Reinventing local governments under democracy: political dynamics and the creation of new municipalities in Brazil and South Africa

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INTRODUCTION
The transition to democracy in Brazil and South Africa has triggered important transformations in the municipal governments in both countries. This article argues that these transformations have created incentives for change in the relationship between different levels of government, and, as a result, the altered intergovernmental dynamics favoured the development of greater local government autonomy.

With the promulgation of democratic constitutions in Brazil and South Africa, the intergovernmental relations in these countries experienced changes as a result of the emergence of new political actors that were democratically elected at different levels of government. The 1988 Brazilian constitution and the 1996 South African constitution contained provisions that opened the possibility for institutional transformation of existing local levels of government. From 1988 to 2000 the number of Brazilian municipalities increased from 4189 to 5560 (IBGE, 2000). In South Africa, the 1996 constitution preceded a series of local government reforms that would lead to a reduction of municipalities through their amalgamation. Between 1996 and 2000 the number of South African municipalities was reduced from approximately 1000 to 843, and later from 843 to 284 (Cameron, 2001).

The increase in the number of Brazilian municipalities and the reduction in South Africa following the end of the apartheid regime are a direct result of decisions taken outside the local level of government. In Brazil the creation of new municipalities has been a decision taken at the state level, and in South Africa the amalgamation of municipalities has been the result of a national plan largely to eliminate the remnants of the apartheid legacy at the local level.

The transformations at the local level of government in both countries have occurred amid the process of a transfer of financial and administrative competencies to local governments. With new competencies transferred to the local governments in Brazil and South Africa, at least in principle, local political actors began to exercise a higher degree of fiscal (e.g., by raising revenues and borrowing from different sources) and administrative autonomy (e.g., by exercising discretion over the elaboration of health and educational programmes). In both countries the increasing competencies of the local governments coupled with their constitutionally-enshrined right of existence has created a window of opportunity for an increased role for these governments in the development of intergovernmental relations.

Despite the commonalities between both cases, the reforms at the local level in Brazil and South Africa pointed toward a numeric increase of Brazilian municipalities and a numeric reduction of South African municipalities. Considering this observation, the puzzle that this article attempts to disentangle is the following: How do the reduction and the increase in the number of municipalities have the same end-result, namely the increase of the bargaining powers of municipal governments vis-à-vis other levels of government?
In order to answer this question, this article explains the institutional transformations of the local level in Brazil and South Africa while emphasizing how the gradual increase of leverage power of the local political actors in the intergovernmental relations took place.

Against the backdrop of the transformation of local governments, I analyse and identify the incentives behind the interaction between local and national political actors, and their consequences for local governments’ autonomy. In so doing, I advance the concept of federalisation, which in the Brazilian and South African cases is understood as a process leading to the creation of new municipalities and the development of a web of intergovernmental institutions. Based on the key events of federalisation in Brazil and South Africa, I examine the proposition that the higher the number of municipalities and intergovernmental forums, the higher the ability of local governments to change intergovernmental relations. By testing this proposition, I shed some light on the relationship between changes in federal dynamics through local government reforms.

This article is organised into six sections. The first advances the hypotheses around which the main argument of the paper is developed. As an introduction to intergovernmental relations in Brazil and South Africa, the second section then contextualises the Brazilian and South African processes of federalisation. The third section examines the events leading up to the creation of new municipalities in Brazil and South Africa. The fourth explains the establishment of intergovernmental forums in these countries. The following section sums up the main aspects of the evolution of local autonomy in Brazil and South Africa, before a final section presents and discusses the main findings.

HYPOTHESES: HOW DOES THE NUMBER OF ACTORS AND INSTITUTIONS CHANGE THE POWER OF LOCAL GOVERNMENTS?

The debate over the influence of agency versus institutions on the transformation of federations has long dominated the literature on institutional change (Olsen 2009). In the existing literature on federalism there are several propositions that pay attention to how the number of actors at different levels of government influences federal dynamics (e.g., Cox and McCubbins, 2001; Tsebelis, 2002; Andrews and Montinola, 2004). Yet there is a growing strand of the literature on federalism that shows that the institutional structures shaping the interaction between actors at different levels of government affect federal dynamics (e.g., Pierson, 2005; Scharpf, 2006; Bednar, 2009).

The number of actors in a given polity matters as long as these actors perform the function of a veto player. According to Tsebelis (2002), a veto player is the one that derives his/her power from institutional rules and political circumstances, but is one who is able to block initiatives for policy change. Based on this idea of veto player, the proposition has been put forward that the higher the number of veto players, the greater the probability that the status quo will be maintained. This proposition has important implications for the increase or decrease in the number of actors in the intergovernmental arena. However, for a more accurate application of this proposition, it is important to consider that under democracy intergovernmental political actors may exercise mutual veto powers and may be competing over policy influence (Crepaz, 2004). Applying this observation to the intergovernmental bargaining interaction in Brazil and South Africa, it is possible to infer that both national and local political actors are competitive veto players as they can block each other’s attempt to influence intergovernmental relations. This reasoning leads to the formulation of the following hypothesis:
H1: ‘Number of Actors Hypothesis’
The higher the number of local governments in a federal context, the greater the ability of local actors to influence intergovernmental relations.

However, the number of actors might not be sufficient to explain the changes in intergovernmental dynamics. A proposition that touches upon the structural changes in the intergovernmental arena can bring clarity to this analysis. In a federalised polity decisions that affect more than one level of government are often taken with the engagement of different levels of government. Following Scharpf’s (2006) analysis, this complex involvement of different actors from more than one level of government is referred to as a ‘joint-decision trap.’ Under this ‘trap’, intergovernmental structures that help to coordinate this multi-level decision process gain special relevance in federal dynamics. These structures have several institutional and organizational varieties, i.e., sector specific forums, all-encompassing forums, formal and informal forums. Each of these varieties can have a different impact on the intergovernmental balance of power. It is important to take into account whether subnational political actors are granted the opportunity to take part regularly and formally in these forums under a context of joint-decision trap. Considering this observation, it is possible to propose the following hypothesis:

H2: ‘Institutional Structure Hypothesis’
The higher the number of intergovernmental forums with the inclusion of national and local actors, the greater the ability of local actors to influence intergovernmental relations.

These hypotheses will be tested in an empirical context characterised by increasing bargaining interaction among national and local political actors, as well as against a process of reforms of local governments. These settings will be described in the next sections.

CONTEXTUALISING LOCAL REFORMS IN BRAZIL AND SOUTH AFRICA
The transformation of the local level of government in Brazil and South Africa took place amidst a process of federalisation. This process is defined in this article as a chain of events that leads up to the establishment and change of institutions pertaining to federal arrangements. This chain of events is often marked by the need for cooperation between different levels of government, leading to organisational changes of different levels of government (e.g., increase in the number of municipalities) and to the establishment of institutions that foster cooperation (e.g., intergovernmental forums).

The process of federalisation can be divided into two layers (see Table 1). The first layer concerns the reforms of local governments resulting in the creation of new federative units, such as municipalities. It is worth noting that the establishment of new municipalities is considered part of the federalisation process insofar as the local governments in a given polity have their right of existence constitutionally protected. The second layer of federalisation concerns the creation of intergovernmental forums as ‘places’ of the intergovernmental arena where national and subnational political actors meet in order to discuss and decide over matters of common interest. These intergovernmental forums could be interpreted as institutional mechanisms that foster cooperation in a context of shared rule among different levels of government.
**Federalisation in Brazil**

Changes within Brazilian federalism occurred under a growing robustness of the Brazilian intergovernmental relations. The process of change in Brazilian federalism shows increasing intergovernmental conflict in the consolidation of democracy being followed by increasing intergovernmental cooperation. In this process, some subnational political actors have gained important institutional autonomy in taking part in more robust intergovernmental dynamics.

The process of federalisation in Brazil will be analysed by drawing a distinction between two different layers of federalisation. The first layer concerns the transformation of the federation through the increase in the number of the municipalities in the country. The increase of municipalities in Brazil is considered part of the federalisation process, as the Brazilian 1988 constitution recognizes municipalities as constituent units of a federation together with the states and the central government. The second layer of federalisation concerns the potential use of intergovernmental mechanisms by subnational government actors in the intergovernmental dynamics. The intergovernmental forums are important intergovernmental mechanisms at the disposal of subnational political actors in Brazil. These forums have increased the institutional avenues of interaction among different federal actors.

One of the most important developments in the Brazilian process of municipalisation is the proliferation of new municipalities without much control of the central government. This phenomenon is entirely a matter of discretion of federal states. It is interesting to note that this has happened before any comprehensive system of intergovernmental cooperation was put in place. This is an indication that the federalisation process from its onset was under the control of subnational political actors.

The sequence of federalisation in Brazil shows that, with the proliferation of municipalities, the interests of the subnational governments prevailed over the interest of the national government (see Table 2). The prevalence of subnational interests tilted the balance of intergovernmental power towards the subnational actors. The main trend is the incremental increase of intergovernmental forums. In the mid-1990s the central government interfered in the process of emancipation of municipalities and enacted a constitutional amendment that limited the ability of states and municipalities to keep creating new municipalities.

**Federalisation in South Africa**

The evolution of federalisation in South Africa is marked particularly by a growing number of intergovernmental forums and the institutional consolidation of the municipal level of government. Perhaps one of the most complex processes in the transition to democracy in South Africa has been the creation of the local level of government. The process of creating a post-apartheid local government was a challenging affair given the issues at stake: namely the prospect of the consolidation of political parties, the political representation of different ethnic groups, and the capacity of municipalities to deliver public services. In addition to these important issues, the task of creating local governments became germane to the development of the South African democratic state because the 1994 South African Interim Constitution recognised local government as a level of government with enshrined constitutional rights.
The South African process of federalisation after the transition to democracy can be divided into two different layers. The establishment of the local level of government in South Africa corresponds to the first layer of federalisation. With the establishment of local governments, there was a reduction of municipalities as a result of the amalgamation of different local structures from an old fragmented system of local government. This amalgamation created several types of municipalities and enlarged the constellation of actors.\(^1\) The second layer consists of the creation of intergovernmental cooperative mechanisms that mediate the interaction between central and subnational political actors.

There were several federalisation measures adopted in South Africa (See Table 3). The process of federalisation began in 1993 with the Local Government Transitional Act (LGTA). This measure opened up an opportunity for local political actors to transform the institutional structure of local government in South Africa at the time. This early federalisation in South Africa can be interpreted as a process of amalgamation of states (Wittenberg, 2006, p.335), which triggered a complex process of division of functions within local governments. Over time, however, the federalisation process was reinforced by the creation of a web of intergovernmental forums. These forums allowed the different levels of government to interact with one another in a cooperative manner.

THE PROCESS OF CREATING NEW MUNICIPALITIES IN BRAZIL AND SOUTH AFRICA

The creation of new municipalities can take many forms: through the division of existing municipalities giving birth to new ones, through the amalgamation of existing municipalities, or simply through the creation of a new municipality from scratch. In the two former cases, which correspond to the experiences of Brazil and South Africa respectively, the creation of municipalities implies that existing municipal actors must negotiate beyond municipal borders. Brazil and South Africa are good examples of how the creation of new municipalities involves negotiations among political actors from different levels of government. It is clear, however, that the incentives behind the creation of the new municipalities varied, which explains in turn the different paths Brazil and South Africa followed in the creation of new municipalities.

Below the paper provides an overview of the process of creating new municipalities in Brazil and South Africa.

Creation of New Municipalities in Brazil

The rapid expansion in Brazilian municipalities after the transition to democracy is a phenomenon that has increased the number of municipal political actors, having a large impact on the intergovernmental balance of power. The process of creating new municipalities in democratic Brazil started as early as 1984.\(^2\) With their regaining of political weight in the transition to democracy, subnational political actors encountered institutional opportunities for creating new municipalities. The number of municipalities in Brazil significantly increased towards the end of the 1980s and these were reinforced in the 1990s.

\(^1\) Out of these 284 municipalities, 6 were metros (Category A municipalities), 231 were local municipalities (Category B municipalities), and 47 were district municipalities (Category C municipalities). The Category A municipalities encompasses the six South African metropolitan areas. The Category B municipalities are mainly small towns that compose the Category C municipalities.

\(^2\) This phenomenon started before the transition to democracy. It begins in 1930 and intensified in the 1950s although it slowed down in the 1970s.
The procedures for creating new municipalities in Brazil are at the discretion of the federal states as established in the 1988 constitution (Article 18, Paragraph 4). As such, the increase in number of Brazilian municipalities after 1988 occurred under the tutelage of the states, which regulated how new municipalities would be set up. This in turn indicates that these rules vary across the country. Generally speaking, in Brazil there are several subnational actors that participate in the creation of a new municipality. These actors include the state’s deputies, voters, and the state’s governor. Often the main proponent of emancipation and creation of new municipalities come from the states’ legislative assembly. However, as Tomio (2002) suggests, the emancipation and creation of new municipalities requires procedures for approval that are subject to several veto points. For this reason, the proliferation of new municipalities in Brazil has been concentrated on a few states, mainly in Tocantins, Amapá, Rodônia, Rio Grande do Sul, and Piauí, where there has been a favourable governing coalition behind these initiatives.

The main motivations behind the creation of new municipalities in Brazil have been the increase of financial transfers from the central government and the possibility of electoral gains for the local political actors. The creation of new municipalities would open new electoral opportunities for the local political actors to maintain their political power. In this regard, it is worth pointing out that the newly-created municipal bureaucracy would generate new employment opportunities. In addition, the new municipalities would receive financial resources under the constitutional transfers of federal funds. These transfers particularly benefited the small municipalities, which receive 90 percent of their transfers from the Fund of Municipal Participation – FPM (Magalhães, 2007); this is precisely the category that the newly-created municipalities belong to. In sum, political and financial incentives coupled with favourable institutional conditions (i.e., the existence of a governing coalition at the state level) led to the enlargement of the municipal level of government in Brazil.

The effect of this phenomenon on the intergovernmental balance of power is not straightforward. On the one hand, the increase in the constellation of municipal political actors makes hierarchical intergovernmental relations more difficult to coordinate. On the other hand, it could also create collective action problems for the articulation of municipal interests before the other levels of government. There are some indications that with the proliferation of municipalities, which become more dependent on the financial transfers of central government, there is a growing difficulty on the part of these municipalities to meet their assigned competencies. This dependency makes cooperation in the federation more complex (Affonso, 1996, p.6). In the financial realm, a clear effect has been the increase of the financial burden of the municipalities on the federal accounts. Affonso (1996) shows that from 1960 to 1996 the net revenues of the municipalities in Brazil almost tripled. Although this happened due to an increase in the increase of the tax base of the municipalities, the transfers from the central government increased for the small municipalities (Afonso and Araujo, 2000).

Under a context of increasing central transfer of municipalities as a result of favourable institutional incentives for the establishment of new municipalities, the central government attempted to impose limits on the proliferation of municipalities in Brazil. With this purpose in mind, the Constitutional Amendment 15 was passed in 1996.4

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3 The FPM is a federally managed fund that redistributes resources among Brazilian municipalities through constitutionally mandated transfers.
4 The legislative assembly of Rio Grande do Sul filed in 1996 an unconstitutionality challenge (e.g., Unconstitutionality Administrative Act - ADIn 2395) against Amendment 15 claiming that the authority of the state over the establishment of
All political parties showed support for the Amendment as there was a consensus that the financial sustainability of the municipalities should be preserved by making it more difficult to create financially unviable municipalities.

This Amendment alters article 18 (paragraph 4) of the 1988 constitution, which granted states full autonomy in the creation of new municipalities. Amendment 15 determined that the creation of new municipalities by a state would be possible only after federal complementary law had established a period in which these municipalities can be created. The Amendment requires that any proposal for the creation of new municipalities would have to be endorsed by a municipal referendum. In addition, before the creation of the new municipalities a pre-existing infrastructure and financial viability plan would have to be designed. With these requirements in place, in 2001 the number of new municipalities was reduced to 54 (Soares, 2006, p.86), which is approximately half of the average rate of new municipalities created every year in Brazil.

From this overview of the process of establishing new municipalities in Brazil and its impact on the intergovernmental relations it is clear that federal states used the constitutional right to create new municipalities to obtain some financial benefits. This resulted in higher net revenues for the municipalities. Furthermore, this happened without any interference from the central government until 1996. With a constitutional amendment, the pace of creating new municipalities in Brazil diminished as the central government became responsible for determining the conditions under which new municipalities would be created.

The Amalgamation of Municipalities in South Africa

The amalgamation of municipalities in South African started under a constitutional mandate, which envisioned the reorganisation and consolidation of local governments vested with political, administrative and fiscal powers. This process took several years to be finalised, requiring the involvement of several levels of government.

The transformation of the local government in South Africa under democracy occurred after failed attempts to reform the local system of government. In the 1980s, with the creation of tricameral local parliaments, there were several efforts to expand the powers of the local black authorities. With the prospects of transiting to democracy, in 1993 South Africa initiated negotiations under the Local Government National Forum (LGNF) to transform local governments. The Forum’s ultimate goal was to promote the democratisation of local governments by establishing non-racial local institutions that would be administratively and financially viable.
At this stage it was clear that the process of building a local level of government was intertwined with the interaction between different political parties trying to reach a political settlement. An eventual failure in reaching power-sharing arrangements for local governments could derail the entire transition process (Cameron, 1999, p.85).

Given the urgency in transforming the structure of local government in South Africa, changes started to be made before the Interim Constitution. The strategy followed was to adopt a bottom-up approach to the transformation of local governments by encouraging negotiations to take place at the provincial level responding to the local needs. While this bottom-up approach contributed to overcoming the deadlock between the national leaderships of the African National Congress (ANC) and the National Party (NP), this approach also introduced greater hurdles to the creation of the local governments. By introducing tailored negotiations in different localities, the process of creating local governments gained complexity, thus making it lengthy and cumbersome (Ottaway, 1993, p.131).

This process can be divided into three phases: the pre-interim phase (1993-1995), the interim phase (1995-1999), and the permanent phase (1999-2000). The first phase was marked by contentious political negotiations among the main political parties. However, given the bottom-up approach to building local governments, there were certain differences in the negotiations across the South African provinces. The second phase, despite the persistence of political disputes, the consolidation of local governments advanced with clearer rules established in the Interim Constitution. In the final phase, important legislative measures were put forward dealing with more specific issues for the functioning of the local governments.

The first step towards the establishment of new local governments in South Africa occurred with the creation of the local forums for every town or historically bound area. These forums would be vested with a critical role: to establish the institutional structure for the local government. Depending on the characteristics of the locality in question, the institutions to be established might take the form of Transitional Local Councils (TLCs) for non-metropolitan areas, Transitional Metropolitan Councils (TMCs) for metropolitan areas, and Transitional Rural Councils (TRCs) for the rural areas. The formal creation of the councils depended on the approval of the province’s administrator. It is possible to say that the establishment of local government structures was characterised more by political interests than by technical ones.

In the interim phase, the demarcation of the local municipal boundaries was another politicised issue that marked the establishment of local governments in South Africa. This phase is particularly important for the settlement of negotiations over power-sharing arrangements and for the definition of a structure for local governments. The new structure included the ward council, which would be the government structure closest to the local communities. Despite the initial agreement between the main political parties to create strong ward councils, these councils developed into weak institutions as they were deprived of any exclusive responsibility.

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7 As the negotiations for transition evolved, there were several contentious topics on the institutional architecture of local governments between the main political parties. The National Party (NP) advocated greater autonomy to the local governments than the African National Congress (ANC) was willing to grant. Understood. By strengthening local governments the NP believed that it had a better chance to exercise opposition to the ANC’s central government.
In this phase, it becomes clear that the new local governments are granted a certain degree of autonomy; however there were recurrent episodes of power encroachment from the centre on local affairs, especially in issues concerning local human resources.

The final phase is characterised by the consolidation of the local government in South Africa. In spite of the recognition of the local government as an independent level of government, the central government enacted new legislation attempting to regulate several aspects of local government autonomy. In this phase there is a rationalisation of the municipalities which consists of amalgamating different municipalities in order to increase their capacity. In 2000 the Municipal Systems Act (MSYA) was approved to clarify important issues (e.g., definition of municipalities) relevant to the consolidation of the local level of government. With the passing of the MSYA, delineating the general aspects for the establishment and functioning of local governments, South Africa consolidated the position of local government.

Based on this overview of the amalgamation of South African municipalities, it is possible to infer that this process has been crafted from the onset of the transition to democracy with the intention of fundamentally reforming the local level of government. With a constitutional mandate, the central government has pursued a transformation of the local government initially motivated to change the legacy of the apartheid regime at the local level, and later on to consolidate the local level of government an agent for the delivery of essential services.

INTERGOVERNMENTAL RELATIONS IN BRAZIL AND SOUTH AFRICA UNDER DEMOCRACY

Brazil and South Africa have promulgated all-encompassing constitutions and encountered in their implementation important problems. Among the implementation problems in the years following the transition to democracy, ranked high the difficulty of the central government to overcome coordination problems in its attempt to implement national initiatives in a context of shared rule. In addition, the exercise of fiscal and administrative autonomy on the part of subnational political actors created several episodes of conflict concerning policy decision-making as well as the implementation and compliance of rules and norms. These difficulties led the central governments in Brazil and South Africa to establish intergovernmental forums.

One characteristic in the development of the Brazilian intergovernmental relations has been the lack of an explicit cooperation mechanism following the transition to democracy. This lack of formal intergovernmental coordination forums in Brazil could indicate the absence of conflict among the different levels of government or the presence of a hierarchical relationship among the intergovernmental actors. It is important to notice that although in the early 1990s intergovernmental forums in certain policy areas started to emerge, it was only in 2003 that the first permanent intergovernmental forum not restricted to any specific policy area was established.

The creation of intergovernmental forums in South Africa represents one of the key events behind the development of federal dynamics and the advancement of the federalisation process in the country. The establishment of these forums reveals a form of intergovernmental interaction in South Africa that approaches Ronald Watts’ (1989, p.3) definition of ‘executive federalism’, which is defined as ‘processes of intergovernmental negotiation that are dominated by the executives of the different governments within the federal system’.
This definition finds applicability to the South African context provided that the heads of the executives in each level of government have been involved in intergovernmental negotiations through formal and informal forums.

The next task of the paper is to review the establishment of intergovernmental forums in Brazil and South Africa.

**Intergovernmental Forums in Brazil**

In the years following the transition to democracy in Brazil, intergovernmental relations in the country were poorly institutionalised. Part of the reason can be found in the failure of the 1988 constitution to create a coordinating framework for different levels of government to interact (Costa, 2003). A telling piece of evidence on the low levels of institutionalisation of intergovernmental relations in Brazil is found in the tardiness of the emergence of intergovernmental forums in that country. The first intergovernmental forums in democratic Brazil were established in the 1990s in the health and educational sectors. These sector-specific forums were designed to foster policy coordination. In the health sector cooperation has been exercised with multilevel intergovernmental forums, while in the education sector there is only one national forum with the participation of several intergovernmental actors.

Intergovernmental cooperation in the health sector in Brazil has been growing vigorously since the transition to democracy. In July 1991, a year after the promulgation of the Health Organic Law, an important intergovernmental health forum, the Tripartite Inter-Managers Commission (CIT) was established under the Health Ministry’s Directive 1180. One important aspect of the CIT’s operation is that all the decisions of the commission are taken based on consensus, which is the result of a cooperative dynamic among the different levels of government.

In 1993 the Ministry of Health elaborated a ministerial directive known as the Basic Operational Norm (NOB), which was designed to foster intergovernmental cooperation in the health sector. This directive provided specifications on the decision-making process involving all levels of government in future health policies. One of the most important innovations of the NOB was the introduction of a deliberative policy-making with the participation of subnational governments. This is done in each state in the Bipartite Inter-Manager Commission (CIB), which is formed between the municipalities and the states. There is evidence that the intergovernmental health forums have been increasing policy coordination in the system (Arretche, 2002). In 2006 the Health Ministry proposed a health pact, which is an initiative that replaced the ministerial directives by agreements. Through these pacts states and municipalities gained responsibilities for the provision of health services based on their capacity to deliver. Despite the successful implementation of an intergovernmental system of cooperation in the Brazilian health sector, it is worth remembering that the CIT was established as a response to the initial centralization of decision-making process in the health sector.

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8 The CIT assembles 15 members representing the three levels of government. Each level of government has five representatives; five members of the CIT are indicated by the Ministry of Health, five by the National Council of the State Health Secretaries (Conass), and other five by the National Council of the Municipal Health Secretaries (Conasems).
As far as the education section is concerned, the first educational reform measure under democracy occurred in 1995 with the creation of the National Education Council (CNE). The Complementary Law 9131/95 formally established the CNE with the participation of the states’ secretaries of education as councillors. However, it is important to mention that the CNE was already created in the previous administration under a presidential decree replacing the older educational council, the Federal Council of Education (CFE). The CNE had many important mandates including the elaboration of national curriculum and the national educational plan, the discussion of proposals concerning new legislation on education, and the maintenance of intergovernmental exchange of information, among others.9 Despite the deliberative character of the CNE, in the basic education chamber its members only deliberate on the design of the curriculum (Saviani, 2007, p.12). Moreover, deliberations occur only over issues proposed by the Ministry of Education.

The first all-encompassing intergovernmental forum in Brazil, the Committee of Federative Affairs (CAF), was created in 2003 by presidential decree.10 The CAF excludes the federal states and, as such, it is a forum that attempts to foster cooperation between the central government and the municipalities. Considering that the creation of the CAF was an initiative of the central government and that the committee is directly linked to the Brazilian Presidency through the Secretary of Federative Affairs (SAF), this forum follows a top-down dynamic of policy alignment.

Another institutional arrangement that the Brazilian municipalities have been using to increase cooperation has been the public consortiums. These arrangements represent a form of voluntary cooperation between and within levels of government for joint management of public services. Consortiums involving the three levels of government are often used for the creation of development regions known as Integrated Development Regions. Although public consortiums are acknowledged in the 1988 constitution, they were not used as a common instrument of cooperation due to the lack of a legal framework.11 Attempting to advance this framework, a constitutional amendment and a federal law were respectively passed in 1998 and 2005. From a municipal perspective, public consortiums in Brazil are institutional arrangements mainly used by municipalities in a voluntary basis (Brandão, 2008, p.150) and in a bottom-up fashion (Spink, 2005).

It is clear that the intergovernmental forums in Brazil have increased the robustness of the Brazilian intergovernmental relations. Despite noteworthy innovations such as the creation of intergovernmental consortiums, the intergovernmental mechanisms of cooperation are limited to specific sectors. In the health and educational sectors, subnational governments have been able to exercise their veto powers in the policy-making process (Arretche, 2002). Under the development of intergovernmental forums in Brazil, it is possible to argue that the ability of the local governments to exercise these powers has been enhanced with the intergovernmental forums.

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9 The Council is composed of two chambers, one on basic education and the other on higher education. Each chamber has 12 members representing different levels of government and different civil society associations.
10 A presidential decree was used to establish the CAF due to the urgency of the Brazilian presidency to establish a permanent mechanism to negotiate with the municipalities.
11 Another type of public consortium includes the inter-municipal cooperation consortiums which are created among municipalities to improve service delivery in a specific sector.
Intergovernmental Forums in South Africa

In South Africa the establishment of intergovernmental forums to enhance the dialogue among different levels of government is linked to the initial lack of formal institutional mechanisms to intermediate intergovernmental relations following the transition to democracy. In a context of unconsolidated institutions in the different levels of government, informal intergovernmental forums became an alternative to building intergovernmental cooperation.

Underpinning the evolution of these mechanisms is the willingness of the different levels of government to cooperate. In South Africa this willingness to cooperate is evidenced by the informal mushrooming of intergovernmental forums in the first years of democratisation. For years following the transition to democracy, South Africa was engaged in transforming and consolidating different levels of government. The intergovernmental forums in South Africa have some specific features: the national and the provincial executives have a considerable role in fostering the intergovernmental forums in the early stage; the dominance of sector-specific forums, especially forums related to fiscal issues; the tensions between the ‘top-down’ versus ‘bottom-up’ dynamics; the lack of clear division of functions among different levels of government; and initially forums operated as informal structures.

The first attempt to create an intergovernmental dialogue through forums was led by the national executive with the establishment of the President Coordination Council (PCC) in 1999. Some consider the PCC as the heart of the intergovernmental relations in South Africa (Layman, 2003, p.21). The purpose behind the creation of the PCC was twofold: integrating the implantation of national policy in the provinces, and engaging the subnational governments in a consultative process. Following this initiative two fiscal forums were established in 1997: the Budget Council and the Medium Term Expenditure Committees (MTECs). The Budget Council was created with the 1997 Intergovernmental Fiscal Relations Act (IFRA) with the purpose of aligning and coordinating fiscal and budgetary policies. The Budget Council brought together three times a year the Minister of Finance and the members of the executive councils (MECs) for finance of each province. Other fiscal related forums such as the MTEC (4x4), and the MTEC (10x10) were established to increase the consultations for evaluation and coordination of budget choices. These forums became effective in bringing policy alignment on fiscal and budgetary issues.

In other sectors such as housing, trade and industry, water and forestry, and provincial/local governments’ affairs, intergovernmental forums known as the MinMECs were formed. These forums were used to achieve policy alignment as they brought together a national minister (Min) of a sector and the corresponding provincial member of the executive council (MEC). The experience with the MinMECs has been mixed as some ministries became more influential than others (Reddy, 2001, p.32). Furthermore, there were other problems in some MinMECs, such as poor attendance and a lack of compliance with some decisions taken. Despite these hurdles, the MinMECs not only fostered cooperation, they also offered opportunities for some officials to gain more experience and a broader perspective on the intergovernmental interactions in South Africa.

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12 This happened after the demise of the Intergovernmental Forum (IGF). The IGF was created in 1995 with the attempt to promote the dialogue between the different levels of government by bringing together a vast array of institutional actors.
13 The MTEC (4x4) brings together the National Treasury, the provincial treasuries, national departments of specific sectors and the provincial counter parts. In a similar arrangement, the MTEC (10x10) comprises the National Treasury, the nine provincial treasuries and a national department of a specific sector.
14 The MinMECs’ meetings were accompanied by a technical meeting, which was organised under the Forum of South African Directors-General (FOSAD). The FOSAD was established in 1998 to ensure coordination of public administration.
A defining moment in the intergovernmental system in South Africa was the approval in 2005 of the Intergovernmental Relations Framework Act (IRFA), which created a statutory framework for the operation of forums that before then had only convened on an informal basis. The IRFA came to rationalise what was being done for many years. As such, the Act regulated the PCC and the MinMECs while giving a legal framework to the premiers’ intergovernmental forums, provincial intergovernmental forums, district intergovernmental forums, and inter-municipal forums. Fessha and Steytler (2006, p.6) attribute the inability of the South African government to foster a collaborative partnership and a common ground for joint action in the delivery of services to the ad hoc nature of the intergovernmental forums. Institutionally, the IFRA fosters intergovernmental cooperation in principle as it defines the main norms behind intergovernmental interaction in South Africa, and provides guidance on dispute settlement between the different levels of government. Yet, some claim that the regulatory framework advanced by the IRFA per se would not be sufficient to increase cooperation (Tapscott, 2000).

In terms of the internal dynamics of these forums, there are indications that they functioned in a cooperative fashion. Nonetheless, there is no straightforward answer to the question of whether there was a top-down or a bottom-up dynamics in these forums. There was a tendency of sector-specific forums (e.g., Budget Council, MinMECs) to favour a top-down approach. However, in other forums, such as the PCC and the PCF this top-down approach has been weakened, especially as subnational voice has been heard in deliberations.

From a general perspective, considering the rationale of the proliferation of intergovernmental cooperative mechanisms in South Africa, it is possible to affirm that the South African intergovernmental system has grown more robust. Nonetheless, despite having evolved under the principle of cooperation, over the years the South African system has faced some problems related to the lack of full participation by local governments, effective functioning of provincial-local intergovernmental forums, and successful integration of intergovernmental forums (Layman, 2003, p.22; Hughes, 2005; Fessha and Steytler, 2006, p.27). Yet, from a general perspective, after years of development of an intergovernmental system of cooperation, it is possible to suggest that by and large the growing robustness of intergovernmental institutions has contributed to the cooperation between different levels of government.

THE DEPENDENT VARIABLE: LOCAL GOVERNMENT’S AUTONOMY IN BRAZIL AND SOUTH AFRICA

The increase of local government autonomy vis-à-vis the centre is a critical issue in the debate on the evolution of federalising polities. In these polities, changes in intergovernmental relations can create a new intergovernmental balance of power leading to higher degree of fiscal and political autonomy on the part of the local governments.

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15 It is important to notice however that all the provincial forums prior to the IRFA were ad hoc, with the exception of Eastern and Western Cape (Fessha and Steytler, 2006, p.4).

16 In terms of provincial initiatives, in early 2000 several provinces, e.g., Western Cape, Gauteng, Mpalanga and Eastern Cape, had already established intergovernmental forums led by the provincial premiers. In 2005 most of these provincial initiatives were rationalised and turned into a Premier’s Intergovernmental Forums (PIFs).
Behind the notion of a changing intergovernmental balance of power rests the proposition that in federations there are incentives for national and subnational political actors to advance their interests in a context in which power encroachment from different levels of government political actors is likely to occur. From this viewpoint, national and subnational political actors attempt to increase their power, often to the detriment of other levels of government, by attempting to influence intergovernmental relations. For example, Dickovick (2007) shows how in democratic Brazil and South Africa municipalities gained important leverage power vis-à-vis other levels of government in the decentralisation carried out under a central government’s strategy to circumvent the power of the intermediate level of government.

From the vantage-point of local governments, there are two ways in which political actors are able to influence intergovernmental relations: through their ability to fight power encroachment from the centre and through their ability to influence policy at the centre. In order to identify the increase of municipal autonomy in Brazil and South Africa, I associate a few local government qualitative indicators, which are present in both countries, with the ability of these governments to influence intergovernmental relations (See Table 4). As such, in fiscal terms, the discretion to determine rate and base for local revenues affect the ability of local governments to protect themselves against encroachment from the centre. Furthermore, the possibility of municipalities to raise their own revenues covering the majority of expenditure decreases the dependence of local governments on central transfers while giving them leverage power to meet expenditure on their own terms.

In administrative terms, the ability of local governments to avoid power encroachment can be augmented by their discretion to hire and regulate municipal public employees, and the protected right of municipal governments to constitute a different level of government. The ability of local governments to influence central government policy is exercised through the prerogative to pass legislation on areas of municipal competencies and the freedom to deliver essential services (e.g., health and education). There are indicators that enhance both abilities to influence intergovernmental relations (see Table 4).

The sections below summarises the end-result of the increasing leverage power of local governments in Brazil and South Africa.

Local Government Autonomy in Brazil
An overview of the evolution of subnational governments in Brazil following the country’s transition to democracy suggests that they managed to acquire administrative and fiscal autonomy incrementally (Falleti, 2010). Although the Brazilian municipalities acquired constitutional powers de jure even before the transition to democracy, following the implementation of the 1988 constitution, which further expanded the responsibilities of the municipalities, they also gained de facto autonomy. Most certainly this autonomy has been felt on the fiscal front. Brazilian municipalities not only managed to acquire competencies over the collection of revenue, but also guaranteed higher transfers from the central government. In addition to growing revenues, Brazilian municipalities also were granted autonomy to determine tax rates.
Despite these advancements, evidence shows that after the transition to democracy there was an increase in the dependence of smaller municipalities on intergovernmental transfers and most of them would have been unable to meet their expenditure assignment if they relied on their own-raised revenues (Arretche, 2009). Indeed, the municipalities, against their wishes, also assumed responsibilities that culminated in greater dependence on the centre. These unfunded mandates have limited the real autonomy of the Brazilian municipalities (Samuels, 2000, p.84). Moreover, the central government was able to reduce the amount of constitutionally-required transfers to municipalities following the transition to democracy (Arretche, 2005). Yet, it is possible to say that today the local level of government is more able to influence intergovernmental relations in Brazil than before the country’s transition to democracy.

Local Government Autonomy in South Africa
Generally speaking, local governments in South Africa enjoy a high degree of fiscal and administrative autonomy. With the local government reforms made in the context of the transition to and consolidation of democracy, South African municipalities started to exercise some constitutionally-granted responsibilities. On the political front, the municipal councils were empowered with the right to pass by-laws on the areas of municipal responsibilities. Administratively, local governments in South Africa gained responsibility for creating their bodies of public employees. In terms of fiscal autonomy, in spite of variations across different categories of municipalities, South African municipalities were granted the right to raise their own revenues, set the rates of taxes, and to borrow and issue bonds.

Despite these gains, only the six metropolitan municipalities can be considered the big winners of this process as they have been able to articulate their demands better than other municipalities. They were also not immersed in an unclear division of functions, as in the case of other types of municipalities. However, in recent years the district municipalities have gained more responsibility as the central government’s legislation attempted to clarify the unclear distribution of functional responsibilities (Schroeder, 2003, p.40). The increase of responsibilities to local governments has not necessarily translated into the full exercise of their powers. For example, De Visser (2004, p.178) calls attention to the lack of constitutional challenges brought by local entities on the reforms of local governments. In the first four years following the promulgation of the 1996 constitution there was not one single case brought to Court. Administratively, the central government attempted to regulate public employment. Fiscally, despite the revenue raising powers given to local governments, due to capability problems and asymmetric distribution of resources small municipalities in South Africa faced fiscal difficulties with the low degree of autonomy granted to them (Smoke et at., 2003).

FINAL REMARKS: WHEN INSTITUTIONAL STRUCTURES MATTER AND NUMBERS DO NOT MATTER
The puzzle of how different processes of local government reforms in Brazil and South Africa have lead to the common effect of increasing local autonomy is explained by the existence of similar institutional incentives in the federalisation of these countries. Initially there was variation between both countries in the transformation of the local level of government. Whereas in Brazil the practice of creating new municipalities has been motivated mainly by the attempt to receive additional fiscal transfers from the federal government, in South Africa the amalgamation of existing municipalities has been motivated by the removal of legacies of the previous political regime.
With the participation of other levels of government in the process of local changes and the progressive transfer of responsibilities to municipalities, federalisation in Brazil and South Africa advanced under a common mechanism. The mechanism: the strategy of the central government to circumvent the power of the regional level governments and the creation of intergovernmental forums involving municipal governments. This strategy can be interpreted as a mechanism that culminated in the increase of the leverage power of local government actors in intergovernmental relations.

In Brazil and South Africa, the strategy of bypassing regional governments influenced the process of intergovernmental change in the following manner: as the structural reforms to accommodate the creation of new municipalities were put in place, the central government, in order to weaken the regional governments, pursued their isolation. In Brazil this occurred through the reduction of fiscal resources available to state governments and the exclusion of these governments in some of the intergovernmental forums. In South Africa this list is longer as the central government prevented the promulgation of the provincial constitutions, reduced to a rubber-stamping institution the National Council of Provinces, and was often engaged in the dismissal of the provincial premiers.

Accounting for the differences and similarities in the federalisation of Brazil and South Africa, the hypotheses presented in this article have been elaborated in light of the observation that despite the increase of municipalities in Brazil and the decrease of municipalities in South Africa, local governments in both countries became increasingly autonomous. That said, the ‘number of actors hypothesis’ does not hold in the transformation of local government in Brazil and South Africa following their transition to democracy. Nonetheless, the ‘institutional structure hypothesis’ holds in the Brazilian and South African cases as one can observe that the intergovernmental forums have been able to create an arena for subnational governments to exercise influence over decision-making and to articulate their interests. As such, it is possible to say that the institutional structures are determining in the development of local autonomy in Brazil and South Africa, regardless of the number of local actors in a federalised polity.

The proposition suggesting that the higher the number of intergovernmental forums the greater the ability of local actors to influence intergovernmental relations only holds true under certain conditions. Based on the analysis of the evolution of the intergovernmental forums in Brazil and South Africa, it is possible to identify two conditions upholding this proposition.

The first condition is related to the existence of a constitutional and legal framework that protects the right of existence of local governments as well as the very creation of intergovernmental forums. The existence of a legal framework laying down the rules of the game for the federal bargaining is a precondition for the creation of robust intergovernmental relations with limits on power encroachment between levels of government. Yet this condition alone is not sufficient for local political actors to exert influence over intergovernmental relations. The second condition concerns the commitment of the political actors of different levels of government to comply with the rules and norms of shared competencies. Intergovernmental forums can be considered institutions that safeguard the federal pact as long as they function within a legal framework and have committed political actors to following the rules of the game. Under the existence of a legal framework, compliance would help the maintenance of the constitutional pact in the face of transgressions in federal systems, as Bednar (2009) draws attention to.
Based on the analysis presented in this article, it is possible to infer, regardless of the changes in number of municipal governments, that intergovernmental forums in a context of a robust multi-level interaction function as enabling institutions for local political actors to exercise influence over intergovernmental relations.

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BIOGRAPHY

Hélder Ferreira do Vale is a political scientist (BA Richmond University) with masters in European Studies (Johns Hopkins, Bologna) and in International Relations (Johns Hopkins, Washington). Helder has conducted research in the field of intergovernmental relations in several universities including University Complutense of Madrid (Spain), European University Institute (Italy), Federal University of Pernambuco (Brazil), University of Cape Town (South Africa), Aalborg University (Denmark), University of Lisbon (Portugal) and University of Barcelona (Spain). He has worked at the World Bank and at the Inter-American Development Bank (both in Washington). His researches have received several international prizes, among them the Stein Rokkan Award (2006) granted by the International Political Science Association.

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TABLES

Table 1: Federalisation Layers in Brazil and South Africa

<table>
<thead>
<tr>
<th>Federalisation Layers</th>
<th>Federalisation Initiative</th>
<th>Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Layer</td>
<td>Establishment of new federative units</td>
<td>Creation of municipalities</td>
</tr>
<tr>
<td>Second Layer</td>
<td>Establishment of intergovernmental cooperative mechanisms</td>
<td>Creation of Intergovernmental forums</td>
</tr>
</tbody>
</table>
## Table 2: Sequence of Federalisation in Brazil

<table>
<thead>
<tr>
<th>Measures</th>
<th>First</th>
<th>Second</th>
<th>Third</th>
<th>Fourth</th>
<th>Fifth</th>
<th>Sixth</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Effects on the Centre</td>
<td>Lower coordinating capacity</td>
<td>Increased coordination role</td>
<td>Possibility to challenge subnational initiatives</td>
<td>Increased coordination role</td>
<td>Increased ability to control the creation of municipalities</td>
<td>Increased coordination role</td>
</tr>
<tr>
<td>Effects on the States</td>
<td>Increased discretion over the creation of municipalities</td>
<td>Increased coordination role</td>
<td>Possibility to challenge centre’s initiatives</td>
<td>Increased coordination role</td>
<td>Decreased ability to create new municipalities</td>
<td>Decreased coordination role</td>
</tr>
<tr>
<td>Effects on the Municipalities</td>
<td>Possibility to receive growing fiscal transfers from central government</td>
<td>Acquisition of responsibility over health plan</td>
<td>Possibility to challenge centre’s initiatives</td>
<td>None</td>
<td>Decreased ability to create new municipalities</td>
<td>Increased articulation capacity</td>
</tr>
</tbody>
</table>

*CAF*: Consejo Administrativo Federal.
Table 3: Evolution of the Creation of the Local Government in South Africa

<table>
<thead>
<tr>
<th>Measures</th>
<th>First</th>
<th>Second</th>
<th>Third</th>
<th>Fourth</th>
<th>Fifth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effects on the Centre</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>Increased role in establishing the political institutional arrangements for municipalities</td>
<td>Increased regulatory role on municipal human resources, credit and indebtedness</td>
</tr>
<tr>
<td>Effects on the Provinces</td>
<td>None</td>
<td>Increased role in the reforms of local governments</td>
<td>Increased oversight role over the demarcation process</td>
<td>Increased discretion over the type of municipality to be established</td>
<td>None</td>
</tr>
<tr>
<td>Effects on the Municipalities</td>
<td>Increased discretion over local government institutional building</td>
<td>Provide guidelines to strengthen the municipal executive</td>
<td>Empowered with the ability to propose demarcation area</td>
<td>Increased oversight and coordination role (districts) and responsibilities over delivery of services (local municipalities)</td>
<td>Increased role in the integrated development plan</td>
</tr>
</tbody>
</table>

Table 4: Qualitative Indicators of Municipal Autonomy in Brazil and South Africa

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Enhances the ability to fight power encroachment from the centre</th>
<th>Enhances the ability to affect policies at the centre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-raised municipal revenues finance majority of expenditure</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Discretion to determine rate and base for local revenues</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Discretion to deliver essential services (e.g., health and education)</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Prerogative to pass legislation on areas of municipal competencies</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Protected right of municipal governments to constitute a different level of government</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>