

## Chapter 107

# Public policies in Brazil: legally organized society

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### ABSTRACT

One of the issues that has been the subject of most debate in recent times concerns public policies of the State. The extreme urgency in meeting collective demands emerges as a way of solving economic and social problems, in order to make the country's development viable. It acquires a relevant and indispensable status for the development of a society, from the effectuation of significant changes in its historical context, seeking social insertion and the

quality of life of citizens. The clashes around it are in line with viable, more comprehensive and integrative process models, which require successive decision-making by their managers. However, it must be considered that all projects and programs related to public policies follow procedural and administrative rites defined in their own legislation, and that, when executed, they undergo rigorous inspections and inspections by the bodies that hold these portfolios. Thus, this study seeks, through a literature review, to carry out a theoretical debate among several authors on concepts and models of public policy and their implementation, with a view to raising questions and reflections on the problems faced by current Brazilian society. As a form of research, an integrative literature review was used, based on secondary sources published on the topics found in the bibliographies.

**Keywords:** Public Policies, Implantation, Organization, Society.

## 1 INTRODUCTION

Man is a social and political being, living in groups and/or societies. It is through participatory relations that it evokes cultural and social practices of great relevance, leading to the opportunity of great social transformations, making them more right to the needs of the collective and the public interest, which, in its way, makes them more efficient.

The participation of individuals represents a relevant role in the process of social dynamics, as well as the exercise of a more permanent and consistent control of the public thing should be drawn within the limits of the law, seeking the maximum quality and efficiency in the provision of essential public services. (VIEIRA; BARRETO, 2019). Thus, it increases the effectiveness of social policies delivered to society, as well as the control of public spending, with the indispensable legal regularity of the procedures adopted.

When installing public policies, keep in mind that it is essential to the effective participation of the three sectors of society: the State, the private sector and civil society. (MENDES; GOMES, 2018). Thus, any staff should always seek viable means for the elimination of social problems that affect a collective. However, every public process when executed must go through the scrutiny of the inspection and supervision of the competent bodies, and, when reviewed, will have or will not have its accounts approved. (BROOCKE; PAMPCANVAS, 2018).

The management administration carried out by these agencies, among its objectives seeks the maximum quality and efficiency of the provision of essential public services, increasing the effectiveness of social policies delivered to society, as well as the control of public spending, with the indispensable legal regularity of the procedures adopted by them. (FREITAS; BONTEMPO, 2019).

It is ceded, that both the administration, as well as those administered, must ensure and respect with due review, all dictates laid down by law, and must to do so, act only in accordance with the acts permitted by it.

It is from them that we can eliminate illegal and abusive conduct, distinguishing what is allowed and legal, convenient and proportional for the benefit of society, ensuring the proper functioning of the public machine, in the search for viable solutions to the collectivity. (ALMEIDA, 2018).

Thus, we seek this study, through the literature review, to make a survey of concepts and models of public policies and their implementation in Brazil, making a circumscribed approach based mainly on doctrinal discussions related to the political and social assumptions of Democracy.

## **2 STATE PUBLIC POLICIES**

Society can be defined as a conjuncture in which bonds between individuals or groups are processed, defined by principles and institutions. In this context, the social roles of each federative enter, each subject or social congregation are expressly established. (MARTINS, 2003).

It runs into the thesis that all organizations perform their tasks in multiple environments, gathered in systems, facing different forces and thus end up causing changes. (DUARTE, 2018). It is in this context that the environment is established in which organizations live and operate.

Trying to understand and evaluate the public and social policies implemented in the various governmental spheres, it is necessary in advance, to have a holistic view of the conception of state and of the social policies that support and govern such measures. (SILVA, 2013a).

The actions are traced in the power relations performed by the State, through the installation of government projects, encompassed by means of complementary programs, directly correlated to social, political, cultural and economic media, via actions, aimed at each specific sector of society. (MIOTTO, 2013).

On the aspects related to public policies, Höfling (2001) points out that they can be treated as a grouping of actions and programs, created and prepared by public managers, to be applied in a given society at certain specific periods, aiming to promote the quality of life of its employees.

Likewise, based on the social purposes exercised by the public power, in the view advocated by Frey (2000), it is delimited in the administrative political aspects, which, in step with its functions, seeks feasible means of eliminating the social problems existing in certain societies.

It is necessary to remember that when starting a public project by a certain government (federal, state or municipal), there are a multitude of specifications that goes from its nature and importance,

degree of viability, costs and benefits, as well as its enforceable means. (BRACAGIOLI NETO *et al.*, 2018).

Truth be that what is preserved in this political and social context is the effectiveness linked to constitutional guarantees, which, in difficult times, directly affect the poorest layer of society.

By means of rules, the construction of public policies meets its history, with aspects strongly linked to the industrial revolution. Men, women, children were placed in inhuman labor proceedings, with long work days and salaries that could not support the cost of their basic needs. (SAUCER; SOURCES, 2020).

In the Brazilian scenario, according to the thesis defended by Vaitsman *et al.* (2013), the themes related to social issues were strongly driven around the 1930s, with the numerous mobilizations by society that sought a basis of support for the implementation of a solid and egalitarian public policy, in favor of the interests of the collective.

Leite Júnior (2009), describes that it was in the "Vargas Era" that many social achievements were established, but for him, the state rigging was a bureaucratic model that drove the creation of public tenders and swelling of the public machine.

It is known that human evolution takes place not only through predefined structures or paths, but by the trust and self-determination of man when inserted in different groups and cultures. Therefore, with the delimiting advance of the capitalist process in today's society, numerous economic issues have arisen that have fostered new social subjects, in addition to those who live well below the poverty line. Violence, indiscriminate use of drugs, hunger and unemployment are emerging in the social environment, while there is a great cry from society to seek viable solutions in the effective increase of the country's development. (MAZZINI, 2007).

For Reis (2003), public policies are not only realized in the social utility of a given population layer. For the author, it points to the path of alternative actions, because, when constructing social processes, its need is increasingly ended in new increments to the detriment of the formulation of the historical moments conquered, in different periods of each society.

However, despite the number of regions that are more developed than others, with social programs in effect, with a portion of their citizens with good life expectant expectations, all issues related to public policy areas seem like an urgent and limiting process of watersheds. It is not only a right, but a duty of the State when it assumes this responsibility for itself.

### **3 LIMITATIONS OF PUBLIC POLICIES IN BRAZIL**

The legal norms are part of our legal system, whose purpose is sharpened in the regulation of the conduct imposed on individuals, imposing social rules for the good coexistence between their peers. Their theses are sustained in the application of sanctions, for those who disobey such legal precepts. Its main objective is to safeguard the country's order and social peace.

Therefore, legal norms apply in the most diverse legal relations that occur between individuals or any group of Brazilian citizens, without any distinction. They can be applied in individuals, legal, public or private, with immense destination and extension in all aspects of society. (SILVA, 2018).

When we refer to public management, but specifically on the public money spent by managers, they are subject to supervision, control, approval, disapproval or approval, with reservations by the Courts of Accounts and, subsequently, by the respective Legislative Houses of each federative enter. (OTA, 2016).

Thus, the idea of the legal nature and functions of the Courts of Auditors (Union, State and Municipality) leads us to the redefinition of the external control structure of Brazil, carried out by the Federal Constitution of 1988, constituting for which its prerogatives and other purposes. (OTA, 2016).

It is worth remembering that having as a remarkable characteristic the effective expenditure of public resources to ensure their effectiveness, social rights find different obstacles to their implementation.

Thus, the questions about the planning of social goals and programs revolve around the search for a more regionally balanced development, with a reduction in historical inequalities that characterize the different territorial contexts in the country.

Likely, it is up to the public administration to be compelled to inspect by the administrative, judicial and legislative control bodies, each with its particularities and specific areas of activity. In Brazil, this format is properly outlined in our Federal Constitution, where, in its body, there are the specifications of a series of procedural and administrative skills and rhythms to be followed. (SARAIVA, 2012).

Due to this new format, established in the body of the Constitution of 1988, what is verified is that, over time, new operational instruments of planning and intervention were created by the supervisory bodies, so that managers strictly follow the constitutional precepts, with the application of actions aimed at the needs of the population. (SARAIVA, 2012).

To validate this issue, Pereira (2010) discusses that it was from the promulgation of the constitutional text of 1988 that it was established and the control of public spending, and should be managed by special titled bodies, technically directed to issues that deals with public affairs, in the internal, external and social format.

This understanding is defended by Furtado (2007, p. 1050) when he clarifies that "the essence of the separation of powers is based on the idea that no power of the State should assume attributions that cannot be somehow controlled by another power".

It is necessary to remember that, both the acts performed by public servants who are constituted in their positions in direct and indirect administration, are subject to the controls of their activities, which will obey, also all characteristics, depending on the model by which they operate and are constituted.

In the words outlined by Medauar (2014), the State has a duty to satisfy all the needs of its population departing from all fundamental rights inserted in our legal system, however, these must be done along the lines of the laws imposed on it:

As the functions of the State increased the activities of the Administration; today it has acquired gigantic dimensions and has become fundamental in the life of the collectivity, being a conditioning factor for most of the economic and social relations of individuals, with the responsibility, above all, of seeking means for the realization of the rights guaranteed by the Constitution. This results in the enormous variety and complexity of the attributions that exercise. (MEDAUER 2007, p. 28).

Through the various control systems of the Public Administration, it is possible to submit to the law, with respect to individual and collective rights. Thus, the public manager cannot simply want to create programs that do not meet the needs of its beneficiaries, without a justification that sustains them, as well as use these funds for purposes other than those to be submitted.

Nevertheless, it refers us to say that the processes of planning and evaluation of public policies also take into account some questions that will differentiate them from each other. They differ in relation to their treatment, such as actions aimed at education, sanitation, health, housing, which are seen as a specific sectoral policy. On the other hand, policies within the scope of their coverage that covers social phenomena, institutional contexts and environmental scenarios in which they will occur to the desired intervention, in order to provide more accurate means for the definition of diagnoses and the achievement of goals, necessary partnerships and implementation instruments. (SILVA, 2013b).

This will be up to managers to apply public money correctly for the benefit of the country's collectivity, growth and development. In the event of any deviation of purpose on the part of these, it will be up to the supervisory bodies to intervene immediately, with the application of sanctions to each specific case.

What is actually sought is the guarantee that the Public Administration acts in harmony with the principles imposed on it by the legal system, currently based on the Constitution itself and implicit in the very conception of the rule of law.

#### **4 IMPLEMENTATION OF PUBLIC POLICIES IN BRAZIL: A LEGALLY ORGANIZED SOCIETY**

Debates on the theme of Public Policies become increasingly important for the improvement of the state's actions and for the improvement of the quality of life of its population. The average geographical extent of the territories varies greatly, both between the programs and also between the territories of the same program, with strong regional disparities in the occupation of their spaces and organizational models. (FLORES, 2006).

What is in the current Brazilian scenario is that in certain regions there is an accelerated growth of governance, with the application of viable measures of social programs, economic, cultural and promotional growth. However, this reality is still far from being realized in all regional spheres of the country.

Nevertheless, it is emphasized from this scenario the importance of applying the principles of Public Administration contained in the Federal Constitution of 1988, especially the principle of administrative

morality, which has been widely debated in the current legal content, and which are described in Articles 15, V, and 37, XXI, § 4. (BRA II S, 1988).

Thus, one of the various innovations of the Federal Constitution of 1988 is delineated in the fight against corruption, transparency, administrative probity and the restriction of the powers of the Public Administrator.

However, it is ceded that administrative acts considered illegal must be evider of "serious guilt", since the legislator in describing the legal type, qualified the conduct of the public agent coupled with injury to the airdepartment to be penalized. (GOMES, 2018).

In times of globalization, state-of-the-art information technology and modernized work processes, there is still a portion of the population that lives in a stage of misery, without having minimum conditions of survival. However, it is observed that, however, the social inequality is visibly stamped on the world stage, however, however, the resources available by managers and applied in the most diverse social areas (health, education, safety, culture, sports, etc.) social inequality is visibly stamped on the world stage.

There are numerous factors that corroborate this negative scenario, such as deviation of public funds, ineffective supervision, ineffective and corrective legislation, lack of planning, among others.

On social issues, Arend (1971, p.22) describes:

The social issue only began to play a revolutionary role when, in the Modern Age, and not previously, men began to doubt that poverty was inherent in the human condition, doubting that the distinction between the few who, by circumstances, force or fraud, had managed to free themselves from the shackles of poverty and the wretched working crowd was inevitable and eternal

Our Federal Constitution, promulgated in 1998, establishes social management guidelines in its various articles. Social rights are set out in Art. 6 of CF/88, so let's look at:

Art. 6 ° Social rights are education, health, food, work, housing, leisure, security, social security, protection of motherhood and childhood, assistance to the homeless, in the form of this Constitution. (BRAZIL, 1988).

It is noticeable that social rights are the fruit of society's own need in search of the reach of its rights and its very essence. Because of this, the certain constitutional provision determines that the Executive, Legislative and Judiciary Branches must maintain, in an integrated manner, internal control systems with the purpose of evaluating the achievement of multiannual plan targets and the implementation of public budgets, in addition to proving the legality and evaluating the results, in the aspects of efficiency and effectiveness, of the budgetary, financial and patrimonial management of the organs and entities of the administration, exercising control of credit operations and supporting external control. (CHIAMENTI; SANTOS, 2013).

Nevertheless, it corroborates the idea that the democratic practices of good public management cannot be based on antagonistic models, but on the implementation of public policies compatible with the social reality of each federative group. As Yasbek describes, (2004, p.26):

(...) in the arduous and slow trajectory towards its implementation as a rights policy, there remains in the Brazilian Social Assistance an immense fracture between the announcement of the right and its effective possibility of reversing the cumulative character of the risks and possibilities that permeate the lives of its users.

Thus, actions aimed at all social issues must follow regionalized standards, according to the needs of each region. With regard to the subject, Moraes (2003, p. 202), defends:

Social rights are fundamental rights of man, characterizing themselves as true positive freedoms, of mandatory observance in a Social State of Law, with the purpose of improving the conditions of life to the hyporelian, aiming at the realization of social equality, and are consecrated as foundations of the democratic State, by Art. 1, IV, of the Federal Constitution.

Truth be that, in the current world scenario, numerous models of public investments have emerged, whether carried out in the cultural, educational, scientific, technological and so on, and that, because of this, the protection of the supervisory bodies has also had to invest and increase with greater caution their degree of control and supervision of public accounts, aiming at the realization of all public functions of the State and the elimination of deviations from public funds.

It is denoted that the Federal Constitution of 1988, assigned to the Courts of Auditors a series of powers and functions, in addition to enduring them with various mechanisms of control and supervision of public accounts, aiming to ensure that the public administration acts in accordance with the constitutional and legal principles to which it must submit. (BRASIL, 1988).

It is worth remembering that the inspection is not only based on the deviations of public money, but also in the models that are proposed, because the purpose of each public project is to meet the need of the population.

It is also noted that, from the publication of Law No. 12,527/11, greater emphasis and emphasis on access to information was given, where, through the Law on Access to Information, the procedures to be observed by the Union, States, Federal District and Municipalities were delineated, in order to guarantee access to information provided for in paragraphs XXXII, article 5, in item II, of § 3 of Art. 37 and in § 2 of Art. 216 of the Federal Constitution. (BRASIL, 2011).

It is denoted, to this end, that the ideal of a democracy is one that allows the effective right of choice, projects citizenship and the development of freedoms, as a defense of the different ideological compositions of a nation.

Moreover, it is corroborated that, with the effective popular participation, numerous transformations have occurred throughout our history, requiring the State to recognize and compromise the implementation of social actions in favor of a common good, requiring the

implementation of differentiated actions in the national territory for a more balanced development among federative entities.

In the current Brazilian scenario, however efficient and guide methods of good public management are designed or programmed, there are those who flee this context for their own or inappropriate interests.

In the lessons outlined by Faria (2004, p. 32), there is a clear identification of the characteristics of the current social phenomenon, as follows:

With the phenomenon of globalization, the institutional, organizational, political and legal structures forged since the seventeenth and eighteenth centuries tend to lose both their centrality and their exclusivity. Within a transnationalised economy, the relations between the international problems and the internal problems of each country are being progressively reversed, so that the former are no longer only part of the second; on the contrary, international problems not only become above national problems, but also condition them.

Numerous went to the implementation of public administrations and creation of goals for the strengthening of the public resource management system, where national states began to play important roles in the national context, but there are some, still, that disappoints this reality, creating maneuvers of deviations of public money, even though they are subject to strong inspections and severe punishments, deeply compromising the planning capacity of a particular region of the country.

From the new reality experienced, where some actions are performed more successfully, and others want to leave the role, it is shown, therefore, the inability on the part of some managers to efficiently manage the exarium, with the application of goals and actions that truly meet the society in need.

On the subject, Mestriner (2001, p. 170) defines his position very vehemently:

The creation of new organisms follows the logic of social shredding, creating services, projects and programs for every need, problem or age group, composing a sectorized, fragmented and discontinuous practice that lasts to this day.

At the point of these considerations, it is noted, in advance, that it is necessary to analyze with greater emphasis and caution what are the criteria and methodologies adopted by some public managers, and also by the supervisory bodies themselves, whereas, it is true the connotation of great social disparity between the regions of our country. Not least because, when comparing the South and the Northeast region, in certain cities there are clearly advances in the social programs. However, in others, the actions unfortunately still remained on paper.

Thus, there must be greater action, not only by public managers and their supervisory bodies, but also an effective popular and social participation, in favor of the search for improvements and social conditions to the entire layer of the national population.

The controversies in the conduct of this new paradigm of state intervention, pointing out its methods, instruments and procedures created to obtain the expected progress need to be clearly aligned



and clarified. What is actually true is that the focus of analysis is more on the governance mechanisms established by the policies, than on their own content.

## 5 FINAL CONSIDERATIONS

In recent times the issues related to the social theme have been gaining space of great proportions throughout the planet. The lack of planning and public management affects all the segments of society, not only in Brazil, but around the world.

The extreme urgency in meeting collective demands emerges as a way to equate economic and social problems, in order to enable the development of the country where social priorities, in any instance and in any government should be mediated as soon as possible.

In recent years, planning capacity is again understood as a necessary element for government action. It is a cornerstone for the progress of a nation, from the realization of significant changes in its historical context, seeking the social insertion and quality of life of citizens.

In this study, we sought to make an analysis of concepts and situations about public policies, especially that of our Brazilian scenario. The clashes around them meet viable, more comprehensive and integrative process models that require successive decision-making by their managers.

It turns out that, as much as there are inspections by the courts of auditors, there is still a long way to go so that we can achieve success in social actions. Corruption, the deviation of purpose by some public managers is visibly observed when surveying the living conditions of our population.

The fight against corruption must be put into practice urgently, so that the punishments reach all equally, with more severe and effective penalties, avoiding damage to the public coffers.

It is worth noting that supervisory bodies are important instruments in the fight against corruption, and that it represents a fundamental guarantee for society. They must be focused on the interests of society, acting in the most different ways, in a responsible and coherent way.

In view of the scenario, the thesis that the right must be guaranteed in all instances and in an equal manner, and should therefore be more active by the supervisory bodies, so that they act quickly and accurately in combating corruption stamped in public bodies, avoiding damage to public coffers, and not, only after criminal acts have already been carried out, because much of the financial deviations are not possible.

Moreover, it is clear that the public authorities should make room for debate, with greater participation of citizens, because this will become more legitimate and safe for all involved.

Finally, it is worth noting that the supervisory bodies are important in the fight against corruption, and that it represents a democratic guarantee for society that state administrative competence will be exercised responsibly and consistently.

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