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Partnerships between public and private sectors in Brazil: towards efficiency?¹

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Abstract: This research was developed to understand the role played by partnerships between public and private sectors in Brazil, especially with regard to increasing efficiency in the provision of public services. Through the use of historical and dialectical methods, anchored in bibliographic and documentary research, alongside indirect data analysis, we discuss the arguments in favor of and against the use of such partnerships within the Brazilian destatization program, as an instrument to promote the rights of the collectivity. After drawing a historical line of the construction of the third way, in which partnerships arise, and debating the fundamentals of state subsidiarity, it appears that there is a mystification of state inefficiency and market superiority. Furthermore, although the number of initiatives and signed contracts has increased over the years and has been encouraged by the government, partnerships are still ineffective in practice. Partnerships, so-called innovative arrangements, are focused on old (neo) liberal practices, moving society away from public decision-making processes and weakening rights on behalf of profit, consisting in a form of transfer of capital from the State to small private groups. Sometimes there is also a lack of transparency in the actions of the private partner and the inspections by the public partner are insufficient.

Keywords: Development; Neoliberalism; Third way; Destatization; Privatization.

Parcerias entre o poder público e a iniciativa privada no Brasil: rumo à eficiência?

Resumo: Esta pesquisa foi desenvolvida para compreender a função desempenhada pelas parcerias público-privadas no Brasil, sobretudo no que tange ao ganho de eficiência na prestação de serviços públicos. Por meio dos métodos histórico e dialético, ancorados em pesquisas bibliográficas, documentais e análise indireta de dados, discute-se os

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argumentos favoráveis e contrários à utilização das parcerias, no bojo do programa de desestatização brasileiro, enquanto instrumento de promoção dos direitos da coletividade. Após traçar uma linha histórica da construção da terceira via, em que as parcerias ganham destaque, e debater os fundamentos para a subsidiariedade estatal, infere-se que há uma mitificação da ineficiência estatal e da superioridade do mercado. Ademais, ainda que o número de iniciativas e os contratos assinados tenham aumentado ano após ano e que governo após governo sejam incentivadas, na prática, as parcerias carecem de efetividade. Supostos arranjos inovadores, as parcerias estão voltadas às antigas práticas (neo)liberais, afastando a sociedade dos processos de tomada de decisão pública, reduzindo direitos em nome do lucro, constituindo uma forma de transferência de capital do Estado para pequenos grupos da iniciativa privada. Por vezes, também, há falta transparência nas ações do parceiro privado e são insuficientes as fiscalizações realizadas pelo parceiro público.

Palavras-chave: Desenvolvimento; Neoliberalismo; Terceira via; Desestatização. Privatização.

Introduction

In a broad sense, partnerships are understood as collaborative relationships established between the government and the private sector, making up the state strategies to promote development. They have been consolidated in the mid-1990s², inaugurating an alleged third way, which would not strive for a Minimal State, neither an overly Intervening State. Partnerships would be able to accomplish everything the State was struggling to implement alone, keeping the public interest in mind³.

In this context, the research will be organized around the following dilemma: have partnerships between public and private authorities been presented as instruments to promote efficiency in the provision of public services? Thus, the general objective of this work is to understand the role played by partnerships in Brazil, aiming, specifically, to analyze, in a critical way, its use as a debureaucratization standard, identifying the development model – liberal or socio-environmental – it is based on, considering that theory does not always correspond to practice.

To achieve such objectives, the research will be guided by historical and dialectical methods, based on a bibliographic and documentary research, outlining the main concepts and events that allowed Brazil to adopt the privatization model and, more recently, the destatization model, in which the government gives way to the market forces. Then, through the use of indirect data analysis consolidated by the federal government and the Radar PPP Project, we will discuss the use of partnerships in Brazil, highlighting the antithetical arguments around the theme.

The article is divided into three sections, the first of which addresses the political and historical construction of the third way as a policy that ends up aligning itself with the (neo) liberal project. The second section discusses the myth built around state efficiency in order to legitimize the reduction of its role. Finally, the third section analyzes, in detail, the Brazilian reality and the adoption of partnerships as a mechanism of public governance, highlighting the criticism surrounding its increasing expansion, even though the results are not satisfactory.

2 CHAVES, Maria Bernadete. **As parcerias público-privadas no direito brasileiro**: uma abordagem jurídica com destaque ao fundo garantidor. Florianópolis: Conceito editorial, 2007.

3 GIDDENS, Anthony. **A Terceira Via**: reflexões sobre o impasse político atual e o futuro da social-democracia. Rio de Janeiro: Record, 2001.

It is also important to stress that it is not within the scope of this work to exhaust the analysis on the topic. On the contrary, we hope to stimulate new researches and critical analysis about the use of partnerships between public and private sectors in order to promote the public interest.

The promises of a third way or an old (neo)liberal practice?

With the proposal to reform the State, the third way gained strength in the course of the 1990s, between neoliberalism and social democracy⁴.

The third way was originated in England, during John Major (1990-1997) and Tony Blair (1997-2007) administrations, and consisted of a conservative political-economic project of deregulation and destatization of the national economy⁵. It was elaborated as opposed to the Keynesianism that had spread around Europe in the previous decades, aiming to overcome the neoliberalism consolidated by former Prime-Minister Thatcher⁶.

Following such premises, alongside the process of digital globalization in the end of the twentieth century, there was a real campaign for the reform of the Brazilian State, with the purpose of transferring to the private initiative all the activities that could be performed without the State, whose new role would be now to act as a policy promoter and regulator, moving from a bureaucratic model to a managerial one^{7,8}.

In this context, a Social-Liberal State would be built. The public power would still have the responsibility of promoting social rights, such as education and health, but the private initiative, or the generically defined non-state public organizations, would be granted with the execution of public policies⁹. Thus, like the neoliberals, the defenders of the third way believed that the State should have a subsidiary character¹⁰. However, while the former defended privatizations, the latter defended partnerships¹¹.

4 GIDDENS, Anthony. **A Terceira Via**: reflexões sobre o impasse político atual e o futuro da social-democracia. Rio de Janeiro: Record, 2001.

5 *Ibidem*.

6 GROPPPO, Luís Antônio; MARTINS, Marcos Francisco Terceira Via e políticas educacionais: um novo mantra para a educação. **Revista Brasileira de Política e Administração da Educação**, Goiânia, v. 24, n. 2, p. 215-233, 2008.

7 “While the bureaucratic public administration focuses on the process defined by the law and on defining procedures (...) the managerial public administration is oriented towards results”. In this way, the managerial state would be the one aimed at the citizen, assuming that politicians and public agents should deserve a low degree of trust, thus adopting, as a strategy, the decentralization and the incentive to creativity and innovation (BRESSER-PEREIRA, Luiz Carlos. **Administração pública gerencial**: estratégia e estrutura para um novo Estado. Brasília: MARE/ENAP, 1996a). All translations of bibliographic excerpts were made by the authors for the sole purpose of this article.

8 BRESSER-PEREIRA, Luiz Carlos. **Crise econômica e Reforma do Estado no Brasil**: para uma nova interpretação da América Latina. São Paulo: ed. 34, 1996b; GROPPPO, Luís Antônio; MARTINS, Marcos Francisco Terceira Via e políticas educacionais: um novo mantra para a educação. **Revista Brasileira de Política e Administração da Educação**, Goiânia, v. 24, n. 2, p. 215-233, 2008; TORRES, Ronny Charles Lopes de. **Terceiro setor**: entre a liberdade e o controle. Bahia: Editora Juspodivm. 2013.

9 BRESSER-PEREIRA, Luiz Carlos. **Crise econômica e Reforma do Estado no Brasil**: para uma nova interpretação da América Latina. São Paulo: ed. 34, 1996b.

10 TORRES, Ronny Charles Lopes de. **Terceiro setor**: entre a liberdade e o controle. Bahia: Editora Juspodivm. 2013.

11 PERONI, Vera Maria Vidal. As relações entre o público e o privado nas políticas educacionais no contexto da terceira via.

In Fernando Henrique Cardoso administration (1995-2002), with the institution of the Ministry of Administration and State Reform (MARE), the bet was on a rapid economic rise, promoted by partnerships and the implementation of a Managerial State¹², which would intervene whenever the market could not articulate the national companies into a competitive process, coordinating the economic policy¹³.

Starting from hybrid public and private models, the Brazilian reform was carried out around three axes: privatization, publicization and outsourcing¹⁴, making the State increasingly transfer its functions to private partners, in an attempt to conceal the expansion of the neoliberal model, by presenting itself as a novelty¹⁵.

Going beyond national barriers, in a kind of global recommendation, the Inter-American Development Bank (IDB) credited public and private alliances with the role of facing the challenges related to the necessary investments for promoting development. According to the institution, these new relations of intersection between the public and the private require further studies of economic viability and a new culture of relationship, given the complexity of the subjects under the partnerships, which do not make them happen quickly. However, they constitute an innovative way of sharing risks and benefits, promoting the public interest¹⁶.

In its turn, the World Bank does not hesitate to say that public and private partnerships have been gaining ground in emerging countries since the 1980s, with the aim of reducing the hypo sufficiency of State resources, especially to carry out projects involving infrastructure, which are an important tool for promoting development. The international institution clarifies that the financing costs are high, even exceeding those that are purely public, given the higher risks involved, nevertheless PPPs must exceed the expectations that permeate them, generating a better-quality service and inferior all-in cost in relation to those carried out exclusively by the State¹⁷.

It turns out that the premises supporting the banks' discourse in favor of the third way are not clearly stated, but can be deduced in a critical reading of their documents and reports. In an effort to reproduce a humanized capitalism, the projects of the third way are nothing more than revivals of liberal ideas¹⁸, consisting of a project of expansion and globalization of the neoliberal model¹⁹. The standpoint

Currículo sem Fronteiras, São Paulo, v. 13, p. 234-255, maio/ago. 2013.

12 BRESSER-PEREIRA, Luiz Carlos. **Plano Diretor da Reforma do Aparelho do Estado no Brasil**. Brasília, 1995.

13 BRESSER-PEREIRA, Luiz Carlos. **Crise econômica e Reforma do Estado no Brasil**: para uma nova interpretação da América Latina. São Paulo: ed. 34, 1996b.

14 PERONI, Vera Maria Vidal. As relações entre o público e o privado nas políticas educacionais no contexto da terceira via. **Currículo sem Fronteiras**, São Paulo, v. 13, p. 234-255, maio/ago. 2013.

15 SILVA, Ilse Gomes. **Democracia e Participação na "Reforma" do Estado**. São Paulo: Cortez, 2003.

16 BID - Banco Interamericano de Desenvolvimento. **Alianças público-privadas para o desenvolvimento**. Volume I – O investimento em infraestrutura no Brasil – Parcerias público-privadas e operações urbanas consorciadas. Brasil. 2015.

17 WORLD BANK. **Financiamento privado de infraestruturas públicas através de PPPs na América Latina e Caribe**. Sumário Executivo. 2017.

18 MARTINS, André Silva. **A direita para o social**: a educação da sociabilidade no Brasil contemporâneo. Juiz de Fora: UFJF, 2009.

19 "Neoliberalism was not an intellectual innovation, only a return to the old faith in the market" (EVANS, Peter. *Análise do*

of financial institutions, such as the IDB and the World Bank (BM), showing discredit and distrust in the State, reinforces the importance of the market, orienting public spending on infrastructure, driven by financial liberalizations and economic deregulations²⁰.

Furthermore, with a promise to inaugurate a new institutional rearrangement, the third way proposes to integrate civil society into the State in the name of the common good, but insists on having foundational liberal assumptions, distorting the concepts so they can suit its goals²¹.

Civil society, for the purpose of establishing partnerships, does not correspond to the concept formulated by Habermas²², because, according to the author, it should be formed by free (non-state and non-economic) organizations and associations. However, nowadays, it comprises any institution that establishes links with the State, carrying out public services, sometimes clearly looking for profit or receiving income transfer from the State. In these terms, the partnership models consolidated in the end of the 20th century do not innovate, but, on the contrary, reinforce the subjugation of the public to the private interest, supported by a false superiority of the private initiative over the state initiative to manage the public affairs.

State inefficiency: building a myth

Within a socio-environmental concept of development²³, the reduction of social inequalities, the elimination of misery and the concretization of the public interest are tasks to be performed by the State alongside the organized society, in order to preserve the environment and maintain social cohesion, guaranteeing development in its broadest aspect²⁴.

Estado no mundo neoliberal: uma abordagem institucional comparativa. **Revista de economia contemporânea**, n. 4, jul./dez. 1998). In a resumption of economic liberalism, researchers like Milton Friedman and Friedrich Hayek credited the market with the role of guarantor of individual freedoms, which would tend to a balance, whilst the State should not intervene in the potential of the free. In contrast, Bastos (2015) clarifies that the neoliberal model privileged more developed States, creating crises in the remaining countries, or even on a global scale, such as the financial crisis of 2008. Such crises stem from the imposition of financial deregulation, financialization of markets, austerity practices, loss of rights, privatizations and fiscal readjustments, all driven by the idea of globalization and expansion of economic models (BASTOS, Pedro Paulo Zaluth. **Austeridade para quem? A crise global do capitalismo neoliberal e as alternativas no Brasil**. Texto para Discussão. IE/Unicamp, Campinas, n. 257, ago. 2015);

20 NOHARA, Irene Patrícia. Desafios jurídicos das Parcerias Público-Privadas (PPPs) e desenvolvimento nacional sustentável. **Revista de Direito Econômico e Socioambiental**, Curitiba, v. 5, n. 2, p.184-203. jul-dez. 2014.

21 MONTAÑO, Carlos. **Terceiro setor e questão social: crítica ao padrão emergente de intervenção social**. São Paulo: Cortez, 2002.

22 HABERMAS, Jurgen. **Direito e democracia: entre facticidade e validade**. Rio de Janeiro: Tempo Brasileiro, 1997.

23 Unlike the neoliberal conception, the socio-environmental conception encompasses a series of strategies to promote development, highlighting the aims of understanding the intrinsic relationship between man and nature, and of submitting decision-making processes to social networks, which are important to break the pattern of socioeconomic inequalities amplified by neoliberal premises (VEIGA, José Eli da. **Desenvolvimento sustentável: o desafio do século XXI**. Rio de Janeiro: Garamond, 2010; SEN, Amartya Kumar. **Desenvolvimento como liberdade**. São Paulo: Companhia das Letras, 2010; FURTADO, Celso. "Os desafios da nova geração". **Revista de Economia Política**, v. 24, n. 4. out./dez. 2004).

24 DERANI, Cristiane. **Privatização e serviços públicos: as ações do Estado na Produção Econômica**. São Paulo: Editora Max Limonad. 2002.

To admit, according to Kuttner²⁵, that the creation of a synergy between organized civil society, the State and the market is the best alternative to seek a development that guarantees freedom, or, as Peter Evans²⁶, that it is necessary to achieve partnerships for development may indicate the need to think about new social arrangements²⁷, but it does not mean disregarding the bases on which these possible arrangements are based.

However, the third way is built on the argument of reducing or transforming the role of the State, placing it as the great villain of the 21st century, which ruins public patrimony and dodges social interest. Thus, the main reason to implement a public partnership agenda is the alleged state inefficiency²⁸. This lack of state efficiency is commonly associated with the deficiencies of the Brazilian bureaucracy, which would establish its relations based on the privilege of small groups and corruption networks²⁹.

It is important to remember that bureaucracy, a Weber-type model, should reinforce the idea of a regulatory State³⁰ or, as in Evans³¹, with enough autonomy not to bow to the interests of private groups, therefore, able to establish partnerships in pursuit of realizing collective desires.

It turns out that the statement of state inefficiency is generalist and insists on disregarding the fact that corruption and the granting of privileges are the result of social arrangements, which not only include the State, but also the market and society itself³². In this sense, one should not misconceive this premise with the dogma that “every private initiative is good and every public initiative is bad”, which fallaciously states the idea that market regulation would be more efficient than regulation by the powers³³.

It is known that public administration must always be governed by the principles of legality, impersonality and morality, publicity and efficiency, according to the Federal Constitution³⁴, but would efficiency be?

25 KUTTNER, Robert. **Tudo à venda**: as virtudes e os limites do mercado. São Paulo: Companhia das Letras. 1998.

26 EVANS, Peter. **Autonomia e parceria**: Estados e transformação industrial. Rio de Janeiro: UFRJ, 2004.

27 “The set of rules, mechanisms and processes that define the particular way in which actors and interests are coordinated in the implementation of a specific public policy. These are the arrangements that provide the State with the capacity to execute its goals” (GOMIDE, Alexandre de Ávila; PIRES, Roberto Rocha C. Capacidades estatais e democracia: a abordagem dos arranjos institucionais para análise de políticas públicas *In* GOMIDE, Alexandre de Ávila; PIRES, Roberto Rocha C. **Capacidades estatais e democracia**: arranjos institucionais para análise de políticas públicas. Brasília: IPEA, 2014, p. 19-20).

28 DERANI, Cristiane. **Privatização e serviços públicos**: as ações do Estado na Produção Econômica. São Paulo: Editora Max Limonad, 2002.

29 BASTOS, Pedro Paulo Zaluth. **Austeridade para quem?** A crise global do capitalismo neoliberal e as alternativas no Brasil. Texto para Discussão. IE/Unicamp, Campinas, n. 257, ago. 2015.

30 WEBER, Max. **Economia e sociedade**: fundamentos da sociologia compreensiva, v. 2. Brasília: Universidade de Brasília, 1999.

31 EVANS, Peter. **Autonomia e parceria**: Estados e transformação industrial. Rio de Janeiro: UFRJ, 2004.

32 BASTOS, Pedro Paulo Zaluth. **Austeridade para quem?** A crise global do capitalismo neoliberal e as alternativas no Brasil. Texto para Discussão. IE/Unicamp, Campinas, n. 257, ago. 2015.

33 DERANI, Cristiane. **Privatização e serviços públicos**: as ações do Estado na Produção Econômica. São Paulo: Editora Max Limonad, 2002.

34 BRASIL. Constituição da República Federativa do Brasil de 1998. **Diário Oficial** – República Federativa do Brasil: Poder Executivo, Brasília, DF, 05 out. 1988.

In a conception of private economic efficiency, the concept would be the difference between utility and cost, built on strong factors of production, that is, the commercial value of the product subtracted from its unit cost – the idea of maximum profit³⁵.

Nevertheless, the efficiency proposed in the Constitution must be understood in a systematic interpretation, aiming at the public interest. In this way, public efficiency would be the ability to “meet the needs of the population in a universal and uninterrupted manner, without considering profit. What is sought is the well-being of the community, not the wealth generation for the service provider”³⁶. Measuring public efficiency in private economic terms can result in distortions as to the purpose of State choices. In this way, would partnerships be a way to achieve public efficiency?

The answer to that question must be, at the very least, careful. Even if the need to establish partnerships is assumed, pragmatism must be aimed at verifying whether the provision of public service by the private partner reveals any comparative advantage in relation to the one developed by the State³⁷. In other words, public efficiency aimed at the public interest must be the objective, in addition to simply replacing the State.

Thus, partnerships must be contracted with the utmost care, in order not to cause a state dependence regarding the public management by the private initiative, which could compromise the national development proclaimed by the constitution³⁸.

According to its defenders, when establishing partnerships, the State assumes a more managerial function, seeking better levels of quality and lower costs, and tuning to the fields of responsibility, transparency and control. Therefore, public power could be more focused on strategies and plans that promote development, while civil society and private initiative would be concerned with carrying out tasks, up to now performed inefficiently and bureaucratically by the State³⁹.

To the disadvantage of the institute, there is the difficulty of the State in carrying out the control, in order to avoid the exploitation by corrupt managers, be they public or private⁴⁰. Thinking of its own justifying arguments, how would an inefficient state be able to regulate and control individuals efficiently? Would private partners self-regulate or take advantage of the situation? These are just a few types of questions that partnership enthusiasts do not usually face.

Despite being treated as an indispensable instrument for social and economic growth and development, partnerships “can serve to enable substantial and profitable transfers of income and wealth

35 DERANI, Cristiane. **Privatização e serviços públicos**: as ações do Estado na Produção Econômica. São Paulo: Editora Max Limonad, 2002.

36 FRIAS, Lígia; SILVA, Tamires Cristina. A influência neoliberal sobre o poder legislativo: o caso das parcerias público-privadas. **Revista Digital de Direito Administrativo**, v. 3, n. 2, p. 413-428, 2016, p. 418.

37 FERNANDEZ, Rodrigo Nobre *et al.* **Impacto dos determinantes das parcerias público-privadas em economias emergentes**. Planejamento e políticas públicas, n. 44 jan./ jun. 2015.

38 NOHARA, Irene Patrícia. Desafios jurídicos das Parcerias Público-Privadas (PPPs) e desenvolvimento nacional sustentável. **Revista de Direito Econômico e Socioambiental**, Curitiba, v. 5, n. 2, p.184-203. jul-dez. 2014.

39 DIAS, Taisa; CARIO, Silvio Antônio Ferraz. Sociedade, desenvolvimento e o papel estratégico do Estado: uma reflexão sobre o surgimento da Governança Pública. **Revista Ensaios FEE**, Porto Alegre, v. 35, n. 2, p. 337-362. dez. 2014.

40 TORRES, Ronny Charles Lopes de. **Terceiro setor**: entre a liberdade e o controle. Bahia: Editora Juspodivm. 2013.

to private groups”⁴¹, constituting a fine line between public interest and individual interest. In other words, maintaining state autonomy is the greatest challenge of public and private interaction, which is already a factual and legal reality in the world.

The Brazilian way and its instruments

By adopting a neoliberal model of development, the Brazilian State is increasingly distributing its functions through privatizations, passing along activities to the private initiative or establishing partnerships to exercise them, which can be broadly called decentralization⁴².

Decentralization is an administrative fact, in which there is a transfer of the execution of a given state activity to a certain person, which can be carried out by another public person (decentralization by grant) or by a private person (decentralization by delegation)⁴³.

Decentralization by delegation consists, in a broad sense, of partnerships between the public power and legal persons under private law and private initiative. It is their task to execute services and activities that benefit the collectivity, so that this execution can be qualified as a delegated function of the Public Power⁴⁴.

The joining efforts of the private initiative and the public power are reported since the Brazilian empire, as a means of guaranteeing the infrastructure necessary for development⁴⁵.

Although not having the characteristics of current PPPs, the association between public and private sectors is an instrument used in Brazil since the Empire time. During the 19th and 20th centuries, numerous concession contracts were signed between the State and the private sector to meet the needs of infrastructure and the provision of services in some regions, specific locations or in large cities within the national territory⁴⁶.

In a kind of public-private regulation, characterized by private individuals performing state activities, partnerships must be understood within the rules of public law, which always aim at the public interest, since the service or work to be performed is still under public authority⁴⁷.

Recently, in a neoliberal perspective, these relationships have been called destatization, based on a managerial State, whose primary task is regulation and control, passing along everything possible to the private partner. These characteristics, which intend to make the State increasingly more subsidiary,

41 MONTEIRO, Jorge Vianna. A conjuntura das escolhas públicas. *Revista de Administração Pública*. Rio de Janeiro, v. 38, n. 4, p. 659-670. Jul.-ago. 2004, p. 668.

42 RADAR PPP. *Retrospectiva Radar de projetos 2019*. São Paulo. 20 dez. 2019.

43 CARVALHO FILHO, José dos Santos. *Manual de direito administrativo*. 35. ed. rev., atual. e ampl. Rio de Janeiro: Atlas, 2021.

44 *Ibidem*.

45 PENA, Fernando Ernesto. *Das privatizações às parcerias público-privadas: o Brasil numa perspectiva comparada*. 2008, 169 f. Dissertação (Mestrado em Administração Pública). Escola de Governo Professor Paulo Neves de Carvalho da Fundação João Pinheiro. Belo Horizonte, 2008.

46 PENA, Fernando Ernesto. *Das privatizações às parcerias público-privadas: o Brasil numa perspectiva comparada*. 2008, 169 f. Dissertação (Mestrado em Administração Pública). Escola de Governo Professor Paulo Neves de Carvalho da Fundação João Pinheiro. Belo Horizonte, 2008, p. 99.

47 DI PIETRO, Maria Sylvia Zanella. *Direito administrativo*. 32. ed. rev., atual. e ampl. São Paulo: Editora Forense, 2019a.

are present in the 1979 National Debureaucratization Program, which culminated in the 1990 National Destatization Program (PND), reformulated by Law n. 9.491/97 and still in force until today.

Subsidiarity, destatization and privatization

The principle of subsidiarity dates from the mid-twentieth century, when the social doctrine of the Catholic Church⁴⁸ stated that public authority should set aside minor activities, that is, those that could be carried out by others, and should take care of tasks that could only be performed by it⁴⁹.

This concept was used to defend a balance between the market and the State, in a period of liberal crisis and socialist influences, yet it was recently been resumed, in an association with the role of the State. The subsidiary State would be a response to the large financial deficit accumulated by Social States, which could not provide effective and high-quality services⁵⁰.

The subsidiary state, in the view of its defenders, should be a model between the Liberal State and the Social State, which were in crisis by the end of the 20th century⁵¹.

In this new moment, however, state subsidiarity gains are broadened as a neoliberal premise to propose structural adjustments in which the private sector assumes as many state functions as it can carry out. In this new model, the State must be the last alternative to the replacement of the market, and should act in the least invasive way possible, promoting stimuli, guidance, coordination and integration^{52, 53}.

This reasoning inaugurates a new agenda for neoliberal States, in which the practices of destatization and privatization are a part of austerity packages, placed as necessary to promote economic development, following the models of The United States and of international financial institutions⁵⁴.

Although some researchers do not point out differences between the term privatization and destatization, it is important to describe these institutes separately, considering their legal distinction.

In the mid-1980s Brazil, the term privatization was taken in its broad sense, encompassing any measure adopted to reduce the size of the State⁵⁵, that is, whenever the State would pass along to the private initiative, regardless of the formality, tasks it used to perform, or when it would simply stop practicing an administrative function previously practiced.

48 The principle of subsidiarity was implicit in the *Rerum Novarum* Encyclical from 1891, by Pope Leo XIII, pointing out the need of balancing private initiative freedom and state intervention.

49 DI PIETRO, Maria Sylvia Zanella. **Direito administrativo**. 32. ed. rev., atual. e ampl. São Paulo: Editora Forense, 2019a.

50 TORRES, Ronny Charles Lopes de. **Terceiro setor: entre a liberdade e o controle**. Bahia: Editora Juspodivm. 2013.

51 TORRES, Ronny Charles Lopes de. **Terceiro setor: entre a liberdade e o controle**. Bahia: Editora Juspodivm. 2013.

52 KALIL, Marcos Vinícius Alcântara. **Estado subsidiário, privatizações e parcerias-público-privadas**. Rio de Janeiro: Lumen Juris, 2014.

53 WANG, Huanming *et al.* Public-private partnership in Public Administration discipline: a literature review. **Public Management Review**, v. 20(2), p. 293-316, 2018

54 BASTOS, Pedro Paulo Zaluth. **Austeridade para quem? A crise global do capitalismo neoliberal e as alternativas no Brasil**. Texto para Discussão. IE/Unicamp, Campinas, n. 257, ago. 2015.

55 DI PIETRO, Maria Sylvia Zanella. **Direito administrativo**. 32. ed. rev., atual. e ampl. São Paulo: Editora Forense, 2019a.

In this sense, privatization would be the act of making something private, encompassing deregulation (reducing intervention in the economic domain), demonopolization of activities, selling shares of state-owned companies to the private sector, and granting or outsourcing public services⁵⁶.

However, according to Law n. 8.031/90 (National Destatization Program), in its article 2, paragraph 3, the term privatization was used in a strict sense, meaning to make a state-owned company into a private company. Privatization would be then a “transfer or alienation to the private sector, not only of the execution of a public service or work, but of the state company that performs it, or its shareholding control”⁵⁷.

With the repeal of Law n. 8.031/90 by Law n. 9.491/97, the term destatization is adopted. The new National Destatization Program (PND), expanding the list of activities, aimed at removing the State from the position of executor of certain actions⁵⁸. Under the terms of its article 2, paragraph 1, destatization would comprise:

- a) the alienation, by the Federal Government, of rights that assure, directly or through other subsidiaries, its preponderance in social deliberations and its power to elect the majority of the company’s administrators;
- b) the transfer to the private sector of the execution of public services operated by the Federal Government, directly or through controlled entities, as well as those under its responsibility;
- c) the transfer or granting of rights over movable and immovable property of the Federal Government, under the terms of this Law⁵⁹.

For the destatization to occur, article 4 of the aforementioned legislation lists some possibilities:

I - sale of equity interest, including shareholding control, preferably through the pulverization of shares; II - capital opening; III - capital increase, with waiver or assignment of subscription rights, both total or partial; IV - sale, lease, renting, lending or assignment of goods and facilities; V - dissolution of companies or partial deactivation of their ventures, with the consequent sale of their assets; VI - concession, permission or authorization of public services; VII - land tenure, redemption of jurisdiction, exchange, assignment, concession of real right of resolvable use and alienation through the sale of real estate owned by the Union⁶⁰.

Considering the new legislation, the concepts are clarified: while privatization, as a more particular term, would include the alienations of companies or their shares to private capital, destatization, as a broader term, encompasses privatization and other partnerships between public and private power, such as concessions, permissions and authorizations.

In such a way, these partnerships, despite the nomenclature strategically used to change the focus from the private initiative to the reduction state tasks, had different motivations, with a clear influence of

⁵⁶ *Ibidem*.

⁵⁷ MOTTA, Carlos Pinto Coelho. **Eficácia nas concessões, permissões e parcerias**. 2. ed. atual. Belo Horizonte: Del Rey, 2011. cap. 1, 2 e 4; KALIL, Marcos Vinícius Alcântara. **Estado subsidiário, privatizações e parcerias-público-privadas**. Rio de Janeiro: Lumen Juris, 2014.

⁵⁸ CARVALHO FILHO, José dos Santos. **Manual de direito administrativo**. 35. ed. rev., atual. e ampl. Rio de Janeiro: Atlas, 2021.

⁵⁹ BRASIL. Lei n. 9.491/97, de 09/09/1997. Altera procedimentos relativos ao Programa Nacional de Desestatização, revoga a Lei nº 8.031, de 12 de abril de 1990, e dá outras providências. **Diário Oficial** – República Federativa do Brasil: Poder Executivo, Brasília, DF, 10 set. 1997.

⁶⁰ *Ibidem*.

neoliberal ideas. Even Fernando Henrique Cardoso, president at the time, used neoliberal arguments to defend the program, stating that the private sector should put Brazil back on the path of economic growth, financing and executing public services, while the State should be in charge of regulating and inspecting⁶¹.

Brazilian norms and possibilities of partnerships

Partnerships can be conceptualized as “forms of society that, without forming a new legal entity, are organized between the public and private sectors, to achieve the purposes of public interest”⁶².

In a broad sense, the term “public-private partnerships” can be understood as any corporate binding between individuals and the administration with the purpose of achieving the interest of the population, encompassing concessions, permissions, installment contracts and also public-private partnerships in the strict sense⁶³.

In fact, since the public power started to provide the population with their concrete needs, leaving the position of mere observer and committing to the provision of public services of an economic nature (public services or industrial services of the State), it has become almost inevitable to associate the public power with the economic agents, in order to provide those needs⁶⁴.

Based on the previously criticized discourse according to which the State is unable to provide a quality service to society without partnerships and that such a practice could reduce the financial burden and deficit, the right of partnerships has been built in a way that strengthen the links between public and private power.

Among the forms of partnerships, we highlight the public service delegations, which are subdivided into concession, permission and authorization. Concession and permission are implemented when the State transfers the service by contract, while the authorization of public service involves its transfer by a unilateral act for an indefinite period, but it is riddled with precariousness, which means that the administration can review it at any time and without the need to compensate, as a rule.

At first, permission was considered an administrative act, but with the advent of Law n. 8.987/95, in its article 40, it has started to have the nature of an adhesion contract, a fact widely criticized by researchers⁶⁵.

In addition to the legal nature, there are other factors that differentiate the permission from the concession. In the concession, the conclusion of the contract can only be carried out with a legal entity or a

61 MACHADO, Fernando Moreno. Desestatização e privatização no Brasil. **Revista Digital de Direito Administrativo**, v. 2, n. 1, p. 99-119, 2015.

62 DI PIETRO, Maria Sylvia Zanella. **Parcerias na administração pública**: concessão, permissão, franquias, terceirização e parceria público-privada. 12. ed. rev. e atual. São Paulo: Editora Forense, 2019b.

63 CARVALHO FILHO, José dos Santos. **Manual de direito administrativo**. 35. ed. rev., atual. e ampl. Rio de Janeiro: Atlas, 2021.

64 MARQUES NETO, Floriano de Azevedo. **Bens públicos**: função social e exploração econômica: o regime jurídico das utilidades públicas. Belo Horizonte: Fórum, 2009.

65 CARVALHO FILHO, José dos Santos. **Manual de direito administrativo**. 35. ed. rev., atual. e ampl. Rio de Janeiro: Atlas, 2021.

consortium of companies, and it is not possible to talk about precariousness or revocation by unilateral act. However, in the permission, the conclusion can occur with a legal or physical person, it can be precarious title and with the possibility of unilateral revocation⁶⁶.

The concession has the legal nature of an administrative contract and, therefore, has the character of *intuitu personae*, complying with the delimitation of contractual time and the legal procedure for contracting.

Still, concessions are subdivided in common (ruled by Law n. 8.987/95) and particular (ruled by Law n. 11.079/2004). They are carried out through the concession term, which involves several modalities, such as: concession of real right of use, concession of use of public property, concession of public works, concession of public service and, recently, sponsored concession and administrative concession. The last two are those adopted by article 2 of the PPP Law.

The concession of real right of use (CDRU), with legal provisions in the Decree-Law n. 271/1967, in the article 1125, XII of the Civil Code and in the Bidding Law (n. 8.666/1993), has the legal nature of a resolvable real right, being considered, by most researchers, as a concession contract⁶⁷.

The CDRU can be granted by a public or private contract, or an administrative term, and the deed must be drawn up in the case of a public good⁶⁸. It is important to mention that it must be preceded by bidding and an authorizing law, in case the property exceeds two thousand and five hundred hectares (ha)⁶⁹ for the purposes of agrarian reform⁷⁰.

The objects of the CDRU are established by law, and among its purposes are access to housing, protection of traditional communities and protection of the environment, which may refer to the land surface or the air space, serving the regularization of both urban and rural (up to 15 fiscal modules or 1.500ha) areas of social interest, urbanization, edification, land cultivation and use of floodplains.

The term of the CDRU contract, despite the legal provision of indeterminacy, must be determined, under the terms of the Bidding Law, and may be paid or free, according to the activity to be carried out⁷¹. Under the terms of the law, such concession may also be transmitted by legitimate or testamentary succession if the contract does not provide otherwise.

Regarding partnerships in the form of sponsored concession, article 2, paragraph 1 of Law n. 11.079/2004 understands that it constitutes “[...] the concession of public services or public works covered by Law n. 8.987, from February 13, 1995, when it involves, in addition to the tariff charged to users, a

66 BRASIL. Constituição da República Federativa do Brasil de 1998. **Diário Oficial** – República Federativa do Brasil: Poder Executivo, Brasília, DF, 05 out. 1988.

67 MELLO, Celso Antônio Bandeira de. **Curso de direito administrativo**. 35. ed. São Paulo: Juspodivm, 2021.

68 CARVALHO FILHO, José dos Santos. **Manual de direito administrativo**. 35. ed. rev., atual. e ampl. Rio de Janeiro: Atlas, 2021.

69 A hectare (ha) is a unit of land area equal to 2,471 acres.

70 MARQUES NETO, Floriano de Azevedo. **Bens públicos: função social e exploração econômica: o regime jurídico das utilidades públicas**. Belo Horizonte: Fórum, 2009.

71 *Ibidem*.

financial obligation from the public partner to the partner private partner”⁷².

It is important to note that the main characteristic of this type of concession is the duplicity of remuneration resources: user fees and financial obligation from the State. The elements of the sponsored concession are:

(a) delegation of public service management; (b) application of the tariff system (collection of user fees). (c) financial obligation by the Administration chronically integrated into the concessionaire’s remuneration (which comprises the fees paid by users and/or revenues from alternative sources). If these elements are present in the conformation of a given contractual adjustment, the hypothesis should subscribe to the legal concept-type of sponsored concession⁷³.

Regarding the normative incidence, the rule that will be applied directly is Law n. 11.079/04, but, alternatively, Law n. 8.987/95 and its correlated laws should be used, in order to fill any gaps.

On the other hand, the object of the sponsored concession is often mistaken with the object of the common concession, which may be merely a public service or a public work, associated with the provision of a public service or even with the accessories to the work or those subsequent to its completion.

Two main purposes are highlighted in favor of the adoption of the concession sponsored by the public power: the first is to guarantee the sustainability of public service concessions in which the revenue from tariffs from other sources is insufficient to pay for them, or, in order to be sufficient, it would have to be so high that it would harm users; the second purpose is to reduce the risk of the concession being carried out by the private sector, regarding activities in which this risk would render this kind of public service unattractive or unviable for individuals⁷⁴.

From these purposes, we infer the use of the sponsored concession as a public policy, since the government can establish social or regulatory tariffs, increasing the availability of services of great need or decreasing the availability of less needed services.

In its turn, the administrative concession, provided by article 2, paragraph 2 of Law n. 11.079/2004, constitutes “the contract for the provision of services of which the Public Administration is the direct or indirect user, even if it involves the execution of works or the supply and installation of goods”⁷⁵.

The administrative concession is an innovative legal instrument in the Brazilian legal system, as it allows the concession for services that are not compatible with the use of tariffs. In this sense, the administration could fully pay for the provision of some services through financial obligations, using a concession contract⁷⁶.

72 BRASIL. Lei n. 11.079/04, de 30/12/2004. Institui normas gerais para licitação e contratação de parcerias público-privadas no âmbito da administração pública. **Diário Oficial** – República Federativa do Brasil: Poder Executivo, Brasília, DF, 31 dez. 2004.

73 GUIMARÃES, Fernando Vernalha. **Parceria público-privada**. São Paulo: Saraiva, 2012.

74 BRASIL. Lei n. 11.079/04, de 30/12/2004. Institui normas gerais para licitação e contratação de parcerias público-privadas no âmbito da administração pública. **Diário Oficial** – República Federativa do Brasil: Poder Executivo, Brasília, DF, 31 dez. 2004.

75 *Ibidem*.

76 GUIMARÃES, Fernando Vernalha. **Parceria público-privada**. São Paulo: Saraiva, 2012.

What prevails in this type of concession is the idea of zero tariff. In other words, the remuneration is carried out solely by the public partner, in a real transfer to the private entity. However, there are a number of researchers, such as Di Pietro⁷⁷ and Carvalho Filho⁷⁸, who defend the possibility of the concessionaire receiving resources from other sources, which constitute complementary or accessory revenues, since the law is silent on the subject.

The structuring norms is outlined in Law n. 11.079/04, which admits, according to its article 3, the subsidiary use of provisions from other laws, such as articles 21, 23, 25 and 27 up to 39 of Law n. 8.987 /95, as well as article 31 of Law n. 9.074/95.

The object of the administrative concession is the provision of services that the Public Administration uses directly or indirectly, which may include the supply and installation of goods and the execution of works. From the standpoint of its enthusiasts, the main purpose of this contract is the financial adequacy of the Administration to carry out structural projects. In other words, “concessions will imply the provision, by the private partner, of an infrastructure, resulting, as a financial counterpart, in the right to its economic exploitation (but from the remuneration directly provided by the Administration)”⁷⁹.

The destatization movement in numbers: a brief analysis

Brazil, since the mid-1990s, has been following the global scenario when it comes to the establishment of partnerships between the public power and the private power. In the name of a more efficient public service and economic growth, concessions are being used by the government as a strategy of integration among civil society, the market and the State.

Thus, the number of public-private partnership projects has been increasing over the years, even if the number of contracts signed is much smaller, due to the complexity of the contracts or the difficulties of investments (Table 1).

Table 1. Concession projects initiated and PPP contracts signed by year

	2013	2014	2015	2016	2017	2018	2019
Initiated projects	77	151	272	187	352	413	571
Signed contracts	13	17	11	13	4	4	11

Source: Radar PPP (2019).

Out of the 73 contracts already signed, most were made in the form of administrative concessions, followed by sponsored concessions⁸⁰.

77 DI PIETRO, Maria Sylvia Zanella. **Parcerias na administração pública: concessão, permissão, franquia, terceirização e parceria público-privada**. 12. ed. rev. e atual. São Paulo: Editora Forense, 2019b.

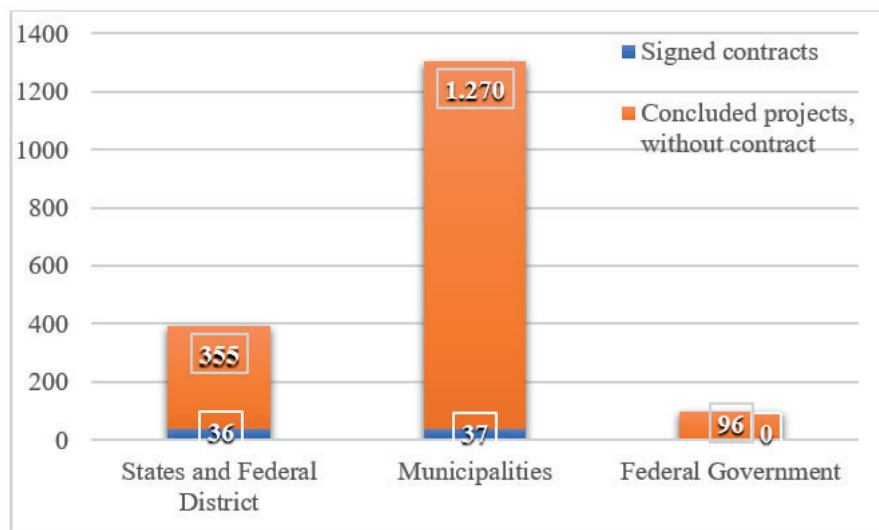
78 CARVALHO FILHO, José dos Santos. **Manual de direito administrativo**. 35. ed. rev., atual. e ampl. Rio de Janeiro: Atlas, 2021.

79 GUIMARÃES, Fernando Vernalha. **Parceria público-privada**. São Paulo: Saraiva, 2012, p. 166.

80 RADAR PPP. **Retrospectiva Radar de projetos 2019**. São Paulo. 20 dez. 2019.

Finally, it should be noted that most projects are initiated and, later, the contracts are celebrated at the municipal level, closely followed by the state level and, finally, by the Federal Government (Graph 1).

Graph 1. List of projects initiated and contracts signed by federative entities between 2013 and 2019



Source: Radar PPP (2019).

Although the data is not organized and consolidated, especially at the municipal and state levels, it is possible to notice, through federal government open data on Partnership and Investment Projects (PPI), that 46 out of the 145 projects qualified with federal investment have signed contracts by 2020. Of these, one occurs in the lease modality, one in the destatization modality and the others in the concession modality⁸¹.

The only lease signed as a PPI was in Rio de Janeiro, at Trigos Terminal, related to the transportation area, while the only destatization was from the Energy Company of Goiás (CELG), related to energy distribution. In addition, among the concessions, 11 are related to the transport sector, 33 are linked to the energy sector and 1 to the oil and gas sector⁸².

Among the projects initiated, besides the aforementioned sectors, there are still initiatives in the sectors of mining, public finance (lottery and coin house), agriculture and supply, and defense (internal communication network)⁸³.

Based on municipal and state data, Radar PPP⁸⁴ has monitored 2.240 projects, dividing them into 22 segments, with emphasis on public lighting (330), sanitation (326 projects), urban mobility (255), solid waste (228) and parking lots (157).

81 BRASIL. Secretaria Geral da Presidência da República. **Dados do Programa de Parcerias e Investimentos (PPI)**. Portal Brasileiro de Dados Abertos. 01 mar. 2020. Disponível em: <http://dados.gov.br/dataset/ppi-projetos-qualificados>. Acesso em: 06 ago. 2020.

82 *Ibidem*.

83 BRASIL. Secretaria Geral da Presidência da República. **Dados do Programa de Parcerias e Investimentos (PPI)**. Portal Brasileiro de Dados Abertos. 01 mar. 2020. Disponível em: <http://dados.gov.br/dataset/ppi-projetos-qualificados>. Acesso em: 06 ago. 2020.

84 RADAR PPP. **Retrospectiva Radar de projetos 2019**. São Paulo. 20 dez. 2019.

We note that, in Brazil, the classic practical cases involving partnerships are related to transport, electricity and sanitation, although other controversial experiences have already been consolidated, such as in health, involving hospitals, public security, involving prisons, education and even the environment⁸⁵, with a gradual expansion of the scope of its object towards the realization of the neoliberal project⁸⁶.

There is a lot of criticism surrounding the model of the alleged managerial efficiency. Sallum, Pereira and Filizolla⁸⁷, for example, conclude that the use of PPP is unconstitutional with regard to the prison system, as it reveals a negligent tendency by the State when it comes to the use and monopoly of force or even the role of enforcing penalty, passing on an activity inherent to the idea of a modern society to the market, which ultimately aims at profit.

In the area of health, Almeida⁸⁸ says that the global dynamics of privatizing the public interest delegitimizes society as a public policy executor. Therefore, partnerships, despite being based on the idea of co-responsibility, do not encompass the unequal relations of power between partners and their different perceptions about the public good, which usually leads to a deflation of public health in all its dimensions – sometimes there is a lack of resources, other times the service is discontinued by the change of the private partner, or there is a private disinterest in providing the service. Likewise, Andreazzi, Sancho e Schutz⁸⁹ claim that a counter-reform of the State in health is taking place, compromising the structuring principles of the Unified Health System.

With regard to the area of education, Santos⁹⁰, by observing the reality of the state of Pará, asserts that partnerships, even though they can manage to deliver results under the Basic Education Development Index, do not show improvements when it comes to democratizing power relations, increasing rights or exercising citizenship.

When dealing with the use of partnerships in the solid waste sector, Gambi⁹¹ concludes that the public-private option is not advantageous for the public administration, and the option for this model would involve more convictions than actual scientific evidence. When analyzing the reality of **São Paulo**, Gambi⁹² raises some disadvantages for the perpetuation of the model: deficiency or lack of inspection; the long term of the

85 *Ibidem*.

86 BASTOS, Pedro Paulo Zaluth. **Austeridade para quem?** A crise global do capitalismo neoliberal e as alternativas no Brasil. Texto para Discussão. IE/Unicamp, Campinas, n. 257, ago. 2015.

87 SALLUM, Camila; PEREIRA, Henrique Viana; FILIZZOLA, Marina Franco Lopes Favro. Utilização do modelo de parcerias público-privadas para a construção e administração de estabelecimentos prisionais. **VirtuaJus**, Belo Horizonte, v. 12 - n. 1, p. 8-27 – 2º sem. 2016.

88 ALMEIDA, Parcerias público-privadas (PPP) no setor de saúde: processos globais e dinâmicas nacionais. **Cad. Saúde Pública**, 33 (suppl. 2) 02 out. 2017.

89 ANDREAZZI, Maria de Fátima Siliansky de; SANCHO, Leyla Gomes; SCHUTZ, Gabriel Eduardo. Agendas empresariais no sistema de saúde brasileiro, 2016-2019. **Serviço Social & Sociedade** [online]. p. 406-426, n. 142, 2021. Disponível em: <https://doi.org/10.1590/0101-6628.257>. Acesso em: 5 nov. 2021.

90 SANTOS, Terezinha Fátima Andrade Monteiro dos. Administração da educação pública no Brasil: as parcerias público-privadas. **Revista Exitus**, vol. 2, nº 1, jan./jun. 2012.

91 GAMBÍ, Raissa Fontelas Rosado. **A gestão dos resíduos sólidos no Brasil: uma análise crítica das parcerias público-privadas como arranjo emergente**. 2018, 316 f. Tese (Doutorado em Ciências Sociais). Universidade Estadual de Campinas. 2018.

92 *Ibidem*.

contracts and the enormous number of additives in order to guarantee financial gains; little transparency concerning information related to the PPPs; exclusion or reduction of the role of actors who have always participated in the management of solid waste, such as cooperatives and recyclable material collectors.

Criticisms like these, not to mention reports of corruption, expand to all areas where privatization or destatization projects are initiated. The proximity of the Brazilian State to capital remains evident, consolidating the power relations necessary to its expansion. This creates a paradox in which the State is excused from its responsibilities of carrying out public services, attributing this mission to the market, who can attribute the burden of a possible failure to the public bureaucracy^{93, 94}.

As a legal-political instrument consolidated in the last three decades, partnerships are already integrated in the list of public power strategies and in the neoliberal developmentalist discourse, but their forms must be questioned as a real instrument of promotion of constitutional rights or even as a practice able to deliver what it promises – an increase in the efficiency of public service delivery.

Final considerations

Understanding the social arrangements and power relations that involve the dispute for public policies is not an easy task, but it is essential to comprehend and discuss the legal institutes and the management instruments created to supposedly fulfill public interests.

In this context, partnerships between public and private sectors are presented, by the end of the 20th century, as innovative social arrangements, although they have been consolidated as instruments of neoliberal development in Brazil.

Theoretically, partnerships promote the integration of the organized civil society in the achievement of public services, in order to minimize misconducts by public agents, but, in practice, it increases the privilege of certain groups, increasing income concentration and social inequalities. Thus, partnerships gain ground through a forged discourse of State inefficiency, but end up proving to be a way of transferring capital to the private sector.

In a paradox, at the same time that they defend a subsidiary State, given its inefficiency, bureaucracy and corruption, they ask for a strong and exempt State, capable of transferring some responsibilities to private partners, establishing rules and regulatory mechanisms.

Since Fernando Henrique Cardoso administration, going through the administrations of Dilma Rousseff and Lula da Silva, and reaching Michel Temer and Jair Messias Bolsonaro administrations, Brazilian development has been guided by a neoliberal agenda, despite the distinctions among the former presidents, especially in ideological terms. To prove it, we can just look at the creation of broader standards

93 SANTANA, Gilson Dantas de; RODRIGUES JÚNIOR, Hélio de Souza. As parcerias público-privadas: solução ou problema? **Prismas**: Dir., Pol. Pub. e Mundial., Brasília, v. 3, n. 1, p. 148-181, jan./jun. 2006.

94 MELO-SILVA, Gustavo; LOURENÇO, Rosenery Loureiro; ANGOTTI, Marcello. Parcerias Público-Privadas: modernização administrativa e relacionamentos econômicos imersos em conflitos de interesse e corrupção. **Revista de Administração Pública** [online]. p. 538-558, v. 55, n. 3, 2021. Disponível em: <https://doi.org/10.1590/0034-761220190479>. Acesso em: 5 nov. 2021.

and the increase of partnerships over the past few years, alongside the increase in the demand for an allegedly managerial administration, which raise criticism around partnerships and their practical results.

In other words, the Brazilian partnership policy consolidates an institutional arrangement that promises to be innovative, or an alternative, but ends up being just another neoliberal instrument, based on the idea that private means “modern” and public means “overdue”.

In summary, this research shows us that partnerships between public and private sectors present several limitations: they drive society away from public decisions, favoring small economic groups; they transfer public income to the private initiative without any control or inspection; they are not transparent, making it harder to establish social control over the provision of public services; they are not free from corruption and state bureaucracy; they do not serve the public interest like the State, mainly because their main motivation is profit and not the promotion of rights; among others.

Thus, the destatization of public services, as part of the economic austerity package, is sold as a synonym for economic success, especially by international organizations, such as IDB and BM, but, in reality, whenever they are carried out, they are responsible for the loss of rights and of what is essentially public.

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