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Administrative Reform in Brazil

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1. INTRODUCTION

1.1. Central objective of this study

The central objective of this study is to discuss the administrative reform that has been conducted in the present government since 1995, but without a critical analysis. The theme is not original. However, we intended to prioritize the obstacles and reasons that interfere in the process of approval and development of the initial project. In that way, we can start from the proposed model to arrive to the results obtained until the moment.

1.2. The necessity of the reform

The administrative reform is necessary to reorganize the apparatus of the State mainly due to the crisis that began in the middle of the 70s, starting from the crisis of the petroleum. That crisis affected three dimensions of the State: the economical, the social and the administrative. In the economical dimension, the situation was the excessive intervention of the State in the economy; in the social, there was the excess of public expenses and the need of reducing those expenses (not only the social ones, but the public expenses, in the general, needed to be reduced); and, in the administrative, there was the exhaustion of the bureaucratic model¹. In the reality, the Weberian model of bureaucracy, with their characteristics as impersonality, neutrality, rationality, never existed fully in the Brazilian administration. What there was, and there is, is a mixture of the patrimonial model, that was never completely overcome, and the bureaucratic model, of which we will speak further on.

In the 80s, President José Sarney tried to undertake reform efforts, but there was not a real implementation of changes. One of the reasons for that was because the National Congress met in the Constituent Assembly.

The process of reform of the government's State Fernando Henrique Cardoso began in 1995. This reform is an attempt of overcoming the bureaucratic model, in which it fits, and the patrimonialist in search of larger efficiency and effectiveness.

¹ According to Abrucio 1997, p.7 and 1998, p.175.

The proposal of reforming the State was not an isolated action that only happened in Brazil, but it was part of a group of actions in several countries, as a world tendency, in response to the crisis for which they passed. As BRESSER PEREIRA (1998:21) mentions,

“In the 80s, soon after the appearance of the crisis of the international debt, the theme that called the politicians' and decision makers of public policies' attention all over the world was the structural adjustment or, in more analytical terms, the fiscal adjustment and the reforms guided to the market. In the nineties, although the structural adjustment continues to be one of the main objectives, the emphasis moved for the reform of the State, particularly for the administrative reform. The central subject today is to rebuild the State – redefining a new State in a globalized world.”

1.3. The three objectives of the reform

According to the Ministry of the Federal Administration and Reform of the State (1998:11 and 12), the reform of the State apparatus, or administrative, possesses three fundamental objectives:

- “to redefine the role of the State, strengthening their functions in the regulation of the markets and in the stimulation to the social activities of interest of the collectivity;
- to increase the administrative capacity of the State, modernizing the public administration and going back to the search of the efficiency and of the quality in the service to the citizens;
- to contribute for the fiscal adjustment, besides in States and Municipal districts, where a clearing problem of personnel's excess exists.”

Those three objectives are part of an objective that we can call the development objective that is one of increasing the governance of the Brazilian State.

The administrative reform had a quite extensive proposal for the time of mandate of the President and for the cultural organization that reigns in the public administration, because when we

speak about cultural change and behavior difficulty, it wasn't possible to obtain success, proposing that change by the publication of a decree. Besides, the government lost an important moment for the approval of some subjects that affected its results. Starting from those brief verifications, we can mention some difficulties the reform has to completely implemented:

- 1) The proposal sent to the Congress had stayed in that House more time than it should since it had a lot of unpopular ideas, especially in what refers to the acquired rights of civil servants;
- 2) The culture of the Brazilian public administration is a hybrid model of patrimonialism and Weberian bureaucracy and, therefore, some variables should have been considered in a more complete way than they were, as for instance, the acting of the servants and the collection of the society as for the public services' improvement;
- 3) The position that was occupied for the functionalism and for the population that, according to ABRUCIO (1998:193) can determine or influence the strategy of implementation of the reform, was not relevant for the process;
- 4) The fiscal or fiscalist logic prevailed to the detriment of the logic of increase of the efficiency and of the effectiveness.

In the first chapter, we will discuss the adopted theoretical bases, considering the bureaucratic model and the post-bureaucratic. We won't stop in the patrimonialist model, which in spite of being present in the Brazilian public administration, was considered overcome by the thinkers of the reform. The patrimonialist characteristics existent were considered as distortions of the administration². We present, then, each one of the models and we compare them. Inside of the post-bureaucratic model, we mention the most relevant cases: the English and the American ones. Soon afterwards, we relate the post-bureaucratic model to the Brazilian case.

In the second chapter, we will describe the crisis that the government faces, emphasizing mainly the situation of the human resources, in what concerns the quantitative, remuneration, expenses with personnel, commissioned positions and the lack of perspectives due to the absence of careers in the public service.

The third chapter is dedicated exclusively to the proposal of the reform. It is treated more than a summary of the White Paper Reform of the State Apparatus with some other characteristics collected in another texts that were published about the subject.

² Information given in lectures by the ex-minister of Federal Administration and State Reform, Bresser Pereira.

In the fourth chapter, we will conclude with results of the reform that were reached until the second semester of 2000 and some difficulties government has found in the implementation process.

2. THE THEORETICAL BASES OF THE REFORM

2.1. Brazilian previous experiences

The reform, that began in 1995, was not the first experience that Brazilian State had with reform. We can mention another two examples of the reform undertaken by the President Getúlio Vargas in which the Administrative Department of the Public Service emerged—DASP, and the reform of 1967.

2.1.1. DASP

DASP was created in 1936³ and aimed at “the rationalization through simplification, standardization and rational acquisitions of materials, review of structures and applications of methods to definition of procedures”⁴. At the same time that the reform was based on the concepts of the scientific administration theory, in the field of human resources the Weber's concept of merit began to be applied. This principle began to be introduced in Brazilian public administration ever since, and it was used by the President as a mechanism to demonstrate that the public administration was beginning to become professional and have defined roles. In some areas, as for example in the economical area, meritocratic criteria brought certain credibility. The White Paper Reform of the Status Apparatus (1995:26) concludes.

“However, despite the adoption of some important instruments at the same time, such the system of public competitive examinations and training, a human resources policy that responded adequately to the need of the state was not consistently adopted.”

³ We're using the data cited in the White Paper Reform of the Status Apparatus. Some texts propose DASP was created in 1938.

⁴ White Paper Reform of the Status Apparatus, p.25.

We should attribute that dualism to Getúlio Vargas's political capacity that excelled at managing a State with ambiguous characteristics that sometimes slid into patrimonialism⁵ other times to meritocracy.

2.1.2. Decreto-lei 200

The second State reform attempt that reached the organization of the Brazilian public administration happened in 1967. With characteristics opposed to those of the 30's reform, it began with the Decreto-lei 200 of 1967, that emphasizes decentralization of state activities. This responsibility were transferred to semi-autonomous government agencies, foundations, state owned companies and joint capital enterprises. For that reason, there was an invigoration of the indirect administration⁶ to the detriment of the direct administration⁷. At that time, the public companies hired more qualified human resources to the detriment of the ministries, further weakening the bureaucratic administration proposed by Getúlio Vargas.

Those were the most significant experiences of the State reform in the 20th century that preceded the reform undertaken by the Fernando Henrique Cardoso's government, started in 1995. This one also includes changes to the Federal Constitution of 1988 in respect to tax, social security, political and administrative fields. In this study we will emphasize the analysis of the last one.

2.2. The bureaucratic model

2.2.1. The model proposed by Weber

The bureaucratic model is an ideal⁸. This makes it, therefore, difficult to find, in reality, with all its characteristics. According to Weber, the bureaucratic model⁹ is the best example of the rational-legal dominance model¹⁰, in which the authority of the power holders is legitimated by

⁵ System in which the patronage and favoritism are the maximum rule.

⁶ Semi autonomous government agencies, foundations, state owned companies and joint capital enterprises.

⁷ Ministries.

⁸ The notion of ideal type doesn't mean that there is a situation that is better than other. It is a theoretical construction that works to studies, but rarely ever they are found in real world, in its pure state.

⁹ Chacaracteristic model from the Modern State.

¹⁰ Dominance model are pure types, this means, they are models that work only to theoretical study. Following Weber, there are more two types of dominance: the traditional, in which everybody obeys to the power holder because the tradition impose that (this is the case of patrimonial dominance, for instance); and the charismatic type, in which the obedience justify itself by the charism and seduction of the leader, it is an exclusive dedication to leader person (as an example we can cite the profet).

rules. The obedience to the authority is given through the law (established by agreement or imposition), and not through tradition or the leader's personal dedication. Civil servants obey their superiors because they represent authority determined by law, not for the individuals that they are. The extension of the obedience given by the law should establish limits.

As a public servant of the Modern State in a bureaucratic order, and therefore, in a rational-legal model, he obeys impersonal rules, and he should act *sine ira et studio*. In other words, he shouldn't let personal interests or personal reasons interfere with the way he acts professionally. The obedience to the rule should be completely without feeling. The civil servant is inserted in a work atmosphere in which he is completely separated from the administration, in what concerns the property. So, money, buildings, furniture, the whole equipment belongs to the State and not to the civil servant nor to the governor. Civil servants and governors use these means to respect the laws and not to take advantage of them.

Besides obedience to the rules, another characteristic of this dominance type is functional competence. The civil servant in a bureaucratic model is invested by a superior authority, opposing, therefore, the politician that is elected or the appointees. To enter the public service, the individual should have the required qualities or abilities for the position he will occupy that are determined by rules, and also pass a special exam that verifies these qualifications and abilities. This civil servant should be trained in a continuous process, so he can exercise his activity in the position in the best way, following the rules. To compensate for the employee's work, he receives a salary payed by the State and he has a certain honor or status. Beyond the recruitment for merit and State emphasis on training, a civil servant learns through routine. As Weber said, it is the routine activity that better fits in rational-legal dominance. A civil servant learns his task when he executes it and he does it in the best way, by practicing, without forgetting the law.

For the career, the civil servant has a future of promotions that takes him from a position inferior in the hierarchy to a position superior in the hierarchy, according to fixed rules. Also, the rigid hierarchy is a fundamental factor for the existence of the career. But, this is not enough. There must be a promotion planning in which civil servant can glimpse at the positions. This need is linked to the fact that the individual wants a certain economic safety and, still, an increasing status. So, he wants rules that determine conditions of promotions, taking into account the time of service in the State apparatus or qualification exams for the new superior position. The career, together with the payment of a fair salary, becomes a influence mechanism for the bureaucracy to work appropriately without distortions¹¹.

¹¹ Weber, 1974 and 1966.

The model proposed by Weber doesn't consider the bureaucracy inefficient. On the contrary, impersonality, rules, rigid hierarchy and meritocracy work to establish order and to facilitate the efficient work. But in fact, we can't verify that. The excess of rules transformed the State apparatus into an inefficient body in which everything prevents the objectives from being reached. In reality, the bureaucratic model has *a priori* control by law, and so it doesn't prioritize results.

According to ABRUCIO (1993:33), who based his work on the definition given by the Dictionary of Social Sciences, the main characteristics of the Weberian model are:

- “a) positions and jobs well defined;
- b) hierarchical order with authority lines and responsibility well delineated;
- c) personnel's selection based on technical or professional qualifications;
- d) rules and regulations for the official actions;
- e) tenure in the position and career possibility.”

2.2.2. The Brazilian initiative of Weber's model implementation

If we analyze those characteristics, we will notice that not all of them are present in the Brazilian public administration. One that is put with transparence is the stability in the position. The others don't prevail in the whole administration. For instance, the definition of the Plan of Classification of Positions of the direct federal public administration was instituted by the Law n° 5.645, of December 10, 1973. It is now outdated, because the attribution levels are not used anymore and a lot of descriptions don't fit reality anymore. Parallel to that plan of positions, there are plans of the several enterprises and foundations. Each one has their own peculiarities. This multiplicity of plans had created several positions with the same attribution, resulting nowadays in about 1,800 positions occupied by 500 thousand civil servants.

As to which concerns of the selection should be based on technical and professional criteria, we can say that the practice was not general in the administration, because a lot of autarchies, foundations and public companies hired civil servants without a process of public examinations. In fact, the entrance door for the public service, during the military regime, was the recruiting done by the public companies, autarchies and foundations.

We can verify patrimonialist characteristics in the administration, with, for instance, the relatives' recruiting. This phenomenon is called *nepotism*. And the recruiting done by public companies could be to the detriment of the recruiting that should reach the invigoration of the direct

administration. We can also mention the bids that were, and that are, frequently questioned due to privileges that are given to certain companies in the bidding process.

Another reason that explains the State crisis is that with the increase of the tasks attributed to the State in this century, the bureaucratic model became outdated (conjugated with other factors that were already presented above). Then, it's necessary to overcome the crisis of the State. One of the solutions is to rethink the State apparatus. For these reasons, a new paradigm, called post-bureaucratic, appears, based on the bureaucratic model and having assimilated the critics (negative and positive points of these models).

As the patrimonialism never got to be overcome and the Weberian bureaucratic model had their characteristics disfigured in such a way that it resulted in inefficiency, unlike in what Weber believed and as BRESSER PEREIRA (1998:239) tells us,

“The crisis of the bureaucratic public administration began in the military regime, [that]... was not able to extirpate the patrimonialism that always sacrificed it... The crisis became worse, however, from the Constitution of 1988, when it jumped for the other extreme and the Brazilian public administration started to suffer of the opposite bad: the extreme bureaucratic rigidity...”

The adopted strategy to overcome the crisis and the two failed models that live together in the administration was the concept of managerialism, as denominated by ABRUCIO (1997).

2.2. The post-bureaucratic paradigm

As we have already said, the post-bureaucratic paradigm came to overcome the bureaucratic model and the crisis of the State that had become worse in the 70's. It is based in recent models and it is in implementation phase, yet, what hinders an analysis of the effectiveness and consequences of a really implemented model. The post-bureaucratic paradigm is much more related to an organizational model that was “imported” from the private sector and that is being put in practice and constantly monitored. This has resulted in changes of the initial model and it has brought positive points as flexibility and adaptability of models.

It is important to emphasize that each country has a different rhythm of change. For this reason, phases of changes for which public English service had gone through, and still goes, aren't the same ones to the American case nor to the Brazilian one.

2.3.1. The three logics

The post-bureaucratic paradigm has essentially three logics: the economical, the managerial and the one of the democratizing speech. The economical logic is based, essentially, on the reduction of the State (on one side of its size—employees and activities—and, for another of their resources—decrease of the expenses¹²), on the conscience of costs (each civil servant should know the cost of their actions and their impacts) and on the search for efficiency (to do more with less resources).

The managerial logic can be summarized in thinking administrative mechanisms to do the administration more organized. It can be considered as mechanisms of this logic the administration by objectives (it emphasizes the results and not the procedures), the performance evaluation (individual and organizational. The great bottleneck of the public administration is to measure the activities), the decentralization and delegation (administrative decentralization—to delegate powers to entities that before were concentrated in an agency , hierarchical decentralization—downsizing of structures, delegation of responsibility—and political decentralization—give more power to other units of government and coordinate policies among the different government levels), and quality and training policies (logic of quality—training of people/civil servants that are linked to the offer of public services).

The third logic is related to the civil society approach. It prioritizes the connection of the State to the citizen, because public administration should have as purpose the citizen (the federal sphere is the most distant of the citizen, while the state and municipal spheres are closer). Besides, there is another subject that is the redefinition of public means (it should give rise to new relationship models between State and society in which there is increasing citizen participation).

2.3.2. The main differences between the bureaucratic model and the post-bureaucratic paradigm

¹² And the redefinition of the State role in the society through the process of privatizacao.

Having presented the two “models”, we will make a comparison between them, putting their similarities and differences in some points.

An important similarity for what concerns to this work, it is that the post-bureaucratic paradigm doesn't refute the career idea, of meritocratic admission, of a salary structure clearly defined, of the performance evaluation and of the continuous training. What happens is that inside of post-bureaucratic paradigm larger autonomy and accountability are given to civil servants.

As the post-bureaucratic paradigm is “imported” of the private sector¹³, it has a great concern with results, which the bureaucratic model didn't have. And, still, the control is made, in the first *a posteriori*, while in the Weberian model this control is made *a priori*. While this last model prioritizes the centralization, the post-bureaucratic paradigm prioritizes the decentralization of the administrative and political point of view. In the bureaucratic model, there is a great valorization of the hierarchy, differently of the post-bureaucratic paradigm, in which the downsizing is motivated. A fundamental difference is the public-objective. In the post-bureaucratic paradigm the public administration is centered in the service to the citizen, while in the bureaucratic model, the administration is worried with its own process instead of being worried with presentation of results to society¹⁴.

Another difference, that is mentioned by BARZELAY (1992:9) is related to the separation between formulation and implementation of public policies that happens in the bureaucratic model and it should not happen in the post-bureaucratic paradigm:

“The bureaucratic agency separates the work of thinking from that of doing. The customer-driven agency empowers front-line employees to make judgments about how to improve customer service and value.”

The central idea of what is being considered as post-bureaucratic paradigm is the ideas presented above. They are general ideas that fit the specific case of each State. The proposal of Brazilian reform had as models the English and American cases. Therefore, we will introduce some of the characteristics that are peculiar to each one of these countries, in the adopted post-bureaucratic paradigm.

¹³ The principal guidelines of post-bureaucratic paradigm like efficiency, productivity and quality were inspired in the private sector models. The idea of the technical come together with the “importation”, that means, the models imported are technical, neutrals and don't have any mixture with politics.

¹⁴ Bresser Pereira, 1996 (b).

2.3.3. The English case

In the case of Great-Britain, under Thatcher government, the transition of the bureaucratic model to the post-bureaucratic paradigm felt in three “phases”, denominated by ABRUCIO (1997): the managerialism (pure managerialism), the consumerism and the public service orientation. The British initiative can be considered an experience well succeeded.

The managerialism has as main point the productivity and the efficiency above all. The public-objective is the taxpayers, driving, therefore, to the idea of a better use of the money paid as tax (to do more with less resources). Concerning to the cut of expenses, in the English case, it concentrated on the cut of the expenses with the civil service and on the reduction of expenses that there was with personnel¹⁵ due to the privatizations. They were adopted, in the managerial logic, the administration for objectives, the performance evaluation (individual and organizational) and the administrative decentralization. However, there are critics.

When emphasizing strictly the efficiency, there was a stop in the action, because there is only a single rational solution for the problem. They were not worried about the quality of the offered service, nor with the effectiveness (degree in which the expected result was reached). Besides the separation that there was between administrative and political spheres. There was a unpolitization of the public administration due to the importance that was given to the implementation of the new administration model, to the detriment of the political atmosphere, because the model was only thought as technique. There was not a policy to involve the high civil service (high bureaucracy) that saw itself as threatened with the changes.

The following “phase” of the reform was based on the consumerism model, that didn't get to modify the previous initiative totally, but it joined to the positive points of the managerialism (as for instance the reduction of the expenses) some new points that came as improvement of mistakes of this first model. Like this, the emphasis given in the consumerism was about the effectiveness (gotten with social pressure), thinking the public-objective as customers and consumers, and no more as taxpayers only. It was adopted the logic that allowed flexibility in an eventual correction of a government program. The continuation of the administrative decentralization, the adoption of the competition among the organizations of the public sector as way of improving the effectiveness of the service offering and the adoption of a new contractual model for the public services were the bases of this new model.

¹⁵It was cutted 100.000 positions (in Jenkins, 1996).

The critics driven to the consumerism refer to the idea that it's not possible to think a consumer of public service like a consumer of goods and services produced by the market and to the idea that the consumer's passivity is inherent to the model. Last, there was not justness of social rights.

The public service orientation (PSO) is the "phase" more recent of the reform. It is so close to the current moment that the concepts still are not consolidated. The fundamental points of PSO are the accountability and the justness, and the public-objective is composed by the citizens. The idea of the decentralization is reinforced, because it is in the local level that the problems are solved. It is through this level that the concept of public sphere is treated (place of social learning). The competition gives up place for the cooperation among agencies to the best possible result could be obtained and so that the justness is respected. The subject of the quality is intensified due to the emphasis given at the local level. Therefore, PSO is not a model that refutes the previous (consumerism) nor walks in the direction of a turn back to the bureaucratic model. But, it comes to correct some distortions without discarding the positive points of the previous models.

The critics to the model are still few, but we can mention two. The first, as the local power receives the demands it cannot render a good service to the social heterogeneity. Other, regarding the difficulty of the coordination of the actions among the different government levels.

2.3.4. The American case

It is important to do an explanation before we describe the American experience concisely. While the English experience was very well successful, we cannot say the same of the American that had beginning in the Reagan government. The main obstacles were the tension between increasing the flexibility and maintaining traces of political patronage and favoritism. The second obstacle was related with the extreme decentralization of the American State that is incompatible with managerial patterns, for that it tried to build a hybrid model of pure managerialism and democratization.

The Reagan reform was based on two main points: the decrease of the federal government's expenses and the efficiency strategy. The attempt of reduction of the expenses felt in three ways: for the decrease of the numbers of the employees (that initially was well succeeded, but it had its effect reverted by the recruiting of 38.000 career civil servants¹⁶); for the transfer of competences without compensation of the transfer of resources for the undernational levels (a positive point, there was

¹⁶ Ingraham, 1997.

increase of the state taxes, and for that the states were more visible to the society); and, the decrease of the social expenses or they became cheaper (there was cut in the social expenses, but this budget was removed to other programs of this nature, in other words, the social programs that stayed had their resources increased).

As for the strategy of efficiency, Reagan tried to reduce to the maximum the expenses, controlling project by project. It increased the power of the control entities of the federal government's expenses and there was the "creation" of the conscience of costs. However, this increase of power didn't last and it was not strengthened, because the Legislative Power was against to many of Reagan's initiatives and Congress continued as the organ with larger power in the control of the federal bureaucracy.

The attempt of the American reform had similarities of the consumerism, and of the public service orientation, both models of the English reform. Of this last model we can mention as similarity the

"introduction of methods based on qualitative production of the public services with the priority given to the customers and citizens as principal reasons of the public sector, what wants say not only that they should be well assisted, but that should also be called to participate in the government, defining their communities' destinies¹⁷."

We can exemplify the similarity with the consumerism through the managerial logic. In the United States, the administration became guided by missions and influenced by the logic of the evaluation of results.

There was a overload of agencies that had their processes reviewed and simplified and of agencies in which there was still the centralized domain. As it mentions INGRAHAM (1997),

"This 'Let's the best perform and the rest learn from their example ' view of reform contrasted sharply with the standardized model prevalent in the federal government."

However, in the 80's and at the beginning of the 90's, there was a clear movement towards the specialization of the public service system, to the detriment of the standardization of these.

In the search for a larger productivity, in other words to do more with less resources, programs were created, in the 80's, to measure the individual and organizational performance. This caused and cause, still, great dissatisfaction for motivate the dismissal of the bad appraised and to reward only the behavior of the well appraised ones.

The idea of the small reform reached by Reagan was that it was needed to change not only the public administration, but the government. It needed a better government, and not of a more or less government.

Starting from those characteristics presented in the reforms of other countries, it was drawn a reform model for the Brazilian case with the following characteristics. BRESSER PEREIRA (1996:9) says:

“It is guided for the citizen and for the obtaining of results; it presupposes that the politicians and the civil servants are worthy of a real degree although limited of trust; as strategy, it's served as the decentralization and of the incentive to the creativity and the innovation; the instrument by which is made the control on the decentralized organs is the management contract.”

2.3.5. The Brazilian case

In which concerns to the Brazilian reform, we can say that she is still very incipient. The process is slow and one cannot want immediate changes. It's right that little by little some changes are being made in the public administration, changes those were put by the White Paper Reform of the State Apparatus and, still in a wider extent, in the reform of the whole State.

As in the English case, the post-bureaucratic paradigm takes the name, here, of managerial model. It must be clear that the characteristics of the post-bureaucratic paradigm are conserved and expressed in the adopted model. This prioritizes the control *a posteriori* of the results, the cooperation between administrators and civil servants, and the partnership with the society. Mechanisms should be developed for measuring the institutional performance. For the human resources, there is a mixture between the bureaucratic and the managerial models, because the bureaucracy continues a meritocratic one in which concerns to admission and to the continuous training. But, she should enjoy larger autonomy, initiative and accountability. Without forgetting

¹⁷ Abrucio, 1997, p.35.

the issues of quality and of efficiency of the public services, that are very important subjects in the post-bureaucratic context. Besides, the support of the high bureaucracy should be considered, because it is the high bureaucracy that will formulate and manage the policies that will transform the guidelines of the reform in concrete results.

The document mentioned above¹⁸ proposes a redefinition of the apparatus of the State, beginning by thinking a new division for it. Nowadays, the public administration is divided in direct and indirect. This division should be altered in agreement with the nature of the activity exercised by the State. As it should be, also, the property, because in the redefinition of the state apparatus, some activities will be transferred to the private initiative and to the nongovernmental. The sectors of the apparatus of the State would be divided like this: strategic core (it corresponds to the government. It includes activities of definition of the laws and of the public policies), the exclusive activities (activities that only the State can accomplish, as to regulate, to supervise and to stimulate), the no-exclusive services (activities in which the State acts simultaneously with other no-state and private public organizations, as education) and, the sector of production of goods and services to the market (they are the state companies that should be privatized).

In agreement with the sectors, it was defined the property type and administration. In the strategic core and in the exclusive activities, the property should continue to belong to the State. In the case of the no exclusive services it should have “publicização”¹⁹, in other words, the property becomes public, but not of the state (we should say that it becomes nongovernmental). As for the production to the market, it should have privatization, and therefore, the property becomes private. In what concerns to the administration, in the strategic core it should have a mixture between the bureaucratic model and managerial model (due to the post-bureaucratic paradigm). The other sectors should participate in the managerial model.

The objectives of the reform of the State apparatus and of its personnel are, following BRESSER PEREIRA (1996, b):

“short term, to facilitate the fiscal adjustment, particularly in States and municipal districts, where a clear problem of excess of civil servants; medium term, to bring more efficiency and modernize the public administration, guiding it to the citizens' service.”

¹⁸ White Paper Reform of the State Apparatus.

¹⁹ Some entities should become nongovernmental ones.

The fiscal adjustment should be made by the civil servants' dismissal by excess of personnel (and for continuous negative performance evaluations. The dismissal should reach first the civil servants in “estagio probatorio”²⁰, in second place, the non stable ones-considered dispensable for the government—and, only later the stable ones), by the definition of the salary roof of the civil servants (for the federal level, the roof would be minister's salary; for the state level, the one of secretary of State; and, for the municipal the one of mayor) and by the changes in the system of retirements (increase in the time of service, definition of minimum age for retirement, demand of minimum time of exercise in the public service, and to turn the compatible benefit with the contribution).

For the search for efficiency, medium term, it should have a complex reform project that take into account the invigoration of the strategic core of the State and the decentralization of the public administration through the creation of “autonomous agencies” (executive and regulatory agencies, for instance) and of “social organizations” controlled by management contracts, according to BRESSER PEREIRA (1996, b).

²⁰ The first three years in the position.

3. THE CRISIS DIAGNOSED BY THE GOVERNMENT

The diagnosis done was centered in the conditions of the job market and in the human resources, and three dimensions of problems they have been defined. They are: institutional-legal, cultural and managerial. The first concerns to legal subjects and it was rendered in the several constitutional amendments directed by the Executive Power to the National Congress. The second, concerns the patrimonialist and bureaucrat characteristics that reign in the public administration and, the last, to the administrative practices and to the reach of the governance of the State.

3.1. Human Resources and salaries

A central issue in the reform is the treatment attributed to human resources. Job market in the public sector would become more attractive to recruit and to select professionals recently-graduated, with good formation and training. Thus, civil servants in the State could assume the new role that was being designed as part of the reform agenda. The salary was outcome for that level of professionals as the table below demonstrates.

Medium wages: Public and Private Section (real of May of 1995)

	Medium salary Private sector	Medium salary Public sector	Difference Public/Private
Executive positions	7,080	6,069	-14%
Positions of Superior Level	1,899	1,814	-5%
Positions of Technical and Medium Level	926	899	-3%
Operational positions	437	635	45%

Source: White Paper Reform of the State Apparatus, p.45.

As we can see in the table above, executives, mainly the one of high level, receive less in the public sector than in the private sector, on the average. In the operational positions, the situation is inverse, in other words, the civil servants received more, on the average, that the workers of the private sector. It's the inverted pyramid.

As for the number of civil servants, there was a great decrease, as we can verify in the table below.

Evolution of the Quantitative of Active Civil Servants of the Direct Administration

	Quantitative	Expense R\$ million
1991	154,958	
1992	173,891	
1993	178,225	
1994	181,494	
1995	244,961	15,868
1996	238,961	14,669
1997	225,685	14,282
1998	218,397	12,514
1999	207,830	13,001

Source: Bulletin of Personnel n°. 50, June/2000 by Ministerio do Planejamento, Orcamento e Gestao.

For the table above, we can notice that in spite of the number of servants was reduced from 244,961, in 1995, to 207,830 resulting in a decrease of 37,131 civil servants. However, expenses with active civil servants were going down, the expenses in general has increased.

The total figure of public administration, including retired people, has reduced from 1,488,608 to 1,216,058, resulting in a decrease of 272,550 civil servants, but the expenses increased 17,34%, in other words, they increased from about 25,5 billion reais to little more than 30 billion.

To explain the increasing in the payroll we can mention Fernandes (1998:5 and 6),

“The diagnosis of the Steering Plain²¹ pointed that the growth of these expenses was a result of benefits conquered by the bureaucracy in an ambience of excessive tolerance to the corporatism of the public servants and of absence of appropriate controls.

(...)

It is important to remark that this tendency was due , above all, to the flow of retirement, which does not lead to a reduction of payroll costs, because public servants have their own pension system supported by resources from the budget, so that their pensions are paid through the federal administration payroll.”

Already in relation to GDP, the percentile of expenses with personnel was falling. To compare those expenses with GDP we mentioned the table.

²¹ We are calling this Plan of White Paper Reform for the State Apparatus.

The evolution of the expenses of the union with personnel in relation to GDP

Year	Expenses with personnel and social responsibilities
1989	6.68%
1990	6.42%
1991	4.83%
1992	4.58%
1993	4.89%
1994	5.06%
1995	5.76%
1996	5.43%
1997	5.74%
1998	5.31%
1999	5.11%

Source: Bulletin of Personal n°. 50, june/2000.

Another characteristic of the civil servant that we considered is his age. In 1993, 55% of the civil servants of the federal public administration, both direct and indirect were more than 40 years old. Unfortunately, we don't have any data on the education of those servants in that period.

Another problem that we can mention is the bad distribution of the servants in the administration. As well ABRUCIO said (1993:39) the number of servants was not excessive, about nine servants for a thousand inhabitants, in comparison with other countries as France (46.4), England (91.4) and Spain (53.4).

The problem with civil servants is their bad distribution in the public administration even in federal as state and municipal spheres. They are concentrated in the middle area (bureaucratic area) to the detriment of the end area (services to society like education and health). This idea is in confront to one offered by the White Paper Reform of the State Apparatus that says the quantitative of civil servants are excessive. To illustrate that statement we used another table of ABRUCIO (1993:40). It's important to remember that these figures don't show if public administration has civil servants in excess, but show they could be in wrong places.

International comparison of the number of public servants allocated economically in the social areas in relation to the population active

Country	Percentile
Sweden	38.0%
Uruguay	23.1%
Federal Germany	22.5%
Argentina	22.0%
Venezuela	21.4%
Costa Rica	19.5%
France	18.5%
Brazil	11.0%

† considering the estimate of seven million servants in the three government spheres, for the year of 1993.

Another important factor in the public sector that we must consider is the appointee positions. They are of two types: positions of Superior Direction and Advisory – DAS and of Special Nature²². We can divided them in two types the higher level positions and the lower level ones. Explaining the hierarchy of these positions: the lower level positions is DAS-1 and the higher level positions in the DAS scale is DAS-6. The position of Special Nature is superior to those of the DAS and it is among the DAS-6 and the position of minister, generally is occupied by the Executive Secretary of the ministries. They take care of the internal problems of the ministry and some other important questions to the minister, and frequently they work as high level advisor.

The structure of DAS can be divided in two also: the positions of the line (hierarchically structured) and the advisory positions. The first ones can be coordinators, chiefs of divisions or services. People who occupy advisory positions support the occupants of line DAS. This link is common only to with DAS-4 and superiors. DAS-3 and inferiors, generally, don't have advisory DAS linked to them.

This structure is a problem when we see civil servants wanting to occupy this positions not only for their status and the decision making power involved, but also for its salaries. DAS positions are used today as a complement of the salaries. As the civil servants don't have a salary policy well established they use the structure of DAS to suplement salary.

3.2. Indirect Administration

²² We refer to the special nature to nomenee positions. There are also special nature positions in the federal public adminsitration which are not nomenee positions like attorney ones.

The indirect administration composed by the foundations, “autarquias”²³ and public companies, is diagnosed as being dysfunctional because the foundations and “autarquias” had problems with the definition of activity. In other words, some of the activities that some foundations and “autarquias” shouldn’t be led by the State, but by the private sector. So, the human resources of these entities shouldn’t be under the State control, diminishing, this way, the expenses with payroll.

In public companies occur the same, i.e., the state was the owner of too many enterprises and banks, and these activities weren’t anymore under State responsibility, once in a while private sector has savings and competence to lead them. We are discussing a little about the role of the State²⁴. Since 1995, the government has conducted studies in the way to know which activities the State must provide and which not. These studies point to the overhiring of civil servants in those entities (foundations, “autarquias” and public companies) and a low control of the expenses of them. Then, it was necessary to overcome these problems.

²³ One kind of entity of indirect administration.

²⁴ The change in the State role was an objective of the reform.

4. THE PROPOSAL OF THE REFORM

4.1. The sectors of the State and their objectives

The reform proposal defines sectors of the State apparatus, the property and the administration forms, inherent to those sectors, with the objective of building a new model for the State apparatus and, consequently, it has other rules for their human resources, as ABRUCIO (1993:35) tells us

“For that, before defining in details the professionalization model wanted, we should define the model of State wanted...”

The sectors are in number of four, being strategic core, exclusive activities, services no exclusive and production of goods and services to the market. Each one of those sectors has certain attributions, as described below:

Section of the State	Attributions
Strategic core	To define laws and public policies and to make strategic decisions. It corresponds to the Legislative and Judiciary Powers, to the public prosecution service and, in the Executive Power, to the President, to the ministers and their assistants and direct advisory, responsible for planning and formulation public policies.
Exclusive activities	To exercise the power of State, as to regulate, to supervise and to stimulate. It corresponds to the collection and supervision of the taxes, the police, basic social welfare, the unemployment service, the supervision of the execution of sanitary rules, the service of traffic, the purchase of services of health for the State, the control of the environment, the subsidy to the basic education, the service of emission of passports.

Section of the State	Attributions
No exclusive services	They are institutions that don't exercise the power of State as universities, hospitals, research centers and museums. Sector in which the current State is mixed with other no-state and private organizations.
Production of goods and services to the market	Economical activities guided to profit. It is the sector of the public enterprises.

4.2. The property and administration forms

In the definition of which is the best property form and of administration that should be used in each section, the government proposed the following:

	Form of Property			Form of Administration	
	State	No state	Private	Bureaucratic	Managerial
Strategic core	X			X	X
Exclusive activities	X				X
No exclusive services ¹		X			X
Production for the market ²			X		X

¹ Publicização.

² Privatization.

4.3. Human Resources

Some changes were proposed in this field. All of them are included in the Constitutional Amendment ahead. But we'd like to emphasize some changes like the flexibility of hiring, the definition of a recruitment policy and the definition of careers that are considered important to the core activities of the State.

4.4. Transition Strategies

In the reform proposal they were also discussed goals for each dimension that were determined. It is important to mention, because they are interesting to the analysis of the results. The strategy adopted for each one of the dimensions was:

4.4.1. Institutional-legal dimension:

To make possible the fundamental changes intended with the reform of the State apparatus in three directions:

- a) allowing the focus of the State in the service of the basic social demands;
- b) making easy the redefinition of the traditional way of acting of the State, developing from an executive role for a role of promoter of the economical social development;
- c) creating conditions to the implementation of the managerial administration model in the sector of services of the State.

4.4.2. Constitutional amendments

As a consolidation of that strategy, three constitutional amendments were proposed, two relative to the public administration and the other relative to the social security. As mentioned by Fernandes (1998:16)

“The amendment had the purpose of removing legal obstacles to the reorganization of the public administration and to suppress corporatist privileges crystallized in the constitutional text.”

About the changes that they were proposed for the public administration, we can mention:

As for the remuneration of the servant:

- Law demand for fixation or alteration of civil servant salary;
- Only one salary roof, referred to the subsidy of the Ministers of Supreme Court (STF);
- Salary in the form of “subsidy”, for determined categories;
- Framing of the remunerations to the new roof;
- Prohibition of advantages with cumulative incidence;

- Policies of remuneration of the civil servants;
- Council of administration policies and remuneration of personnel;
- Publication of the values of remuneration of the positions.

About the measures of contention of expenses with personnel:

- “Disponibilidad”²⁵ with proportional remuneration;
- Reduction of expenses with appointee positions;
- Firing of non tenure civil servants;
- Permission for dismissal of stable civil servants;
- Indemnity for loss of the position for the stable civil servant;
- Extinction of positions and prohibition of their recreation;
- Suspension of transferences capital to the budgets of States and Municipal districts;
- Prohibition of financial aid for payment of personnel;
- In the case of dismissal for excess of number of civil servants, the dismissal should obey general criteria established in complementary law. And the positions correspondingly will be automatically extinguished, and they could not be recreated in a period of four years;
- Rigid limitation of the salaries of the civil servants and members of the Powers, including personal advantages, to the President remuneration;
- Rigid limitation of remuneration of the retirement and of the pensions to the equivalent value gained in the active.

About career policies:

- Special warranties for civil servants in exclusive activities of State;
- Reservation of positions and functions for career civil servants.

About the changes in the regime of the civil servant:

- 3 year-demand for acquisition of the stability for the civil servant;
- Performance evaluation for acquisition of stability;
- Periodic performance evaluation of the civil servant;
- End of the obligation of the only juridical regime, being permitted the return of recruiting of civil servants in the CLT regime;
- The request of public selective process for the “celetistas” admission and the maintenance of the public exams for the admission of statutory servants;
- The flexibility of the statutory civil servants stability, being permitted the dismissal for serious lack and also for insufficient performance inadequacy and for excess of number of civil servants:
 - In the last two cases the servant will have an indemnity;
 - In the case of insufficient performance that has for objective to take the civil servant to value his position and to allow to the public administrator to demand results, the civil servant will only be able to be dismissed after properly appraised and he will always have the right to a specific administrative process with wide defense;
- Permission of foreigners' recruiting for the public service, always through public exams or public selective process, since the specific law authorizes it;
- Access for the servant to privileged information;
- Make easy the transfer of personnel and of responsibilities among political people of the Federation, the Union, the States-members, Federal district and the Municipal district, by signature of agreements.

Flexibility of the administration and of the services rendered:

- Efficiency as beginning of the public administration;
- Adoption of management contracts in the public administration;
- Bonuses for economy of expenses;
- Decentralization of public services;

²⁵ It's when the state send civil servants home to wait for calling when they're necessary. It can arrive when the government defines that some activity is no more offer or done by the public administration.

- The citizen's participation in the public administration;
- Statute of the public company and of the society of mixed economy;
- Bidding rules for state companies;
- No-incidence of the remuneration roofs on the state companies;
- Revision of the statutes of the indirect administration entities;
- Employee's of state company removal for exercise of elective mandate.

And others:

- Attributions for the appointees positions;
- Maintenance of Government Schools;
- Eliminates the “isonomia”²⁶ as subjective right, although it maintains the principle, that is basic for any good administration.

The second amendment proposed:

- A balanced treatment among the three Powers in the relative prerogatives to the administrative organization;
- The fixation of salaries of the civil servants of the three Powers, excluded the title-holders of power, through Law project.

The amendment regarding the changes of the social security emphasized the following subjects:

- End of the integral retirement remuneration and of the precocious retirements;
- Extinction of the proportional retirement, for time of work;
- Extinction of the higher education teacher's special retirement;
- Transition rules;
- Prohibition of fictitious counting;
- Prohibition of additional in the passage for the inactivity;

²⁶ Equal pay for equal work.

- Prohibition to the institution of differentiated advantages;
- Demand of combined time of contribution with age;
- Complementary regime of social security;
- Prohibition of accumulation of remuneration of retirement with salary;
- Incidence of the roof on accumulated remuneration;
- Financial adjust of pension funds of the state-owned companies;
- Request of a determined time for retirement in the regime of the civil servant;
- State continues guaranteeing the social security system of the civil servants integrally, independently of his remuneration level.

The most important issues to government in the first Amendment was the flexibility of hiring (that will let it to hire in other juridical models), the break of tenure to result in a possible dismissal by low performance, the determination of an edge to salaries. In sum, measures that will permit to diminish expenditures with human resources and improve quality, efficiency and effectiveness.

4.4.3. Ordinary legislation

The proposal also included propositions of ordinary legislation with the intention of regulating the proposed amendments. The main propositions were on:

- Specific process of dismissal for insufficient performance;
- Indemnities in the case of dismissal for insufficient performance and in the dismissal for excess of number of civil servants, being foreseen larger compensation in the second case;
- Exclusive career of State (that should not be confused with to exclusive activities of State, although there is a narrow relationship among the two concepts), constituted by civil servants that exercise the state power; their members cannot be discharged by excess of number of civil servants;
- General criteria of dismissal for excess of number of civil servants;

- Permission for multiplicity of juridical regimes of personnel;
- Rules of the public selective process;
- New system of the social security for the civil servants, that will be guaranteed by the State, based on retirement for age and in proportional remunerations to the contribution or the time worked for the State;
- System of health of the civil servants;
- Revision of the Juridical Statute of the Civil Servants;
- General law on the remunerative system of the Union, to increase the transparency of the remuneration and to check effectiveness to the retribution roofs;
- Limits for expenses with personnel;
- Access of foreigners to positions, jobs and public functions;
- Contracts in the public administration;
- Social participation in the public administration;
- Consortia and cooperation agreements among federated beings;
- Juridical statute of the public company, of the society of mixed economy and their subsidiaries;
- Access to privileged information;
- Laws foreseeing the desbureaucratization and the deregulation of the public services;
- Law of the public social security, including the holders of positions and jobs.

Other changes were also proposed, as the National Policy of Training that sought to assure the access of the civil servant to training event; the extinction of positions that aimed to rationalize the structure of positions of the federal public administration; the rationalization and “terceirização” of services, mainly, operational; and the personnel's restructure. Parallel, it had been proposed of revision of the Single Labor Regime²⁷.

4.4.4. The cultural dimension

Government wanted with also to change the organizational culture of Brazilian public administration. This was more difficult because government can't change the culture by law. In the diagnosis of the public administration problems, in the White Paper Reform of State Apparatus the culture of paternalism and some of corruption distortions were recognized. Then, government knew that theses situations must be changed.

²⁷ Regime Juridico Unico.

5. CONCLUSION

5.1. The results and difficulties

5.1.1. The successful results

The principal victory the reform had was the Amendment approval, even so this approval had suffered some changes.

The reform had been successful in many points. About the civil servants salaries, the amendment determine that all changes in the expenses with human resources must be voted in Congress, the increases in salaries have obeyed a policy of different increase for some careers and the tables with all framework salaries are being published in Bulletin produced by the Ministry of Planning, Budget and Managing.

Some others actions are being conducted by the government in which concerns to the expenses with personnel. Volunteer separation with indemnity, three-years license with indemnity, a small reduction of appointee positions are the measures government took in this area. Government has made great efforts to reduce expenses with human resources but some expenses that it incurs now are related to wins that civil servants had in the Judiciary Power, as the 28,86% the government had to integrate in earning tables.

About human resources policy, we can say government sent to Congress a Law Project to define what are the most important careers in the new public administration and to determine the demission for low performance. This project is in discussion yet.

The recruitment regime was changed a little. Government began to plan recruitment in a systematical way, so the figures of civil servants and the careers civil servant will be recruited for were established in a published rule. This way, the profile of the civil servants began to change.

In the hiring regime, government proposal was based on the flexibilization of the single labor regime. This issue was approved by the Congressmen. Nowadays it can be legal to hire in other regime. Government isn't authorized to do this yet because this point still needs to be regulated.

The information about human resources – figures about recruitment, total personnel, salaries and so on – were being updated through a new system implementation. Based on these figures, the

Ministry of Planning, Budget and Management can produce reports to the decision makers and to society.

One more measure in personnel field was the Decree of training. This rule tried to organize the spread rules and laws that regulated this issue. It has been applied since 1998.

The flexibilization of tenure is an important point to government. It's linked to the performance and the number of civil servants. This is a important measure that let government redefine its human resource team. It's not the unique and enough but must be combined with all the other changes.

Another point very important that the reform brought was the transformation of foundations and "autarquias" in social organizations and executive agencies. The creation of regulatory agencies and the privatization policy are other changes in the organization of public administration.

When we talk about laws, we can say that the Amendment must be regulated yet to have its results. But, there are a lot of rules that must be revised because they are obsolete or useless. This process simplified the codes and procedures in the public administration. According to Fernandes (1998:27), until the end of 1998, 150 normative acts were been revoked.

5.1.2. The difficulties

Brazilian make confusion between the private and public spheres. There are a lot of people that use public money to private privileges. To fight against this bad way to waste public money the government determined that a commission was formed to study ethical problems. The result of this commission work is the ethic code recently published. It's not perfect and there are situations people show it will not work, but it's the beginning of the effort of change.

There are studies that demonstrate there is a lot of money spent in corruption. The figures go over 6 billion reais. This is a big sum of money when there are a lot of social programs that are not working because of lack of public money or because the money was diverted.

The government had to do a big effort and keep doing it to increase the internal saving to be able to have World Bank and IMF loans, also. For this reason a lot of studies have been made to find economic solutions not only to increase the saving but also to diminish the deficit. These studies have a positive point to society that is not exclusively related to economic field, but as much

as these studies are made government and public administration become more transparent to society.

The society and the civil servants must participate in the reform process. This participation is happening in the creation of social organizations for example. The foundations that become social organizations must have civil society participating in the administrative core of decision. Civil servants of these organizations were called to give their opinion about the transformation.

The participation of civil servants could be better but they are called to participate only in the end of the first FHC mandate. In that moment the National School of Public Administration – ENAP offered a lot of courses about the logic of the reform. Civil servants than are almost obliged to attend the courses that are divided by hierarchy.

Civil society has also to participate claiming about quality of public services. If they don't tell to the government the way the services are being made, government couldn't make them better. The society should control also the money through the publicity government has given to the data.

We are calling fiscal logic the extreme attention government gives to figures. It's known that IMF and The World Bank pay attention more to figures than other things when they analyse if they will give or not a loan. So, Brazil has to follow the rules. For this reason many actions in human resource policy and in the policy of increasing efficiency and effectiveness couldn't be achieved because they supposed the expenditures will increase, even so those expenditures could be transformed in savings after.

One issue of the reform that walks with slowness is that which concerns the bidding aspects. Government realizes that the procurement law is overcome and is studying a proposal of change to this law to permit bidding processes to be done with more efficiency and effectiveness.

Besides the Amendment had been approved, a lot of point must have laws that regulate them. Some issues that are inserted in the Amendment don't have these ordinary regulations, and for these reason they can't be concretized.

Some changes have been implemented, but not the whole reform proposal. It's only the beginning of a process.

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