

PATRIMONIALISM AND THE CONSTITUTION OF BRAZILIAN PUBLIC ADMINISTRATION

LUIZ, Maria C.

Universidade Federal de São Carlos – UFSCar /S.P. – Brazil
E-mail: mceluiz@gmail.com

RISCAL, José R.

Universidade Federal de São Carlos – UFSCar /S.P. – Brazil
E-mail: joseriscal2012@gmail.com

RISCAL, Sandra A.

E-mail: riscal@uol.com.br
Universidade Federal de São Carlos – UFSCar /S.P. – Brazil

ABSTRACT

The objective of this paper is to present some notes about the role of patronage in the establishment of the Brazilian government. The study of the Brazilian government has shown the secular persistence of patrimonial power relationships, which do not make the fundamental distinction between the private and public domains. In this logic, the choice of subjects performing public functions is based on personal confidence that the political agent deposited on friendship, kinship or affection. It lacks to the patrimonial design the foundation of impersonality in the political sphere. Introduced in Portuguese colonization period, the patrimonial relations adapted to the economic and political changes, making it a cultural trait that has historically prevented the establishment of an egalitarian society based on universal rights and the full exercise of citizenship.

Key-words: *Patrimonialism, Brazilian public administration, State*

INTRODUCTION

Since the beginning of its establishment, the Brazilian public administration was distinguished by a form of organization averse the institutionalization of procedures and the permanent and lasting nature norms. In a study about the roots of this administrative establishment in Brazil, Américo Jacobina Lacombe assigns to the administrative structures, placed during the Portuguese colonial period, the causes of the hard Brazilian administrative institutionalization:

(...) The Portuguese legislation was predominantly casuistic and personalist. Each authority used to bring its regiment, which now call *instructions*, drawing attention to the pressing issues. The rest used to be in the current possibilities. That's the reason it's told that Brazil was fortunate to be a 'little governed "country (LACOMBE as cited in MENDONÇA, 1974 I, p. 06).

A variety of procedures used to coexist together and the administration of the law and other social, economic and politics structures obeyed to different local regulations.

(...) Agencies and functions exist in a place, lacking in others, or in them appear in different shapes and designations; the delegates of the power are often given special instructions, included in simple written correspondences, making laws and often establish unique standards, distributing different functions and competences from the previously ones (MENDONÇA, 1974 I, p. 06).

The Brazilian administrative organization process was developed according to located and pragmatic reasons. The lack of homogeneity combined with the autonomy of local authorities, who favored their private interests, bequeathed an administrative apparatus established in a blandishment, which was one of the major feature of the Portuguese administrative policy. This fact was stressed by the transfer of the Portuguese Court to Brazil in 1808, with the shuttle of the whole Portuguese bureaucratic apparatus to Brazil

The blandishment, in this context, is taken as a form of distribution which featured the administrative authority of the patrimonial political relations. The regent's actions are legitimated by the public distribution of privileges and the administrative structure is set, from the top to the bottom, by personal trust bonds.

The trends of the blandishment and the pragmatism produced some administrative and legislative practices, but only appropriated to the immediate needs determined by the interest of the local regent. At this form of organization Uricoechea (1978) calls *bureaucratic patronage*, averse to processes of changes, resulting in a static type of organization.

(...) First of all, it is an essentially pragmatic bureaucracy, that is, it needs a formal and normative canon and an immanent principle for its organization and development. In that pragmatism, is reflected its major characteristic feature: the irrationality - taken as a lack of a regular use and economically (technically) efficient use of resources at their disposal (URICOECHEA 1978: 95.).

According to Uricoechea, the *blandishment process* would have hampered the development of an administrative conception of rational legal character. The result was the establishment of a patrimonial nature administration that has expanded without modernization.

The patrimonialism, as the Brazilian form, found a prolific land in an oligarchic form of social, economic and political organization that prevailed from the colonial period to the republican period. The power of the oligarchs thrived feeding itself by the weak administrative and legal structure of the government. Personal rights such as life, physical integrity, freedom, home inviolability, the property was not guaranteed by the public authority, which was fragile, restricted and very limited. The power of oligarchies used to predominated, mill owners, great livestock farmers, coffee landowners, who would be householders before that time, which protection was extended to friends, comrades and thugs, who did the defense service in place of the government. Surrounded by numerous personal servers, they made their power, influence and will. Local people were subjected to oligarchs, true territorial chiefs, great landowners, who constituted the supreme power of the provider, constituting a kind of rural nobility (VIANNA, 1987).

The free population constituted the peoplen and clients who was organized around the landlord as a defense against the arbitrary power, the administrative bias of the law, the other powerful men who determine and repeal laws or court decisions. The legal support on the arbitrariness of administrative authorities made the free population sought powerful shadow protection (VIANNA, 1987).

The forms of the patrimonial management result from the development of a historical process that is based on the figure of a centralizing power, legitimized by administrative blandishment. The political concept of patrimonialism was formulated by Max Weber in the early twentieth century and refers to a form of authority that is exercised by assigning positions and personal privileges as to the ones who show obedience to the person or group of people occupying the position of authority. The occupation of the administrative staff and recruitment for public office does not follow the professional competence or merit, because their selection is based on personal trust. The maintenance of social, economic and policy depends on the exchange of blandishment for devotion and administrative loyalty and, likewise, to remain in office depends on the loyalty and constantly demonstrated obedience.

In case of Brazil, the colonial political structures followed the pattern patrimonialist Portuguese and gradually acquired its own form of balance exercise. In contrast to the liberal conception - characteristic of modern democracies - founded on the concept that opportunities should be equally available to all, in order patrimonial political participation does not develop from the involvement of all the policy decisions, but as a way of the minority defend their own interests. Cooptation procedures are common to patrimonialism, inducing the purchase of local leaders by the power system.

According to Sergio Buarque de Holanda (1995), patrimonialism in Brazil assumed a significant dimension since the colonial period, due the fact that the patriarchal trend which placed the family at the center of political action. Political action was not public and impersonal, because it was considered a family business. The public positions holders, formed in family policy environment, not established in their acts, the fundamental distinction between the private and public domains (HOLANDA, 1995).

[...] It's possible to follow along in our history, the continued prevalence of particular wills, which find their own environment in closed circles and inaccessible to an impersonal sort. Among these circles, was undoubtedly the family who expressed himself with more strength and resourcefulness in our society. And one of the key purposes of undisputed supremacy, absorbent core of the family - the ball, par excellence-called "primary contact", the ties of blood and heart - is that the relationships that are created in the home life always provided the model required of any social composition between us (HOLANDA, 1995, p. 212-213).

Holanda (1995) notes that it was not easy to holders of positions of public responsibility to understand the distinction between the private and public domains.

For the official "balance" the very political management is presented as a matter of particular interest; the tasks, jobs and the benefits they get, relate to personal employee rights and not the objective interests, as in true bureaucratic state, in which case the specialization of functions and the effort to ensure legal guarantees for citizens. The choice of the men who are to perform public functions is done according to personal trust deserving candidates, much less according to their own abilities. Missing all the impersonal order that characterizes life in the bureaucratic State (HOLANDA, 1995, p. 145).

The institutional administrative apparatus and the organization of the legal order

Some administrative procedures of more technical and bureaucratic character are gradually introduced in the first reign, with the introduction of confidentiality administrative procedures and the gradual replacement of the emperor's figure in official documents by more impersonal concepts with 'this government', 'the country' or simply, Brazil. Obeying the government pragmatic material interests, the most efficient organization and institutionalization which would occur in the tax administration.

The establishment of an institutional administrative apparatus, which is suitable for the organization of a legal order, begins to take hold in the second half of the nineteenth century with the establishment of new practices resulting from the renovation of the coffee economic relations. The interaction of patrimonial political conception, with traditional features that did not allow overcoming the slave relations, which tended to prevent the consolidation of a competitive social order and maintain, called by Florestan Fernandes as closed privileges,.

(...) Starting with the monopoly of wealth and power that made the oligarchic domination in the Republic a "democracy of equals," which means, a rigid class dictatorship. "(FERNANDES, 1987: 196)

In particular São Paulo, notes Uriceochea, speeds up the bureaucratization of its management as to overcome the rates of the Court. The creation of a national system for the administration of justice with bureaucratically, established institutions were even more gradually faced in all provinces obstacles, a balance system of domination and, especially in local authorities, the permanence of blandishment traditions.

As noticed by José Murilo de Carvalho, it was not possible to the State not meet the demands of local oligarchies, which complicated the establishment of a government firm grip on the countryside. The establishment of any governmental authority passed the patrimonial relationship that linked it to the oligarchies agricultural sites, even at times when most tended to centralize, after the 1824 Constitution.

However, with the Additional Act of 1834, a growing decentralization process turns out to redefine the provincial and municipal power structures. The essential public actions, such as the administration of justice and police, come into the hands of the magistrates, who are appointed by municipal authorities. The local oligarchies take possession of the political and administrative apparatus. Although it has, with the Interpretation Act 1841, removed the justices of the peace of the police and criminal jurisdictions, delegating to the judges and the police chief, appointed by the central government the course of justice and criminal jurisdiction, the remained need the government to make agreements with private groups to ensure the governance conditions.

Were tax pressures that led to the first major steps to implement measures to rationalize within the public administration. A collection of crisis that occurred in 1834, led to the revision of the tax unit that reached up to the last levels of government. According to Maria Sylvia de Carvalho Franco (1998), the crisis in our economy that was reflected in Brazil and the shortage it was in the administration, determined the urgent need for filling the national treasure which led to a trend towards bureaucratization of the apparatus tax.

Tax collection is a major character actions objective and impersonal government and its control requires the establishment of an administrative structure that can guarantee the efficiency and control of charge on all state levels. Moreover, as noted Sylvia Maria de Carvalho Franco:

(...) The analysis of tax mischaracterizes the taxpayer, when focused on broad categories of the population, defined a general criteria. It makes the citizen a State debtor, demanding their indiscriminate participation in expenses also unspecified administration. Thus the provision of public funds through taxation dissolves in a mass of values whose origins in this or that particular pocket are lost, the

possibilities of direct influence on the part of the early possession. (FRANCO, 1998, p. 127).

The impersonal character of tax collection found an obstacle to its implementation: the figure of the tax agent, who became the target of patrimonial actions. The administrative organization of this period was based on an obedience to a government agent located in court. Its abstract character, legitimized and expressed by rules, rationally created and legally laid by the central government were not always understood by the population that far found both physically and administratively that power.

The way the central government found to ensure the governance over the country was to set up an administrative apparatus, capable of concentrating the financial means of administration, by an agent capable of methodically disciplined body exercise an impersonal form public functions. Maria Sylvia de Carvalho Franco notes however that even in fiscal chaos, where the tendency to form a bureaucratic administrative apparatus was stronger in the context of local, prevailed the old uses. There, the government agent is far from the central power and busy with concrete situations is strong appeal of the closest influences on immediate issues (FRANCO, 1998).

Os servidores públicos acabavam orientando-se muito mais pelos interesses locais aos quais se encontravam vinculados do que com o poder central distante e abstrato. Isso se tornou ainda mais precário quando se observa que o corpo de preceitos normativos objetivos que deveriam orientar a conduta dos cidadãos e funcionários havia penetrado apenas de forma rudimentar na consciência da população (FRANCO, 1998). Embora a codificação escrita legitimasse a organização e funcionamento dos serviços públicos, especialmente nos quadros municipais os procedimentos eram negligenciados e se omitia ou perdia o registro dos atos do poder legislativo.

The public servers had just gearing up much more by local interests to which they were bound than the distant and abstract central power. This became even more precarious when it is observed that the body of objective normative precepts, who should have guided the conduction of citizens and officials, had penetrated only in rudimentary forms in the consciousness of the population (FRANCO, 1998). Although the code written legitimize the organization and functioning of public services, especially in municipal boards, procedures were neglected and omitted or lost the record of the acts of the legislature.

(...) It can be seen that the orders which governed administrative practices, a key sector such as the guarantee of means for the government apparatus, had really not the abstract and general character that distinguishes the legal precepts on which sits the bureaucratic structure. The collected material, it appears that the decision in each case was directed mainly by the values-or situation of interest to which government agents were immediately linked. Thus, notes the instability of the effective validity of ordinances that frequent form were openly disobeyed, including by the agents for its imposition (FRANCO, 1998, p.123).

It appears that the authority that legitimized the effective exercise of public power, was based on the traditional authority and the blandishment patronage and customs that guided. Civil service agents used to avoid themselves of submitting the actual situations to a rational control and therefore they acted on the basis of improvisation driven by custom which prevented the planning for the future and the establishment of comprehensive and efficient rules for the procedures.

About this topic, Franco (1998) notes the obstacles to bureaucratization trend in fiscal device: on one hand, a public servant whose links with the environment in which it lived were not offset by a professional attitude able to ensure the accuracy of the performance of their functional assignments; on the other hand, carelessness to formalize administrative practices.

One of the biggest obstacles to the adoption of a bureaucratic administrative system, based on impersonality would have been the almost complete absence of public funds which led to the application of private resources in public services. This used to happen often at the municipal level, causing them to dependence of those who personally contributed to public works. In the tangled administrative imiscuía up thing public and private businesses, making fluid the boundary between the assets of the administration and the administrator. The official would now consider is, therefore owner of the post (FRANCO, 1998).

Even with the advent of a republican political order, remained the difficulties to establish a rational statutory public administration impersonal, since it did not constitute a body of servers equipped with awareness impersonality of administrative and legal sphere.

Although a bit more developed and complex, the Brazilian state administration of the early republican period was precisely the result of this slow process that has molded a state apparatus that suited the institutional apparatus to the needs and interests of local administrators. The republican organization and the necessity of the participation in the international capitalism forced the adoption of provisions that demanded, for its implementation, a professional management. Although a little more professional, private interests, in particular the oligarchies, often overlapped to the norms. The oligarch now presents itself as a lawyer. José Murilo de Carvalho notes that magistrates and civil servants in general, resisted in identify themselves as farmers.

The professionalization and rationalization of public device found obstacles in the political organization, founded in the privileges of trade and had in the appointment of civil servants one of its main power maintenance tools. The appointments kept the dependence of administrative staff in the executive that had ultimately control over their careers.

Despite of the variations between sectors, highlighting the greater bureaucracy of classic judicial branches of the military and tax, it can be said that in general, the job classification was precarious, the division of unclear assignments, wages Ministry of variables to the Ministry; had not been institutionalized a merit system, and the appointments and promotions were often made on the basis of sponsorship or, as it was called at the time, commitment and employers, not technical competence; careers were poorly structured and retirement was not widespread (CARVALHO, 1996, p.144).

Another important aspect of fine professionalization of public services was the lack of qualified staff for the exercise of local government. This deficiency was particularly severe in the judiciary and entailed in filling administrative positions by amateur appointed by the local rulers (Uricoechea, 1978).

The amateur orientation of administrative action denounced the precarious conditions of institutionalization of public administration, making it impossible to rationalization and the establishment of functional characteristics and the attempts to implement professional guidelines were not without conflict.

Although there have been attempts to adopt rational practices in public administration, as was the case of São Paulo in the resulting economic and urban expansion period of the success of coffee plantations, a process of institutionalization of the state bureaucracy, with the establishment of public office fills by tender, occurred only in the 1930s, during the administration of President Getúlio Vargas. A diagnosis of public service, held at the time, described the situation as chaotic: no criteria for defining roles, duties and salaries, lack of clear definition of the hierarchical structure and decisions, lack of rational criteria for career progression and great number of officials.

In the beginning of his government, Vargas started a political change with the appointment of stakeholders in the states, replacing the governors aiming at disintegrating the power of local oligarchies. An administrative reorganization extinguished bodies and positions and created new functions in order to centralize all public administration in a single body. The restructuring initially was characterized by public service professionalism, with the creation of a hierarchical structure of positions that should be filled by public tenders. The public career was based on merit system and technical competence. In 1938, it was created the Administrative Department of Public Service (DASP), a strategic planning center of administrative reform. It was for the DASP establish the selection criteria for federal government positions, establish and standardize public admission services, shopping for bids and investments through transparent rules.

The administrative change approached the public to the legal standards of rational bureaucratic service, however, not totally eliminated the clientelistic nature of Brazilian politics, since most of the highest political offices were still occupied by the nomination process. The reform reached directly oligarchic control of public administration, which had become used to the appointment of thousands of political followers and proteges to public office. The DASP remained as an organizing center of public policies by the end of Vargas government in 1945. In the new government, oligarchic pressures led to the return of the old patrimonial practices, as can be seen with the device approved by the constituent 1946 that has performed in the office without contest information to public office. Losing most of its duties, the DASP was reduced to a technical department without power. The DASP played an important role in changing the national administrative culture and reforms led to the creation of similar actions in all Brazilian states. The new administrative order created by the DAP led to the formation of a new state bureaucracy technocratic allowing the incorporation of new social sectors from the middle classes It constitutes state apparatus, which produced the centralization and bureaucratic concentration of decisions on the public sphere. Although reduced, during its existence, the political power of traditional

oligarchies, this process, however, increased the intervening power of the state. According Faoro (2000), the state bureaucracy consisted in a bureaucratic status, which would become the new owners of power.

After Vargas's political changes, other attempts during the following governments have failed to restructure the administrative machinery and public services. The last of the attempts occurred in 1995 during the administration of President Fernando Henrique Cardoso. The state change, from Cardoso, intended to redefine the role of the state, it would no longer be responsible for social development to establish themselves in the role of promoter and regulator of economic development. The principles that guided the reform were the reduction of the state apparatus and reducing the power of the bureaucratic status, and economic modernization with the optimization of public resources and increased government efficiency.

State reform and public administration, according to Sola, constituted a conformation of the relationship between state and society in accordance with the theories advocated by the "Washington Consensus and" for regulation of social field according to a global economic order. However, the efficiency of the reforms was the responsibility of the adequacy of the government agents to technical and political authority of international financial institutions, particularly with regard to technical senior officials. This would imply the existence of a bureaucracy formed according to rational cool logic. It was, however, an administrative logic that went into confrontation with the patrimonial stubbornly policies. (SOLA, 1999: 40).

As a result, the state's role was maximized and not minimized as presupposed by the project. The strong state was a necessary condition for economic liberalization leading to a reversal of the process in the name of economic stability. The state apparatus strengthened so that they implement the proposals for public policies that enabled the implementation of government projects. Instead of giving political power social agents able to make a public administrative policy, which correspond to the aspirations of society, what happened was a realignment and regulation of social objectives by the state administrative agents.

Final preamble

Despite of the administrative changes attempted in the 1930s to implement a bureaucratic administrative structure or to establish a management administrative default, patrimonial practices remain and has been fed back. The absence of professional criteria for civil service recruitment has been frequent in local spheres, the difficulties of governance have led executives to use public office as política trading currency. Pereira points out that in an analysis of 71 cases of scandals in the country between the years 1970 to 2012, can be seen at all, to a greater or lesser extent, evidence of patrimonial practices involving governates, parliamentary or public servants (PEREIRA, 2013).

Considered a cultural characteristic of Brazilian politics, a patronage is a mode of operation which meets the political and functional requirements of the Brazilian government and can not be overcome by an administrative reform or the state apparatus, imposed from the top down. It is necessary to consider that the Brazilian patrimonialism has survived for centuries because their practices has proved unbelievably adaptáveis, taking different forms in different places and circumstances. These practices are not restricted by changes in economic structure or even the introduction of rational and bureaucratic devices. Its roots in the daily demonstrates his naturalization and, in many cases, is a strategy of social survival and legitimized by political common sense.

There is so much patrimonialism extended beyond the limits and rural areas of the oligarchies. Patrimonialism feeds itself by the struggle for privileges that reach all levels of society. Although it is a constant manifestation of sectors of the population and the media against corruption, cronyism and nepotism, which characterize the official policy, this same population and trainers of public opinion do not seem to identify, in their own everyday actions, patrimonial practices. As exemplified by Moreira (2010) is a high number of Brazilians considered permissible bribe a government official to get some personal advantage. Moreira notes that the more personal relationships are more tenuous and ambiguous are the boundaries between public and private.

Moreira (2010), has as one of the characteristics of patrimonial practices the naturalization process privileges, exemplified by the frequent cases of parliamentarians to justify the indiscriminate use of air tickets, purchased with public money to their families on the grounds that "always was like that. "This is, according to Moreira, "the daily expression of a society in which inequality, lack of universally shared rights took root culturally." (Moreira, 2010, p. 26).

Patrimonialism is fed by the daily interpersonal relationships where each subject seeks to take advantage over other, making room for pragmatism, arbitrariness and casuistry. Furthermore, the general perception of the

state's inability to enforce the law equally to all, produces the feeling that only those who have privileges obtain positive results of justice.

The patrimonial practices do not reach, only the institutional order, but, above all, prevent the establishment of an egalitarian social design based on universal rights. It is therefore an obstacle to the full exercise of citizenship and to establish a system of democratic participation.

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