

The
George
Washington
University
Washington-DC

SCHOOL OF BUSINESS AND PUBLIC MANAGEMENT

IBI- INSTITUTE OF BRAZILIAN ISSUES

“Public Service Professionalism: the importance of application of technical criteria when choosing public administrators, by political appointee process”.

Author: Clarice Taffarel

Washington-DC

December, 2003

TABLE OF CONTENTS:

INTRODUCTION	03
1 – THE BRAZILIAN FEDERAL GOVERNMENT	06
1.1 – GENERAL GOVERNMENTAL CONCERNS	06
1.2 - THE BRAZILIAN FEDERAL RULE ABOUT OCCUPATION OF PUBLIC SERVANTS	08
1.3 - THE BRAZILIAN CONSTITUTIONAL REFORMS AND THE NEW LAWS	13
2 - CONTEXT OF BRAZILIAN PUBLIC INSTITUTIONS	20
2.1 – THE PUBLIC ADMINISTRATION OF THE STATE OF SANTA CATARINA	20
2.2 – COMMON TENDENCY IN THE PUBLIC ADMINISTRATIONS	21
2.3 - POLITICAL PARTY BOND	26
3 - THE PROFESSIONALIZATION OF THE PUBLIC SERVICE	31
3.1 - TRAINING	31
3.2 – THE BRAZILIAN PROCESS OF SELECTION OF THE PUBLIC MANAGERS - THE NEED OF IMPROVEMENT	33
3.3 - THE MANAGER PROFILE	35
3.4 - SOME INNOVATIVE EXAMPLES IN THE BRAZILIAN PUBLIC ADMINISTRATION	38
4 - THE AMERICAN CASE	40
4.1 – GENERAL VIEW	40
4.2 – A COMPARISON BETWEEN BRAZIL AND UNITED STATES	42
FINAL CONSIDERATIONS	44
REFERENCES	48

INTRODUCTION

The topic of this paper is "Public Service Professionalism: the importance of application of technical criteria when choosing public administrators, by political appointee process".

Political appointee is the label given to public administrators that are nominated by political support. They are in the Brazilian government the so-called "commissioned positions" and they are declared in law of free nomination and discharge.

The research focuses on the importance of the qualification of the servants, not just for those who hold career positions, but also for those who hold political appointee positions, with analysis of the Brazilian Public Administration, comprehending the model of the State of Santa Catarina.

The motivation of the present study resulted from the observations made related to predominant managerial model in the public administrations. The challenge is to try to evaluate if the way public leaders are chosen bears any liability for the negative image that still prevails in many sectors of the public service.

The First Chapter is about the Brazilian Federal Government's analysis, since a great part of the actions adopted in all the government spheres results from those established by the former.

This Chapter also shows that it was necessary to adapt the juridical commanding of the public sector to the new reality, beginning with the Federal Constitution, once the globalization of the markets contemplates in all areas, where a new administration model has been established, consecrating efficiency and responsible public administration.

The juridical commanding has become flexible, once the Federal Constitution indicates measures for great part of the complaints from public administrators, whose solutions, however, depend on their own initiative. It introduced the principle of efficiency and it authorizes the dismissal of the civil servants who do not follow such principle.

Regarding directors', managers' and advisors' positions, the Brazilian Federal Constitution establishes that they shall be filled by career server, in the cases, conditions and minimum percentage foreseen in law.

The Second Chapter shows that the Public Administration of the State of Santa Catarina follows the typical model of the other Brazilian public administrations and reveals that the tendency of the public administrations is for the conservatism, where many cultural obstacles still need to be overcome. Political party bond is another aspect analysed in this Chapter.

The Third Chapter emphasizes some important issues. Regarding training, it shows that an administration will not get the benefits of the resources invested in the training of its civil servants, while not assuring an efficient administration model. This might even reveal the misallocation of public resources.

Another issue is about the importance of the improvement of the selection process for the public administrators, where literature, although scarce, shows that the public administrations should pursue this measure. Besides, it shows, that a great reform of the policies of human resources should already be in course in all the government levels, highlighting that this kind of providence from the federal government would be a great incentive for all government spheres.

The research made reveals that the manager's profile requires the combination of managerial skills with technical knowledge. Finally, it shows some innovative examples in the public administrations, revealing, however, that the initiatives are still in their early stages.

The fourth Chapter shows a briefing of the American case aiming to show how public employees are hired in the United States.

1 – THE BRAZILIAN FEDERAL GOVERNMENT

1.1 – General Governmental Concerns

According to GAETANI (1998, p. 4), as the debate on the crisis of the State has been diffused, the discussion about the public services has been included in the government's agenda, as well as the press' and the society's pressure in a general way.

He also pointed out that the excess of demands contrasting the governments' capacity of balances the public bills, in view of pressures of economic-fiscal nature, privatization tendency and liberal movements, shows the reduction of public expenses as being essential for the consolidation of the macroeconomic adjustment, in the same ratio that this measure favors the accomplishment of investments either in production or in the social area. These actions represent the search for the economic development and governance of the country.

In this sense, we always see news focusing on this matter showing that this larger pressure is due to the lack of structure of the financing system of the public section itself. Part of such problems exist because the constitutional commanding has created rights, especially in the social area, but has not provided the respective necessary sources for its payments.

So, the development model sustained by the federal government consists of a group of improvement measures aiming at inserting Brazil in the international context, making our economy more competitive and permitting its institutions to be more efficient in the treatment of the social issues.

The paragraphs above show that there is great pressure to solve the social problems without spending more money, where the governments need to choose the best method available, regardless of in which sector: whether public or private. The reforms and the measures that are being implemented, mainly at the federal level, show that this path includes the private sector, non-governments' entities (NOGS) and executive agencies. However, these indications are one of the answers. As the public sector shows its efficiency, such loss of participation of the State can be smaller.

To OSBORNE and GAEBLER (1998, p. 47), "the privatization is one answer, not *the answer*". The problem is that the examples of public administration have not been exemplary to

the point of holding back this movement, with need of reviewing the administration model, especially, in this analysis, the process of selection of public administrators.

1.2 – Brazilian Federal Rules About Occupation of Public Servants

According to the article 37, item II, of the Federal Constitution, there are two kinds of public employment: the civil servants (career positions) and the public administrators (political appointee positions). Both kinds of employments are accessible to Brazilian citizens that fill the requirements established in law, as well as to the foreigners, in the form of the law.

The investiture of the former depends on previous approval in public competition of tests or of tests and titles, in agreement with the nature and the complexity of the position, in the way foreseen in law, while the latter is declared in law of free nomination and discharge.

The article 37, item V, establishes that the trust functions¹, shall be exercised **exclusively** by servers occupants of career position. Career servers in the cases, conditions and minimum percentage foreseen in law, shall fill the political appointee positions and they are just destined to the directors', managers' and advisors' attribution.

1 The trust functions receive the same kind of selection procedures as the political appointee positions. The difference is that the former bears, simultaneously, a career position plus a trust function, while the latter bears only a political appointee position.

Before the Constitutional Amendment n. 19, of June 04, 1998, further analysed, the political appointee positions and the trust functions shall be exercised, **preferentially**, for servers occupants of position of technical or professional career, in the cases and conditions foreseen in law.

Both ways of selection procedures follow the general rule of the article 37² of the Brazilian Federal Constitution. In the process of career servant selection, the legal definition must be observed, just as much as the constitutional principles. The same fundament should be applied for the political appointee positions. The fact that these positions does not require any public examination do not mean that the guidance of the article 37 does not have to be observed, but the following chapters show that the enforcement of this commanding is not properly led.

Besides obeying the constitutional principles, we can see that, with the new amendment, the juridical commanding became quite restrictive; once the rule now states that the directors', managers' and advisors' positions shall be occupied by career servers in the cases, conditions and minimum percentages foreseen in law. This rule means a preoccupation in assuring, at least, a minimum percentage to career servers.

2 Brazilian Constitution, article 37: "The direct and indirect public administration of any of the Branches of the Brazilian Federal Government, of States, of Federal District, and of Local levels shall obey the principles of legality, impersonality, morality, publicity and efficiency.

And exclusively civil servants must now carry out the trust positions, even though the public administrators still have ample freedom of choice of the applicants.

According to Alexandrino and Paulo (2002, 193/194), “unfortunately the rule introduced by the Constitutional Amendment n.º 19/98 was an insufficient one, once the legislator missed a great opportunity to dramatically reduce the degrading procedures not avoiding that a political appointee position were occupied by unprepared applicants. Not to mention that many of those functions are either obscure or fictitious”. Another missed opportunity that they quoted is a rule to avoid the nepotism in the public service³.

The authors sustain that besides the fact that the Brazilian society has been bearing a burden fiscal taxation system, it is still compelling to sponsor examples of “inept people” that never did any effort to be approved in a public examination, as a way to get a public job.

About the human resources expenses, we can observe that the cost become less when civil servants occupy the political appointee positions. Such expenses are reduced because the State stops remunerating a new political appointee position. A civil servant, who is nominated to

³ The Senator Demóstenes Torres submitted the Constitutional Amendment Proposal of n. 49, of June 24, 2003, aiming to avoid the nepotism in the Brazilian public service. The Proposal was distributed to the Committee of Constitution, Justice and Citizenship, but such Committee still is waiting a definition from its respective speaker.

occupy a political appointee position, either opts for the effective position salary plus the political appointee positions, or opts for the political appointee remuneration.⁴

In the previous paragraph, we can say that the human resource expense is for just one civil servant, while, if the occupation of the vacancy were not given to a civil servant, the expense would then be for two employees.

The expense limit on human resources was initially established in 1995, when the state apparatus reform in Brazil began and it concerns all the government spheres, through the First and Second

4

a) The Law n. 6.745, of December, 28, 1985 (Statute of Civilian Public Servers of the State of Santa Catarina) establishes:

Article 92 - "The civil servant will lose the remuneration of the career position when nominated for a political appointee position, with the exception of his/her right of option for his/her career remuneration, plus a bonus.

Paragraph One: The bonus that this article refers won't exceed at forty percent of the remuneration of the political appoint position."

b) The Law n. 8.112, of December, 11, 1990 (Judicial Regime of the Servers of the Brazilian Federal Government) establishes:

Article 61 - Shall be added to the remuneration of the career server a bonus in the following hypothesis:

I - when nominated to a director, manager or advisor position;

Article 62 - The career server when nominated for a director, manager or advisor position shall receive a financial compensation for this duty.

Paragraph One: A specific law shall establish the remuneration of the political appoint position, quoted in the article 9, item II, of this Law.

Camata Law, respectively, Complementary Law n.º 82, of March 27, 1995, and Complementary Law n.º 96, of May 31, 1999.

Today, the expense limit issue is disciplined by the Complementary Law number 101, of May 4, 2000 (Law of Fiscal Responsibility) and it was designed to assure fiscal equilibrium and transparency in the public resources allocation.

As part of this topic, we also observed that the third paragraph of the article 169 of the Federal Constitution establishes providences to government entities, in the hypothesis of their expenses exceeding the limits established in such article.

This is the composition of the constitutional devices commented:

Art. 169. The expense with active and retired personnel of the Federal Government, of States, of Federal District and of the Local levels it cannot exceed the limits established in complementary law.

...

§ 3rd - For the execution of the limits established with base in this article, during the period fastened in the complementary law referred in the caput, the Federal Government, States, Federal District and the Local levels will adopt the following providences: **I - reduction in at least 20% of the expenses with political appointee positions and trust functions;**
II - discharge of the no-stable servers.

In fact, we can observe that the article transcribed above is in accordance with the article 37, item V, previously pointed out; therefore, both show the reduction of the expenses with political appointee positions as an “adjustment alternative of public bills.”

The first measure, therefore, besides providing financial economy, favors the professionalization of the public service, because, at least, a minimum limit of the political appointee positions is assured to career servers. The second measure is quite objective, because it determines the reduction of the expenses with political appointee positions in the hypothesis which is foreseen in it.

However, the following topics will show that, up to now, the enactment of the law foreseen in article 37, item V, of the Federal Constitution has not happened yet. In addition to it, is the fact that the freedom of nomination and discharge of the political appointee positions, in reality, do not contemplate with the due rigor to the observance of the constitutional commanding in analysis, in view of the flagrant example of irregularities in the administration of the public resources.

1.3 - The Brazilian Constitutional Reforms and the New Laws

The Constitutional Amendment n.º 19, of June 04, 1998, promoted the so-called Administrative Reform, in order to change from a bureaucratic public administration, centered in the control of rules and procedures, toward a managerial administration model, focused on results for the benefit of society.

Regarding the matter in analysis, we can mention the following news commandings introduced by the new reform:

- ? introduction of the principle of efficiency;
- ? reservation of positions and functions of direction, manager and advice for career civil servant;
- ? permission for dismissal of stable civil servants, in the hypothesis of negative performance evaluation;
- ? reduction of expenses with political appointee positions;
- ? adoption of management contracts.

According to BRESSER PEREIRA (1998, p. 31), the Administrative Reform, in fact, means “a Managerial Reform of the Brazilian Public Administration” as it is an answer to the on-going globalization process that threatens to reduce the autonomy of States in the formulation and implementation of policies.”

He also argues that the professionalization of the public service is one of the aspects of the Administrative Reform, "on the other hand, to strengthen the public service, the reservation of minimum percentages of the political appointee positions for the civil servants was foreseen" (BRESSER PEREIRA, 1998, p. 213).

Another reform to improve public governance was upon the Social Security System, by the Constitutional Amendment n.º 20, of December 15, 1998, and its main goal was to assure that the acquisition of the rights had the corresponding resources to finance them. The absence of such equivalent resources was one of the factors that unbalanced the governments' public bills, as previously commented, where the retirements were granted integrally without having had a sufficient number of contributions to finance the benefits.

To complement the reform of the Social Security System, the Executive Branch submitted the Constitutional Amendment Proposal n.º 40, of April 29, 2003, to reform the Pension System. The Senate is analyzing the process in the present moment, and we have noticed that the government has had effort in order to see its proposal approved.

Thus, it is observed that, once the financing sources are not enough to supply the demand, the more coherent alternative is the adoption of public policies with observance to elementary

principles, as the one of efficiency and of effectiveness, in the same way as to maintain the observance of basic rules of economy, like not spending more than the collected value.

Another aspect that economy experts have pointed out is that the globalization of the markets has also been strongly reaching the public sector. The privatizations are an example, because, among other factors, due to lack of public resources to maintain the competitiveness of its companies, in some segments the government has had no alternative other than the privatization.

It is perceptible that another factor that has been heavily contributing to such reduction of the role of the State is exactly the lack of efficiency in the administration of its own mission. Under this aspect, such Constitutional Amendments sought to adapt the juridical commanding to the new reality, once the effective constitutional ruling no longer meets the new demands.

The Federal Government's imposition indicates that a new form of governing is necessary, allying administration tools with economy rules.

In addition to the spirit of the constitutional reforms, the Law of Fiscal Responsibility determines that the government entities introduce Systems of Control of Costs and of performance measurement programs. In specialists' opinion, "the new changes will only be fulfilled when the responsible public agents for the public administration have technical capacity to accomplish the

changes. **The presidency of a great company cannot be in the hands of lay people. It is necessary to limit the access to public positions**" (CRUZ et al, 2000, p. 31).

The Law number 10.028, of October 19, 2000 (Law of Fiscal Crimes), complements the Law of Fiscal Responsibility, since it is about the penal punishment due to the practice of fiscal infractions.

The Law of Fiscal Responsibility severely disciplines the administration of the public resources, with the intent of creating a responsible administration in all the spheres of the government. Due to all the innovation of the juridical commanding on the part of the Federal Government, it is surprising that the legislator did not include restrictions to political appointee positions as authorized by the Constitutional Amendment number 19. This is a relevant issue because prevention not only brings better results but it also avoids a series of costs in the entire public structure chain, whenever there is any irregularity. Thus, kind of prevention roots up the evil.

It is much more rational to prevent damage than it is to repair it. When the act is legal, the analysis usually happens among the Institution, its Internal System Control, and its respective Audit Court of the State or of the Federal Government. Otherwise, according to the dimension of the problem, the involvement of several other institutions, like the General Attorney Office of

Justice, the Court of Justice and its superior instances is necessary, demanding time and the whole apparatus of the structure of the Public Power.

Moreover, the article 77 of Brazilian Federal Law n.º 4.320, of March 17, 1964, establishes that "the verification of the legality of the acts of budgetary execution will be previous, concomitant and subsequent".

When analyzing the article above MACHADO JÚNIOR and REIS (1995, p. 142) point out that "one of the great difficulties of the administration is to have the bills in accordance with the accomplishment of the programs. When these public administrators stop accomplishing a merely political-party administration in favor to emphasize the delivery of services, they will certainly have a greater interest in highlighting these accomplishments".

The vision of COELHO and MOTTA et al (2000, p. 250), on the objective of the Law of Fiscal Responsibility, in relation to the accountability of the public administrators, is that "population informed by means of communication demonstrate dissatisfaction with the long used methods in the execution of the public services, demands new measures, riots against impunity and becomes vigilant, awakened by the spirit of citizenship. Little by little, Brazil will stop having traditional rulers and will have managers which society's demands".

According to GAO (2003, p. 9) “the concept of accountability for public resources is key in our nation’s governing processes. Legislators, other government officials, and the public want to know whether (1) government resources are managed properly and use in compliance with laws and regulations, (2) government programs are achieving their objectives and desired outcomes, and (3) government services are being provided efficiently, economically, and effectively. Managers of these programs are accountable to legislative bodies and the public”.

Thus, we can observe that, in some aspects, the legislation has significantly advanced, but the process of selection of public administrators has not at all, at least not directly. The progress examples are just isolated, as we will further verify.

In view of the complexity and number of demands that the laws make, institutions need high performance administrators, showing that the access to the public managers' positions requests a compatible curriculum with the structure to be administered.

2 - CONTEXT OF BRAZILIAN PUBLIC INSTITUTIONS

2.1 – The Public Administration of the State of Santa Catarina

The Public Administration in analysis follows the predominant administration model in the Brazilian public sector. Regarding the selection process of administrators, the local legislation - State Constitution and the Statute of the Civilian Public Servers of the State of Santa Catarina (Law n.º 6.745, of December 28, 1985) - presents the same orientation of that which is stated in the Federal Constitution, not having had any kind of regulation until the present moment. Neither that one proposed in the Federal Constitution, article 37, item V, nor any another in the sense of assuring that the selected candidate's profile meets the demands of the position.

The lack of providence assuring good public leadership reveals a contradiction among the basic idea of the constitutional reforms, because it allows the wide power of choice in the selection of its administrators.

For a citizen it is difficult to imagine that the commanding of the article 37 of the Federal Constitution will be observed while a hard criterion norm will not be established.

About the new commanding to correct one of the great difficulties of the public sector - its inefficiency, we can verify that the public administration in analysis still remains quite resistant to this new movement. But it is not a typical characteristic of the State of Santa Catarina. The tendency of the public administrations, as will be verified in the next topic, is for the conservatism, for being governed by a bureaucratic and formal model with strong juridical protection of the acquired rights.

2.2 – Common Tendency in Public Administrations

In a period of changes, public institutions usually prefer to be in a defensive stance. About this aspect, GAETANI (1998, p. 6) argues that the pro-active behavior does not prevail. Some segments, however, are exception to the rule like scientific research, health and environment areas.

He still argues that "the effort in the sense of impelling the modernization of the State has fundamental origin in the society and in the political class that represents such society." (GAETANI, 1998, p. 6).

OSBORNE and GAEBLER (1998, p. 32) show the importance of facilitating the solution to problems, avoiding the strangling of the processes, where it is better to strategically navigate

instead of rowing at random. They also argue that "to maintain the navigation direction is very difficult if the best energy and the best brains of an organization are only worried about rowing".

They say this because the traditional governments concentrate a great part of their energy on the operational areas, not giving the appropriate attention for the strategic areas, and forgetting to indicate the institution's direction.

According to DRUCKER from OSBORNE and GAEBLER (1998, p. 36-37), the innovative governments' tendency is for the "adoption of systems that separate the strategic decisions of the operational rules, once, without this providence, "the managers will be busy with the operational rules and the strategic decisions won't be made".

The reality of the public administrations frequently seems as if it did not have any relation with the new law commanding, because most of them still have been implemented although the solution for the public administrator's complaints are expressly authorized by law.

The new solutions depend on the public managers' initiative, which have the legal power for the actions. In this changing process the help of all human capital is appropriate.

The public managers' lack of initiative when there is a problem that requires a solution, generates their share of responsibility, because is not fair to put the blame only on the civil servants. About this aspect, we should remember that the origin of the organizations' problems is systemic and not the individual servant's or administrator's responsibility.

MOTTA (1995, p. 37) argues that "the management function exists simply because there are activities that an individual cannot do by himself or herself. The manager needs the cooperation of the entire group for a collective action in search of a common objective".

The solution to the problems should not be assumed only by the civil servants. According to MINICUCCI (1983, p.233), "if leadership is a process or a function, the role of those who are influenced and of those who influence can be transferred to each other. Not only a superior influences his/her subordinate; but also vice-versa."

The civil servants must carry out their functions always objectifying the positive results of the group. Unity of the group, individual effort, helping co-workers and managers are fundamental. However, the responsibility of the managerial actions is of those that have the legal power to exercise them. In this sense, according to GAO (2003, p. 148) "staffs are to be properly supervised".

The great difficulty of this modernization, according to BRESSER PEREIRA (1998, p. 22), is because "we cannot underestimate that the elements of the protectionism and of the paternalism still subsist in our society". There would not be any reason for the postponement of the addition of a law that limited the access to the political appointee positions, if were this not the problem.

We can observe that the difficulties mentioned by BRESSER PEREIRA are disseminated in all public sectors, besides, experts don't usually write articles about this issue. The complaints against the public irregularities can be, every day, via means of mass communication, inspection organs and by civilians. Everybody is revolted about these irregularities and they defend the moralization of the public service. However, with no apparent reason, no specific movement has been made to contain these practices.

The movements that exist are palliative, because they don't act directly in the root of the problem. There are laws that regulate the application of public resources and such laws establish ethics code and infraction penalties, however, without stopping unprepared administrators from managing public institutions.

The process above shows that, for the cultural model of our country, the laws quoted in this analysis don't have the necessary effectiveness and compliance. The money deviated hardly ever comes back to the public coffers and the persons responsible for the illegalities are not arrested

either. The exceptions are so few that they cannot revert the image of the impunity that has been formed throughout time.

The management model needs to be reviewed, and there is no more argument to sustain it. One of the great difficulties in the implementation of a performance evaluation process⁵, for example, is one of a friendly relationship that exists between administrators and subordinates. As the Modern State has its origin in a paternalism system that has privileged individual interests in detriment of the organizations interests, the protectionism of the civil servants is the culture that still prevails, even if the employees do not have a satisfactory performance.

Also, this process is difficult for a manager who only acts following a specified order that is being developed in all the institution's areas, and who, at the same time, does not morally have a good leadership profile, and especially if his/her professional conduct is not satisfactory.

Correcting its inefficiency would avoid an institution from being administrated only by a minority that integrates it. Rarely, many institutions have a false appearance showing that it is properly structured, when in reality, the number of its servers could be enough but the number of those

⁵ The Brazilian Executive Branch submitted a bill, Proposal of Law n. 248, of October 19, 1998, aiming to establish the possibility of dismissal of stable career server, in the hypothesis of negative performance evaluation. The original proposal, up to now, received 91 amendments and, in the present moment, the process has been analyzed by the Committee of Labor, Administration and Public Service.

actually committed with the rules of the institution is insufficient. This example is about all the levels of the organizational pyramid.

Once the profile is established for the public administrators, it would be easier to correct the other institutional problems. The adoption of a performance evaluation system to fight the inefficiency in the public administration can be seen not as a punishment, but as a motivation and award, demonstrating that the dismissal of employees for such reason would only occur when they do not work according to the institution's rules.

2.3 - Political Party Bond

Once the candidates' selection for public administrators is carried out on a political-party basis, prevailing the government's agenda of the present dominant political-party, there are many examples in which the curricular analysis happens without the proper skills being considered in relation to the corresponding attributions. This kind of selection often brings unconcern with the institution's structure.

In addition to the previous paragraph, the problem is not the political-party bond. The problem is the selection of candidates without the profile of the function to be carried out.

For instance, in a State, in view of a Governor, who is chosen by a government proposal, it is natural that the higher echelons,, Presidents of the Public Companies, Chiefs of the Secretariats and his/her Undersecretaries, have some political-party bond, and once such positions have a very direct commitment with the Governor's agenda.

Regarding the intermediary management positions, for them, the political-party bond could even exist, but it could not stop taking in consideration approaches that assure the compatibility with the function to be carried out.

The freedom to select the public administrators, in its essence, is salutary because its goal is to assure greater adherence to the government's agenda. However, our sense of criticism concerns the use of this mechanism for private interest and with flagrant disrespect to the constitutional principles, especially to morality and to efficiency.

We cannot admit that essential positions of an institution are just occupied viewing private interest, whose candidates, besides not possessing any knowledge or managerial skills, don't show the willingness of working on behalf of the public interest, either.

Unfortunately, this practice is so disseminated in all the Brazilian government spheres, that the statement of this kind of observation has become common. Just as well, the means of communication also inform citizens of examples like this, on a frequent basis.

But we cannot forget that, in a general way, the political campaigns are financed by small groups and not by all the voters. So the commitment of the new "elect" is with this minority, thus frustrating the law's objectives and the public desires.

OSBORNE and GAEBLER's opinion (1998, p. 35) is that once the measures are inserted in the constitutional commanding, consolidating the population's general desires, the governments have to defend the commanding because they result from an enormous pressure of society, which is in favor of changes, against the desires of the groups that want to maintain the status quo.

Another factor that needs to be reviewed is about those technicians that have taken a "political-government identity", just because they have carried out a managerial position in view of an opportunity that arose - even if they are just considered merely technicians and "politically neutral".

So, in the beginning of a new government, all the political appointee positions are substituted, repeating the same selection approaches seen here, and those that worked in the previous

government won't have the opportunity to continue in the new government, just because of the reasons mentioned in the paragraph above. The exceptions are very rare.

This kind of discrimination is an absurd. The public administration urgently needs to adopt approaches that assure the professionals' qualification without considering it an impediment for those servants that have held a political appointee position in another government. The prevailing concern should be about the candidate's profile to see if he or she has been a good manager or not.

The actions need to be developed seeking their continuity and the future of the institution. When a new Governor takes over, many good projects are left behind by the simple fact that they have started by a different political-party government.

To manage a technical area, for instance, budget, audit, finance, and public laws and so on, it is necessary to have a good knowledge about these fields. How can a person manage an issue without understanding it?

The institutions need managers that are able to properly diagnose the existing projects in their work and to know how to differentiate them from those actions that do not deserve continuity,

because their inadequacies, from those that need to be implemented for the good future of the institution.

When there is an inefficient administration, the negative consequences can still be larger if the period coincides with a moment of great structural changes and with supply of resources.

Opportunities should never be missed.

So, we can observe that, while this scenery is not modified, little progress will be verified in the solution of the great obstacles of an organization. Many actions mask the problem in the short-run, but in the long run they are inefficient.

Another aspect to be considered for the political appointee positions is their level of adaptability to changes, once many reformulation measures in the model of administering are happening day by day, reaching not only the private sector, but also the public sector, because it is a global movement.

To maintain a competitive market, many organizations have been forced to review their model of administering, including the definition of the new administrators' profile. They had to abandon approaches that, by themselves, did not assure professional qualification for promotion.

The institutions should give value to their professionals, motivating them, with the appropriate apparatus and a fair salary policy included in it. These aspects are important because it is more common to see the good professionals leaving a company than those that are accommodate in it.

3 - THE PROFESSIONALIZATION OF THE PUBLIC SERVICE

3.1 – Training

We have noticed that, in significant areas of the Public Administration of the State of Santa Catarina, the frequency of the training has been increasing in these past years. The professional modernization is an essential requirement, should contemplate all the levels of an institution.

The institution must use the potential of its structure, arousing the responsibility of the civil servants for their function. For a leader, this responsibility is even greater. The alignment between civil servants and managers is very important because the effectiveness of a course depends a lot on the administration model.

We can observe when a leader is really interested in his/her function, and in this case subordinates' collaboration is better. This aspect shows that it is essential that a leader have knowledge about the area under his/her responsibility.

The absence of instruments that measure the effectiveness of training programs is a deficiency of a great part of the Brazilian public institutions, where a lot of actions are carried out without being tested for their effectiveness.

But measurement government performance, according to Newcomer (article, p. 323) “experience in government jurisdictions across the world has shown that effective use of performance measurement to improve program management presents manager with complex communication, analytical, political and measurement challenges”.

Experts agree that training should be present in any model of administration. However, the application of the resources needs to be correctly focused so that an institution can obtain positive results.

A parallel analysis with the Brazilian Federal Government’s social programs shows that, according to PAES DE BARROS (2000, p. 719), "the bad focalization of the social expenses is the only reason that such expenses are not capable to eradicate, or at least, to reduce the high level of poverty in Brazil".

Briefly speaking, civil servants need to be qualified, of course, but before that they need good examples from their managers. In the areas where the management performance is effective, the demotivation level is probably lower.

3.2 – The Brazilian Process of Selection of Public Managers - The Need of Improvement

The responsibility of the Federal Constitution regulation, article 37, item V, belongs to each government sphere, because the Brazilian State structure is federated and such constitutional commanding is a non executable norm, which depends on an ordinary law whose initiative⁶ comes from those politician of every local government that have legal power to do it.

Thus, it is fundamental that the constitutional commanding in analysis be regulated, since it aims to strengthen the public service reserving the director's, manager's and advisor's position to career servants.

⁶ Brazilian Constitution, article 61, paragraph one: "Belongs to the Brazil's president the initiative to submit a bill that:

...

II - establishes:

a) creation of public jobs, duties or employment in the direct and indirect public administration, its autarchies, or that raise public personnel remuneration;

...

c) civil servants of the federal government and its territories, their common juridical regime, occupation, stability and retirement.

Moreover, a daring operation should have already been implemented in several government areas to give the institution a new conception of human resources. We cannot forget that the improvement of this area is an important aspect to have a Modern State.

The initiative of this measure by the Federal Government would be very important, because it would also stimulate the other government spheres to do the same. Because of the non-regulation, this question becomes an expectation regarding the severity of the punishment that will be applied to a public administrator when he/she does not follow the law commands. However, while we do not have this example from the Federal Government, it is not an impediment to the States and Local governments to do its part.

The Brazilian Diplomats CESAR and YANG (2001, p. A-3) analyzed an article published by the Wired's Magazine, in its edition of May, 09, 2001, where the issue was "The Ranking of The Most Creative Countries", where Brazil qualifies as 22nd. For the diplomats creativity is the great asset of the future, however, when the issue is about public service they except their viewpoint, because "we cannot associate it to future notions and creativity, once the image of a bureaucratic and a socially unjust country, with serious basic infrastructure problems, still prevails".

They sustain that it is an elementary condition for Brazil to become a developed nation, where the ambition, the effectiveness and the creativity must be included in the public policies. They still

argue that the main challenges for a public administration are: recruitment, training and personnel incentive systems.

The problem that the Diplomats show in the present recruitment process is exactly the issue of this Paper - the importance of the public managers' qualification. Regarding the lack of specific careers in the public government, they added: "on the other hand, the existent careers maintain very inflexible recruitment practices, once the investiture in specific careers is only possible at inferior levels. **The leadership's recruiting is governed by an anachronistic legislation because it allows ample freedom in the applicant's choice. It is necessary to change the recruitment of political talents. Why not allow competitions for leadership positions?"** (CESAR; YANG, 2001, p. A-3).

According to the English writer's sentence, GRAHAM GREENE, (1904-1991) quoted by SOUZA (2001, p. 33) 'there is always one moment in time where one door opens itself and lets the future in.'

3.3 - The Manager Profile

The public institutions need a good administration to execute its role. Society is becoming less and less tolerable to examples of inefficiency and all kinds way of non-compliance with the law.

We must consider that the tendency of the markets also affects the public organizations, demanding technical quality and disposition of the servers for constant modernization.

Hence, the process of selection for public administrators needs also clearly defined technical approaches even for this "category" and not just for the career servants, risking not using the structure's potential and frustrating the desires of society.

The need of adoption of technical approaches in analysis does not exclude the other fundamental characteristics for a managerial function. We are not sustaining the idea of a technocrat that does not have managerial skills.

The analysis of the applicant's psychological profile is also a factor that should be considered. The technical analysis of their curriculum is not enough, where the inclusion of the psychological aspects is necessary.

Besides, many professionals are great for a technical position but not so good for an administrator position and vice-versa. The combination between these abilities, the technical and the managerial, should be taken in consideration in the selection of the applicants.

According to MOTTA (1995, p. 221), "leadership requires individual abilities, self-knowledge, expression and communication skills, as well as capability of facing future with trust, daringness and flexibility. It demands relationship abilities to negotiate with groups and individuals, transferring them power and initiative to discover by themselves the best way for self-fulfillment and accomplishment of their tasks.

Communication skills, work coordination and conflict resolution are characteristics for such positions, since the leader acts as an interface between his/her subordinates and his/her superior, in view of the fact of the public administration has been following the hierarchical model.

MOTTA (1995, p. 221) still argues that "the real leader is essentially an individual who is capable of investing time and energy in the future of the organization and, mainly, in the company's personnel. Leadership essence is not in obtaining power, but in giving power to others enabling possible the accomplishment of the company's goals throughout time".

Another important factor in a public manager's profile is the knowledge about public administration laws and their respective legislative process. The competence of these functions, until not long ago, was considered, practically, a lawyer's duty, but more and more technicians have been assuming it.

3.4 - Some Innovative Examples in the Brazilian Public Administration

a) The Government of the State of Rio Grande do Sul introduced the Constitutional Amendment n.º 12, of December, 14, 1995, to avoid the nepotism in its State, establishing that the political appointee positions cannot be filled by spouses or partners, relatives until the second generation of the following positions:

- ? Governor, Vice-Governor, General Attorney, General Public Defender, Chief of the Secretariats or Public Companies and Autarchies of the State;
- ? Desembargador, Judges of second court of appeal, in the Judiciary Branch;
- ? State Deputies, in the Legislative Branch;
- ? Justice Attorney, in the General Attorney Office of Justice;
- ? Conselheiros and their substitutes, in the scope of the Audit of Court.

b) Another example is the Rule of Execution n.º 01, March, 2001, from the Federal Secretariat of Control (Secretariat Federal de Controller), which establishes the Internal Selective Process for its administrators, concerning the administrators' technical quality. (DCAP, 2001, p. 43-44).

c) Regarding training, two institutions in the Federal Government have prominence in this issue. One is the National School of Public Administration (Escola Nacional de Administração Pública – ENAP), linked to the Ministry of Planning, Budget and Management (Ministério do Planejamento, Orçamento e Gestão), and is specialized in giving managers and other public servants courses, studies, lectures, events, publications and so on.

Its field of activity is wide and it offers regular courses of education in its establishment or at distance. It assists to specific demands of institutions, organizing specific groups or new courses, in the whole country. It also graduates and certifies groups to teach these new courses to other local co-workers. Some courses are also accomplished in other capital cities, by schools partnership. ENAP still offers courses of initial formation for civil servants.

d) Another example is the Finance Administration School (Escola de Administração Fazendária - ESAF), linked to the Ministry of Finance, and its offices are located in some Brazilian states.

e) On international level, according to BRESSER PEREIRA (1998, p. 54), Great Britain is considered the best example of implementation of the Managerial Reform. Regarding the executive agencies, "one of the main changes introduced by such reform is severity in the selection process of the leaders of the agencies. One of the great factors of the autonomy of the agencies is the freedom in choosing the applicants, once they can be chosen from the public sector or from the private sector."

4 - THE AMERICAN CASE

4.1 - General View

The current information was provided by an unidentified federal official in an informal interview. According to the interviewee, most political appointments in the United States are done in the Executive Branch Agencies. Each agency has a limited number of positions that are designated "political" or "plum⁷" positions. These are usually senior positions in an agency. Certainly many senior program management positions are political and these positions can choose their assistant secretaries level in most agencies, although some assistant secretary positions might be "career positions" rather than political. At the end of an Administration, some political positions have, at times, been converted to career positions in an effort to keep a political appointee in place. Although some political positions are not at senior management levels, most are as they deal with

⁷"Plum", according to the Oxford Dictionary (1995, p. 888) is a thing considered good or worth having, especially a job with good pay: She's got a plum job in the BBC.

policy issues. They usually try to assure that the decisions being made will be consistent with the politics of a new or continuing administration (president).

The interviewee still said that he never heard of a law that specifies the capabilities that political appointees must have. Mainly, the political appointees at the highest level such as the Secretary of State and his assistant secretaries are nominated by the president and approved by Congress. Lower level political appointees are chosen by the senior-level appointees. So regarding capabilities, the president and the Congress make decisions on the credentials of senior-level appointees. Then the senior-level appointees in turn, make decisions regarding the lower-level appointees. If a political appointee is found not to have the prerequisite skills for a position, he/she may be removed from office by the president or a secretary of an agency.

Civil or career officials usually acquire their first job in the federal government by applying for a specific position that is openly advertised by the agency or the Office of Personnel Management. The process is competitive. After acquiring a position in the government, one is usually promoted into succeeding position's career. Each position one is hired for, especially at lower grade levels, has promotion potential defined for it. If a position has no promotion potential, then the individual applies for other positions at a higher-grade level. The interviewee gave an example of an employee who was hired in the federal government at the GS-7 level and such position had promotion potential to the GS-11 level. So, when the employee was in the GS-11 level he/she started seeking a superior position job.

In some cases, salary as a federal official is less than most senior level positions in private industry. However, the positions are considered prestigious and often involve making policy decisions on important issues that may have significant impact upon many people.

For the most part, when a president leaves office, the vast majority of the political appointees leave office as well. The assumption is that a new president will want his/her own people in key positions. To some extent, some former political appointees stay in government, by having their positions converted to career positions and then being selected for those positions.

4.2 - A Comparison Between Brazil and United States

Table n.º 01: number of personnel of the Executive Branch of each country analyzed.

Number of Personnel	Brazil (1)		United States (3)	
	Number	%	Number	%
Non-Civil Servants	(2) 17.722	2.20	3.150	0.18
Civil Servants	807.698	97.80	1.700.000	99.82
Total Servers	825.420	100.00	1.703.150	100.00

(1) The datas about Brazil are available on the web site of the Ministry of Planning, Budget and Management (Ministério do Planejamento, Orçamento e Gestão): Boletim Estatístico de Pessoal, nº 87. 2003, and they are related do June of 2003.

(2) The report (Boletim Estatístico de Pessoal) is not clear enough in showing if the number of the Non-Civil Servants are included in the total number of the Civil Servants, but, when analyzing all the data, the conclusion is that this number is include in it.

(3) The datas about United States were provided by consulting General Accounting Office.

Table n.º 2: Composition of the Political Appointee in Brazil

Level	Civil Servant + others (1)		Civil Servants from others spheres (2)		Non-Civil Servants		Retired Personnel		Total	
	n.º	%	n.º	%	n.º	%	n.º	%	n.º	%
DAS-1	4.723	69.8	113	1.7	1.617	23.9	314	4.6	6.767	100
DAS-2	3.513	71.0	129	2.6	1.021	20.6	284	5.7	4.947	100
DAS-3	1.935	66.2	173	5.9	603	20.6	211	7.2	2.922	100
DAS-4	962	43.9	252	11.5	785	35.8	193	8.8	2.192	100
DAS-5	242	33.4	121	16.7	290	40.1	71	9.0	724	100
DAS-6	42	24.7	25	14.7	86	50.6	17	10.0	170	100
Total	11.417	64.4	813	4.6	4.402	24.8	1.090	6.20	17.722	100

(1) Career servers, plus other required servers (Administration Direct of the Federal Government, Autarchies and Foundations).

(2) Career servers from Brazilian Public Companies, from States and from Municipalities.

We can see that the Brazilian Executive Branch has a huge power to nominate public administrators, by political appointee process, and the number itself reveals that to have good governance, this mechanism also needs to be properly led. Otherwise, the gap between the constitutional commanding and its compliance will not be eliminated or, at least, not reduced.

FINAL CONSIDERATIONS

The Brazilian case analysis evidenced that the search for an efficient, ethical and legal administration needs to be pursued by every citizen, whose principal success is in favor of the progress of society.

The improvement of the public administration is nowadays a mandatory need. Society, now more organized and aware of its pressure power, claims for quality in the public service. Society also expects quickly an appropriate answer from the State for the challenges that technology and evolution of thought have taken place in all areas.

The constitutional changes were made because new strong measures to improve governance have been necessary, and the present moment represents an opportunity to begin the reversion of the current managerial model.

The research shows that to invest only in part of the members of an institution - the career servants – and to leave its leaders out is insufficient. The importance of investing in training was shown, but what is necessary is that the qualified civil servants have the opportunity to put their potential in practice.

In view of the argument in the previous paragraph argument, the effective validity of training programs was questioned, regarding those sectors where its public administrators - legitimate holders of the power of decision - do not have a reasonable commitment to their field of activity.

Thus, the State invests but doesn't reap the fruits of the applied resources. It does not reap them because whether the civil servants are motivated or not it does not make any difference in the institution's output. The concern of the State in maintaining qualified technicians is fundamental but not enough. It is necessary that the public managers be also included in this process.

The research still revealed that it is not fair to attribute the liability of all the problems of the public sector to its administrators and to exempt the civil servants. The objective was to show the importance that should be given to such positions. The best stage to assure that each applicant has qualification for the job is in the applicant' selection process.

The law permits the free choice for applicants and it hasn't been changed because the paternalism government model is still prevailing, but the government needs to improve its performance management, including the reduction of its expenses. One of the alternatives to reduce the expenses, according to the Brazilian Federal Constitution is to reduce those related to the political appointee positions and such jobs must be carried out by civil servants and not by outsiders.

Thus, it is fundamental that the law foreseen in the Federal Constitution, article 37, item V, be passed. However, this non-regulation should not serve as objection to the States and Local levels in the adoption of such measures which its administration model requests.

A new law addition only is possible when there is political acceptance in its enactment. So, this is not a merely technical subject. If the political power and the reform of the State move forward slowly, we cannot be so naive as to think that only a part of the group will lead an institution alone. It is necessary that the whole group, government and governed, walk at the same speed and direction.

So, as long as applicants without the appropriate skills are occupying the strategic positions, many of the constitution commanding will not have the effective compliance.

Fortunately, experts have, little by little, started to question the current manner of selecting for administrators positions. So, the widespread of such viewpoints can mean an alert to society about the need for prioritizing the solution for this kind of process.

A briefing of the American case was made as a way to show how the public servants are hired in the Federal Government of the United States. Nevertheless, the concentration of the research was about the Brazilian case, because for us the present topic is an issue that needs to be strongly improved.

The political appoint positions in the Federal Government of the United States receive, basically, the same kind of selection procedures as is in Brazil, but for the career servers it is totally different. The latter usually acquire their first job by applying for a specific position that is openly advertised by an agency or by the Office of Personnel Management. In short, an applicant does not need to undergo a public examination to apply a public job. This process is quite similar to the one in the private sector in Brazil.

The greatest difference verified between United States and Brazil is that the number of non-civil servants appointments possible in the Executive Branch, is 3.150 by the former, while by the latter is 17.722.

Although the American Case does not contemplate a deep analysis, regarding the political appoint positions, apparently, they don't have the same concern that Brazil has. Nevertheless, we must not forget that to comparing processes among countries a necessary factor to be considered is the dynamism of each society.

REFERENCES

Alexandrino, Marcelo; Paulo Vicente. **Direito Administrativo**: Série Jurídica. 4ª ed. São Paulo: Impetus, 2002.

Bastos, Celso Ribeiro; Martins, Ives Gandra. **Comentários à Constituição do Brasil**: promulgada em 5 de outubro de 1988. São Paulo: Saraiva, 1988. 289 p.

Brazil. Constituição Federal. Organização, revisão, atualização e índices por: Geraldo Magela Alves *et al.* 1 ed. Rio de Janeiro: Forense, 2000. 339 p.

_____. Constituição Federal Organização, revisão, atualização e índices por: Antônio Luiz de Toledo Pinto *et al.* 18 ed. São Paulo: Saraiva, 1998. 234 p.

Bresser Pereira, Luiz Carlos. **Reforma do Estado para a Cidadania:** a reforma gerencial brasileira na perspectiva internacional. 34 ed. Brasília: ENAP, 1998. 365 p.

Câmara dos Deputados. **Consulta de Tramitação das Proposições.** Available on: <[Http://www.camara.gov.br](http://www.camara.gov.br)> November 11, 2003.

César, Luís Fernando Panelli; Yang, Philip. **A natureza do Estado contemporâneo.** Jornal Gazeta Mercantil, São Paulo, 21 de jun. 2001. Página A-3.

Coelho Motta, Carlos Pinto; Santana, Jair Eduardo; Jacoby Fernandes, Jorge Ulisses *et al.* **Responsabilidade Fiscal:** lei complementar n.º 101, de 4 de mai. 2000. Belo Horizonte: Del Rey, 2000. 545 p.

Cruz, Flávio da (Coord.); Vicarri Júnior, Adauto; Glock, José Osvaldo *et al.* **Lei de Responsabilidade Fiscal Comentada:** lei complementar n.º 101, de 4 de mai. 2000. São Paulo: Atlas, 2000. 220 p.

Gaetani, Francisco. **Capacitação de Recursos Humanos no Serviço Público**: problemas e impasses. Escola Nacional de Administração Pública. Brasília, n. 27, p. 3-23, jun. 1998.

Henrique, Ricardo (Org); Paes de Barros, Ricardo; Glock, Barros, Alexandre Rands *et al.* **Desigualdade e Pobreza no Brasil**. Rio de Janeiro: IPEA, 2000. 739 p.

Machado Júnior, José Teixeira; REIS, Eraldo da Costa. **A Lei 4.320 Comentada**. 26 ed. Rio de Janeiro: IBAM, 1995. 378 p.

Meirelles, Hely Lopes. **Direito Administrativo Brasileiro**. 25 ed. São Paulo: Malheiros, 2000. 765 p.

Minicucci, Agostinho. **Psicologia Aplicada à Administração**. 3ª ed. São Paulo: Atlas, 1995. 1983.

Ministério do Planejamento, Orçamento e Gestão: **Boletim Estatístico de Pessoal**, nº 87. 2003. Available on

<http://www.servidor.gov.br/arq_editaveis/pdf/publicacoes/boletim/Bol87_jul2003.pdf>

December, 02.

Mota, Paulo Roberto. **Gestão Contemporânea**: a ciência e a arte de ser dirigente. 6ª ed. Rio de Janeiro: Record, 1995. 256 p.

Nassuno, Marianne. **Demissão por Insuficiência de Desempenho na Reforma Gerencial**: avanços e desafios. Escola Nacional de Administração Pública. Brasília, nº 30, p. 3-13, set. 1998.

Newcomer, Kathryn E. An article that explain about **Measuring Government Performance** in the United States.

O que é a ENAP. Página Institucional da Escola Nacional de Administração Pública. Available on: <<http://www.enap.gov.br>> September 15, 2003.

Osborne, David; Gaebler, Ted. **Reinventing Government**: how the entrepreneurial Spirit is Transforming the Public Sector. 10 ed. Brasília: MH Comunicações, 1998. p. 26-50.

Oxford Advanced Learner's Dictionary. 5ª ed. Oxford University Press, 1995. P. 1428.

Presidência da República. **Propostas de Emenda Constitucional**. Available on: <<Http://www.planalto.gov.br>> November 11, 2003.

Revista Direito Administrativo, Contabilidade e Administração Pública - DCAP. São Paulo:
Direito Administrativo, mai. 2001. Mensal. p. 43-44

Rio Grande do Sul. **Constituição do Estado do Rio Grande do Sul**. Available on:
<[Http://www.al.rs.gov.br/legislação/constituiçãoodoestado](http://www.al.rs.gov.br/legislação/constituiçãoodoestado)>. October 18, 2003.

Santa Catarina. **Constituição do Estado de Santa Catarina**. Florianópolis: Imprensa Oficial,
1989.

_____. Lei n. 6.745, de 28 de dezembro de 1985. **Dispõe sobre o Estatuto dos
Funcionários Públicos Cíveis do Estado**. Florianópolis: Imprensa Oficial, 1988.

Souza, Ziegler de. **Privatização, eis a questão**. Informações Objetivas: Revista de Direito
Administrativo, Contabilidade e Administração Pública. São Paulo, ano V. n. 5, p. 33-42, may.
2001.

United States General Accounting Office. **Government Auditing Standards**: by the
Comptroller General of the United States. June 2003. 2003 Revision.