The Rule of Law, Economic Development, and the Public Sector in Brazil: Lessons for Territorial Development

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This presentation is based partly on an earlier research proposal by Tendler (August 2006) for funding, and the subsequent field research and interactions with three advanced Brazilian doctoral researchers of the Department of Urban Studies & Planning at the Massachusetts Institute of Technology—Mansueto Almeida, Salo Coslovsky, and Roberto Pires. The longer project proposal, entitled The Rule of Law, Economic Development, and the Modernization of the State, is available at the IADB/MIF meeting’s website, along with a table of the cases selected, their characteristics, and the name of each researcher involved. At this point, each of the researchers has written a draft paper with interim findings, available directly from them by e-mail: (1) Bringing the law and the firm together: labor inspectors and the reconciling of social protection with economic development in Brazil, Roberto Pires (rires@mit.edu); (2) Beyond Informality: understanding how law enforcers and economic-development agents promote small firms’ economic growth under the law, Mansueto Almeida (mansueto.almeida@ipea.gov.br); and (3) “Stitching it together”: how public prosecutors produce compliance and promote economic growth in Brazil, Salo Coslovsky (salo@mit.edu).

The research and its interim findings grew out of an MIT project started in mid-2006 and funded so far by the Brasilia offices of the U.K.’s Department for International Development (DFID) and the World Bank. As Principal Investigator, Tendler worked together throughout the process with the three Brazilian researchers—who are truly gifted. Profound thanks go to the supporters of the research in the form of financing and continuing feedback on the proposal and the interim findings and papers: the DFID office in Brasilia, particularly Miranda Munro and Ernesto Jeger, and the World Bank office in Brasilia, particularly John Briscoe and Deborah Wetzel; and to MIT’s Department of Urban Studies & Planning, for its various forms of support for the project, including a stimulating environment in which to engage in discussions around this subject. The usual caveats apply here. The funders are not responsible for, or may not necessarily be in agreement with, the emphases that appear here. The latter caveat may apply also to the researchers themselves; and not all of our findings are included in this summary paper.
Today, Latin America in general faces the twin challenges of rekindling economic growth while, at the same time, stepping up the pace of reducing poverty, inequality, and exclusion. These challenges often take the form of hard tradeoffs or, worse for planners and implementers, are perceived as such when they need not be. One of the most difficult tradeoffs and current challenges to territorial development is that between improved business climate or competitiveness as vs. enforcement of law in the environmental, labor, and other regulatory areas. Many of these tradeoffs involve one party to the conflict of interest having less power and/or information than the other—the so-called asymmetries of power and information between the two sides. This adds to the policy challenge of transforming these tradeoffs from zero-sum—where one side can gain only at the other’s loss—into positive-sum outcomes.

These tradeoffs are particularly relevant to the current desire of donors and governments to make territorial development more inclusive. This includes not only trying to balance the asymmetries of power that affect the style of growth so directly, but also enhancing the potential indirect impacts through linkages and spillovers, institutional as well as economic. It is already well known, after all, that the indirect reverberations of local growth are often many times more forceful than the direct impacts in increasing employment, reducing inequality, and reducing poverty. Often, as well, these indirect effects contribute strongly toward a more locally rooted form of growth. This is particularly important for sustaining the growth process or even just stabilizing it, which makes it more likely that the local economy can resist being completely devastated by the inevitable market crises that will surely come along.

The interim findings to be presented at this workshop grew out of a current research project (see title page here) that has focused on the patterns running across a set cases of territorial or subnational development, some involving clusters and some not. In these cases, which are listed on the accompanying case table, the fabled hard tradeoffs turned out to be less insuperable than claimed, or they were circumvented or transformed into positive-sum outcomes—through the artful action, in part, of public-sector agencies. To narrow down the research task, and toward the end of discovering implications for improving policy and practice, the research focused on cases in which public-sector institutions were key actors—in particular, the so-called street-level-bureaucrats of the regulatory agencies—labor inspectors and prosecutors and their respective agencies.

At the same time, the presence in these histories of other important institutional drivers was not ignored—public and semi-public executing agencies, the associations and unions of, respectively, firms and workers, non-government organizations, and, last but not least, the market. Cases of local growth in which the public presence appeared only late in a long history of evolution were of particular interest in the case choices, since they provided clues as to how the growth process might have been supported earlier on without, at the same time, undermining it. The long histories also provide lessons to be learned from the relative survivability (or not) of clusters and other development advances—determined by the inevitable downs (and ups) of the market, the crises that the downs provoke, and the extent to which territorial actors rise to the occasion of these crises. After identifying the cases, the project then sought to understand through intensive fieldwork the process by which the tradeoffs were reduced, circumvented, or transformed in
some cases, and not in others. The purpose has been to discover the patterns running across a set of such cases, rather than to discover “models” for emulation and upscaling, or a set of “best practices”—on both of which a rich literature already exists.

The research was carried out through three institutional lenses. The first was the Ministério Público and particularly its “street-level-bureaucrats,” the prosecutors (Salo Coslovsky). (The Brazilian Ministério Público, is somewhat akin to Ministries of Justice in other countries but, in the case of Brazil and some other Latin American countries, separate from and independent of the Ministries of Justice.). A second was the Ministry of Labor and its “street-level-bureaucrat” labor inspectors in the state offices and their local offices (Roberto Pires). The third was the institutional drivers and triggers of growth in a set of clusters with a long history, even before a public-sector presence appeared (Mansueto Almeida). In all three cases, it should be noted, environmental inspectors were often a triggering presence.

Some of the cross-cutting themes and questions that have emerged from the research so far are the following:

(1) Some of these cases of subnational development exhibited significantly greater impacts in reducing poverty and exclusion than others, and this sometimes occurred indirectly through important linkages and spillovers—institutional as well as market-driven.

(2) Some of the cases of improved enforcement of the law by prosecutorial, environmental, labor, and other regulatory did not undermine competitiveness, and in some cases enhanced it.

(3) The process by which the classic and debilitating conflicts between the two sides of the tradeoffs were mediated was central to the positive outcomes, though it rarely involved formal “conflict mediation” or trained mediators. In the past years, actually, conflicts around development have actually become more prevalent in recent years, and partly for good reasons. Namely, the increasing prevalence of democratization, decentralization, and participation in Brazil—and, more generally Latin America—have brought these kinds of conflicts more into the open. This has made the findings about reducing conflicts more central to the task of supporting viable territorial development.

(4) In several cases, dedicated civil servants were often linked together through a sense of collective professional identity and/or commitment to the cause of protecting poorer or less-organized citizens, whose legal rights were being violated. These public professionals were often key actors in spearheading and sustaining some of these improvements; they worked long and often quietly behind the scenes in the cases studied, even though they often were mentioned only marginally—if at all—by most of the many case studies of our cases and others, in which the principal actors appearing in these written stories were the myriad ED-promoting agencies, and the firms and their associations and federations.

(5) Finally, the political interests of mayors, governors, legislators, and their out-of-office opponents, was often important in helping to drive the positive outcomes. Though the avid
interest of such political actors in using development programs and projects toward political ends is not a new discovery, observers often view this link as *undermining* “serious” programs, and diverting them from their technically well-designed path; or, even when a link actually exists between attractiveness to politicians and good design and implementation, it is usually obscured by the greater preoccupation of observers with political “meddling,” and the desire to keep programs safely “autonomous” from politics.

In coming to these findings through a set of comparative case studies, the research has laid the groundwork for identifying certain “missed” opportunities for support by governments and outside donors. They are based on the already-existing experiences and histories of this particular country—not outside models. And they show, in certain ways, that there are more degrees of freedom for such support than might have been thought. The implications for practice would not necessarily require significant increases in resources or radically different ways of doing things. And the lessons from the research suggest that the impact of such support could, at the margin, be significant.