

FROM BUREAUCRATIC TO MANAGERIAL PUBLIC ADMINISTRATION IN BRAZIL

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The reform of public administration proposed in 1995 by the government of President Fernando Henrique Cardoso may become known as Brazil's second administrative reform, after the effort in 1936. Or even the third, if one considers the 1967 reform worthy of the name, even though it was later reversed. The 1967 reform should be viewed more as a trial run for the processes of decentralization and bureaucratic restructuring. The current reform is based on the concept of managerial public administration as a response not only to the grave crisis of the state that marked the 1980s but also to the process of economic globalization. These phenomena are felt throughout the world and demand a new definition of the state and its bureaucracy.

The crisis of the state demanded that it be reformed and rebuilt, and the process of globalization required a redefinition of state functions. Prior to the integration of world markets and productive systems, one of the fundamental objectives of states was to protect their respective economies from international competition. In the wake of the process of globalization, the possibility of the state playing this role has diminished dramatically. Its new role is to help the national economy to carve out an internationally competitive niche for itself. Regulations and intervention are still necessary in education, health, culture, technological development, infrastructure, and other areas, but this intervention is targeted not only at offsetting the distributive imbalances generated by the global market but principally at preparing economic agents for competition at the world level.¹ The difference between the neoliberal and social democratic reform proposals centers on the fact that the former desires to withdraw the state from the economy, whereas the second seeks to enhance the governance of the state or, in other words, enable the state to intervene effectively whenever the market is unable to coordinate economic activity appropriately.

In this chapter, I concentrate on the administrative aspects of state reform. Though, above all, the state is the image of society, I view it here as subject and not as object – an organism that requires enhanced governance so that it may act more effectively and efficiently in the benefit of society. The problems at the root of the state’s incapacity to govern effectively are not caused by “excess democracy” or the exorbitant weight of social demands, but rather by the lack of a political pact, a coalition of classes occupying the center of the political spectrum.² Here, we assume that the political problem implicit in governing capacity was temporarily resolved with the return to democracy and formation of the “democratic-reform pact of 1994,” made feasible by the success of the Real Plan and the election of President Cardoso.³ This pact did not definitively resolve the problems of the state’s incapacity to govern since, by definition, these are chronic. However, it did provide the government with the political conditions needed to occupy the political and ideological center and, with broad popular support, propose and implement state reform measures.

Following a brief section in which I analyze both the grave crisis of the 1980s as a crisis of the state and the responses of Brazilian society to that crisis, I present a short diagnosis of the crisis of the Brazilian bureaucratic public administration and its myths. After that, I define the principles of the state reform designed to initiate the process of establishing managerial public administration in Brazil and, in light of the redefinition of its functions, I specify the most appropriate forms of proprietorship for the different activities now performed by the state. In terms of the redefinition of the state’s functions, I both distinguish among three forms of proprietorship – public-state, public-nonstate, and private – and divide the state’s current activities into four sectors – strategic core, activities pertaining exclusively to the state, competitive or nonexclusive social services, and production of goods and services for the market.

CRISIS AND REFORM

In Brazil, perception of the nature of the crisis and, later, of the imperative need to reform the state was a haphazard and contradictory process that occurred as the crisis itself unfolded. Between 1979 and 1994, Brazil lived through an unprecedented period of high inflation and per capita income stagnation. It was only in 1994, with the advent of the Real Plan, that the nation finally managed to stabilize prices and create the conditions required for renewed development. The fundamental cause of the economic quandary was the crisis of the state that, notwithstanding the reforms already achieved, has yet to be fully overcome. The crisis dates to 1979 and the beginning of the second oil shock. The basic characteristic of the crisis

is the state's loss of capacity to coordinate the economic system in a manner complementary to market forces. The crisis is defined simultaneously as a fiscal crisis, a crisis in the system of state intervention, a crisis in the bureaucratic system of state administration, and, in its initial stages, a political crisis.

There were three stages to the political crisis: first, the crisis of the military regime – more specifically, a crisis of legitimacy; second, the populist attempt to return to the 1950s – a crisis of adaptation to the democratic system; and, finally, the crisis that led to the impeachment of Fernando Collor de Mello – a moral crisis. The fiscal or financial crisis was marked by the loss of public credit and by negative rates of public savings.⁴ Accelerated by the process of economic globalization, the crisis of the system of state intervention revealed the demise of the protectionist model of import substitution industrialization. Though this model had attained considerable success in fostering the industrialization process that spanned the period from the 1930s to the 1950s, it finally ran its course as of the 1960s. This was evident in the dearth of competitiveness on the part of a considerable share of Brazilian companies and in the failure of efforts to create a welfare system that would be comparable to those of European social democracies. Finally, even before bureaucratic public administration could be fully implemented, it became mired in a crisis of unprecedented proportions in 1988.

The crisis of the system of bureaucratic public administration began during the military regime, partly because it was incapable of eliminating the concept that the state was somehow the property of a privileged few. In addition, the military government, instead of consolidating a professional bureaucracy through redefinition of careers and public competitive civil service examinations to fill high-level vacancies, preferred the shorter path of recruiting such administrators through state companies.⁵ The opportunistic strategy adopted by the military regime – the option for contracting high-level administrators through the state companies – contradicted the terms of the 1936 reform by making creation of a strong civil service unfeasible. However, starting with the 1988 Constitution, the situation worsened as the pendulum swung to the opposite extreme: excessive bureaucratic rigidity. The consequences of the survival of the concept that the state is in some way the privileged domain of a powerful elite, coupled almost perversely with an extremely rigid bureaucracy, have been the high cost and low quality of Brazilian public administration.⁶

The response of Brazilian society to the four aspects of the state crisis was uneven. The first was the response to the political crisis: in 1985, the country completed its democratic transition; in 1988, the transition was consolidated with adoption of a new constitution. With regard to the other three aspects – the fiscal crisis, exhaustion of the interventionist model,

and the growing inefficiency of the state apparatus – the new regime that took office in 1985 accomplished very little.⁷ Indeed, the first response involved a classic case of backsliding and only aggravated the problems. In the case of the fiscal crisis and the system of state intervention, the banner raised by the victorious political forces was the populist development philosophy of the 1950s, and the bureaucratic mindset of the 1930s once more came to dominate public administration.

FROM BUREAUCRATIC TO MANAGERIAL ADMINISTRATION

Based on the principles of administration of the Prussian army, classic bureaucratic administration was implemented in the major European countries toward the end of the nineteenth century and in the United States at the start of the twentieth century. In Brazil, administrative reform was fostered by Mauricio Nabuco and Luis Simões Lopes. The concept was that described by Max Weber, which focused on the principle of professional merit.

Bureaucratic public administration was adopted as a substitute for so-called patrimonial administration. In this concept that defined absolute monarchies, the meanings of public and private tended to intermingle and often became confused. The state is understood as the property of the king. Nepotism and political patronage – and, often, outright corruption – were the norm. Patrimonial administration proved to be incompatible with industrial capitalism and the parliamentary democracies that arose in the nineteenth century. For capitalism to work, there must be a clear distinction between the state and the market. Democracy can only exist when society, composed of the citizenry, is viewed as separate from the state and simultaneously in control of the state. Consequently, it became necessary to create a type of administration founded not only upon a clear distinction between public and private but also upon a separation between the politician and the public administrator. This marked the birth of rational-legal, modern, bureaucratic administration.

Classic bureaucratic public administration was adopted because it was superior to patrimonial administration. However, the assumption that it would necessarily be more efficient proved to be untrue. At the moment in which the small liberal state of the nineteenth century definitively gave way to the large social and economic state of the twentieth century, it became evident that the new administrative model did not guarantee rapidity, good quality, and low cost in the services rendered to the public. Rather, bureaucratic administration is sluggish, expensive, and self-serving, with little or no orientation to meeting the demands of citizens.

This was not a particularly serious problem in small states charged only with guaranteeing property and contracts. Only four ministries were needed in the liberal state: justice, responsible for the police; defense, including the army and navy; finance; and foreign relations. The most important public service was the administration of justice, and the judiciary branch was charged with this task. Efficiency, therefore, was not an overriding concern. In contrast, the great social and economic state of the twentieth century assumed responsibility for a growing number of social services: education; health; culture; social security and social assistance; scientific research; and aspects of the economy such as regulation of the internal economic system and of international economic relations, stability of the currency and financial system, and the supply of public and infrastructural services. Thus, efficiency was transformed into a core concern. At the same time, expansion of the state was a response not only to pressures exerted by society but also to the growth strategies of the bureaucracy itself. The problems are not limited to growth, expanding structures, and the complexity of the bureaucracy but even extend to the legitimacy of the bureaucracy in the framework of citizenry demands.

After World War II, bureaucratic values were reaffirmed, but at the same time, public administration felt the first impact of business administration. In all governments, the concepts of decentralization and enhanced administrative flexibility gained ground. Nevertheless, reform of public administration only gained momentum in the 1970s, parallel to the outbreak of the crisis of the state. Consequently, the 1980s witnessed a veritable revolution in the public administration of the developed countries as they moved toward a system of managerial public administration.

The countries in which changes were most profound were the United Kingdom, New Zealand, and Australia.⁸ In the United States, this revolution occurred principally at the level of municipalities and counties and is vividly described in the book *Reinventing Government* by David Osborne and Ted Gaebler (1992). Inspired by advances in business administration, managerial public administration is now moving to center stage.⁹

The general guidelines of this new form of public administration have gradually developed into the following: (1) political decentralization with transfer of resources and responsibilities to regional and local political levels; (2) administrative decentralization,¹⁰ through delegation of authority to public administrators transformed into increasingly more autonomous managers; (3) organizations with few hierarchical levels, no longer structured like a pyramid; (4) assumption of limited trust, but not total mistrust by citizens; (5) a posteriori control of results, instead of rigid, step-by-step control of administrative processes; and (6) administration based upon meeting the needs of the citizenry.

THE TWO ADMINISTRATIVE REFORMS

In Brazil, the idea of managerial public administration has a long history. It first took form in the administrative reform in the 1930s and was at the root of the second reform in 1967. The 1936 creation of the Public Service Administrative Department (DASP) marked introduction of the principles of classic bureaucratic administration.¹¹ Creation of DASP not only marked the nation's first administrative reform, with implementation of the system of bureaucratic public administration, but also affirmed the centralizing and hierarchical principles of the classic bureaucracy.¹² However, with creation of the first semiautonomous government agency in 1938 came the initial sign of managerial public administration. At that point, the idea arose that public services in the "indirect" administration should be decentralized, instead of being subjected to the whole array of bureaucratic demands of the "direct," or central, administration.

The first attempt to achieve managerial reform of Brazilian public administration occurred at the end of the 1960s, expressed in Decree-Law 200/1967. This movement was led by Amaral Peixoto and inspired by Hélio Beltrão, the pioneer of these ideas in Brazil. Beltrão participated in the 1967 administrative reform and, as minister of bureaucratic modernization from 1979 to 1983, promoted managerial reform. In 1979, he defined his National Program of Bureaucratic Modernization, a political proposal that sought, through the instrument of public administration, "to remove the user from the colonial condition of subject and endow him with the condition of citizen, the center of all of the state 's activities" (Beltrão 1984: 11).

The reform initialed by Decree-Law 200 attempted to overcome bureaucratic rigidity and can be considered the first step toward managerial administration in Brazil. Based on the assumption that direct administration was necessarily rigid and decentralized administration more efficient, all emphasis was given to decentralization by granting greater autonomy to the indirect administration.¹³ Decree-Law 200 transferred government activities in the production of goods and services to semiautonomous agencies, foundations, public-sector companies, and joint capital companies and, in this way, confirmed and restructured a situation that in practice had already existed. The principles of administrative rationality were defined as planning and budget, decentralization, and control of results. Decentralized units were permitted to hire from outside the ranks of the civil service, just as any private company would obtain personnel. It was a moment of extraordinary expansion of state companies and foundations. A more flexible administrative approach was adopted in the pursuit of enhanced efficiency in the economic activities of the state. At the same time, the political alliance between the civilian and military technobureaucracy and the business community was reinforced.¹⁴

However, Decree-Law 200 had unexpected and undesirable consequences. Permitting the contracting of employees without competitive civil service exams facilitated the survival of practices designed to benefit self-serving interest groups. By ignoring the need for change in the central administration – looked down on as “bureaucratic and rigid” – the process of competitive examinations, which would have encouraged careers at the highest levels of public administration, was stifled. The strategic core of the state was unduly weakened by an opportunistic strategy adopted by the military regime that, instead of concerning itself with the preparation of high-level public administrators selected through competitive public examinations, opted to contract the highest-level personnel through state companies.¹⁵

In this way, the administrative reform built into Decree-Law 200 was only half implemented and, therefore, failed. The political crisis of the military regime began in the mid-1970s and further aggravated the situation of the public administration in the sense that the state bureaucracy was identified with the authoritarian system already in a process of evident degeneration.

RETURN TO THE 1950s AND 1930s

The democratic transition that occurred with the presidential election of Tancredo Neves, who died before taking office, and the presidential inauguration of José Sarney in March 1995 was not viewed as an opportunity for reforming the state apparatus. Quite the contrary, at the administrative level, it meant a return to the bureaucratic ideals of the 1950s and, at the political level, an attempt to return to the populism of the 1950s. Though democratic, the two parties in control of the transition were populist by nature. They had no idea – just as society itself also had no inkling – of the gravity of the situation through which the country was passing. The period was marked by a certain democratic-populist exhilaration based on an imagined possibility of returning to the 1950s, the golden years of Brazilian democracy and development.

In the first two years of the democratic regime – the New Republic – the fiscal crisis and the need for radically revising the system of state intervention in the economy were simply ignored. It was imagined that renewed development and more equitable income distribution could be fostered through increases in public-sector outlays and a forced rise in real wages or, in other words, through a populist and therefore distorted version of Keynesian thought. The import substitution model was maintained. Wages and public sector expenditures increased. The result was the misadventure called the Cruzado Plan. An initially well-conceived plan was transformed into another classic case of populism. Soon after the plan’s failure, an

attempt to achieve a fiscal adjustment was initiated during the brief period I spent at the Ministry of Finance (1987). However, bewildered at the outbreak of the crisis, society denied its support. Instead of adjustment and reform, the country fell under the sway of a conservative political coalition in the National Congress – the *Centrão* – and, as a result, plunged into a period of self-serving political populism in 1988 and 1989 that was, in reality, a “return to mercantilist capitalism.”¹⁶

Chapter 7 on public administration in the 1988 Constitution resulted from all of these contradictory forces. On the one hand, the Constitution was a reaction to the populism and self-serving political interests that reappeared with the advent of democracy.¹⁷ For this reason, the Constitution carried the principles of an archaic, bureaucratic public administration to the extreme, a highly centralized, hierarchical, and rigid public administration in which all priority is given to direct administration rather than indirect administration.¹⁸ The 1988 Constitution totally ignored new guidelines in public administration.

The members of the Constituent Assembly and, in the broader sense, Brazilian society itself demonstrated an incredible lack of perception of what was truly new. They perceived only that the classic bureaucratic administration that Brazil had begun implementing in the 1930s had never been fully adopted. They judged that the state had adopted decentralizing strategies – semiautonomous agencies and public foundations – that simply did not fit within the classic professional-bureaucratic model. They recognized that decentralization had created spaces for patronage, principally at the level of states and municipalities, and that this had worsened following the return to democracy. They were unable to perceive that the more decentralized and flexible forms of administration specified by Decree-Law 200 were a response to the state’s needs to administer its companies and social services in an efficient manner. They decided then to complete the bureaucratic revolution before even considering the principles of modern public administration. In so doing, they were apparently following a linear type of logic compatible with the idea that it would first be necessary to complete the mechanical revolution before participating in the electronic revolution.

The constituent assembly resolved to adopt a “single juridical system” for all civilian public employees of direct public administration, semiautonomous agencies, and foundations. This system would then be equally applied to all: janitors and professors, maintenance personnel and medical doctors, receptionists and persons responsible for fostering cultural programs, and police and social servants. Ignoring the fact that its purpose was to protect the state and not employees, a rigid system of civil service job security was created. Such rigid competitive examination mechanisms were adopted that it became nearly impossible to shift

already contracted employees into recently opened vacancies. When the assembly extended the new rules to the entire public administration, the semiautonomous agencies and public foundations lost all their autonomy.

At the same time that examination procedures were changed, the 1988 Constitution permitted consolidation or creation of a series of privileges, which contradicted the rational-legal bureaucratic spirit then predominant. These privileges were both a tribute to the concept of government for the few still present in Brazilian society and a consequence of the influence of special interest groups that had intensified with the return of democracy. As a result, the principal actors on the national stage resorted to defending their specific interests as if these were the interests of society as a whole. The worst of these privileges was a system of retirement with full pay and without relation to the length of employment. This, plus the institution of special retirement systems that made it possible for civil servants to retire at an early age – about fifty years old – and, in the case of university professors, to accumulate various retirement benefits, had a brutal impact on the cost of the state social security system and created a prodigious fiscal burden for society.¹⁹ A second privilege was the transformation, in a single act, of 400,000 employees originally hired under the terms of ordinary labor legislation into civil servants subject to civil service legislation and entitled to job stability and full retirement benefits.²⁰

The bureaucratic backsliding that occurred in 1988 can in no way be attributed to failure of the decentralized and flexible approach taken to public administration by Decree-Law 200. Though some abuses of procedures were obviously committed, either in terms of excessive autonomy for state companies or the self-serving utilization of semiautonomous agencies and public foundations (in which there was no requirement of public selection processes for hiring), it would not be correct to affirm that these distortions caused the backsliding. First, above all else, they were the result of a mistaken vision of the then current concept of the nature of public administration held by the democratic forces that had overthrown the military regime. Since the Brazilian democratic transition occurred in the midst of a crisis of the state, the crisis was mistakenly identified by democratic forces as, among other things, a result of the process of decentralization that the military regime sought to implement. Second, the backsliding was a consequence of the political alliance that democratic forces formalized with the traditional system of self-serving government, a patrimonialist, political group always ready to renew in order not to change. Third, retrenchment resulted from resentment on the part of the old bureaucracy at the manner in which the central administration had been treated during the military regime: the time had arrived to strengthen the power of the center and restore the purity of the bureaucratic system. This bureaucratic vision was centered at the

former Secretaria de Administração Federal (SAF), the bulwark of bureaucratic reaction not only to modern public administration but also to the closed pressure groups that appeared within the civil service system.²¹ A fourth reason for backsliding was the privatization campaign accompanying the entire process of democratic transition, which led the members of the Constituent Assembly to increase bureaucratic control over state companies. The result was a loss of the autonomy granted by Decree-Law 200.

In summary, the return to bureaucracy that marked the 1988 Constitution was a reaction to the patronage that dominated the country at the time but also an affirmation of the privileges of special interest groups and political favoritism. In addition, it grew out of the defensive posture of the bureaucracy, which, feeling unjustly accused and cornered, resolved to react irrationally.

Despite the fact that Brazilian public administrators are by and large competent, honest people imbued with a sense of public service, these circumstances contributed to a loss of prestige on the part of the nation's public administration. The aforementioned qualities – evinced by the civil service since the 1930s when professional public administration was first implemented in Brazil – were among the keys to the strategic role that the state played in Brazilian economic development. Creation of basic industry in the 1940s and 1950s, the adjustments of the 1960s, development of infrastructure and installation of the capital goods industry in the 1970s, a new adjustment and the financial reform of the 1980s, trade liberalization in the 1990s – none of these would have been achieved were it not for the competence and public spirit of the Brazilian bureaucracy.²²

RECENT EVOLUTION AND PERPLEXITY

The fiscal crisis and the crisis in the system of state intervention were first perceived in 1987. At that moment, in the wake of failure of the Cruzado Plan, Brazilian society perceived that the nation was out of step with history, that a return to the nationalism and populism of the 1950s was not only a sham but above all an impossible undertaking.²³ However, the members of the 1988 Constituent Assembly did not perceive the fiscal crisis, much less the crisis of the state apparatus. Thus, they were unable to recognize the need for rebuilding the state, for recovering public savings, for designing new, less straightforward instruments of state intervention in which competition would play an essential role. They did not discern the urgent need to build an administration that would be professional, efficient, and always oriented toward meeting the demands of the citizenry.

Only after the episode of hyperinflation in 1990, at the end of the Sarney administration, did society awaken to the dangers of the crisis. As a consequence, economic reform and fiscal

adjustment gained new momentum in the Collor government. And it was precisely that contradictory, if not schizophrenic administration – destined to drown in a sea of corruption – that took the first steps in the direction of reforming the economy and the state. It was the Collor administration that adopted the process of trade liberalization, the most successful and important reform adopted by the country since the crisis first began. At the same time, privatization was given priority standing. The Collor administration also moved decisively toward a fiscal adjustment, adopting measures of a permanent nature and canceling a substantial portion of internal public debt.

However, insofar as public administration is concerned, the approach taken by the Collor administration was clearly misguided. Just as in the battle against inflation, in this area also the government was doomed to failure as a result of an erroneous diagnosis of the situation and of a simple lack of technical competence. Failure stemmed principally from the ruinous attempt to reduce the state apparatus by firing employees and abolishing government entities without first fostering constitutional reform to ensure the legality of these measures. In the final analysis, aside from a drastic reduction in civil service wages, the government's intervention in public administration further disorganized the already precarious bureaucracy; denied public-sector employees any sense of prestige; and subjected them to accusations of responsibility for practically all the nation's problems while stigmatizing them as representatives of special interest groups. In fact, pressure groups are a negative characteristic of all segments of Brazilian society.²⁴

At the start of the Itamar Franco administration, Brazilian society began to acknowledge the crisis in public administration. However, a great deal of perplexity and confusion remained. In this stage, an important document was prepared by the Center of Studies of Contemporary Culture (CEDEC) for the National School of Public Administration (ENAP). A summary of the diagnosis was presented in the introduction, written by Régis de Castro Andrade (Andrade 1993: 26):

The administrative crisis is evinced by low capacity in the formulation, information, planning, implementation and control of public policies. The list of deficiencies in the nation's public administration is dramatic. Civil servants have lost motivation and all professional or existential perspectives that would attract them to their positions. Most of them have not been included in career plans. The upper levels are not entitled to job stability. Training institutions do not achieve their objectives. Wages are low.

For the most part, the diagnosis was correct but still contained a fundamental failing. According to the document, the underlying evil to be attacked was “the intense and generalized concept of government for the privileged few that dominates the political system,” and the goal was that of establishing a bureaucratic public administration, “a system

of public administration cleansed of political privilege, in which civil servants conduct themselves according to the criteria of public ethics, professionalism and efficacy” (Andrade 1993: 27). There is no doubt as to the importance of professionalization of the civil service and compliance with the principles of morality and public interest and no denying the value of planning and administrative rationality. However, the writers of this document did not perceive that by reaffirming classic bureaucratic values, they were invalidating the very objectives proposed. They did not recognize the need for radical modernization of public administration, a modernization that can only be generated by taking a managerial perspective. As Hélio Beltrão affirmed (1984: 12), “There is a curious inclination among us to reason, legislate and manage for an *imaginary country* that is certainly not ours; a country dominated by the fascinating exercise of abstract planning, by the optical illusion of centralized decisions.” When we begin working with myths or an imaginary country, our capacity to affect reality diminishes radically.

The truth is that the 1993 ENAP document expressed a bureaucratic ideology that dominated Brasília from the democratic transition (1985) to the end of the Itamar Franco administration. This bureaucratic perspective resulted in transformation of Fundação Centro de Formação do Servidor Público (FUNCEP) into ENAP, based on the model of the École Nationale d’Administration (ENA) in France. The next step in reform was creation of the career of public manager (specialists in public policy and governmental management), a sorely needed career for the nation’s high-level public managers. However, this measure concentrated on criticizing a past marked by privileged interest groups instead of turning its eyes to the future and to the modernity of a world in a process of constant change, rapid globalization, and increased competitiveness.²⁵

From this bureaucratic point of view, the document issued by the National Association of Specialists in Public Policy and Government Management (1994: 7- 8), which is composed of public government managers, affirmed: “The true problem to be coped with is the burdensome legacy of a process of civil servant recruitment and allocation simultaneously marked by a lack of criteria, patronage and heterogeneity in its constitution,” Obviously, this is a serious problem clearly noted by the document, but it is an old problem that, though it must be resolved, cannot be viewed as the foundation for a reform proposal. In a statement that I think is more useful for the future of reform, this contradictory and wide-ranging document also affirmed that the reform of the state in Brazil must reflect emerging circumstances, including the following:

New managerial paradigms: the rupture with centralized, formalized and pyramidal hierarchical structures and systems of Taylor-type controls reflect a veritable managerial revolution already underway. This demands incorporation of new references for public administration policies, virtually burying the traditional bureaucracies of the past and opening the way to a new and modern State bureaucracy. (1994: 3)

TWO BUREAUCRATIC MYTHS: CAREERS AND DAS

To the extent that the 1988 Constitution reflected a process of bureaucratic retrenchment, it was shown to be unrealistic. At a time when the country urgently needed to reform its public administration so that it would not only be more efficient but would provide services of higher quality by moving closer to the private labor market, the constitution did precisely the opposite. Public service became more inefficient and more expensive and, at the same time, totally estranged itself from private labor. This divorce between the two sectors was caused not only by the privileged system of public-sector retirement, but also by the requirement of an exclusive legal system for public-sector employees. This system eliminated employees who had been contracted on the basis of ordinary labor legislation and, parallel to this, created a system of tenure that made it almost impossible to hold civil servants accountable for their job responsibilities.

Job stability is a characteristic of bureaucratic administrations. It was an appropriate manner of protecting employees and the state itself from the influences of the privileged classes that dominated precapitalist regimes. In the imperial period in Brazil, for example, when a government fell from power, the normal practice was not only to remove those holding upper-echelon positions but to eliminate huge contingents of ordinary government workers.

However, job stability bears a cost. At the same time at which it impedes adaptation of staff to the real needs of public service, it also makes it impossible to implement a system of public administration founded upon incentives and punishments. This may have been acceptable at a time when a privileged class dominated government actions and the services of the liberal state were limited. However, as the state expanded and took over a broad range of services for the citizenry, the need for efficiency became a fundamental concern. At the same time, the influence of the privileged classes not only declined in power but was transformed from a value into a mere practice. The consequence has been that firing public-sector employees for political reasons has become socially unacceptable. In addition, if the act of

firing an employee for political reasons were made impossible – as it would be by the measures contained in the constitutional amendment proposed in 1995 by President Fernando Henrique Cardoso – there would be no more reason to preserve the system of rigid job stability that is characteristic of the classic bureaucracies.²⁶

In Brazil, stability was not restricted to those careers that are specific to the exercise of state powers but was extended to all civil servants and has been understood in such a manner that inefficiency, lack of motivation, and outright indolence cannot be punished by dismissal. The result has been a marked increase in inefficiency. As noted in the document released by the National Association of Specialists in Public Policies and Government Management (1994: 19):

With respect to the question of stability, the system of acquiring and preserving this right must be reexamined while maintaining – correctly, it should be added – the principle that civil servants can only be dismissed through judicial or administrative proceedings that ensure them ample opportunity for defense, a more agile and flexible and less burdensome stance must be adopted for this administrative process.

The great merit of the 1988 Constitution was that it made public competitive civil service examinations obligatory for hiring of all public-sector employees. There is no doubt that this represented a major step in the right direction, since it made politically motivated job distribution much more difficult. However, even here, the Constitution went **too** far. Although correctly eliminating the nefarious process of internal examinations, it also made it impossible to promote employees internally. A simple internal promotion, long a mechanism of significant importance to the private sector, became unfeasible in the public sector. There are positions for which it would be more appropriate to adopt a flexible system of selection – albeit equally public and transparent – but even in such cases, all the formalities of public competitive examinations were maintained. Semiautonomous agencies, foundations, and even joint-capital companies were obligated to employ the same system of civil service examinations, instead of being required simply to select their employees through public, transparent hiring mechanisms.

Internal promotions were limited exclusively to upper mobility within a predetermined career structure. This was based on the assumption that implementation of a classic bureaucratic system would demand definition of a formal system of bureaucratic upward mobility that would start with public competitive examinations and be subject to a long process of successive training periods, performance evaluations, and formal examinations. However, bureaucratic careers worthy of the name were never created within the Brazilian civil service system. In Brazil, the only area in which one can truly speak of well-defined careers is the military.²⁷

In the strict sense, a bureaucratic career lasts for an average of thirty years. At the end of this period, the civil servant in question should have earnings about three times higher than at the start of his or her career. Climbing the ladder to the highest career level takes at least twenty years.²⁸ Obviously, there is no longer any room for this type of career in a technologically dynamic society immersed in the third Industrial Revolution. However, the 1988 Constituent Assembly, federal civil servants, and even the nation's politicians were unable to recognize this fact. They insisted on affirming that definition of careers, coupled with a corresponding system of training and evaluation, would resolve most of the problems of Brazilian public administration. The truth is that the concept of career has become Brasilia's greatest myth. Although the need for well-defined careers is widely heralded, the system itself does not believe in its own preaching but, in fact, even undermines these careers in practical terms.²⁹

Destruction of the career system has resulted from the introduction of performance bonuses that have radically reduced the percentage difference between initial and final earnings. Though this difference should be somewhere near 200 percent to 300 percent, in recent years it has dropped into the range of 20 percent, except in the case of military careers. For example, a look at the career of National Treasury auditors shows a difference of only 6 percent over the average-length career. The difference has dropped to 26 percent for the recently created career of public administration managers. As a result, the differences originally intended to distinguish between one career level and another have become little more than job descriptions.

Why has this happened? Simply put, because not even Brasília believes in its own myth. In a world immersed in a process of accelerated technological transformation, in which technical competence no longer bears a relation to the age of professionals, young civil servants are simply not willing to wait twenty years to reach the top of their careers. Consequently, since it was not possible to eliminate the different career stages, reduce the minimum periods during which a person is obligated to remain at a specific level, or increase the wages for different careers, the most practical thing to do was to reduce wage differentials by raising the earnings of the lower levels.

However, this does not mean that careers do not exist within the Brazilian public administration. As was so well analyzed by Ben Ross Schneider (1994, 1995), careers do exist, but they are more personal than formal careers. These are highly flexible careers occupied by the civil servants who form the state's professional elite. They circulate very rapidly among the different administrative entities and, upon retirement, normally migrate to the private sector. If Schneider were to add that occupation of these Comissão de Direção e Assessoramento Superior (DAS) positions (commissioned posts of the Brazilian state) is an

integral part of this unstable and flexible system, based more on merit than he initially assumes, we would have a good image of the system of informal careers that exists within the upper Brazilian bureaucracy. This system could be improved through adoption of a modern concept of career that would include wide-ranging mobility, the possibility of rapid upward movement for the more talented civil servants, “Y”-shaped structures that give equal value to both authority and advisory positions, training versatility, and acceptance of highly differentiated profiles among those targeted by the training process.

The relation between DAS and careers leads us to another of Brasilia’s bureaucratic myths: that DAS constitute an evil unto itself. Some would consider this a constant form of undermining the career system by permitting contracting of incompetent personnel without the need for competitive examinations. The truth is that, by permitting an adequate system of public service wages, the DAS positions – 75 percent of which are occupied by civil servants, as is shown in Table 6.1 – are actually a type of much more flexible career based on merit. Brasília is a veritable DAS market in which ministers of state and high-level public managers with available DAS positions dispute among themselves for the best of the government’s civil servants. If the plan now in the elaboration stage is put into effect, an increasingly larger number of DAS positions would be reserved for public servants. As a result, the DAS system – already a factor of importance to the public administration – would be transformed into a strategic instrument of managerial public administration.

Table 6.1 provides a good image of the upper levels of the current federal administration in the executive branch. Average earnings vary from R\$2,665 for DAS-1 to R\$6,339 for DAS-6. The average percentage of DAS positions held by civil servants drops from 78.5 percent at the level of DAS-1 to 48.4 percent for DAS-6. Educational levels increase as one moves up the DAS ladder from DAS-1 to DAS-6, and the number of positions held by women decreases. In overall terms, there are now 17,227 DAS positions, representing about 3 percent of total active government employees.

Brasília employs various myths to justify the inefficiency and low quality of federal public service. At the same time, however, it reveals that it lacks a clear civil service policy. As it endlessly repeats its myths – the positive myth of the career concept and the negative myth that DAS employees are necessarily evil – the Brazilian public sector is unable to improve simply because it is attempting to adopt a system that is being abandoned in all parts of the world in favor of managerial public administration. For precisely this reason, it is unable to make the transition to a modern, efficient public administration, controlled by results and focused on meeting the needs of the citizen-client. Instead, as we near the end of

Table 6.1 Occupants of DAS Positions

	Number of Employees	Average Age	Females (%)	Higher Education (%)	Civil Servants (%)	Average Earnings (R\$)
DAS-1	7,206	41	45,2	50.8	78.5	2,665
DAS-2	5,661	42	39.0	61.8	77.7	3,124
DAS-3	2,265	44	36.0	71.0	71,4	3,402
DAS-4	1,464	46	28.8	81.3	65.4	4,710
DAS-5	503	48	17.3	86.1	60.6	6,018
DAS-6	128	50	16.4	85.9	48.4	6,339
Total average	17,227	42	39.5	61.0	75.5	3,112

Source: Ministry of Federal administration and Reform of the State (1995).

Note: Includes earnings specific to both position and function; only effective employees are included in the calculation.

the twentieth century, it continues to toy with an outdated and unrealistic ideal of implementing a type of public administration justified in Europe during the age of the liberal state, as an antidote to the pressures of privileged special interest groups.

THE TWO OBJECTIVES AND THE SECTORS OF THE STATE

The inauguration of the Fernando Henrique Cardoso administration in 1995 marked a new opportunity to reform the state in general and, more specifically, the state apparatus and its personnel. This reform had the following objectives: over the short term, facilitate fiscal adjustment, particularly at the state and municipal levels, where there is an evident problem of overstaffing; and over the medium term, make public administration more efficient and modern, focusing its attention on serving the needs of the citizenry.

The fiscal adjustment was to be achieved mostly by eliminating employees in those areas where there is excess staff, clearly defining wage ceilings, and altering the system of retirement. The latter change involved increasing the required period of service and the minimum age for retirement while stipulating that civil servants spend a minimum period within public service to be entitled to retirement. In addition, the amount of retirement benefits was made proportional to the period of contribution. These three measures required constitutional change. Reducing the number of employees is still a target at the state and municipal levels and not at the level of the federal government since the problem of excess

staffing did not exist at the federal level. Changes in wages and the retirement system were applied at all levels. A system of voluntary resignation was created as an alternative to layoffs to reduce excess staff and was widely utilized. In such a system, the administrators choose the specific employee population targeted for reduction and propose that a percentage of these workers resign voluntarily in exchange for indemnity payments and training in preparation for shifting to the private sector. In light of the imminent possibility of being released and of the advantages inherent in the system, a substantial number of employees generally participate in the program.³⁰

However, modernization and enhanced efficiency on the part of the public administration could only be achieved over the medium term through a complex reform project that, at one and the same time, sought to strengthen the direct public administration – the “strategic core of the state” – and to centralize public administration into “autonomous agencies” and “social organizations” controlled through management performance contracts. Consequently, the proposed reform could not be classified as centralizing, as occurred in 1936, nor as decentralizing, as was intended in 1967 nor, once again, as centralizing, as in the 1988 Constitution. In other words, the proposal attempted to break out of the cyclical process that has long characterized Brazilian public administration (Pimenta 1994), altering periods of centralization with others characterized as decentralization. The proposal sought to strengthen the administrative competence of the center while enhancing the autonomy of agencies and social organizations. The link between the two was the management performance contract that the strategic core had to learn to define and control and that agencies and social organizations had to learn to execute.³¹

The state reform proposal recognized the existence of four sectors within the state: (1) the strategic core of the state, (2) services that are exclusively provided by the state, (3) nonexclusive or competitive services, and (4) goods and services produced for the market.

Within the strategic core, laws and public policies are defined. It is a relatively small sector that, in Brazil, comprises the federal level of the president of the republic, ministers of state, and the higher-echelon employees of the different ministries who are charged with defining public policies; and the federal courts, led by the Federal Supreme Court and what, in Brazil, is similar to the public prosecutor’s office. Corresponding strategic cores also exist at the state and municipal levels.

Activities exclusive to the state are those in which the power of the state to legislate and tax is exercised. They include the police, the armed forces, inspection and regulatory entities and those responsible for funding transfers, such as the Unified Health System, the unemployment compensation system, and so forth.

The nonexclusive or competitive services of the state are those that – though they do not involve the power of the state – are performed or assisted by the state because they are consi-

dered highly relevant to human rights or because they involve foreign economic matters that cannot be adequately remunerated by the market through a system of service charges. Finally, production of goods and services for the market is carried out by the state through joint capital companies that operate in public service sectors or sectors considered to be of a strategic nature.

For each of these sectors, I consider (1) the nature of state property and (2) the best type of public administration. I now examine the first problem. Figure 6.1 summarizes the relations among the four sectors of the state, property, and type of administration.

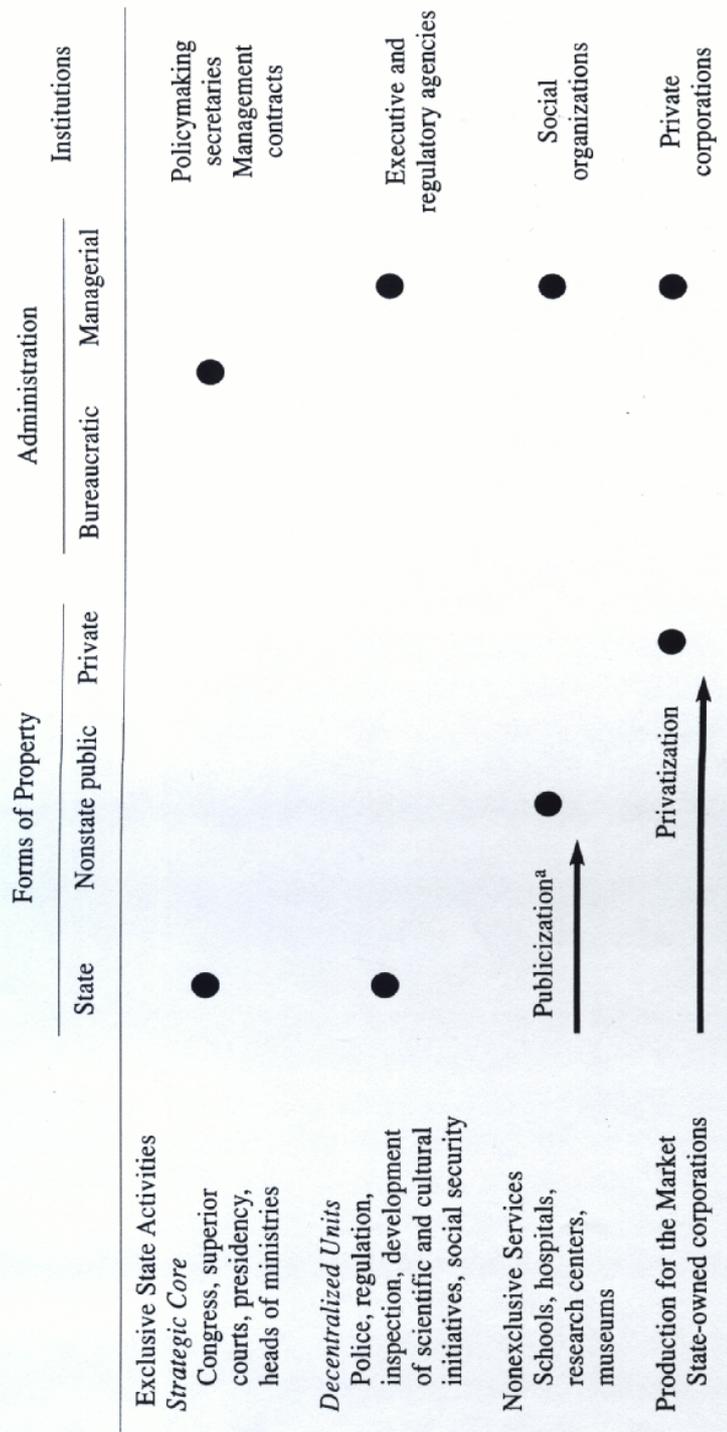
STATE PROPERTY AND PRIVATIZATION

At the strategic core and in those activities specific to the state, property must, by definition, belong to the state. Aside from the traditional instruments – approval of laws (legislature), definition of public policies (presidency and upper-echelon ministry employees), and issuance of decisions and agreements (judicial branch) – the strategic core will also employ a new instrument only recently introduced into public administration: the management performance contract. Through this contract, the strategic core will define the objectives of the state’s executive entities and respective performance indicators. At the same time, it will guarantee the personnel, material, and financial resources required to achieve the stated objectives. The executive entities will be “autonomous agencies,” in the sector of activities that are exclusive to the state, and “social organizations,” in the sector of nonexclusive services of the state.

As a matter of principle, activities that are exclusive to the state should be organized through the system of “autonomous agencies.” The head of the autonomous agency will be named by the respective minister with whom the management contract is negotiated. Once objectives and performance indicators have been determined, the head of the agency will be free to manage the budget allocated to the agency’s activities. He or she will have the autonomy required to manage personnel in aspects related to hiring, dismissal, and payment and will only effect acquisitions on the basis of the general competitive principles.

At the other extreme, production of goods and services for the market should be concentrated in the private sector. The ongoing privatization process is based on the assumption that companies will be more efficient if they are controlled by market forces and privately managed. In turn, this assumption is the basis for the principle of subsidiarity: the state should control only those activities that cannot be controlled by market forces. Aside from this, the fiscal crisis in which the state is mired has stripped it of its capacity to accumulate forced savings and invest in state-controlled companies. Consequently, it is now

Figure 6.1 Sectors of the State, Forms of Property, Administration, and Institutions



Source: Brazil, 1995. Master Plan of the State Reform.
 Note: a. Transfer to nonstate public sector.

advisable to privatize certain activities. Privatization is the policy in keeping with the conception that the modern state should be a regulatory state and funding transfer agent, instead of the executor state. Companies can be controlled by the market, which is dominated by the principle of exchange. The principle of transfer, which rules the state, does not apply adequately to the world of business. It is for this reason, together with the principle of subsidiarity, that these companies must be privatized.

However, in the case of natural monopolies in which market forces cease to operate, the best form of management is not obvious. Here, privatization must be accompanied by a very careful process of price and quality regulation. And in those monopolistic sectors in which large profits can be earned – a type of forced savings – and reinvested in the sector itself, careful thought is needed. In these circumstances, it might be more interesting to maintain the company as the property of the state. This was done in the large-scale infrastructural projects implemented in Brazil from the 1940s to the 1970s. Finally, the principle of subsidiarity is also open to discussion in the case of strategic sectors such as petroleum, in which a more rigid type of state regulatory control that could imply state proprietorship might be appropriate. Indeed, the Brazilian government has decided to maintain Petrobrás under state control.

NONSTATE PUBLIC PROPERTY

Finally, I analyze the case of the nonexclusive activities of the state and propose that the form of dominant property should be nonstate public property.

Contrary to what most people think, there are more than two relevant forms of property – public and private – as would seem to be suggested by the classic legal division between private and public law. In reality, there are three types: (1) private property, concentrated in generating profits (business) or private consumption (families); (2) state public property; and (3) nonstate public property. This confusion stems from the fact that public law was confused or identified with state law, whereas private law has been understood as encompassing nonprofit, nonstate institutions that, in fact, are public.³²

In other words, *public* must not be confused with *state*. Public space is broader than that reserved to the state. At the level of responsibility, what is state property is always also public. However, in practical terms, this is not true. The precapitalist state was private since it existed to meet the needs of the prince. In the contemporary world, the public was conceptually separated from the private, despite the fact that the private continually attempts to appropriate the state.

Property that pertains to all and exists for all is public. The institution that has authority to legislate and tax is a state institution, as is the property that is an integral part of the state apparatus and is ruled by administrative law. Property is private when it is focused on profit or individual or group consumption. Based on this concept, though subordinated to civil law, a foundation governed by private law is a public institution, to the extent that it is focused on the general interest. In principle, all nonprofit organizations are or should be nonstate public institutions.³³ When nonprofit organizations are considered this way, we could continue to use only the two classic forms of property, public and private, but with two qualifications. First, public property would be subdivided into state and nonstate, instead of being identified simply with state property. Second, private law institutions focused on the public interest and not on private consumption would not be considered private, but rather as nonstate public institutions.³⁴

Acknowledgment of the existence of nonstate public space has become particularly important at a time in which the crisis of the state has further deepened the state – private sector dichotomy, leading many to imagine that the only alternative to state property is private property. Privatization is an adequate alternative when the institution is capable of generating all the necessary revenues through sales of its products and services and the market is capable of assuming coordination of its activities. Whenever these conditions are not present, there will be room for the nonstate public institution. In addition, at a time when the crisis of the state demands reexamination of state-society relations, the nonstate public space can serve as intermediary, facilitating the appearance of forms of direct social control and partnerships, with new perspectives for democracy. As Nuria Cunill Grau (1995: 31-32) notes:

The introduction of the “public” as a third dimension that goes beyond the dichotomous vision based on absolute opposition between “state” and “private” is undoubtedly linked to the need for redefining relations between the state and society. The public, “in framework of the State” is not something definitive, but rather a process of construction that, in turn, presupposes an active public social sphere in its task of influencing state decisions.

In the sector of services not exclusive to the state, property should be nonstate public as a matter of principle. It should not be property of the state because it does not involve use of the power of the state. However, it must be public to justify the subsidies received from the state. The fact that it is nonstate public, in turn, means that activities should be controlled by a combination of market and state forces. State control, however, must necessarily be preceded and completed by direct social control, derived from the power of the councils of administration formed by the institution in question. And market control will be exercised in

charging for the entity's services. In this way, society will permanently bear witness to the validity of the services rendered, at the same time as it establishes a system of partnerships or co-management arrangements between the state and civilian society.

At the federal level, the most important nonexclusive state services are universities, technical schools, research centers, hospitals, and museums. The reform proposal would transform them into a special type of nonstate entity called "social organizations," that is, entities that formalize a management contract with the executive branch and gain parliamentary authorization to participate in the public budget.

The increase in the nonstate public sphere that is proposed here does not in any way imply privatization of state activities. Quite to the contrary, it involves broadening the democratic and participatory character of the public sphere while subordinating it to a renewed and expanded public law. As Tarso Genro observes (1996: 3):

The social reaction caused by exclusion, fragmentation and the emergence of new modes of community life (that seek to redeem citizenship and the social dignity of the group by influencing the state) has generated a new non-state public sphere. Consequently, a new Public Law has emerged as a response to the impotence of the state and its mechanisms of political representation. A Public Law in which the rules are some-times formalized and sometimes not, but which seeks a co-managerial process combining direct democracy – based on voluntary participation- – with the political representation foreseen by the written norms rooted in the will of the State.

Transformation of services that are not exclusive to the state into nonstate public properly and its definition as a social organization will be achieved through a "transformation program" that should not be confused with privatization, since these new entities will preserve their public character and financing from the state. The process will ensure that these entities have a public character but are governed by private law, providing them with the necessary greater administrative and financial autonomy. It will be necessary to abolish the current entities and replace them with public foundations governed by private law and created by individuals. This will make it possible to avoid classification of such social organizations as state entities, as happened in the case of the private law foundations instituted by the state and, consequently, subject to all state restrictions.

The new entity will be temporarily assigned the properties of the abolished entity. The current employees of the entity will be placed at the disposal of the new entity, and new employees will be hired on the basis of ordinary labor legislation. Acquisitions will be made through the use of the public tender system, though it is possible that a specific procedure will

be created for these entities. Control of state funding for the social organization will be exercised through management contracts that will be subject to inspection by both the appropriate supervisory control organization and the Budget Court.

MOST APPROPRIATE TYPES OF ADMINISTRATION

The general objective of administrative reform is to shift from a bureaucratic public administration to managerial public administration. However, such large-scale change cannot be achieved from one day to the next, nor should it happen at a uniform speed in the various sectors of government. Managerial public administration must build upon the foundations of bureaucratic public administration. Instead of demolishing the former system, reform should take full advantage of its positive aspects while discarding elements that are no longer useful. Such bureaucratic institutions as competitive examinations, public selective hiring, a universal system of earnings, formally structured careers and a system of training should be effectively implemented since, despite the bureaucratic ideology that raged in Brasília from 1985 to 1994, they have yet to function as they truly should.

However, these institutions must be marked by the necessary degree of flexibility so as not to conflict with the principles of managerial public administration. Above all, they must not impede a system of merit-based rewards that is not dependent on seniority, nor should they increase restrictions on the initiative and creativity of public administrators in managing their human and material resources. As Oscar Oszlak observes (1995), priority must be given to designing training to meet the needs and programs of the new managerial state, instead of subordinating it to the various career levels, as bureaucrats would have it.

Of course, the combination of managerial and bureaucratic principles will vary from one sector to another. The major qualities of bureaucratic public administration are its security and effectiveness. For this reason, in the strategic core, where these characteristics are of overriding importance, they must be preserved. In the other sectors, in which the need for efficiency is fundamental because of the large number of employees and citizens-clients or users involved, the weight of bureaucratic public administration must diminish until it practically disappears. As Roberto Cavalcanti de Albuquerque (1995: 36) observes: "It is doubtful whether this new paradigm [that Albuquerque terms "government's business paradigm," in contrast to the "political-administrative management paradigm"] should entirely replace the political-administrative management model, particularly in those entities that directly exercise powers conferred upon the State."

Reform of public administration will be achieved in three ways: (1) institutional-legal changes, through which laws are altered and institutions are created or modified; (2) cultural evolution, based on a shift from bureaucratic values to managerial values; and (3) changes in management.

First it will be necessary to alter the constitution, laws, and regulations. In a country in which the legal system is based on Roman and Napoleonic law, any reform of the state must necessarily imply sweeping modifications to the legal system.

Second, the cultural dimension of the reform means burying once and for all the concept of government controlled by a privileged elite, as well as making a transition from bureaucratic to managerial culture. I have already stated that this concept of the privileged political class no longer exists in Brazil as a value, but only as a practice. However, I was imprecise in this affirmation since practices are also part of cultural reality. Though vehemently repudiated, government based on pressure groups, political favoritism, and self-interest still exists. Condemnation will not suffice to fully eradicate this type of precapitalist culture. It must be punished.

The step forward represented by the transition to managerial culture is a complex process but is already occurring. The entire 1995 debate on the reform of the constitutional chapter on public administration was a process of cultural change.

Third, making changes in management will be the most difficult stage. Brazilians must put new managerial ideas to work and offer society a public service that is effectively cheaper, better controlled, and marked by higher quality. Here, two strategic tasks will be creation of autonomous agencies at the level of activities exclusive to the state and formation of social organizations in the nonstate public sector. Initially, laboratories supported by the Ministry of Federal Administration and State Reform will be required in order to test the new administrative practices. Following that, it is to be hoped that the units to be transformed and the respective strategic nuclei will take the reform initiative.

THE OUTLOOK FOR REFORM

In the year after the process was initiated, I can clearly affirm that the outlook in relation to reform of public administration is highly positive. In early 1995, when the problem was first raised by the new federal administration, society's initial reaction was a lack of belief, even irritation. I found myself in the eye of the storm. The press adopted a skeptical, even openly aggressive attitude. Various persons came forward to suggest that I should speak less and accomplish more, as if it were possible to change the Constitution without first fostering wide-ranging debate. I attributed this reaction to a natural sense of resistance to what is new.

I had proposed a new topic, a theme never so widely debated in the past and one not even included in public discussions during the Constituent Assembly. Furthermore, it was not one of the major points brought forward during the 1994 presidential campaign and was included in government programs only marginally. In short, it was a question that was not on the government's agenda.³⁵

However, a second factor must be added to the simple idea of resistance to what is new. According to Adam Przeworski (1995), success in reforming the state depends on the citizens' capacity to hold authorities accountable. It must be emphasized that Brazil's political culture has always been more authoritarian than democratic. Historically, the state has never been seen as standing shoulder-to-shoulder with society through the bonds of a social contract, but rather as an entity somehow above society. As Luciano Martins (1995: 35) observes, "political responsibility for management of public resources was rarely demanded as a right of the citizenry." The truth is that the principle expressed in the phrase *no taxation without representation* is entirely foreign to Brazilian political culture. Thus, It was no surprise that the initial reaction to the proposals was 50 negative, even when they were still being formulated.

However, following several months of government insistence on discussing such questions as civil servant job stability, the work regime of the public sector, the social security system, and wage ceilings, expressions of support started to emerge from governors, mayors, the press, public opinion, and the highest levels of the public administration. By the end of 1995, people were convinced that It would not only be possible to obtain congressional approval for the constitutional reform, but that the reform was essential to state and municipal fiscal adjustment and of fundamental importance to the transition from a sluggish and inefficient bureaucratic public administration to a decentralized, efficient managerial public administration focused on meeting the citizenry's needs. Resistance to the reform was concentrated only at two extremes: the lower and middle civil service levels, unions, and political party representatives of self-interest groups, who claim to stand for the interests of the left; and the surviving self-serving political elite in fear of losing some of their accumulated privileges, many of whom are close supporters or even relatives of right-wing politicians.

The support of upper levels of the bureaucracy is essential to the success of reform, and this support has been forthcoming. In England, for example, reform only became possible when the highest levels of British public administration decided that the time had come for reform and that a strategic alliance with the Conservative Party, which came to power in 1979, would be convenient for these purposes. In an even broader sense, the reform must attract the support of those members of society who are convinced that the country must necessarily follow this path, and this no doubt includes the highest levels of the public admin-

istration. As João Geraldo Piquet Carneiro (1993: 150) notes, in two earlier federal administrative reforms (1936 and 1967),

the decisive action of an elite group of administrators, economists and politicians – independently of whether they were of an authoritarian bent or not – in tune with the theme of modernization of the state, was of essential importance. And among them, they came to a common diagnosis that the existent structures were insufficient to institutionalize the reform process.

Following a natural period of uneasiness in relation to the new ideas, this support has come forward. It is based on the generalized conviction that the model implemented in 1988 was unrealistic and, instead of resolving problems, has generated only increased deterioration. The great enemy is not only the privileged political elite but also the blind “bureaucratism” that has appeared in its wake. The objective of creating a bureaucratic public administration is still alive, for this task was never brought to a successful conclusion; however, in 1995. It became clear that to achieve this end, the nation would have to march in the direction of a managerial public administration that not only encompasses but takes a more flexible approach to classic bureaucratic principles.

NOTES

An earlier version of this chapter appeared in *Revista do Serviço Público* (Bresser-Pereira, 1996b).

¹ As Fernando Henrique Cardoso notes (1996: A10), “globalization has changed the role of the State.... The emphasis of governmental intervention is now almost exclusively targeted at making it possible for national economies to develop and sustain structural conditions of competitiveness on a world scale.”

² For a critique drawn from Huntington of the concept of the capacity to govern as related to the balance between the demands placed on government and its capacity to meet them (1968), see Diniz (1995).

³ To me, it is clear that, as Frischlak (1994: 163) notes, “the crucial challenge resides in achieving that specific form of coordination of the state apparatus with society in which it is acknowledged that the problem of efficient administration cannot be dissociated from the political problem.” However, I do not focus attention on this question.

⁴ Public credit should not be confused with government credibility. Public credit exists when the state merits credit on the part of investors. A state can merit credit while the government is denied credibility. The opposite can also occur: a government may enjoy credibility in a state that has no credit as a consequence of a fiscal crisis.

⁵ This concept was mistaken for managerial public administration. Hiring bureaucrats through state companies made it impossible to create stable bodies of civil servants who would

operate in a framework of flexible careers in which upward movement would be more rapid than in traditional careers. The emphasis here is on operation within a career context. According to Santos (1995),

a group of technicians, with heterogeneous origins and backgrounds, more commonly identified with the so-called technocracy that reigned particularly in the 1970s took on the role of agent of the state bureaucracy. With roots in academic circles, the private sector, the state companies themselves and a variety of government entities—this technocracy supplied qualified staff for the higher administrative echelons of the federal administration.

For more on the subject of this state technocracy, see the classic works of Martins (1973, 1985) and Nunes (1984).

⁶ In the words of Nilson Holanda (1993: 165):

The managerial capacity of the Brazilian state has never been so fragile. In recent years and, particularly, since the founding of the New Republic, the situation has gone through a process of gradual deterioration. And, at present, both in and outside government, there are no proposals capable of attaining the objective of reversing this tendency over the short or medium term.

⁷ An exception to this is the reform of the national financial system in the period from 1983 to 1988. This process was marked by elimination of the Banco do Brasil “movement account”; creation of the Secretariat of the National Treasury; elimination of parallel budgets, particularly the “monetary budget”; and implementation of an excellent system of computerized monitoring and control of expenditures, the Integrated System of Financial Administration (SIAFI). These reforms, which were accomplished by a remarkable group of bureaucrats led by Mailson da Nóbrega, João Balista Abreu, Andrea Calabi, and Pedro Parente, are described in Gouvea (1994).

⁸ The best analysis of the English experience that I am aware of was written by a university professor at the request of the British civil servants’ unions (Fairbrother 1994).

⁹ Osborne and Gaebler’s book is just one of several important works on managerial public administration. Among others, I should mention Barzelay and Armajani (1992), Fairbrother (1994), Kettl and Dilulio (1994). In Brazil, aside from the writings of Hélio Beltrão, there is also a pioneering article by Nilson Holanda (1993).

¹⁰ The French call administrative decentralization “deconcentration” to distinguish it from another policy that they term “decentralization.”

¹¹ More precisely, the Federal Council of the Civilian Public Service was created in 1936 and replaced by DASP in 1938

¹² DASP was abolished in 1986 and replaced by the Secretariat of public administration of the Presidency of the Republic (SEDAP). In January 1989, this entity was also eliminated and incorporated into the Secretariat of Planning of the Presidency of the Republic. March 1990 witnessed creation of the Secretariat of Federal Administration of the Presidency of the Republic (SAF), and between April and December 1992, this entity was incorporated into the Ministry of Labor. In January 1995—the start of the Cardoso administration—SAF was transformed into the Ministry of Federal Administration and state Reform (MARE).

¹³ According to Bertero (1985: 17),

underlying the decision to expand public administration by granting increased autonomy to the indirect administration is recognition that the direct administration had been unable to

respond in an agile, flexible, ready and creative manner to the demands and pressures of a state that defined itself as oriented to development.

¹⁴ This alliance was conceptualized and described in various manners in the 1970s. Cardoso referred to it as “bureaucratic rings” (1996); Guillermo O’Donnell used the expression “bureaucratic authoritarian regime”; I have always preferred the term “technobureaucratic-capitalist model”; and finally, Peter Evans popularized the concept “triple alliance” (Guillermo O’Donnell 1973; Bresser-Pereira 1981; Evans 1979).

¹⁵ This was done despite the fact that Decree-Law 200 contained references to high-level administrators (Article 94, part V) and creation of a DASP Training Center (Article 121).

¹⁶ I examined this phenomenon in an article written in tribute to Caio Prado Jr. (Bresser-Pereira 1989). The first Brazilian government document to define the fiscal crisis was *Plano de Controle Macroeconômico* (Macroeconomic Control Plan) (Brazil 1987).

¹⁷ The military regime always sought to avoid these two evils. In general, it was successful in these efforts. The interest groups and system of patronage—the instruments through which the philosophy of government for a privileged few is most clearly expressed—existed within the central administration of the military regime. However, they were the exception and not the rule. With the democratic transition, the situation changed. The two victorious parties, Partido do Movimento Democrático Brasileiro (PMDB) and Partido da Frente Liberal (PFL), simply divided up available public service positions as the spoils of their victory. The boards of directors of the state companies, traditionally occupied by technicians, were also subordinated to the dominant political interests.

¹⁸ According to Marcelino (1987: 11, cited by Pimenta 1994: 155), “the objective was clearly to strengthen and modernize the direct administration. This grew out of a diagnosis that—whether justified or not—a type of escapism or flight to the indirect administration had occurred.”

¹⁹ However, these privileges did not arise by chance. They were part of the concept of government that Brazil inherited from Portugal. Luiz Nassif notes (1996): Analysis of Brazilian economic formation shows that one of the worst aspects of the Portuguese political legacy was the dream of total security that became so deeply rooted in Brazilian social culture. At the level of individuals, the most complete expression of this syndrome was the dream of early retirement and public sector employment.

²⁰ In fact, the constitution required only institution of the single juridical system. The law determined that this single system would be applicable only to civil servants. In some municipalities, the law determined that ordinary labor legislation would be used. Aside from this, in Article 19 of the Ato das Disposições Constitucionais Transitórias (ADCT), the Constitution granted stability to workers governed by ordinary labor legislation who had more than five years of government employment but did not transform them into occupants of public job positions. Quite the contrary, to achieve this status it required that they be submitted to “competitive confirmation examinations.” In these examinations, time of service is considered as a positive point in the calculation of the final result. The Supreme Court has granted several injunctions denying efficacy to state laws that repealed the model of federal legislation, transforming workers governed by ordinary labor legislation into employees subject to civil service legislation. However, up to the present, no one has seen fit to question

the constitutionality of Law 8.112, a monument to the existence of special interest pressure groups.

²¹ Pimenta notes (1994: 161): In the period under analysis, the principal role of SAF was to ensure the process of strengthening and expanding the direct administration, while defending the interests of the civil service by influencing elaboration of the new Constitution, or by ensuring that what was defined in 1988 would effectively be implemented.

²² With respect to the competence and public spirit of the Brazilian high level bureaucracy, see Schneider (1994) and Gouvea (1994). I wrote the prefaces for both of these works in 1994, before I even imagined being minister of federal administration.

²³ It was at that moment, from April to December 1987, that I occupied the Ministry of Finance. Though always associated with the national, development-oriented current of thought, I immediately diagnosed the fiscal crisis of the state and proposed the fiscal adjustment and tax reform required to cope with the problem. A report on this experience is found in Bresser-Pereira (1992).

²⁴ Technical incompetence in economic stabilization efforts became clear in the government's inability to diagnose high inflation as inertial inflation that required specific remedies combining both orthodox and heterodox approaches.

²⁵ A good example of this bureaucratic ideology is found in a wide-ranging analysis elaborated by a young manager, Aldino Graef (1994), involving "a proposal of democratic administrative reform."

²⁶ In this case, the only possible justification would be ideological, as expressed by Gurgel (1995: 85):

The idea of a more flexible approach to public service job stability by preserving stability only for those functions understood as being specific to the state, confuses state with Republic. It fails to perceive that, above and beyond the state, the functions designed to meet public needs or rights are functions separate from what is private and must be carried out in an independent and egalitarian manner. These functions must be performed impersonally and in such a way as to be protected from social and political pressures... . The question of the impunity of indolent civil servants or the problem of excess staff cannot be used to support a measure that would jeopardize one of the principles of the modern bureaucracy.

²⁷ A career system also existed within the diplomatic community. However, with the introduction of performance bonuses in 1995, the scope of a diplomatic career was severely restricted. As a consequence, it took on the same character as other civilian careers.

²⁸ In France, for example, end-of-career wages are approximately two and a half times the initial wages of an ENA graduate, once additional amounts paid for occupying managerial positions were deducted.

²⁹ For example, according to Abrucio (1993: 74), "in the Brazilian federal public administration, the question of career plans is essential in the sense that most Brazilian civil servants have no well-defined professional horizon." In this study, the author presents a realistic listing of the obstacles to the existence of careers. However, the study fails to perceive—just as most people failed to perceive at the time—that the obstacles are rooted less

in the impact of the privileged political classes and incompetence of political leaders and more in the dramatic technological changes that have occurred in the world, with all their very profound implications in terms of the reformulation of the public administration.

³⁰The first important and highly successful experience of this type in the Brazilian public service occurred in 1995 at Banco do Brasil. The bank had 130,000 employees. It came to the conclusion that 50,000 could be classified as subject to release and, consequently, offered indemnity payment so that 15,000 would resign voluntarily. After a period of considerable perplexity in which unions intervened with a series of court orders issued by lower court judges imbued with the bureaucratic spirit, the policy was declared legal and a total of 16,000 employees came forward for voluntary resignation.

³¹Pimenta (1994: 154) says:

During the entire Brazilian republican period, institutionalization of the administrative function of the federal government has occurred in cyclical fashion. . . . In the period from the 1930s to the 1950s, Brazil experienced a process of organizational centralization in the public sector, in which the direct administration and civil servants contracted on the basis of specific legislation predominated. The period from the 1960s to the 1980s was marked by decentralization through expansion of the indirect administration and contracting of employees on the basis of ordinary labor legislation. The process initiated by the 1988 Constitution reflected an intention of centralizing once again (specific legal system for government employees).”

³²As Bandeira de Mello (1975:14) explains, to the jurist the distinction between private or public properly is more than a matter of semantics. It reflects submission to a specific legal regime: a regime of commutative balance between equals (private regime) or a regime of unilateral supremacy characterized by the exercise of special prerogatives of authority and special limitations on the exercise of such prerogatives (public regime):

To judge whether an activity is public or private is merely a matter of knowing to what type of legal regime the activity is subordinated. If the regime attributed to the activity by law is public, then the activity is public; if the attributed regime is that of private law, then the activity will be considered as private or, in other words, one that is not the task of the state. In summary: it is not the objective of the activity nor its nature that determines when the activity is public or private, but rather the regime to which the law subordinates the activity.

I recognize this fact when considering nonstate public properly to be governed by private law; it is public from the point of view of its objectives, but private from the legal angle.

³³“Are or should be” because a formally public nonprofit entity may, in fact, be such. In this case, we are dealing with a false public entity. Cases such as this are common.

³⁴These institutions are improperly called “nongovernmental organizations” to the extent that political scientists in the United States generally confuse government with state. It is correct to speak of nonstate organizations or, more explicitly, nonstate public institutions.

³⁵ To be more precise, items such as the review of public-sector job security were included in the constitutional amendment proposals put forward by the Collor administration. For the most part, they were the fruit of the work carried out by more enlightened sectors of the bureaucracy concerned with providing that administration with a better program as it entered its second phase of government, subsequent to a broad ministerial restructuring.

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