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Social Control of the State:

Some mechanisms and experiences of popular participation

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Executive Summary

The main objective of this study is identify elements of popular participation in the process of formulation, implementation and assessment of public policies at the federal level and local level, establishing its importance and viability.

For that purpose, some theoretical and conceptual instruments will be used in the characterization of the binomial State/Civil Society adopted in the eighteenth and early nineteenth centuries and the evolution of this relationship up to now. The paper will also analyze the role played by new social actors, e.g., NGO's, which have more complex and different demands.

Moreover, this study will analyze the main features and objectives of the new social movements and some questions related to the decentralization of the decision-making process, and the direct participation of citizens in it.

The Brazilian State's receptivity to popular participation in the shaping of public policies will be examined in a temporal and spatial dimension.

After providing a comparative analysis of the Porto Alegre City Government and the Federal Government approaches to this issue, and an analysis of the related constitutional and legal considerations, the paper will demonstrate the viability of mechanisms that enable direct popular participation in the decision-making process at the federal level.

Once the conceptual framework has been established, the study will focus on the Federal Government proposals concerning the Reform of the State Apparatus presented in the Directive Plan of the State Framework Reform and in the Constitutional Amendment n. 173-A, 1995, and their relation to the subject of the social control of the State.

The concrete experience of implementing participatory planning and budgeting in Porto Alegre City in the period from 1989 until 1996 will be utilized to demonstrate the applicability of social control concepts detailed in this study.

Finally, some factors related to international experience in popular participation will be cited in order to provide new paradigms to this debate.

I. Introduction

One of the most important issues related to political science is the State/Civil Society binomial.

In that perspective, it is necessary to identify the viability of a real and effective democracy where citizens rights, including participation in public decisions, are guaranteed.

From that point of view, the question of the nature of State and the relation between political-administrative framework and those people to whom public policies are addressed arises.

The debate concerning the insufficiency of representative democracy is placed since it allows only intermittent popular participation on the electoral process , whereas day-to-day public decisions are made bureaucratically.

The high level of *desequilibrium* in the distribution of economic and social resources cause conventional political institutions (political parties, lobby groups, etc.) to be appropriated by the strongest social actors.

In addition, globalization process of the world economy is characterized by minimization of legal barriers among countries, massive implementation of new technologies, adoption of new managerial methods, horizontalization and outsourcing of productive processes, high level of migratory movement and huge concentration of socially generated income.

This situation stimulated, beyond other factors, the outgrowth of new social actors bearing complex demands.

Thus, it is necessary to increase popular responsibility in the decision making process through the enlargement of political participation.

To overcome the limits of conservative ways of representation, new legitimate channels should be created so that the lower income levels of the population may be incorporated into citizenship and dignity.

Direct democracy should not exclude the concept of representative democracy and vice-versa, otherwise it will inevitably imply usurpation of power.

Consequently, the present State crisis, manifested in an incapacity of addressing new demands, imposes a new model of public organization, in which the main axis is the democratic dimension that surpasses the existing representative model.

A real Reform of the State should focus on the creation of a new public arena that is able to incorporate public non governmental organizations, originated outside of the scope of government, and articulate them with the traditional political representation.

II. Overview of the State and Civil Society Relationship Evolution

In this part of the study, the reflection about the State/Civil Society dichotomy, in a historical perspective, will be adopted as an axis, in order to deepen the debate related to new social agents, new demands, popular participation and democratic formulation of public policies.

According to BOBBIO, Marx affirmed the discovery of the civil society subjacent to the political institutions analyzing Hegel's writings.

For Marx, the civil society was the place where economic relations occurred, i.e., the real basis over which political and legal superstructure raised.

It is interesting to underline that Marxist literature, in spite of containing a restrictive interpretation of hegelian concept of civil society, since Marx considered it a pre-state society, had a tremendous influence in the European political debate, mainly in Italy, *locus* where the up to date conception of civil society was built.

Gramsci kept the distinction between State and Civil society, however, he shifted the latter from the material basis to the superstructural range and defined it as a place of ideological power, distinct of the *stricto sensu* political power and of dominant class' commanding processes.

So, there is, following Gramsci lessons, two super structural plans: the civil society where the ideological apparatus act seeking for hegemony and consensus and, thus, the legitimization; and the political society or State.

Civil Society is now understood as the antithesis of State. It is the group of relations regulated by the State, whereas, historically, represented the State itself.

The identification between State and Civil Society - a concept that lasted for a long time in the political science history, delayed the perception upon social system and political institutions.

It was from Maquiavel analysis that the State, the maximum power exerted over the citizens, could no more be confused with civil society.

Characterized the modern distinction between State and Civil society, it is fundamental to consider the evolution of civil society concept.

It was adopted primarily, concerning the ways of organization within civil society, the political-partisan axis in which the positions of the huge economic groups prevailed. In this first moment one could glimpse the hegemony of the economic power in the articulation of civil society interests.

This concept of civil society enlarged in a second moment to incorporate the trade unions, especially in European social-democrat countries. It was created, then, an instance of negotiation in the enterprises ambit that enabled the democratization of the civil society concept.

The rapid worldwide urbanization process that took place a century ago allied to massive technological innovation imposed by the third industrial revolution in the last two decades, originated the creation of new social actors and imposed the necessity of organization in the local level.

The communitarian stage - the third axis within the civil society evolution chain, according to DOWBOR - is built. A dimension where the citizen's direct participation acquires an unimagined importance until that moment.

The United Nations Report on Human Development (1993) - see DOWBOR, illustrates the alleged argument, showing that the biggest outgrowth of new organizations occurs in the communitarian public sector. It is not in the state sector nor in the private sector.

The civil society rearrangement imposes, thus, the necessity of restructuring the State decision-making process so that this public non-governmental dimension can be taken in consideration.

At this point, the subject of governance in complex societies emerges. On one hand the civil society is the place where political power is legitimated and, on the other hand, in the period of institutional crisis, a place where the in fact powers are generated substituting the former legitimate powers. From this point, the civil society becomes the place of delegitimation.

The necessity to overcome this conflictual zones emerges from this situation, raised by the incapacity of the State in understanding this new dynamics. As GENRO mentioned,

" ... The moral, intellectual and economic reform, necessary to answer this possible barbarism, should try to extinguish the bureaucratic separation that exists between State and Society. This Separation nourishes new ways of totalitarianism and state control, that, nowadays only tend to reproduce the private interests, as the state socialism reproduced the interest of the bureaucracy of the unique party State ..."

III. Social Movements and Communitarian Participation: Background Information and Current Characteristics

The idea of communitarian participation in the governmental decision-making process is not original. Since the late 50's and early 60's this issue is being debated in Brazil and in other Latin American countries. However, it did not loose its relevance and contemporaneity as the present context and intensity in which this subject is discussed nowadays are completely different.

The new social actors arose in the early 70's, adopting MELUCCI analysis, are not distinguished by classes. They are temporary actors that have the objective to announce to the society that there are fundamental problems in a determined area not reached by the official policies, proposing alternative measures.

These actors do not fight only for material goods and services. they fight for symbolical and cultural projects and believe in the possibility of changing quotidian life from general changes.

They are autonomous movements, that struggle to create their own space within complex societies. It is a net of small groups immersed in the quotidian life that are mobilized temporarily for specific ends.

The autonomous structuring of the population's representative organisms, apart of clientelism, physiology and governmental co-optation raises the former dichotomous relation between efficiency and rationalization on the delivery of public services on one side, and, on the other side, a more equalitarian position with the incorporation of the segregated by a maximum popular participation.

Nevertheless, this relation does not admit the maximization of either dimension. A strategy of successive approaches might be built aiming at the optimization of both, efficiency and equity.

IV. Brazilian State historical imperviousness to the popular participation

In the last two decades, in Brazil, one can notice, in a parallel manner the flourishing of new social movements, a vertiginous diminishment in importance of the public planning activity in the three levels of government. State planning has been transformed in a mere administrative and legal formality. This is due to the lack of political and social support .

The information, criteria and priorities used in the shaping of public policies were established without any kind of consult to the beneficiaries, that, did not have any formal means to express their opinions and claim for providence.

This pernicious habit of the Brazilian public administration persists, in spite of the transition process to democracy lasts more than one decade, and can be easily detected . The resistance of the governmental officials in exchange information and knowledge with the representatives of NGO's reinforce the argument.

Public Administration in Brazil adopts, until now, what MATTOS used to call "Latin America orthodoxy of planning", created in the military dictatorships and characterized by the utopian voluntarism of planning technician that, disregarding historical and structural premises that influence the decision making process, privileged their own ideology in spite of that of the group that had the effective control of decisions.

Besides, this technicians did not consider that planning is an essentially political activity, that begins and ends in the ambit of power relations.

That orthodoxy was also featured by an economic reductionism, and by an excessive detailed and formal structure. that made the plans very rigid and, rapidly, obsolete.

This authoritarian and centralized practice discouraged the necessity of a greater level of awareness, organization and popular participation in pressuring the government officials to answer their claims.

The search for mechanisms of popular participation in the decision making process must take in consideration the existence of models that effectively stimulate the social control of the State, and of formal arrangements that only intend to legitimate already taken decisions.

V. Decentralization and Popular Participation in the State Activity: Possible Parallel between the Local and the Federal Level

The central thesis developed in this study is related to the necessity of implementation of an effective reform of Brazilian State in order to incorporate the new social actors and their complex demands to the public arena.

Local governments play an important role in this context that combines representative and direct democracy.

According to GENRO,

" ... Local governments in strategic cities can, and shall be, the stage of political experimentation of universal reach as they institute a combined

process of representative democracy with democratic direct means of voluntary character, generating guidelines of a new State/Society relation, articulating the political representation with the mobilization of this new and vigorous public sphere, that already exists independently of state decision..."

The next stage of this initial formulation over the distinctive role to be played by local governments lead to a first consideration about the authority distribution among the three levels of the Federation. It concerns the decentralization in the ambit of the State apparatus.

The Brazilian Constitution of 1988, in spite of the great advances obtained concerning tax revenues and authority share between federal, state and local level, preserved the historical power concentration of the federal level.

In that way, some issues that could be object of political and institutional decentralization like social aid, housing, sewage, traffic rules, environment, education, among other subjects, remained under the responsibility of the federal level.

It would be determinant a debate about the configuration of a new federate pact , where some objective criteria were outlined and guided the redistribution of authority, adopting as a basic parameter, the subsidiarity principle, that means that everything that can be done in a level of government nearer to the citizen shall not be commissioned to a farther level.

Within this sense, only the subjects that could not be assumed neither by the local nor by the state level should be committed to the federal.

Complementary criteria should be used in order to guide the decentralization process like the following theories: tradition, proximity, and scale.

The conclusion of this first set of reflections is the necessity to transfer both authority and resources to the political-administrative instances closer to the citizens.

The questions related to a deepen and detailed analysis of political and institutional decentralization, however, transcend the main objective of this study that is centered on the issue of popular participation on public decision-making process.

A second consideration is related to the necessity of, in each level of the federation, guarantee an effective social control of the State, incorporating direct participation of the society in the formulation, implementation and assessment of the public policies.

As a result of this preliminary analysis, the question related to the viability of a direct popular participation in the federal level arises, i.e., in other words, if it is possible to transport the control exercised in the local level to the federal level.

This study had already emphasized the Brazilian and Latin American tradition of planning State actions in a centralized and technocratic way. How many deflections and misunderstandings were due, during the Brazilian public administration history, to the inexistence of precise diagnosis or to the biased decisions of those who pretermited the participation of the direct interested, because of a false technical supremacy?

The effectiveness of public policies, even of those under the federal level authority, is directly related to the capacity of incorporating different interested segments. By doing this, the public agents will be able to identify all standpoints involved, to obtain all essential subsidies to their shaping, and to determine limits and possibilities of the implementation success.

The Brazilian legislator responsible for the making of the federal Constitution of 1988, alert to the changes of the State decision making process, inserted in the Constitution , some devices that imposed collective and parity management of some public policies under the Federal Government authority.

This feature can be noticed in the constitutional basis of the social security system management, including health and social aid policies. The article 194, section VII, determines a decentralized and democratic management, including community participation , especially of the workers, entrepreneurs, and retirees. This is also applied to the social communication policy. The Federal Constitution foresees the creation of a Social Communication Council in article 224.

The ordinary legislator, following this trend , inserted in the infraconstitutional legislation some collective and parity organisms responsible, in the federal level, for the formulation, implementation and assessment of some public policies like aid to child and adolescent, old aged and disabled people; the management of resources bound to the financing of unemployment-insurance program and of job and income programs; the management of resources for the Fundo de Garantia por Tempo de Servico - FGTS (Guarantee Fund of Worked Time) destined to the financing of housing and sewage programs, among other policies.

All these examples demonstrate the absolute viability of creating, in the federal level, mechanisms that assure direct popular participation.

Besides, the diffusion of successful experiences of social control and direct popular participation in the State activities in various Brazilian Municipalities will contribute for the formation of a new conscience and of a new political culture of the citizen based on direct participation on the decision-making process.

This transformation will provide a change of the citizen's role. He will be now an active agent in the definition of public priorities and not only a passive receptor of the State benefits.

The next items of this study will analyze the Federal Government proposal to reform the Brazilian State, to reform the state apparatus and the issue of direct popular participation on the decision making process. Some constructive critics will be added to this analysis, and also suggestions for the adoption of an alternative model.

To illustrate these suggestions this study will show the amendments presented by the opposition parties to the Federal Government's Constitutional Amendment that intend to promote an Administrative Reform, and also the concrete experience of Porto Alegre County, capital of the southern most State of Brazil, Rio Grande do Sul, that achieved a notorious success and became a paradigm in enable popular participation in government issues.

Making these considerations, the study will try to demonstrate the viability of transporting these local mechanisms to the federal level.

VI. The Reform of the State Apparatus and the Popular Participation: The Federal Government Proposal

VI.1. The Directive Plan of The State Reform and the Popular Participation

The Federal Government sent to the National Congress, in the late 1995, the Constitutional Amendment n. 173-A, 1995, intending to reform the State apparatus. None of its articles foresaw the institution of democratic mechanisms of popular participation in public decisions. By doing this, the Federal Government lost a great opportunity of democratizing the process of fomulating and implementing public policies.

One is supposed to admit that this democratic dimension of the public decision making process might be achieved in the infraconstitutional level.

Disregarding the critics that could be done to this strategy - one shall say that this is such an interesting idea that has to have a constitutional status - the intention of foreseeing this kind of mechanisms, even in the legal level, should be congratulated because of the cultural revolution that it would implement in the way of conceiving the State action and assuring effectiveness to public policies.

Nevertheless, the direct participation does not exist, neither in the constitutional amendment nor in the legal level.

The main idea that has been leading the Federal Government concerning the Reform of the State is that is necessary, first, to reformulate the state apparatus, then, promote a broader Reform of the State itself.

This logic is foreseen in all official documents that were published. The title of the basic document - conceptual reference of the intended reform - Directive Plan of the State Apparatus Reform, denotes the affirmed.

This document defines the existent forms of public administration, relates the historical of the administrative reforms happened in Brazil, in the federal level, diagnoses the present situation of public administration, formulates a proposal of reform of the State apparatus, draws a strategy of transition, and farther foresees means of operating the intended reform, detailing specific projects.

It was not possible to identify topics that could show the existence of evidences, even of non immediate implementation, of the Federal Government's intention in structuring mechanisms and conceiving instruments that enable direct participation of the citizens in the formulation, implementation and evaluation of public policies.

The last paragraph of the last subitem of the Diagnoses - **4.5. Cultural and Management Dimension** - deals superficially with this question,

" The modernization of the state apparatus imposes, also, the creation of mechanisms that enable the integration of the citizens in the process of definition, implementation and assessment of public action. Through increasing social control it will be possible guarantee the quality of the services ..."

So, the last paragraph, in this point of the Plan, touches the issue of participation whereas it describes the transition strategy. Otherwise, the most possible interpretation is that the mentioned participation is related to the civil servants participation and not of the population as a whole, because the objective with this measure is enhance the efficiency in the operational level.

The text affirms ,

" In conclusion, the reform strategy, in this dimension, also foresees the resume of the quality program, that must emphasize not only the aspect of total quality but also the aspect of participation, essential for increasing the efficiency of services in the operational level. The Quality and participation in the Public Administration Program will be aimed to the improvement of quality and efficiency in public services delivery ..."

Two of the additional projects that contribute for the operation and effectiveness of the Directive Plan of The State Reform, mention the issue of participation: the **Quality and Participation Project** and the **Valorization of the Civil Servant for Citizenship Project**. Nevertheless, the participation referenced is the civil servant participation and not the people participation.

The **Quality and Participation Project** is defined as following ,

" This project was conceived as a basic instrument of public management modernization, emphasizing the principles of quality and participation of civil servants in the operational level."

In the item destined to the **Valorization of the Civil Servants for Citizenship Project**, it is affirmed

" The project will be implanted gradually through a participatory action, in such a way that the civil servants themselves assume its implementation in a shared management regime..."

It is important to underline that the **Citizen Project** and the **Systems of Public Management Project** intend to create channels of dissemination of information and critics of the society. These projects are fundamental but have their importance mitigated due to the detachment of an effective popular participation in the decision making process.

In that sense, it is determinant to conclude that the Directive Plan of the Reform of the State Apparatus was very timid concerning its democratic slope, consisting in the incorporation of the citizens, directly or through representatives of the respective social organizations in the process of formulation, implementation and assessment of public policies.

The only proposal of the Federal Government, inserted in the Directive Plan, related to more advanced means of public administration management, is the incorporation of its own civil servants in the implementation of projects that aim at enhancing the quality of public services.

The superficial reference made within the Directive Plan of the Reform of the State Apparatus, in the diagnosis of the current situation of public administration, about the necessity of the institution of mechanisms of popular participation, do not exclude the affirmative made in the last paragraph *vis-à-vis* do not characterize an effective intention of the government.

The inexistence, both of a deeper analysis of the national and international experiences and of the foresight of specific projects that operates that supposed intention, make evident the worry more with the theoretical consistence of the Plan than with the democratic intention of incorporating the population to the decision making process.

Even confining the analysis of the Directive Plan to the governmental logic of conditioning the Reform of the State to a previous reformulation of the state apparatus and to an administrative reform, we do not manage to identify any mechanism that make possible the popular participation.

It is worthy to highlight that this dimension of popular participation in the reform of the state apparatus itself had been analyzed in other countries.

In France, various studies classified the potentials and limits of this type of participation.

In this moment, this paper will reproduce, in order to exemplify, some reflections contained in the study developed by MORAND-DEVILLER that deals with the issue of direct participation of the ones to whom public policies are addressed, in the solution of essential questions put under French public administration's sphere of decision.

In this study, the author handles the two main slopes matured in France in order to implement administrative reforms: the former, delegated to specialists - representatives, civil servants, judges, and private consultants.

The mentioned study illustrate the relevance of this mechanism, adopted since the III Republic and that resulted in the elaboration of Fundamental Laws as the responsible for the creation of the State Council (1872), the General Councils (1871), and the Local Councils (1889), among others.

This mechanism was adopted until the creation, in the early 30's, of a Ministry specialized in discussing this issue. This Ministry remained in the French public administration until the late 60's.

The author concludes affirming that this mechanism, restricted to the participation of specialists, is limited by saying,

" ... On pourrait légitimement croire que ce foisonnement des organismes spécialisés, l'affinement de méthodes empruntant aux techniques les plus sophistiquées des sciences de l'organisation, la permanence de la réflexion, l'institutionnalisation des structures contribueraient de façon significative à accroître l'efficacité de l'action administrative et sa bonne perception par les administrés. Si des améliorations ponctuelles ont pu, certes, être constatées, il apparut très tôt que la réflexion sur la réforme administrative devait se renouveler. L'ancienne conception d'une administration, instrument du pouvoir politique, ne posant que de problèmes d'ordre technique et appelant des solutions du même ordre, confiées à un cercle étroit de spécialistes, devint obsolète, impuissante à répondre à la nouvelle mission "d'efficacité sociale" assignée à la administration et aux aspirations plus exigeantes des citoyens..."

The author, noticing the insufficiency and obsolescence of this proposal of administrative reform based only on the technical knowledge of specialists, sought for new alternatives indicating the appearance of a new paradigm, based on direct participation of the population.

The idea of putting together citizens and governmental technicians was originated in the late 19th Century where representatives of organized groups interfered directly in the administrative action.

In France, it is typical the example of the Commerce and Industry Chambers, created in 1898, and afterwards, of the Agricultural Chambers.

The shared management procedures were fostered since the Second World War with the implementation of structures that make possible direct intervention of the interested, especially in the agricultural sector, overcoming the limits of a paternalist administration.

The indispensability of planning of the post war, in a great effort of engagement and national agreement, put, side by side, in the Modernization Commissions, specialists and representatives of economic and social categories interested. This fact, impelled, in an effective manner, the practice of citizens' direct participation.

This mechanism evolved, encircling, especially, the urbanism and territory ordination sectors, where the English example of local control of public policies was adapted.

Nevertheless, the author concludes that, in spite of the decentralization that took place in 1982 and in 1983, and also, of the emphasis to the local level public policies, there is no way to affirm the existence of a direct participation of the citizens. This conclusion is due to the insufficiency of structures and of mechanisms that could enable the mentioned participation.

Summarizing this topic, the Federal Government proposal do not regard the direct participation of citizens even in the process of reform of the State Apparatus.

VI.2. The Federal Government Proposal of the Constitutional Amendment of the Administrative Reform n. 173-A, 1995 and the Popular Participation

The Constitutional Amendment of the initiative of the Federal Government that intends to reformulate the state apparatus, as was mentioned before, did not deal with the subject of popular participation in the formulation, implementation and assessment of public policies.

The legal procedure in the Chamber of the Deputies was characterized by an intense controversy concerning polemic topics of the project that "mitigated" the tenure of civil servants, and that imposed a remuneratory ceiling to the civil servants of all Powers and all levels of government. Moreover, the project established a different type of entrance in the public sector, less rigid than the current one.

The critic related to federal government omission in facing the bottleneck characterized by the inexistence of mechanisms that turn possible qualitative participation of citizens in the various stages of public policies, was only formulated by opposition parties, more precisely by the Partido dos Trabalhadores - PT (Workers Party) and Partido Democrático Trabalhista - PDT (Labor and Democratic Party).

When the mentioned proposal of Constitutional Amendment was in the Especial Commission - second stage of the legal procedure in the Chamber of Deputies destined to the analysis of the merit of the proposal - PT and PDT presented, each one, among others, an integral substitutive amendment.

These two amendments to the Proposal of Constitutional Amendment comprised devices that established, explicitly, in the constitutional level, the intention to endow the Brazilian State, in all levels of the federation, with mechanisms that enable the direct popular participation in the public policies decision making process.

Both opposition parties understood, in spite of different formulations, that these mechanisms are fundamental to a change in the paradigms of an effective State reform. That formulation encompasses a direct critic to the governmental logic that it is necessary a previous reform in the State Apparatus before reforming the State itself. PT and PDT admitted an absolutely diverse logic.

In these parties evaluation, such an historic opportunity - to assure in the Fundamental Law, the implementation of mechanisms of direct democracy - could not be wasted.

If this paramount change was implemented, one of the most important pillars of state activity - formulation, implementation and assessment of public policies - would be altered, and, thus, more transparent and ventilated would be the public administration.

In that way, the vicissitudes, the bottlenecks and inefficiencies of the public administration as well as its virtues would be exposed. The state institutional and legal framework would be diagnosed not only by specialists but by the people representatives as well.

These representatives would be responsible for the restructure of the state apparatus in order to make it compatible to the citizens wishes of having a more efficient and effective public service, able to positively impact the identified problems and reverse the astonishing indicators of income, land and opportunities concentration as well as of social exclusion.

The proposed logic is, admitting redundancy only in order to reinforce the argumentation, absolutely inverse to the extolled by the official program. The force-idea is to make possible a structural reform of the State, including in the governmental agenda the democratic dimension, i.e., the direct popular participation in government decisions.

In that logic, the adaptation of the state apparatus would be a consequence, more than that, a necessity, parametrized by more precise and realistic diagnoses.

The Amendment n. 51-CE/95 of the Partido dos Trabalhadores to the Government Proposal (PECn. 173-A, 1995) foresaw in its article 8, among other alterations, the inclusion of the articles 249 and 250 to **TITLE IX of the Federal Constitution - General Constitutional Provisions**, legal devices that intended to provide means of direct popular participation, *in verbis*:

" Article 8. It will be added to the Title IX - General Constitutional Provisions, the following articles:

.....

Article 249. The law will discipline the participation of society in the management of public services and in the popular control upon administration acts, comprising:

I - creation, structuring and authority of three-part organisms, with deliberative powers, contemplating the participation of representatives of govern, civil servants and users;

II - audience of citizens, directly or through organizations or representative institutions, in the elaboration procedure of administrative provisions of their interest;

III - accompaniment, control and participation of society representatives in the planning of government activities, mostly in stages of elaboration, execution and inspection;

IV - in the public services directly provided by the State or administered under the concession or permission regimes, through users representatives committees, employees of concession or permission-holding companies, concession or permission-holding employers and of the conceding organ;

V - detailed and periodic information related to revenue accomplishment, investment expenses and maintenance of public funds of economic and social interest;

VI - the discipline of popular representation against negligible, inefficient or abusive exercise of a public office or position in public administration;

VII - access to information of government acts and of institutions publicly controlled, related to their management, excepting situations that require secrecy according to the law;

Article 250. The Union, the States, the Federal District and the municipalities shall create Public Services Management Councils, with majority participation of society representatives to:

a) analyze, in the last instance of administrative appeal, without suspensive effect, the cases where a public officer has imposed the dismissal punishment for insufficiency of performance, in the precise terms of the item III of the article 41 of The Federal Constitution;

b) analyze the complaints concerning the quality and provision of public services;

c) assess the global and sector performance of public services and suggest adjustment measures or public policies that consider necessary."

The Partido dos Trabalhadores allege, justifying the proposal measures aiming at the broadening of social control in public administration, that popular participation is already assured in the Federal Constitution in some hypothesis, like the social security management (article 194). Otherwise, affirms that there is still a large space to be fulfilled until the institution of effective mechanisms of social participation in the planning and evaluation of the government's activities.

This is part of the assertive of PT commenting the suggested mechanisms to provide the means of participation,

" ... the adequate means than, is the institution of deliberative committees in all organs of public administration, assuring the participation of society representatives to whom shall be assured independence and autonomy, decision taking capacity or real influence in the formulation of political

guidelines and ample access to information (budgetary, administrative, financial, etc.)..."

On the other hand, the integral substitutive amendment (n. 46-CE/95) presented by the Partido Democrático Trabalhista (Labor and Democratic Party) to the Constitutional Amendment of the Administrative Reform (PEC n. 173-A, 1995) established three devices in its first article that foresaw the subject of the social control of the State, *verbis*:

" Article 1. Include, wherever it is possible in the Chapter VII - Public Administration, the following articles:

Article ... - The Social Control of the State shall be exercised, in the manner prescribed by the law, through the constitution of committees in the structure of all Ministries, State and Municipal Secretaries, composed with equal number of representatives of the Government and of interested sectors of society, with a determined term of office and deliberative power, concerning, also, the allocation of budgetary resources, privatization of state owned entities of the indirect public administration, formulation of plans, programs, projects and contracts.

Article ... - All the Ministries, State and Municipal Secretaries, as well as all the organs and entailed entities shall create an information system accessible to all citizens, including detailed data of budget, plans, programs, projects and contracts.

Article ... - The Union, the States, the Federal District and the Municipalities shall have the power to, in their respective spheres of authority:

I - ...;

II - ...;

III - ...;

IV - create the legal statute of the public company, the mixed-capital company and of other State entities that explore the economic activity or provide public services comprising:

a) objectives, social function and entrepreneurial role;

b) control rules to be exercised by the State and by society;

c) constitution and functioning of administrative and fiscal councils;

d) criteria for choosing and terms of office of the managers, including the election of one third of the directors by the direct vote of the employees;

e)...

f) ...;

g)"

In the justification of its amendment the Partido Democrático Trabalhista - PDT asserted that the main objective was present an alternative proposal, identifying the structural bottlenecks of Brazilian public administration and

proposing measures aiming at minimizing the discovered problems.

Moreover, the PDT asserted that the amendment did not intend to detail the measures that should be adopted since it is impossible in a Constitution body, but the announcement of "...*general but fundamental rules to endow the State of vital conditions to the exercise of its paramount task of promoting development and diminishment of the current social abysm ...*".

Concerning the social control of the State, PDT's justification also asserted that the main target to be achieved was the effective popular participation in the formulation, implementation and assessment of public policies, and a bigger transparency of the performance of the state owned enterprises.

Nowadays, the Constitutional Amendment of the Administrative Reform is supposed to be voted by the Plenary of the Chamber of Deputies. Its last version contains reticent advances, comparing to the original one, concerning the subject of the social control of the State.

The article 3 of the last version of the Administrative Reform, suggests changes in article 37, 38, 39 and 41 of the Federal Constitution, verbatim,

" Article 3. The articles 37, 38, 39 and 41 of the Federal Constitution shall henceforth be in force with the following wording:

Article 37.....

.....

Paragraph 3 - The law shall provide for the manners of participation of the user in direct and indirect public administration, regulating, especially:

I - the audience of users in the formulation of public policies and in the elaboration of the general administrative provisions that affect them and their performance in committees for the management of goods and resources of social nature and of collective interest;

II - the complaints related to the delivery of public services in general, assuring the maintenance of attending users services and periodic, external and internal, evaluation, of the service's quality;

III - the access of the users to administrative records and to information related to government acts, observing the specified in the article 5, X e XXXIII;

IV - the discipline of representation against negligent, insufficient or abusive exercise of public offices, positions and functions in public administration.

Article 39 - The Union, the States, the Federal District, and the Municipalities shall create, in the ambit of their power, councils of administration policy and personnel remuneration, composed by civil servants designated by the Executive, Legislative and Judiciary powers."

The paragraphs 1 and 2 of the article 39 of the Federal Constitution, in the version proposed by the Substitutive Amendment adopted by the Chamber of Deputies' Especial Committee, foresee that a law of initiative of each power, taking in consideration the suggestions of the Council referred in the *kaput* of this article, shall institute career plans and remuneratory policies for public offices, positions and functions.

There is no way to deny an advance concerning the popular participation. Nevertheless, this advance is very limited as long as it does not contemplate an effective participation.

The main critics to the modifications proposed, related to the popular participation, that justify the anterior assertive are:

1. the users are merely listened in the formulation of public policies, i.e., they do not have deliberative power; moreover, the project does not explicit the manner users are going to be listened in the shaping of policies;
1. the Sustitutive foresees the participation of users only in the management (not in the formulation nor in the assessment) of social goods and resources ; there is no prediction of users participation in the decision making process of infrastructure and economic policies; moreover the mentioned participation through committees does not clarify its composition, if there is parity or not in the representation;
1. the Substitutive does not admit the participation of the civil society in the composition of the Administration Police and Personnel Remuneration Council; only civil servants can take part on it;
1. that Council has only consultative powers being only capable to present suggestions.

VII. A New Paradigm in the State/Civil Society Relations - the Democratic Dimension in the Management of the *res publica*: the experience of Porto Alegre Municipality (1989-1996)

One of the most successful experiences of popular participation in the elaboration and management of public policies is, undoubtedly, Porto Alegre Municipality. In 1989, the term of office of the Mayor Olivio Dutra, the Workers Party's candidate elected in 1988, started.

At that time, a model and revolutionary experience of municipal management begun, and last until nowadays. The main axis of this model is the civil society's incorporation in the decision-making process of State activities.

The principal mechanism that provides the means of popular participation is the **participatory budget**.

The conception of this management model is based in the principle that the representative democracy itself, characterized by periodical election of Representatives and of the Mayor to defend the interests and to pursue the achievement of the pleas of the society, had reached an stage of complete breakdown in answering the ever increasing complex demands of the society.

As it was seen in the introductory part of this study, the globalization process and the advent of the third industrial revolution - that introduced highly new technologies - were responsible for the creation of new social actors, with non attended demands.

In this sense, it was fundamental to combine this dimension of the democratic system - the representative democracy - with mechanisms of direct democracy.

As a result of this combination it was originated the idea of participatory budget in the municipal management.

It was created, then, an space of incorporation of new and organized social actors to the state action. As a consequence, these public non state organizations were formalized. They are so-called public because they behave in the defense of collective interests and non state because of its external origin related to the State apparatus.

Through the mechanism of participatory budget, the city is divided in regions .and in each of them a committee is constituted, composed, in parity, by representatives of the Government and of the Civil Society - the so-called **Co-Management Council of the Participatory Budget**.

In these Councils the society itself identify where and in which manner the investment resources of the municipality will be allocated. The participation is on the whole process of public policies, since the choice of the works that should be prioritized until their inspection and evaluation.

And why the budget was chosen to materialize the popular participation ? Because the budget is the instrument that effectively shows the Government intentions. In the Budget the campaign speeches are embodied, the priorities are elected, the plans, programs and projects are materialized.

The real intention of decentralizing decision making process, is mainly described by the degree of popular participation in defining the allocation of public resources.

It is important to reproduce now, the reflection not only of one of the idealizers of this democratic model of management, but also, of one of its most important executors as the Major of Porto Alegre Municipality, Mr. Tarso Genro.

In his testify before the Especial Committee of the Chamber of Deputies responsible for the analysis of the Administrative Reform's Constitutional Amendment, in 01.31.96, talking about the State Reform, Mr. Genro asserted ,

"In Porto Alegre we made a profound reform on the State and on taxation. The reform was based on two fundamental movements: first, the political decentralization of the city, through the institution of public councils in 16 regions of co-management of all the projects and of all resources destined for investments in the city. Consequently this political decentralization determined a second type of reform: the reform of the State from the perspective of the external control. A group of councils that control investments and public policies. There is a Managerial Council that controls the execution of the public budget. From this moment on, we started to decentralize the administration with administrative units in the city, that, currently are five..."

On another part of his testify, the Mayor synthesized the conceptual divergence between the strategy of the Federal Government's reform of the State and the one adopted by the Municipal Government of Porto Alegre ,

"...We adopted an inverse strategy than the adopted by the Federal Government. We are reforming the State/Society relation first and, from this point on, adapting the public apparatus to this reform, because the civil servant himself would not accept it if it was not made this way. The improvements in Porto Alegre public service was a result less of the internal programs and more of this direct relation that the public structures of the municipality established with the community. This is not, evidently, a perfect work, there are mistakes, back and forth movements but the result is, undoubtedly, positive (...) So, there is a reform of the State going on, a long and complex process that requires a serious of adaptations of the state apparatus itself..."

In the ambit of the state apparatus reform, there is also a direct popular participation in the definition of the course that it should adopt. There is a **Public Committee of Co-Management of the Municipal Service**, that is composed by representatives of the trade unions, of the participatory budget system and of the Government.

In the public audience mentioned above, realized in the Especial Committee that debated the Constitutional Amendment, Mayor Tarso Genro explained the role of this Committee in the definition of an administration and personnel remuneration policy,

"... This Co-Management Council has the power to allow or not that the Mayor creates public offices. Thus, the civil servant himself shares with the society the number of civil servants that the municipality has, what implies, evidently, a salary amount. We are applying the two-month full adjustment of the wages by the IGPM. (...) The relationship with trade union movement is not peaceful, but of dispute, negotiation and dialogue..."

The main difference between this Committee mentioned by the Mayor and the organ proposed by the Substitutive of the Administrative Reform, concerning the formulation of an administration and civil servants remuneration policy, is that in the latter, only civil servants may take part, what confers a technocratic and corporative bias to the organ.

The former Committee is composed with the same number of representatives of the Government, of the trade unions and of the society. There is effectively, a popular participation in the management of the reforms of the state apparatus.

VIII. Final Considerations

This study tried to turn over the myth that the State Reform can only be done if preceded by a reform of the state apparatus.

The necessity of incorporating a huge contingent of excluded of the goods and services' process of distribution imposes an structural reform of the State.

A reform that aims at the State democratization in order to make it capable to respond to the ever growing demands of the new social actors, through the creation of new instances of decision.

It is the need of, according to GENRO , "civilize the State without 'statize' the society".

The popular participation in the decision making process intends an ever growing approximation between government and community, civil servant and citizen, and the consequent inclusion of extensive sectors of segregated people, basically, through the utilization of more flexible and more realistic mechanisms of identification of problems, and establishment of priorities.

It is important, according to MELUCCI, to create a new public arena, beyond the traditional distinction between State and Civil Society, a public and intermediary arena which the main objective is not the institutionalization of social movements nor their transformation in political parties, but listen to the claims of the society and transform their begins in public decisions, without, however, harm the autonomy of the movements.

This paper intended to develop a central argument that is: the intense changes that occurred in the world, particularly, in the relations between the State and the Civil Society imposed an offensive behave of the public agents concerning the reform of the Brazilian State, in all of its dimensions, in all levels of the Federation, in order to make it capable to deliver more and better public services, and to attend the most variable types of demand.

The hermetic and autarchic State , centered only in the technical knowledge of its agents, certainly will be incapable to overcome the challenge mentioned in the last paragraph.

On the other hand, there is no way to conjecture positive perspectives to a society that segregates significative sectors of its population.

The result of this and of the other arguments brandished during this study, point out to the necessity of a greater perviousness of the State enabling the participation of these same segregated sectors that, nowadays, are excluded.

It is also imperative the building of alternative decision making mechanisms and the partition of a power that if it is not used effectively, e.g., that does not result in an improvement of quality of life of the majority of the population, is transformed in an esterile power, in an imposture.

The reflections addressed, even in a rudimentary way in this paper, try to demonstrate the viability of creation of these new arenas that enable an effective and deliberative participation in all levels of the Brazilian Federation.

The concrete and successful experiences of municipal Governments such as Porto Alegre in adopting this strategy show the necessity of reproduction of this participatory model.

The wise examples of democratic and participatory management in the national public policies inserted in the Brazilian Constitutional and legal framework, quickly mentioned in this paper, also reinforce this trend.

If the debate concerning the social control of the State could be summarized in a few points we would suggest:

- the creation of committees, functionally or territorially organized, depending on the level of the federation, with the same number of representatives of the government, of the Civil Society, and of the civil servants, that should formulate, implement and assess public policies, defining priorities for the allocation of budgetary resources in each area;
- the implementation of information systems, accessible to all citizens, that comprise detailed and up-dated information about the financial and budgetary execution of the various public institutions as well as about the evolution of the policies, plans, programs and projects;
- the creation of flexible and agile mechanisms of accountability of public agents for the negligible, insufficient or abusive exercise of a public office or position in the public administration;
- the participation of civil servants and users in the administration and fiscal councils of the State-owned enterprises;
- the creation of committees consisting of the same number of representatives of the government, of the Civil Society, and of the civil servants to manage the reform of the State apparatus. This reform has the main objective to adjust the State apparatus to the paradigms imposed by the new decision-making processes resultant of the former suggestions, encompassing structural and authority adjustments, management of public services and remuneration of the civil servants.

One can notice that the ideal conception of a full participatory democracy is not viable, since there are questions in which the level of details and complexity discommend the utilization of direct mechanisms of participation.

It is important to register that the position defended in this paper converges basically with the diagnoses of some multilateral agencies like The World Bank and the Inter-American Development Bank about the necessity of enhancing the power of the so-called third sector.

Nevertheless, there are two paramount discrepancies. First of all, these agencies tend to associate the strengthen of the Civil Society to the weakening of the State. This statement can be proved by the following assertive found in a document of the Inter-American Development Bank concerning the Reform of the State in Latin America ,

"The change in the role of the State and the increased responsibilities of civil society are mutually complementary processes engendered by the profound transformations at work in the region."

The main argument of this study is that the government action must always be transparent, independently of the economic policy adopted. More than that, the economic measures suggested by these agencies in order to stabilize the economies of undeveloped countries should never be faced as prerequisites to the implementation of mechanisms of social control of the State.

The second main difference is that this paper suggests a broaden popular participation in the public policies' decision making process and even in the allocation of budgetary resources, and not a restricted participation on the delivery of social services.

Another important argument espoused in this paper is that there is no way to imagine the end of the representative democracy.

Participatory democracy and representative democracy are not mutually excludable. In contrary, one shall nourish the other in order to avoid authoritarianism and centralism that flourish in the exact moment that one or the other is suppressed.

The consolidation of what was exposed in this paper can be found in the following assertive of Porto Alegre ex-Mayor Tarso Genro,

"The reform of the State is only viable and truly modern if it is a reform in the State-Society relation, e.g., if it is a reform also conceived as a social reform (...) I believe that the reform of the State will be destined to failure if is considered as a mere reform of the management of the State, because the fundamental question that is posed to the whole country now is how to create a politically, economically and culturally inclusion-oriented State. The administration reform should be a reflex of this process. A State which reform should build a bridge between the formal and the informal society, arresting the current trend, e.g., the trend of formation of a pact "among the included" within the country, consolidating, in this sense, the anomie and the informality that submit huge contingents of the population."

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