Title:

Is there space for Senior Civil Servants hybrid management models across political-administrative systems?

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Abstract

Bureaucracy is, nowadays, synonymous with inefficiency, ineffectiveness, impersonality, stiffness as well as uselessness, wastefulness or even corruption. Despite the negative connotation of the word bureaucracy is in fact an essential structure for the implementation of public policies. It is difficult to conceptualize a governmental model without the existence of such a structure. Therefore, the question that remains up to date since the end of the nineteenth century has to do with the balance and relationship of political and administrative powers.

Formally, there is a clear separation between the political and the administrative functions and roles. However, in practice, this crystal relationship gives place to a more complex reality according to the specificities of each country. Taking this into consideration, this paper analyzes the evolution of the senior civil servants selection processes according to the main models of State and Administration. Other aspects addressed include the political-administrative dichotomy and the relationships between administrative actors (traditionally selected for a long period) and political actors (elected for a short period by citizens). Although these relationships are, in a theoretical approach, quite clear and "crystal", according to the formal tasks of each actor, in practice they are not clear and these two actors are mutually dependent: political actors rely on civil servants' knowledge and civil servants are under the authority of elected politicians. This issue is relevant when analyzing both the legitimacy of the civil servants' power and their independence and neutrality towards political bodies. Firstly, it poses the question of democratic legitimacy, considering that senior civil servants hold some informal power that can influence and determine the design, implementation and evaluation of public policies and, consequently, its original meaning. Secondly, it raises issues of administrative neutrality and independence because, in a limit situation, the proximity and inter-permeability relations between political and administrative actors enhance the discussion about the administration impartiality as well as the social representativeness of public policies.

Considering this context this paper identify the main models of interaction between political and administrative actors were identified, in a theoretical perspective. However, these are extremist and idealistic models that disregard the potential combinations of more than one model. For this reason and according to the identified political-administrative macro-configuration models, representative cases were selected in order to identify specificities of senior civil servants' selection and the recruitment processes, as well as selection and public employment typologies.

This paper also points some proposals in order to get a more integrated strategic selection and management policy for the senior civil servants, aiming at the improvement of transparency, legitimacy and merit among the selection processes.

1. Introduction

From the 18th century to our days, Public Administration literature has been debating which political-administrative model best feats to the citizens' public interest. In the recent past administration was too politicized and nepotism and patronage systems were hardly present. In the 19th century the Northcote-Trevelyan Report (1854) appealed in the United Kingdom for a new system where a meritocratic system should enhance public administration performance. Some years after, in the United States of America, a federal law was published – the Pendleton Act (1883) also aiming at a more professionalized public service (Wilson, 1887). These two marks required a completely different approach on the delivery of public services. Public Administration changed its administrative model and became more independent from politicians having a more professionalized public service as Pitschas (2006: 35-52) advocates. However, as noted by Peters (1996: 5), the adjustment process was made in a snail's pace. Nevertheless, in 1904, an half of the USA's civil servants were already recruited within a merit system. Those were the first steps to the institution of the legal-bureaucratic: "when we can set apart the political activity from the administrative activity we can speak about the Weber's legal-bureaucratic administration model" (Rocha, 2006: 6-7). This model gave a great contribution to the establishment of a professionalized body of civil servants which were protected by legal statutes from the discretionary power of politicians.

This was a prerequisite to develop a more professionalized and independent public administration. Nevertheless this environment provided a context in which professionalized civil servants detained great knowledge of the administrative [and also political] technicalities, procedures and legal framework (Peters, 1996:3; Chevallier, 2002:73). This environment brought a lot of [informal] power to the administrative bodies which increased with the New Deal policies and the consolidation of the Welfare State paradigm. New professionals were required and consequently public administration increased civil servants numbers strengthening the influence and supremacy of the professionalized bureaucracy, now composed from doctors, social assistants, teachers and lawyers). Senior Civil Servants from those professionalized bodies gained an excessive power over public policies, privileging their own individual interest over the public interest, as frequently argued by public choice enthusiasts.

Public Choice and the New Public Management approaches incentivized the decreasing of senior civil servants influence in public policies and administration. Therefore political involvement in administration became a reality, firstly in countries

such as the United Kingdom, where public reform changed the traditional public service structure, and then worldwide (Rocha, 2000:10, Mozzicafreddo, 2001: 3-1, Peters, 1996:4-13). As noted by Rocha (2005b: 11) and Madureira (2006:47) the traditional methods of recruitment and selection were substituted by other methods where political trust or party allegiance became the major criteria on the selection of senior civil servants, diminishing the presence of what once called mandarins.

The graphic below represents the cycle evolution on the senior civil servants selection criteria, presenting the politicization level in the occidental countries and, in particular, those who first adopt NPM doctrines.
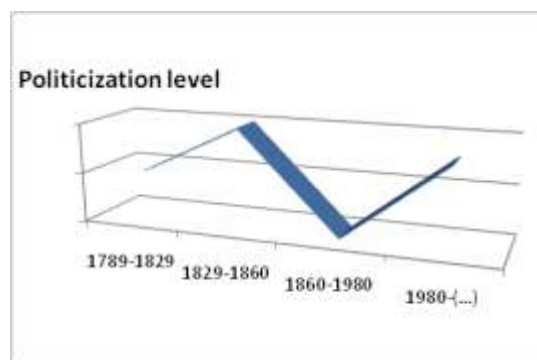

Figure 1: Politicization evolution

Nowadays we are rethinking again the system asking which political administrative system best reply to current challenges.

Authors such as Peters (1987: 258), Aberbach, Putnam e Rockman (1988: 1) argue that hybrid systems[1] are the ideal type, as they gather the strengths of both meritocratic and politicized systems. But, is it really true and practically possible? What kind of political-administrative configurations do we have nowadays across the world?

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[1] In our analysis we should have present that when we refer to hybrid management models we are referring to the presence of both independence / neutrality and trust values on the political-administrative configurations. This is to say that top public managers are selected and managed based on both this two values.

2. Political-administrative systems

As Peters refers (1987: 257) literature regarding the relationship between political and administrative actors is anecdotal. The existent literature towards this issue frequently agree that, in theory, there is a division between political and administrative roles (Chevallier, 2002; Mulgan, 2007). Nevertheless if in theory this issue is unquestionable in practice many authors state that it is impossible to define a remarkable border between political and administrative actors. In spite of the poor evidences on relationships between those two actors some authors (Peters, 1987; Aberbach, Putnam e Rockman, 1988) presented some theoretical models, considering the configuration of political-administrative systems. We assume that it is not our intention to present those models in detail here. We are more interest on the classification of each model considering it main political-administrative configuration toward the values of trust and neutrality / independence. Table 1 presents the models defined by those authors according to the main value they promote.

Table 1: Political-administrative models considering the value they promoted

| Proposed models	Principal Value	Graphic representation
Peters Formal Model; State Administration Model **Aberbach, Putman e Rockman** Image 1, 2	Neutrality / independence	1
Peters[2] **Aberbach, Putman e Rockman** Image 4	Hybrid values of trust and neutrality and independence	2
Peters Village life / functional village life **Aberbach, Putman e Rockman** Image 3[3]	Trust	3

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If we represent this values and models graphically we will find that there is some space (between trust and neutrality/independent configurations) to the hybrid management models. Hybrid management models suppose the presence of both values of trust and independence / neutrality as representation 2 of figure 2 illustrates.

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[2] Village life and Functional village life Peters' models represent the marriage between politics and administration representing, in a first analysis, a hybrid model. However, considering that bureaucrats are usually nominated based on political trust they are frequently more closed to trust models than to independent and neutrality models.

[3] Although Image 3 does not represent directly trust as a value it suggest that administrative actors are submitted to political actors.

Figure 2: Political-administrative representations considering the values they promote
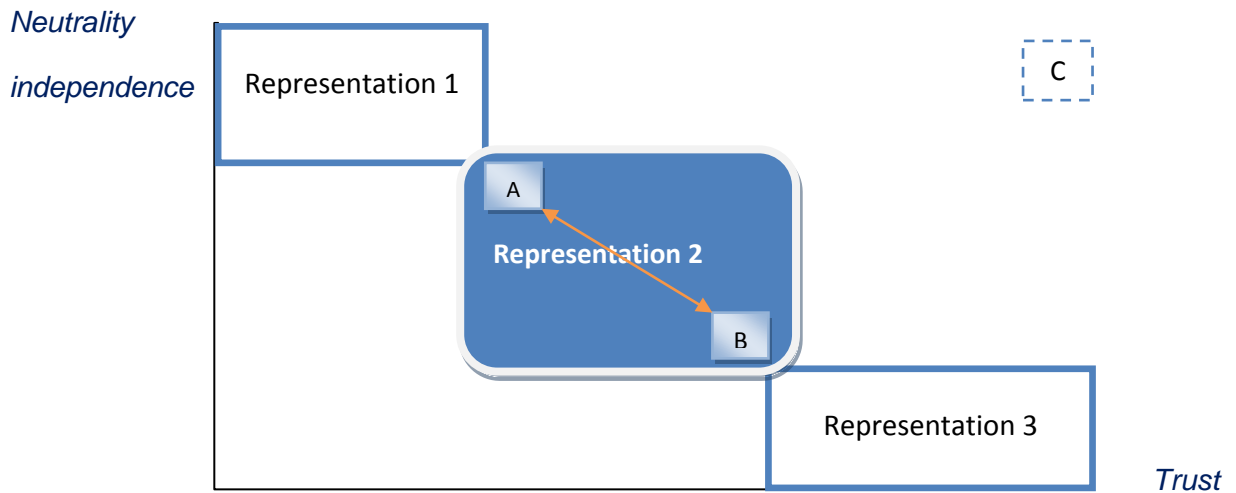
In spite of representation 2 symbolize the hybrid models political-administrative configurations under this representation can shift from neutrality / independence values to trust and political confidence values, as we can see between A and B points. It is uncommon, not to say impossible, to have both neutrality and trust values in them maximum (point C). That is to say that we can only have simultaneously neutrality/independence and trust under the representation 2 space and between A and B points. In other words, even on hybrid models political-administrative configurations tend to be more or less political depending on the position they took under the A-B space of representation 2.

By configuring a political-administrative system constitutionalists are deciding how political and administrative actors interact with each other. If we aim a more professionalized system, regarding the principles of the Rechtsstaat, we have to configure a more independent and neutral administration. Otherwise, if we aim at a more political configuration, ensuring that administration do what politicians want, we have to configure a more politicized system with damage to an independent and neutral administration. This tradeoff remains us the difficult art of configure a system that best enhance public interest.

On the one hand if we aim for a neutral and independent system we have to deal with issues like administration's lack of legitimacy. As administration has not been elected by citizens it has to implement strictly what politicians demand in order to do not suffer from illegitimacy. One could argue that the technical legitimacy, that perhaps legitimate administration' decisions, has not been used to promote public interest and can even

be used to subvert public policies' original spirit with potential damage to public interest (Aberbach, Putman Rockman, 1981 e Diamant, 1989 apud Herzfeld, 1992: 2).

On the other hand, if we opt for a politicized system, based on political trust, the independence and neutrality of public administration can be questioned in terms of the proximity and inter-permeability relations between public officials and politicians. In this case also a private elastic interest could be subjugated to the public interest.

This is a real trade-off: no matter what system we choose, we always lose some value to another. So the question is how to minimize this trade-off? How countries across the world deal with this trade-off? Is there a ideal-type configuration?

To answer those questions we had to analyze some political-administrative systems focusing on the senior civil servants selection criteria. We had considered four representing countries: France, Portugal, United Kingdom and United States of America.. On the following topics we will only point the most important data concerning each model[4].

2.1. French and Portuguese model

France and Portugal represent a traditional European model of administration based on political trust and political confidence. There are many references that connect the selection processes to elitists' recruitments (Ex.: ENA-FR). Politicization level is usually high and exposes both the influence of Administration in Politics and the influence of politicians in administration. Consequently, in those countries, it is very hard to draw a distinctive line between the political sphere and the administrative one.

2.1.1. France

In France political authorities have a great power to select / appoint senior civil servants. Senior Civil Servants are selected inside or outside the administration. The main criterion is the political or personnel confidence or trust. Therefore Senior Civil Servants are usually selected considering their party allegiance. The system ensures that government program is implemented whatever its merit (Mulgan, 2007: 571). In any circumstances, politicians have the power to appoint or dismiss nominated officials

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[4] More detailed data is available at www.iscte.pt / www.dferraz.net ; Ferraz, 2008

"at the pleasure of government" (Shepherd, 2007: 4). As noted by (Shepherd, 2007: 4) this system favours a patronage based system, undesirable on developed democracies.

In France *les grands corps* have great prestige being in direct contact with the ministers (Peters, 2001: 145). The system allows appointments for the following posts (Décret nº 85-779, 2005):

- General Director
- General Secretary
- High commissar
- Commissar
- Civil Governor
- Chief of Public Administration Inspection
- Other Senior Civil Servants that work directly to the government

Although not compulsory the system gives a great importance to the training given by the *École Nationale d' Administration* (25º article, Décret nº 85-779, 2005). At this point and considering the findings of Nunes and Rouban (2000: 25; 2007:477) we have to about admit that, despite politicians have total freedom to appoint who they want, the recruitment is, in 89% of the cases, internal. This means that those who are nominated are frequently public servants and only 20% (of 8000) are women (Rouban, 2007: 477). Curious are also Bellier' findings: in a study conducted in 1993 he found that 46% of the French senior civil servants had, within their nuclear family, someone who was also a Senior Civil Servant. Rouban (2007: 491-492) also noted that ¼ of the members of ministerial cabinets were already in that function before. The cabinet chief worked 35% of his professional life in ministerial cabinets. In spite of a politicized context France introduce some measures to reduce arbitrary at the political level: in the case of some political appointment both, the Government and the President, have to validate it. Unfortunately what usually happens is that both the government and the president fight for the nomination of his "boy" which is a clearly sign of the level of politicization.

2.1.2. Portugal

Portuguese administration has been traditionally connected to the Napoleonic type of administration. Therefore it structure follows the same model of the French'

administration where trust and political confidence are the prime criteria on the selection of top officials. In the Portuguese case there is some historical specificity that turns the administration, in recent periods, even more politicized. Portugal did not pass thought a pure meritocratic ideology like other countries such as Great Britain where top official were permanently nominated. Even after 1974 and the Cravo' revolution Senior Civil Servants' statutes stated that almost all the directive positions, even those in an intermediate level, were trust-positions. Only thirty years after, in 2005, a new legal framework was approved establishing that some senior posts should be more professionalized (Law 51/2005). Nevertheless the new legal regime reaffirmed that a great part of the senior positions should remain politicized, including the following posts:

- General director
- Sub-general director
- Agencies Presidents
- Agencies Vice-Presidents
- Commissar
- General Inspector
- Sub- General Inspector
- Civil Governor
- Other Senior Civil Servants that work directly with the government

In spite of being too soon to have accurate results as noted by Madureira (2006:41) it seems that there is some will to control and evaluate the appointments of senior civil servants in the Portuguese public administration. However there are currently some evidences that let us suppose that the impact on political appointments is imperceptible and that Portuguese public administration remains too politicized at the top of the public administration.

2.3. The United Kingdom model

British administration is, in general and in a formal way, composed by civil servants selected through a meritocratic system. This should ensure same administration independence and neutrality. However there is also some political influence without damage to a relative clear border between administration and politics (Shepherd, 2007: 20-23) and to the efforts made to maintain this border unambiguous. When recruitment

takes place the Senior Leadership Committee evaluates each candidate and makes a shortlist concerning the Civil Service Code principles. The final decision, from the shortlist, is made by a politician.

Despite all the formalism to guarantee the merit of a nomination Dowding (1995: 109) noted that Senior Civil Servants remain an elite from Oxford and Cambridge Universities, at least historically. Conversely some measures have been introduced to control and ensure transparency in public nominations and control excessive discretionary (shortlists, competencies referential and referees, institutionalization of top positions on the Senior Civil Service, nominal publicity and ethical codes). This instruments contribute, in a certain way to control *mandarins* and political discretionary, combining hybrid nominations to some positions. It is the case of the Permanent Secretary nomination: it is the member of the government that selects the candidate taken into consideration the Senior Civil Service or Public Service Commission purpose (Shepherd, 2007: 20-23). This kind of measures conjugated the traditional permanent professionalized positions with some new political flexibility on appointments, requested by Thatcher, resulting on a hybrid management system on the top positions of the public administration.

2.4. The United States model

The USA federal government is composed of about 6000 senior posts, of which about 1000 have to be confirmed by the Senate. There are some political positions (700) reserved to the Senior Executive Service (SES) members (Shepherd, 2007: 13-14). The political posts are appointed by the president considering a pre-established pool where civil servants, contrarily to the European countries, are rarely present. The system is the result of the institutionalization of senior posts in 1978, year of SES' creation. It has been created to reduce political arbitrary and enhance transparency. Entering SES means going through a meritocratic process where a Qualification Review Board evaluates each candidate's profile and competencies. The system is based on the merit principle that "all employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, colour, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights" (Merit System Principle - 5 U.S.C. 2301).

Peters (2001) and Bonosaro (2000) findings suggest that about 66% of the posts are occupied by members of the SES and 34% selected considering political factors. However, from those 34%, 22% are already members of the SES, leaving only about 12% of the senior civil servants to be selected at the *government pleasure*.

5. Conclusion: Is there space for Senior Civil Servants hybrid management models across political-administrative systems?

Bearing in mind the evidences of each system we can conclude that the UK and USA' system are closer to the hybrid models of senior civil servants recruitment where merit, neutrality, independence, trust, confidence and transparency are conciliated.

Our main findings suggest that there is some space for hybrid management models on political administrative systems. However this is a limited space because hybrid management models are restricted to A-B spaces (representation 2 of figure 2). This was confirmed on our study on political administrative systems in some countries. The study reveals two main categories: the political model (France and Portugal) and the hybrid model (UK and USA). There are currently no evidences of a complete and unquestionable professional and meritocratic restricted model (Table 2).

Table 2: Political-administrative systems across the world

Dominant political-administrative system	Country
Political model	France, Portugal
Professional / meritocratic model	-----
Hybrid models	USA,UK[5]

The evidences collected on this paper revealed that even in hybrid systems political-administrative configurations are closer to one of the main values (neutrality/independence or trust)

Therefore our main findings suggest that:

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[5] Although these countries represent the hybrid models they are closer to trust values than to independence and neutrality.

- Countries such as France and Portugal, whose administrative system is based on the Napoleonic matrix, still remain too political;

- The United Kingdom is the political-administrative system closer to the professional/meritocratic model but, in practice, it is a hybrid model since the last decision remains to the politicians (Civil Service Commissions, Senior Civil Service, JESP criteria);

- In spite of USA system has a hybrid model it is more closed to political trust, even with the creation of SES. Both merit and political trust are the criteria taken into account in the selection of senior civil servants.

Considering those findings we can conclude and reflect about the following points:

- In the political models, which France and Portugal belongs to, senior civil servants are considered an elitist group (French Haute Fonctionnaire; ENA). There is a large amount of (re)nominations when a new government takes office after an election process in those countries rebuilding the *old buddy networks*.

- By being under the supervision of politicians senior civil servants have low levels of accountability in political systems

- Political-administrative systems don't tend to use extreme meritocratic systems. There are no evidences of such a system nowadays.

- Hybrid models minimize the tradeoff between neutrality and the lack of legitimacy, taking into consideration both trust and independence as values.

- Even in the hybrid models there is a proximity to the political values. This means that the model takes into account independence, neutrality, merit and trust. However politicians still have a great power on the selection processes while the ones that are democratically legitimated.

Although Thatcher's and Reagan reforms introduced some political criteria on nominations, UK and USA still being the countries more closed to hybrid models comparing with other countries such as France, Portugal and also Spain. These countries remain too political basing the appointments mostly on the political trust criteria.

The evidences collected on this paper state that senior civil servants hybrid management systems are shyly and timidly present across the analysed political-administrative systems, even on those countries such as UK and USA, and that

political-administrative configurations such as those of France and Portugal can introduce some measures to enhance transparency and conjugate both trust and independence and neutrality.

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