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Political and Institutional Checks on Corruption

Explaining the Performance of Brazilian Audit Institutions

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This article investigates the performance determinants of accountability institutions in new democracies. Current scholarship on accountability has identified a distinct mechanism through which the introduction of political competition may affect such institutions: the electoral connection or vertical accountability mechanism. This connection is not expected to be effective in new democracies, because political competition is found to be volatile and nonprogrammatic. Another strand of the literature focuses on the effect of power alternation. Government turnover is expected to generate incentives for the creation and strengthening of autonomous institutions. By exploring a unique data set on 33 state audit institutions, the authors bring together these distinct claims and provide systematic empirical tests for them. They find a negative effect of volatility on their institutional activism and a positive (direct and indirect) influence of power alternation on their levels of autonomy and sanctioning patterns.

Keywords: *accountability; corruption; audit institutions; checks and balances*

Oversight institutions such as audit institutions (AIs), government watchdogs, and anticorruption agencies have attracted a great deal of attention as of late. This interest is shared by multilateral institutions, non-governmental organizations, and citizens and governments all over the globe. The reason for this growing interest is the role they play not only in curbing corruption but also in reducing waste and improving the accountability of governments, all of which are key goals of democratic governance.

These institutions are key to ensuring horizontal accountability (O'Donnell, 1999)—mutual checks and balances among state agencies. As countries become democracies, more expectations arise regarding their role in checking governments. These institutions have indeed mushroomed in many continents, particularly in Latin America and Eastern Europe over the past few decades. Not only have new AIs been created in nearly every region of the world, but more significantly, extant AIs have experienced extensive overhauling. For the World Bank, AIs are “pillars of integrity,” and many programs have been created with its support as well as of the International Monetary Fund and the Inter-American Development Bank, with the sole objective of strengthening existing AIs or with extensive components aimed at improving them (Dye & Stapenhurst, 1998; Petrei, 1998; Santiso, 2006).

In contrast to this optimistic view among policy makers, a significant part of the scholarly literature shares a pessimistic perspective on the potential for accountability bodies to function adequately without significant changes in the relations of vertical accountability. According to Moreno, Crisp, and Shugart (2003), these agencies have emerged as antidotes to the perceived accountability deficit in Latin America: “[the] proliferation . . . in Latin America . . . must be seen as largely a product of discontent with the functioning of accountability and it represents an effort to find a way around the problem without tackling the roots of the accountability deficit” (p. 82). Thus, according to these authors, major overhauling of political institutions—particularly political parties, constitutional rules, and electoral rules—is required before any significant improvements can be achieved.

Despite the interest in these accountability institutions, there are few systematic empirical studies that shed light on the actual determinants of their performance. This article makes a contribution to this debate by presenting an empirical test focused on a key type of institution, which has been overlooked in the research agenda: the audit bodies. The purpose is to fill the gap and provide an alternative explanation, which draws on the research on the determinants of independent agencies and judicial autonomy.

Much of the emphasis by Moreno et al. (2003) is on the quality of the electoral link between citizens and representatives, but there are other important dimensions that need to be taken into account for a fuller understanding of the functioning of these institutions. These include the degree of competition among political elites and the organizational setup of the agencies. In this article, we demonstrate that a significant part of the variation in performance among Brazilian state AIs can be explained by the turnover of political elites controlling state governments, by the voters’

electoral volatility, and by their internal institutional arrangements, including inter alia the rules for recruitment of auditors and top decision-making bodies. By examining cases that share the same overall institutional model (audit courts), we can control for finer variations of institutional design. In addition, because we focus on 33 institutions within the same country, we can control for a number of other factors, including cultural and political institutions such as electoral rules (which in our case are constant across states), and focus on the variables that are analytically relevant: finer variations in institutional setup and changes in political competition among elites.

The findings in the article suggest that when the political environment in new democracies becomes more competitive and, above all, more institutionalized (i.e., less volatile and more stabilized and programmatic), the chances of having more accountable governments increase. The article provides further empirical evidence to the broader claim in the current comparative scholarship that elite competition is crucial to explaining the emergence of autonomous institutions in less consolidated democratic settings such as those prevailing in Latin America (Chavez, 2004; Finkel, 2004; Ginsburg, 2003; Helmke, 2005; Ríos-Figueroa, 2007).¹

In new presidential democracies, because executives are usually powerful, elite turnover at the executive branch may have a positive effect, even in contexts of unified governments and nonprogrammatic political competition. When elites face greater risk of being replaced in office by their rivals, they have more incentives to bind their hands and delegate more power to autonomous accountability institutions. Incumbents who face no credible electoral threats have fewer incentives to bind their own hands because they would prefer to keep their discretionary powers unchecked. This occurs in political environments plagued by clientelism, in which a citizen's ability to sanction rulers is rather reduced (for an extended discussion, see Kitschelt & Wilkinson, 2007). In this article, we argue that a key factor behind a greater activism of AIs is indeed the level of political uncertainty generated by the electoral competition among the state's elite groups.

Literature Review and Research Strategy

There is ample recognition that institutions of checks and balances are weak in Latin America and that the consolidation of democracy is undermined by the unchecked nature of the presidents in the region and in other parts of the world. In a well-known contribution, O'Donnell (1999) describes this situation as "delegative democracy." This is a situation characterized by a deficit

of horizontal accountability, which he defines as “the existence of state agencies that are legally enabled and empowered and factually willing and able to take actions that span from routine oversight to minimal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful” (p. 38). O’Donnell’s contribution, however, does not provide a systematic analysis of the causal patterns that produce the weakness of accountability institutions. This pattern appears in his analysis as the general outcome of socioeconomic characteristics, historical legacies, and inequalities. Although these factors are arguably important for the explanation, a meso-level of analysis, clarifying the micro foundations of incentives shaping behavior of actors in the accountability game, is required for our purposes of testing the factors accounting for variation in the performance of accountability institutions across subnational units.

The current neoinstitutional work on accountability advances the argument that the performance of control institutions is determined primarily by the quality of the chain of delegation between the citizenry as political principals and politicians as their agents. Relying on models of principal-agent relations, Moreno et al. (2003) argue that accountability is essentially a consequence of the act of delegation. The incentives for making political agents accountable for their actions and punishing wrongdoing are shaped by the functioning of the chain of delegation, which in turn takes on different forms according to the nature of the political regimes. In systems with separation of powers, the chain of delegation to the executive is direct. Thus, the electorate has two agents (three if there is a bicameral congress) that engage in transactions. Because checks and balances is essentially a relationship between equals, Moreno et al. conclude that there is no delegation involved between these two agents. Moreover, this relationship—which they term “horizontal exchange” instead of “horizontal accountability”—does not involve sanctions, except for the rare case of impeachments. Accountability necessarily implies the ability to mete out rewards and punishments. Thus, Moreno et al. reject O’Donnell’s (1999) notion of horizontal accountability and argue that accountability is a vertical rather than a horizontal relationship: “Horizontal accountability is an oxymoron” (p. 80).

Because the chief executive typically appoints the members of the boards or head of these institutions, which are also subject to the confirmation by the legislature, citizens as voters are involved only indirectly in the underlying chain of delegation. Horizontal accountability is thus a function of the quality of the vertical accountability between elected officials and voters. If this vertical relationship is flawed, then the horizontal exchange will be deficient. Moreno et al. (2003) argue that the courts of accounts,

ombudsman, and public prosecutors are agents of a specific type of horizontal exchange, which they call "superintendence." This term is used to capture their role as watchdogs and information providers, a role in which they may fulfill the answerability component of accountability. However, they lack the power of meting out sanctions or rewards and can only play a critical role in assisting others in holding the abusers accountable.

Moreno et al. (2003) then elaborate on the pathologies of representation created by distinct configurations of electoral rules and party systems and read off from them the potential inefficiencies of the horizontal exchange. They also argue that if these pathologies are present, it is not enough to have robust political competition for the horizontal exchange to work better. For the vertical accountability mechanism to function, it is necessary that politicians reflect the preferences of the electorate. Electoral rules that encourage intraparty competition among candidates (such as open-list proportional representation with large district magnitudes) weaken this link, because politicians are encouraged to cater to the interests of specific constituencies instead of the collective wishes of the electorate. Similarly, under very centralized electoral systems in which candidate selection is concentrated in the hands of party bosses, legislators will be led to respond to their interests rather than those of their constituencies.²

The upshot of the argument is that the weaker the electoral connection, the less likely it is that governments are accountable. More specifically, accountability essentially depends on how institutionalized and representative political parties are. In highly clientelistic political environments and where electoral rules encourage the individualistic behavior of legislators (as in the case of open rule proportional representation), thereby weakening parties, political competition degenerates into electoral volatility unrelated to an incumbent's performance. Political competition among ad hoc, personalistic, and nonprogrammatic politicians abound in many new democracies, but it generates little or null consequences in terms of government accountability (Kitschelt & Wilkinson, 2007). In other words, political competition only generates governance-enhancing effects when it is based on programmatic appeals. But there is one exception to this rule: When elites compete among themselves in such environments, they may fear the consequences of power alternation. Specifically, if electoral races are even, they would have incentives to grant autonomy to accountability institutions so that the latter can check the incumbent's rivals when they are in office.

A growing literature explores how this intertemporal institutional choice and political uncertainty may affect the incentives to create autonomous institutions and grant more autonomy to bureaucratic agencies in different

institutional contexts (De Figueiredo, 2001; Huber & Shipan, 2002; Moe, 1990, 1994). Why would elected agents bind their hands and relinquish powers to autonomous institutions? In contexts of political uncertainty, rulers may choose to grant autonomy to institutions because they consider the possibility of being replaced by the opposition and would prefer to have an effective institution that might check them while in power. Incumbents who face no credible threats to their position of dominance have no incentives to bind their hands. The intertemporal calculus by political actors dictates institutional choice.

Related research on the emergence of autonomous institutions adopts a roughly similar approach. A number of contributors have discussed the political conditions that led to the emergence of independent judiciary in new democracies (Andrews & Montinola, 2004; Chavez, 2004; Finkel, 2004; Ginsburg, 2003; Helmke, 2005; Ríos-Figueroa, 2007). A common theme is that independent autonomous institutions emerge as a result of the strategic interaction among political actors in competitive contexts. The causal logic is that the more competitive a political system, the more autonomous the judiciary will become. Finkel (2004) and Helmke (2005) incorporate the intertemporal dimension of the political calculus of the participant actors. Thus, actors can delegate independence to courts in contexts of intense competition, because they fear that while in opposition, they would be better off under an independent institution than under courts that can be manipulated by political rivals (Chavez, Ferejohn, & Weingast, 2003). Thus, political uncertainty provides incentives for delegation.

Chavez (2004) argues that variation in levels of judicial autonomy across two Argentine provinces is a function of interparty competition. The rule of law results from a balance of power between at least two political parties, neither of which has monolithic controls. In other words, no highly disciplined party sustains control of both the legislative and executive branches. Effective party competition and low party discipline create an environment in which an autonomous judiciary can develop. In contrast, monolithic party control blocks development of the rule of law. Chavez exemplifies his argument with two case studies of provincial audit courts. In her study of the Argentine's Supreme Court, Finkel (2004) found that the decision to grant more autonomy to the judicial system was primarily driven by the president's desire to control the opposition when out of office.

Recent scholarship on the economics and politics of institutions has emphasized how institutional design—including the rules governing personnel appointment and tenure, budget autonomy, and functional independence—shapes the incentive structures faced by politicians and

bureaucracies as rational actors and ultimately influences the performance of judicial institutions and other autonomous agencies, such as public prosecutors, comptrollers-general, and the like (Aaken, Salzberger, & Voigt, 2004; Feld & Voigt, 2004; Ramseyer & Rasmusen, 2003; Rose-Ackerman, 2006). The institutional design, including the rules establishing recruitment criteria and budget allocation, is viewed as the determining factor in bureaucratic independence (Blume & Voigt, 2007; Forte & Eusepi, 1994; Frey, 1994; Santiso, 2007; Streim, 1994; Torgler, 2005).

Institutional design and political competition are the key variables identified in the literature, but they are not mutually exclusive as explanatory factors.³ This article tests the claim that both factors play important roles in explaining the performance of the state AIs in the Brazilian states and show how these two factors are causally intertwined. By concentrating the analysis to 33 institutions that adopt almost the same model within a single country, we are able to explore the impact of political competition extensively. In fact, the Brazilian states consist of an array of very different patterns of political competition, ranging from relatively democratic and competitive to subnational enclaves characterized by the monopoly of a single hegemonic force (Samuels, 2003; Souza & Dantas, 2006).

We have two general expectations in our empirical exercise. The first is that following Moreno et al. (2003), there is a negative association between the level of institutionalization of political competition in a state and the performance of the AI. In the Brazilian context, the volatility rates of votes can be used as a proxy for institutionalization. Indeed, not only do the impoverished states of the Brazilian North have a high number of effective political parties, but they also exhibit higher volatility of votes. Party labels are almost meaningless, as they are dominated by individual politicians who tend to change parties more frequently than their counterparts in other regions. In these contexts, voters' ability to sanction representatives is lower than elsewhere. Thus, we expect that as electoral competition stabilizes (i.e., volatility declines), AIs will become more active.

The second expectation is that elite turnover is positively associated with the level of independence of the AIs. Governors who nominate the board of the AI have incentives to grant them autonomy when they face credible competitors. Thus, even in states where political competition is weakly institutionalized (in the sense described previously), governors may have incentives to delegate more power and independence to these institutions if the electoral race for the governorship is even. Therefore, institutional autonomy arises as a consequence of the strategic choice of governors who face credible threats of losing power. Because there is

also variation in two key organizational features of the audit courts—the presence or lack of a senior auditor and/or a public prosecutor in the politically sensitive audit board—we can explore finer aspects of the institutional design. Moreno et al. (2003) acknowledge that institutional rules governing the accountability institutions affect autonomy and ultimately the performance of these institutions. Nonetheless, they are skeptical about their effectiveness. Indeed, as established in the strand of the literature cited previously, the rules for appointment and dismissal of top officials, the provisions establishing the level of autonomy over the institution's budget, as well as institutional arrangements whereby members of other branches or organizations (e.g., public prosecutors' office) have a seat the organization's decision-making boards, can have important consequences.

The Brazilian Audit Courts: Structure and Functioning

Independent AIs are of various types, ranging from comptrollers and courts of accounts to special ad hoc commissions and judicial bodies. In some constitutions, the courts of accounts and comptrollers are part of the legislative branch and provide technical advice to the legislature. By contrast, in other constitutions, these agencies have an independent status and, in some cases, they are vested with the powers to unilaterally impose penalties and sanctions.

The constitution of 1988 established new rules for the functioning of the TCEs (*Tribunais de Contas dos Estados*), state audit courts, which led to a certain institutional homogeneity among these institutions. More significantly, the role of the audit courts at the federal,⁴ state, and municipal levels in the Brazilian political system was greatly modified and expanded. The audit courts are constitutionally defined as ancillary bodies of the legislature branch, with the purpose of examining the accounts of the three branches of government in terms of their compliance with the principles of the public administration (public morality, impartiality, publicity, efficiency) as well as the specific legal requirements for hiring of personnel, concessions of pensions, procurement, intergovernmental transfers, competitive public bidding, and fiscal responsibility. Although the audit courts are not technically part of the judicial system, in practice, they operate as quasi-independent judicial authorities.⁵ Not only do the board members enjoy tenure security, but they are also appointed until the official retirement age for public servants, currently 70 years old (Speck, 2000, 2002).

Prior to the enactment of the constitution of 1988, the executive had the prerogative of appointing all of the TCE's board members. The new constitution set the number of board members at the state level to seven. It also reduced the executive's power of appointment to only three members; the legislature would appoint the other four. The executive was responsible for appointing three members, one of whom was his personal choice. The other two members had to be selected from, respectively, the TCE's pool of professional senior auditors and public prosecutors. The states had to adapt to the new constitutional provisions, but there was considerable ambiguity in the transitional rules (Fernandes, 2003). In some states, the governors (rather than the state legislative assembly) were able to continue to appoint replacements at will; in other cases, they appointed auditors or public prosecutors. This was possible because the openings depended on the retirement or death of board members and the rule was ambiguous on the sequencing for the fulfilling of vacancies. More significantly, there were no senior auditors in 11 states. This was because there was no legal statute for the creation of the position of senior auditor career track or because the position was vacant. In many cases, the governors actively maintained the status quo so that they could continue the practice of appointing the two positions as they pleased.⁶

Although there is considerable homogeneity in the functioning of the TCEs, some important differences in the institutional design remained after the changes dictated by the constitution (See Table 1).⁷

Article 71 of the federal constitution of 1988 defines the objectives and competencies of the audit courts. These included the preparation of three different types of reports: (a) at least annual audit reports for all public administrative units, (b) annual reports on the global accounts of the executive and legislative branches at the state or municipal level, and (c) audit briefs on the mandatory reports that state and municipal governments have to submit on the execution of the budget. These annual reports could be reports recommending the approval (or approval with reservations) or, more significantly, the rejection of the public accountant's report. This recommendation is thus submitted to the State Assembly, which can endorse or reject it.

To produce these three different types of reports, the TCEs could take on three different forms. First, they could work on the mandatory reports of accounts required by law that are submitted every year by the state and municipal governments and legislatures, which is largely a routine work. The second form of action is based on the self-initiative of the auditors and the board as a result of suspicion, evidence, or information that they themselves gather about the municipalities or other administrative units. Actions

Table 1
Audit Courts at the State Level

State	Year of Creation	Number of Administrative Units Under Jurisdiction	Number of Employees	TC Budget (% of State Budget)
Acre	1987	207	149	1.16
Alagoas	1947	256	681	0.87
Amazonas	1950	282	515	1.48
Amapá	1991	120	N/A	2.12
Bahia	1915	380	720	0.45
Ceará	1935	119	205	0.28
Federal District	1960	124	589	2.32
Efrito Santo	1954	386	484	0.81
Goias	1947	49	507	0.95
Maranhão	1946	518	306	0.98
Minas Gerais	1935	2.196	1.291	0.89
Mato Grosso	1953	497	400	1.61
Mato Grosso do Sul	1979	630	428	2.55
Pará	1947	81	N/A	1.34
Pernambuco	1968	720	616	1.47
Paraíba	1970	650	352	1.05
Piauí	1891	1.174	104	0.72
Paraná	1947	1.330	477	0.93
Rio de Janeiro	1947	640	240	0.80
Rio Grande do Norte	1957	452	332	0.92
Rondônia	1983	203	284	1.54
Roráima	1988	85	206	1.69
Rio Grande do Sul	1935	1.218	1.005	1.01
Santa Catarina	1955	1.871	451	0.74
Sergipe	1969	235	353	1.88
São Paulo	1921	3.021	1364	0.34
Tocantins	1989	350	356	0.84
Bahia ^a	1980	954	449	0.27
Ceará ^a	1954	1.584	300	0.22
Goiás ^a	1977	1.204	293	0.57
Pará ^a	1980	630	177	0.77

a. TCEs (*Tribunais de Contas dos Estados*), state audit courts, with jurisdiction restricted to the municipal governments in their respective states.

in the third form are investigations that are prompted by denunciations or accusations by third parties. These actions are largely implemented by municipal councilors, opposition candidates, trade unions, and citizens.

Empirical Questions

What factors account for the institutional activism of a court? The TCEs can act bureaucratically and solely prepare the audit reports required by law. The statutory requirement is the preparation of at least one report per year per administrative unit under the TCE's jurisdiction (some of the TCEs do not meet even this legal target).⁸ An active TCE is one that does much more than the minimum required of one report per administrative unit, especially reports resulting from auditors' decisions or denunciations. We hypothesize that the funding of the TCEs, their staff quality, or their infrastructure affects their propensity to undertake audits. This is a plausible hypothesis because audits are costly. They require personnel and involve in loco activities and the processing of information. The amount of resources available per staff varies significantly among the TCEs and so do the qualifications of the staff and the existence of infrastructure and equipment. Another factor may be political competition. We expect that political factors also influence the distinct levels of institutional activism in the TCEs.

The number of audit files per administrative unit is a good proxy for activism. But equally significant is the share of audits that are carried out as a result of the self-initiative of the TCE's own officials, especially senior auditors.⁹ We expect that TCEs with auditors on their boards are more prone to action. The decision to act is taken by the board members. Because governors and legislatures appoint the members of the board, why would these members act against politicians' interests? The politicians' interests are of two types: First, they are interested in protecting members of their cliques and their partners in municipal administrations; second, their interests are directly at stake when the sanctions are applied to the accounts of the state executives or to specific units of the administrative apparatus of the state administration. Despite the appointment procedure, the members of the board have nearly life tenure and cannot be dismissed *ad nutum* by the governors or the legislatures. Governors have some appointment restrictions regarding two members only, the ones that are nominated from the pool of auditors and prosecutors. These two members are tenured civil servants without any particular loyalty to the governor. Introduced in 1988, these features provide important incentives for them to be impartial. Because the sequence of the vacancies is erratic depending on the passing or retirement of senior members, the TCE's boards are currently made up of members appointed before 1988 (also known as the old guard) and members appointed by the governors and the legislature. Considering that the constitution did not stipulate a rule regarding the sequence to be adopted for the changes, governors in some

states appointed auditors and prosecutors rather than people they could choose freely.¹⁰ In many states, the governors actively boycotted the creation of the auditor career track, refused to appoint someone to the post, and did not authorize the organization of the public competition for the post. We hypothesize that political and electoral uncertainty play a role in the choices that governors make.

The senior auditors and prosecutors are recruited through a very competitive system and enjoy civil service status (tenure) and high salaries (their salaries are set as a percentage of the judges of the Federal High Court). These officials therefore have incentives to be strict in the application of sanctions.¹¹ Auditors are very critical of the subordination of the courts to the whims of the political market. Senior auditors also participate in the judgment sessions with the right to vote. We expect that their presence increases the activism of the TCEs and the likelihood that they will impose sanctions. We also hypothesize that there is a positive relationship between a governor's electoral vulnerability and the appointment of auditors or prosecutors.

The final question we address in this article is about the determinants of the variation in the sanctioning patterns among the TCEs. We examine the factors that influence the propensity to sanction (i.e., the likelihood that the TCE board decides in favor of the recommendation for the rejection of the executive's accounts [*parecer prévio pela rejeição de contas*]). This is the most severe of the sanctions that the TCE can inflict on a mayor or a governor (the second is the nonapproval of the accounts of an individual administrative unit, a *jurisdicionado*). It means the rejection of the administration's rendering of accounts. What does account for a TCE's decision to reject the executive's accounts?

Data, Hypothesis, and Econometric Tests

We rely on two sources of data: first, the FIA/Promoex data set prepared under the auspices of the Inter-American Development Bank project on the modernization of the audit courts. This data set contains information for all TCEs on the number of employees, infrastructure and equipment, and administrative units under their jurisdiction (*jurisdicionados*). In addition, we also collected a unique data set with information on the institutional design of the 31 TCEs (including the composition of the board members and their status as auditor, public prosecutor, or other), the number and type of audits initiated by the courts' initiative (as opposed to their routine work

and to third-party complaints), date of creation, and executed budget for 2004. The data were obtained from each court of account directly from the authors. Unless indicated, we also used data on political competition (electoral volatility and government turnover) that were created specifically for this research.

We applied four classes of econometric exercises: two to estimate the determinants of institutional activism (general activism and self-initiative) of a TCE; one to estimate the governor's choice of appointing a senior auditor; and finally a test to assess the determinants of the "propensity to reject or sanction," a report of accounts submitted by governors, mayors, and legislatures.

General Activism of the Audit Courts

The key dependent variable in the first model is called "activity." This variable is the ratio of the number of audit cases performed by each TCE and the number of administrative units under its jurisdiction. As mentioned previously, this is a very good proxy of activism (or more appropriately, productivity). The TCEs are legally required to do so at least once per year, although we have cases in which TCEs do not deliver audits for all units (in which case the ratio would be less than 1). So the greater the ratio, the more active a TCE is.

We tested several model specifications to examine if organizational as well as political factors in fact play a role on the TCE level of activity (see Table 2). The organizational explanatory variables examined are budget and equipment. We normalized them by the number of jurisdictions under the responsibility of a TCE and the number of employees, respectively. Our hypothesis is straightforward; that is, we expect positive estimates for both variables once they, *ceteris paribus*, strengthen the capacity and the ability of a TCE to act.

With regard to the political variables, we included in the model the average of voters' volatility in the past three consecutive electoral episodes (1994, 1998, and 2002) for each State Assembly. This variable in fact measures how the electorate swings the votes among options of political parties that are available from one election to the next.¹² Consistent with Moreno et al.'s (2003) expectation, which emphasizes that open-list proportional representation electoral system decreases the level of accountability of a political system, we predict an inverse or negative relationship between voters' volatility and TCE's activities. It is important to bear in mind that high volatility of the electorate neither means greater electoral

Table 2
Ordinary Least Squares Regression of the
TCEs' (*Tribunais de Contas dos Estados*) General Activism in Brazil

	Model 1	SE	Model 2	SE	Model 3	SE	Model 4	SE	Model 5	SE	Model 6	SE
Budget	1.66 ^{-06***}	6.87 ⁻⁰⁷	2.63 ^{-06***}	8.19 ⁻⁰⁷	2.77 ^{-06**}	8.19 ⁻⁰⁷	2.78e-06***	9.09 ⁻⁰⁷	2.74 ^{-06***}	8.20 ⁻⁰⁷	2.78 ^{-06***}	8.97 ⁻⁰⁷
Equipment			1.9760**	0.9052	1.7848**	0.8768	1.7843**	0.8966	2.0592**	1.0270	2.3394**	1.0597
Volatility					-0.0179*	0.0166	-0.0367*	0.0219	-0.0310*	0.0259	-0.0279	0.0236
Turnover							-0.0776	0.1900	-0.1598	0.1482	-0.1565	0.1444
Auditor									0.4871*	0.3862	0.6304*	0.3361
Public											-0.3974	0.4345
prosecutor												
Constant	0.6674***	0.2458	-0.3485	0.6492	0.6632	0.6492	0.8057	0.9090	0.4069	1.1207	0.3273	1.0991
N	30		28	28	28	28	28	28	28	28	28	28
Adjusted R ²	.1675		.2754	.3125	.3177	.3177	.3177	.3441	.3441	.3441	.3637	.3637

p* < .01. *p* < .05. ****p* < .001.

competition nor political uncertainty. We assume that if the electorate changes its voting preferences quite frequently (sometimes migrating from the extreme right to extreme left political spectrum or vice versa), it suggests that they are not deeply attached to any particular political party or ideology, which of course tends to decrease its capacity of oversight and control over elected officials. Therefore, control organizations such as audit courts will have fewer incentives to act in such a political environment. In other words, we expect voters' volatility to undermine accountability. We also included in the model the variable *government turnover*. This variable consists of an index of elite instability, which was built by taking as a reference the past three consecutive elections for state governors in Brazil: 1994, 1998, and 2002.¹³ In line with the literature expectation, we predict a positive coefficient for government turnover and general activism of an AI. That is, the smaller the government durability, the greater the general activism of a TCE.

Finally, we also tested if the general activism of a TCE is affected by the organizational features of the audit courts through the presence of senior auditor and public prosecutor on the audit board. As those tenured civil servants tend to be politically independent, we predict a positive relationship between TCE's activism and the presence of auditor and public prosecutor.

The results of this first econometric test are shown in the Table 2. As we can see, the greater the TCE's organizational capacity (measured by the size of budget and the amount of equipment available to employees), the more active it tends to be. Volatility, as we expected, is negative and statistically significant, suggesting that instability in voters' preferences between elections is negatively related to institutional activism. The sign of the coefficient of *turnover* is negative but not statistically significant. Although the presence of a senior auditor affects the TCE's activity, the presence of a public prosecutor does not matter.

Endogenous Self-Initiative of an Audit Court

Our major concern in the second test was to measure the determinants of the TCE's self-initiative. As we mentioned previously, TCEs can perform bureaucratically, having just one audit report per year, or they can take the initiative to carry many audits. The dependent variable in this second model is *self-initiative*, the share of audits carried out by the TCEs that were the result of the initiatives of board members in the total number of audits of the TCE in a year. Our hypothesis is that the presence of a senior auditor increases activism. This variable is a dummy with the value of 1 if the TCE

Table 3
Ordinary Least Squares Regression of the TCEs' (Tribunais de Contas dos Estados)
Self-Initiative in Brazil

	Model 1	SE	Model 2	SE	Model 3	SE	Model 4	SE	Model 5	SE	Model 6	SE
Auditor	.0654*	.0391	.0685*	.0400	.0702*	.0420	.1013**	.0497	.0988**	.0505	.0980*	.0604
Public			-.0093	.0383	-.0078	.0398	-.0205	.0404	-.0194	.0427	-.0194	.0436
prosecutor												
Budget					-.214 ^{e-08}	5.35 ^{e-08}	6.96 ^{e-08}	5.86 ^{e-08}	7.19 ^{e-08}	6.06 ^{e-08}	7.18 ^{e-08}	6.17 ^{e-08}
Equipment							.1730	.1476	.1679	.1420	.1675	.1438
Volatility									-.0006	.0027	-.0006	.0027
Turnover								.0756	-.0193	.0878	-.0198	.0874
Constant	.0508***	.0169	.0546**	.0230	-.0574	.0239	-.0385					
N	30		30		28		28		28		28	
Adjusted R ²	.0906		.0922		.0959		.2431		.2445		.2446	

p* < .01. *p* < .05. ****p* < .001.

has a senior auditor and 0 otherwise. We expect more initiative from those TCEs that have auditors in their boards because they are, in principle, more autonomous from political influences. We also included in the model the variable *public prosecutor*, which is a dummy with the value of 1 if there exists a public prosecutor on the TCE board and 0 otherwise. Although audit initiatives are carried out by auditors, we also claim a positive relationship between self-activism and the presence of the public prosecutors. Similarly to auditors, public prosecutors are very independent. To be consistent, we also included in this model the same variables we tested in the previous model (*budget*, *equipment*, *volatility*, and *turnover*). As can be seen in Table 3, the only statistically significant variable in all model specifications was the presence of a senior auditor. This suggests that, irrespective of the organizational resources available, it is the presence of a professional with political autonomy from politicians in the TCE board that makes the difference regarding the self-initiative. Professionalism, career stability, and political autonomy indeed play key roles on the activism of a court of account.

Appointing a Senior Auditor

Now that we have established the effects of the presence of auditors, we turn to the determinants of the governors' decisions to appoint auditors to the TCE boards. If senior auditors play such an important role in terms of endogenous activism (which could potentially harm governors while in office), why would governors have an interest to appoint them? As we argued previously, prior the constitution of 1988, all board members were appointed by governors. After the promulgation of the new constitution, however, the TCE composition was changed, with four members appointed by the State Assembly and three by the governor (but one has to be an independent auditor and one has to be a public prosecutor). Nonetheless, half of the TCEs have not appointed a single senior auditor as of mid-2007. In fact, those governors have used numerous strategies to not implement the constitutional stipulations. They unilaterally appointed associates and cronies as board members.¹⁴

Therefore, if a governor decides to create the career track and initiate the public competition aimed at hiring a senior auditor, it is because this choice must provide some benefits to him or her that must outweigh the potential costs in the future. In line with the arguments developed in our literature review on the determinants of institutional autonomy, we hypothesize that the decision on how much to delegate is a function of the costs

and benefits involved. What can auditors do for the governors that counterweigh the potential agency costs generated by their independent work? We claim that when governors expect to keep their seat, they will not appoint an independent senior auditor. Conversely, in a situation where they face electoral risk of losing the gubernatorial post, they have incentives to do so.

Thus, in our third econometric model, we use *auditor* as the dependent variable. As it is a dummy with the value of 1 if the court of account has an independent senior auditor on board and 0 otherwise, we run a logit regression. We want to test the effect of crucial political variables on a governor's decision to appoint a senior auditor: The first variable is *government turnover* for which we predict a positive coefficient. That is, the greater the electoral uncertainty or the smaller the government durability, the higher the probability that a state governor will choose a senior auditor. We also included *volatility* in the model to estimate the effect of electoral vulnerability on the presence of a senior auditor. We predict that the higher the electoral volatility, the smaller the incentives for governors to appoint independent auditors, and by extension, the less likely it is that governments are accountable.

Because there are costs involved in creating the career for auditors, who are among the best paid public officials in the country, we decided to control this model with the *budget* variable described earlier. We predict a positive relationship between budget and the occurrence of a senior auditor. As a control variable, we use the age of the audit office measured in years elapsed since their creation. We predict a negative relationship because the oldest TCEs will have fewer incentives to have independent representation on board.

The results from the logit model are very strong. The model shows that electoral uncertainty generated by higher government turnover has a positive and significant relationship with the presence of a senior auditor (see Table 4). These coefficients show that even when controlling for other variables that may affect the governor's decision of whether or not to hire a senior auditor, an increase in the electoral uncertainty measured by the index of government *turnover* also increases the probability that the governor will consider having an auditor as one of the TCE's board members. Also, the logit regression confirmed our hypothesis regarding voters' volatility. That is, the more volatile the electorate, the smaller the chances that a senior auditor will be on the board.

The variables *age* and *budget* behave as predicted, although they are not statistically significant. The overall results of the last two econometric tests provide very interesting insights. When the dependent variable was *self-initiative* (Table 3), the only variable that presented a positive and

Table 4
Logit Regression on the Presence of Senior Auditor Within the TCEs
(Tribunais de Contas dos Estados), State Audit Courts

Variable	Coefficient	Robust SE	z statistics
Turnover	.9095**	.4088	2.22
Volatility	-.0870*	.0524	-1.66
Budget	1.25 ^{e-06}	1.18 ^{e-06}	1.06
Age	-.0391	.0373	-1.05
Constant	2.9972	2.4870	1.21

Note: $N = 30$; pseudo $R^2 = .2673$.

* $p < .01$. ** $p < .05$. *** $p < .001$.

statistically significant relationship was the presence of a senior auditor. No other organizational or political and electoral variable plays an influential role in this relationship. However, when the dependent variable was the presence of a senior auditor, the political variables that measure electoral uncertainty (*government turnover*) and voters' volatility were significant. Based on these combined results, it is plausible to conclude that political competition indeed explains a significant part of the TCE's self-initiatives through the presence (or absence) of senior auditors. Another plausible inference is that governors are more inclined to delegate power when they have credible rivals. That is, electoral uncertainty provided by electoral competition works as a credible threat capable to convincing politicians to give up their prerogatives by hiring an official who could deliver independent audits.

These econometric findings confirm the qualitative evidence available. There are several cases of TCEs with high level of activities, especially self-initiatives; and those effective TCEs are exactly situated in states where there exists a high degree of electoral uncertainty for the elite group in power. Very good examples are the TCEs of the states of Rio Grande do Sul and Pernambuco, which are the first ones to appoint independent auditors and public prosecutors. The pioneer TCE was in fact the Rio Grande do Sul's, which appointed an independent auditor in 1991 and has been so far the most important reference for the other Brazilian TCEs in terms of its high level of activities and greater capacity to impose punishments on executives' accounts. Given its great integration with public prosecutors (*Ministério Público*) and the courts, the TCE of Rio Grande do Sul has been the most effective independent court of accounts in Brazil by imprisoning numerous mayors and top governmental officials. The TCE of Pernambuco,

a state in which there has been a long history and a high degree of political competition, is another example of an effective court of accounts (Speck, 2001). It is, for instance, the only case where there exists a special program of auditing municipalities during electoral years, when traditionally audit courts suffer great pressure for minimizing auditing initiatives.¹⁵ With this program, the TCE of Pernambuco is able to monitor revenues and expenditures weekly, thus avoiding misdeeds of public resources favoring particular candidates. An interesting feature of this electoral operation that deserves to be emphasized is that it uses a fast-track investigation and process. Under this program, 182 processes in 114 municipalities were considered irregular and were sent to the public prosecutors and to the courts in 2000. Those irregularities range from illegal expenditures to frauds in engineering works whose resources were estimated as U.S. \$8 million.

Propensity to Reject the Executive or Legislature's Accounts

As we pointed out earlier, one of the central questions of this article is to assess the determinants of the TCE's propensity to reject the executive or legislature's rendering of accounts. We seek to identify the factors that explain the likelihood that the plenary of a TCE decides to recommend rejection of the report of accounts (*parecer prévio pela rejeição de contas*). This is the most severe of the sanctions that it can inflict on a legislative branch, a mayor, or a governor. Our dependent variable is the number of episodes of recommendations for the rejection of accounts rendered by mayors and governors.

The first explanatory variable is the dummy *public prosecutor*, described and used in previous models. We expect a positive relationship between the rejection of an executive's accounts and the presence of the public prosecutors in the boards. We also included *budget* as a second independent variable of interest, and as a control variable, we use *age* (which is measured in the number of years elapsed since creation of a TCE). To be consistent with the previous models, we run different model specifications including the variables *auditor*, *turnover*, and *volatility*. We expect a positive coefficient for *auditor* and *turnover* and a negative one for *volatility*.

However, there is a possibility of reverse causation between our dependent variable *rejection of accounts* and one of our key independent variables *public prosecutor*. If this is the case, the estimation of this relationship through ordinary least squares (OLS) could not yield consistent estimates, because there are reasons to believe that the error of this regression is correlated to the public prosecutor variable. Therefore, the model could lead to incorrect estimates of the effects of independent variables. Note that one would not

only expect that the presence of public prosecutors affect a TCE's propensity to reject the executive's accounts but also that the presence of a public prosecutor as one of the TCE's board members would, all else equal, have a deterrence effect on mayors and governors, indicating reverse causality. Similar problem of endogeneity might also affect the variable *budget*, because we would not only expect that a better funded TCE has better chances of detecting irregularities but also that mayors would be less likely to commit crimes because of the deterrent effect of the existence of a TCE with big budgets.

We estimated the model with two-stage least squares (2SLS) to account for these potential endogeneity problems. We instrumented these variables and estimated a model with positive and statistically significant coefficients for *Public Prosecutor*, *Age*, and *Budget*. The Hausman test for endogeneity, however, indicated that we could not reject the null hypothesis that the difference in the coefficients of the OLS and 2SLS models is not systematic. In other words, we do not need to correct our model for endogeneity problems and, as a consequence, we estimated the determinants of rejection of accounts using OLS.

As we can observe from Table 5, the presence of public prosecutors is clearly a factor that explains how often the TCE rejects politicians' accounts. The presence of an auditor was not statistically significant. That is, although the presence of a senior auditor was a decisive element for the increase of the level of general activism and especially self-initiative of a TCE, having a public prosecutor seems to be the key factor for rejecting executives' accounts. Another crucial finding of the test is that budget is negative and statistically significant in all model specifications, which suggests that the higher the budget, the smaller the probability of rejection of the accounts. This result supports what we call the "blind eye hypothesis," that governors buy the acquiescence of courts by allocating more resources to them. This line of interpretation is supported by a great deal of impressionistic evidence and case studies (Teixeira, 2004). Audits are costly and require both human and material resources, and therefore a better endowed court is more active (as the previous tests demonstrate); however, they tend to reject fewer accounts. Age is also statistically significant and has a negative sign. Thus, older and better funded TCEs are the ones that tend to reject the accounts of politicians less. The political variables, *volatility* and *turnover*, were not statistically significant.

Consistent with our general intuition, integration between TCE and the public prosecutor's office is crucial for sanctioning but not to activism. By contrast, the presence of auditors is fundamental to both general activism and self-initiatives of AIs, but it is not associated with more sanctions.

Table 5
Ordinary Least Squares Regression of the TCEs' (Tribunais de Contas dos Estados)
Probability of Rejection of the Accounts

	Model 1	SE	Model 2	SE	Model 3	SE	Model 4	SE	Model 5	SE	Model 6	SE
Public prosecutor	.2272**	.0876	.2415***	.0793	.2090**	.0749	.2485**	.0986	.2466**	.1012	.2466**	.0992
Budget			-4.53 ^{e-07} ***	7.87 ^{e-08}	-4.63 ^{e-07} ***	6.28 ^{e-08}	-4.63 ^{e-07} ***	7.60 ^{e-08}	-4.68 ^{e-07} ***	7.85 ^{e-08}	-4.65 ^{e-07} ***	8.46 ^{e-08}
Age					-0.0038***	.0013	-0.0041***	-0.0040***	.0013	-0.0041***	.0014	
Auditor							.0012					
Volatility							-1.003	.0958	-0.0935	.0952	-1.268	.1144
Turnover								.0012	.0012	.0044	.0008	.0052
Constant	.1556**	.0548	.2325***	.0567	.4452***	.1086	.4896***	.0922	.4457**	.1676	.4550**	.1895
N	24		24		24		24		24		24	
R ²	0.2252		0.4146		0.5757		0.6112		0.6124		0.6190	

p* < .01. *p* < .05. ****p* < .001.

Conclusion

The implications of the findings in the article for the prospects for accountability institutions in the new democracies are mixed. Indeed, we found evidence, on one hand, of an inverse relationship between vote volatility and the performance of AIs. This is consistent with the claim in the literature on accountability in new democracies, that in these countries, the electoral connection is substantively flawed and that citizens' ability to hold rulers accountable is very limited. On the other hand, we found that elite turnover at the gubernatorial level strengthens accountability, because it creates incentives for delegation of power to independent institutions. As the political environment in the new democracies becomes more competitive and there is more elite turnover, there is an increasing potential for governments to become more accountable as a result of improved effectiveness of accountability institutions. The empirical evidence is consistent with the claim in the comparative scholarship on judicial independence in new democracies that elite competition is crucial to explaining the emergence of autonomous institutions. We show that this argument can be extended to a specific type of control institution, the audit bodies, which are not part of the judicial system, despite the fact that they adopt a quasi-judicial structure.

We have used a unique data set on these institutions and found evidence that both political competition and institutional features matter for the functioning of AIs. When there is elite turnover and institutional design includes key actors in the decision-making structure, AIs perform better. Political factors have a significant effect when we control for organizational variables: infrastructure, budgets, and so on. Indeed, the resources available to the TCEs are highly significant, but then so are the political environments in which they operate. Political competition is only governance enhancing when it is programmatic oriented. Otherwise it only creates electoral volatility based on personalistic ties. In addition, institutional design also influences the functioning of the TCEs. The change in the rules governing the selection and survival of the board members of the TCEs brought about by the constitution of 1988 allowed us to investigate their implementation patterns. Political competition and alternation in power between elites groups influences the likelihood that a governor appoints a senior auditor for the board. When auditors are members of the boards, the TCEs are more active and initiate more audits on the basis of suspicion by auditors (as opposed to routine audits). Because we focused on a single federal country in which all states operate under the same set of institutional rules, we have been able to control for their effects.

We found that if a governor is electorally vulnerable (measured by higher turnover in power at the state level), he or she prefers to insulate the audit agency so as to ensure a political safeguard in the State Assembly. This insurance mechanism is meant to preclude any unwelcome TCE decisions on the governor's accounts when the latter is no longer in office. Using different model specifications, we have found evidence that political uncertainty generated by electoral competition matters. Governors have an incentive to delegate authority to an independent court when they face the risk of losing elections.

The article also demonstrates that although the presence of auditors is fundamental to both general activism and self-initiatives of AIs, it is the presence of public prosecutor that is crucial for sanctioning politicians' misbehaviors. Finally, the tests show an inverse correlation between resources available to the TCEs and their propensity to inflict sanctions to elected politicians. The empirical evidence is consistent with the existence of a blind eye effect by which governors buy the audit court's acquiescence by simply approving larger budgets for them.

Notes

1. Research on the effects of separation of powers on the accountability of governments in established democracies has shown a positive association of accountability and divided governments (Adserá, Boix, & Page, 2003; Persson, Roland, & Tabellini, 1997). More relevantly for our purposes, Alt and Lassen (2007) show that the political incentives generated by divided governments affect checks on corruption in the American states.

2. The nature of the horizontal exchange between the different powers and the autonomous agencies also depends on two factors (Moreno, Crisp, & Shugart, 2003). They should have overlapping powers (i.e., their joint interaction is necessary to pass laws or to govern) and be governed by actors with countervailing ambitions. In the absence of the latter, such as when the majority of legislators is primarily interested in patronage and have no incentive to select officials for the nonelected agencies that will exercise effective control over the source of patronage—the executive—the horizontal exchange degenerates in collusion. If they do not have overlapping functions, this exchange takes on the form of mere fire alarms rather than effective control and punishment.

3. Indeed, there is a strong conceptual foundation as well as anecdotal evidence about their interaction (Taylor & Buranelli, 2007). Ríos-Figueroa (2007) in turn has found that rules that make judges independent are key but do not make an effective judiciary.

4. There is just one federal audit court in Brazil, *Tribunal de Contas da União*, which we do not investigate in this article.

5. These institutions have a number of features typical of judicial bodies such as the right of reply, strict procedural rites, collegial decision making, security of tenure of their board members, and civil service status for their employees.

6. The decision of appointing an auditor as a board member is determined by the governor subject to the approval of the state legislator. He or she can raise the issue any time at his or

her discretion, provided there is vacant position (an opening due to the death or retirement). As documented by Fernandes (2003), some governors have strategically resorted to appeal to the courts whenever there was a petition from the auditor associations or public prosecutors exploring loopholes in the relevant laws. They use the fact that the judiciary is very slow to perpetuate the status quo.

7. The number of jurisdictions of a TCE reflects both the size of the state public sector and historical legacies.

8. This is not public information but a research finding. When this kind of irregularity eventually comes out, it becomes a national scandal and the public prosecutor's office may intervene.

9. General activism and self-initiated activism are both based on official data obtained for the whole universe of TCEs. The latter is a subset of the former: It refers to initiatives that are taken in addition to the minimum legal requirements. They are taken when auditors suspect of irregularities and carry out special investigations.

10. A governor can appoint anyone who has good reputation or has relevant experience regarding public administration. The group of political appointees usually includes retired politicians (the vast majority), political associates, and/or friends and members of family. The salaries and perks for these positions are among the top in the state public sector.

11. Starting with Max Weber, there is a large literature that discusses why professional public official have incentives to be more zealous in the pursuit of their activities than political appointees.

12. In aggregate terms, the state with the highest percentage of swing voters or volatility was Alagoas, located at the northeast of Brazil, which reached 50.4. This indicates that about half of the Alagoas' electorate changes its voting preferences between elections. On the other hand, the state with the smallest average level of volatility was Santa Catarina, in the south, with just 11.8.

13. This index varies from 0 (when the same coalition was the winner in all three consecutive electoral episodes) to 4 (when no one single coalition was able to win two elections). The intermediate values of the vulnerability index refer to situations when an electoral coalition won two consecutive elections but lost the third one (index equal to 1); or when the first elite coalition in power is defeated and a new elected elite wins the following two elections (index equal to 2); and finally, a situation in which an elite group has its electoral dominance interrupted by a second electoral elite, which gains power for just a single electoral period, after which the original elite returns to power (index equal to 3).

14. This kind of behavior recently motivated the Working Democratic Party of the state of Ceará to take legal action at the Supreme Court against the current governor for appointing two state legislators instead of hiring an independent auditor.

15. The anecdotal evidence about the TCEs in Brazil comes from dozens of interviews with auditors from all of the 27 states in the country during their recent annual meetings.

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