of discharge or hold an administrator responsible. The probability of recovering the money spent improperly and the possibility of banning irresponsible administrators from public office is more effective when the control occurs close to the fact. Measuring this delay between the fact and the verdict is a meaningful indicator to describe the performance of audit institutions.

## **5. Comparing the effectiveness of control**

The TCs in Brazil are potent organizations if we compare their formal powers with the more persuasive methods based on arguments of SAIs in other countries. They can punish administrators by forcing them to refund resources to the treasury, imposing a fine, excluding corrupt firms from future bidding or banning politicians with a record of improper behavior from elections. The application of sanctions alone is not a valid indicator for performance of audit

bodies. But on the other hand the systematic non-appliance on any kind of material sanctions combined with a high degree of misadministration can be an indicator of bad performance.

## **6. Comparing the effectiveness of control**

Concerning the impact of sanctions the difficulties to access data are enormous. TCs show little interest to follow-up what happens with their verdicts. Authorities condemned to refund the treasury or to pay fines find way to flee these verdicts. Most of them use a loophole in the Brazilian legal system which makes not entirely clear whether the verdicts of the TCs are subject to revision in the court or not. The same occurs with other sanctions like the ban of politicians from further elections. Appealing in the court against the decision of the TCs suspends the ban until the final decision of the judiciary and opens the way to run for election. Most of the candidates use this loophole.

### ***Possible Reforms***

Institutional reforms have attracted great attention of social scientists for the last two decades. This is a consequence of the radical transformation of political systems during the 3<sup>rd</sup> wave of democratization in the eighties and nineties. But theoretical and practical limits to these radical transformations begin to show up.

First, few of the comparative studies on institutional design conclude with a clear option for one system. As far as SAIs are concerned, costs and benefits hold the balance if we compare different normative concepts on their role in the context of national integrity system.

Second, political institutions are deeply rooted in tradition. Less than scientists would desire they are based on reason. This is an argument against an excessively optimistic approach on matter of institutional reform.

Third, radical institutional transformations occurred in Brazil in the eighties during Brazil's transition to democracy. Today, consolidation and piecemeal reforms seem to prevail. Putting this all together, the universal receipts of institutional design (best practices), which have always a normative approach, are of less utility than monitoring and improving existing institutions. The development of specific indicators to measure the performance of TCs is a contribution to this task.

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