



PUBLIC ADMINISTRATION, LEGAL REGIME AND GLOBALIZATION

ADMINISTRACIÓN PÚBLICA, RÉGIMEN JURÍDICO Y GLOBALIZACIÓN

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Abstract

The objective of this article is to demonstrate how The dissimilar dangers that globalization entails and, within it, the globalization of international legal norms with direct or indirect incidence on national and local public Administrations and, above all, on the identity and idiosyncrasy of these with full attachment to the satisfaction of the needs of their respective citizens, makes essential the study of the paths through which the attempts of globalization of the Public Administration and its legal regime travel. Its impact is intended to be advisory and alert to national and local public administrations against the machinery of globalization.

Keywords: public administration, legal regime, globalization, public management

Resumen

El objetivo del presente artículo es demostrar cómo los disímiles peligros que entraña la globalización y, dentro de la misma, la globalización de las normas jurídicas internacionales con incidencia directa o indirecta en las administraciones públicas nacionales y locales y, sobre todo, en la identidad e idiosincrasia de estas en correspondencia con su pleno apego a la satisfacción de las necesidades de sus respectivos ciudadanos, todo ello hace imprescindible el estudio de los derroteros por los que transitan los intentos de globalización de la administración pública y su régimen jurídico. El artículo constituye



un documento de alerta y asesoría a las administraciones públicas y nacionales lo que tendría un impacto directo en su accionar frente a la maquinaria de la globalización.

Palabras clave: administración pública, régimen jurídico, globalización, gestión pública

Introduction

The referential theoretical framework in the subject related to the existing links between the globalizing process, the public administration and its legal regime, has as its primary source the essence of the contributions of those who, from their direct participation in globalizing organizations of a public administration beyond of national borders or from observation and feeling the effects of the impacts that this has been producing in the modern era, have come to the conclusion of the need to globalize also an alert for the defense of the "nationality" or "locality" of the public administrations of each country.

This alert that is made, starts from the fact that the relationship is atrophied, that is, the identification of the needs of the administrators contributes to an efficient and effective administrative management; This relationship does not mean the same in the opposite sense, that is, a public administration is not erected, it is made functional and then the needs of human beings are provoked. This forces and twists the logical conformation of public management, even the private one for the public.

The fact that the resources of administrative globalization or decisions at the transnational level that modify patterns of action of national or local public administrations threaten the national or territorial adequacy of administrative management to satisfy the growing needs of the population that they pose a level of singularity that makes them unique and unrepeatable and could cause, in the immediate future, the distancing of public administrations from the designs of their own existence.

The article aims to show the dangers of globalization of international legal standards with a direct or indirect impact on national and local public administrations. Approaching its conclusions, the article offers some considerations of the positions to adopt in the face of the described reality in order to protect the autonomy and particularities of national and local public administrations in the face of the great globalizing "snowball" that threatens to wobble them in their major designs in a global world.

Research method

To develop the theme, a work was carried out to locate those studies presented by the authorized doctrine in the matter by researchers, professors, students, doctoral students and master students in the field of public administration relations with globalization; this from the perspective of the synergies established by the public administrations with the transnational that international organizations print to their management from the public aspect of their performance in the different spheres of world socio-economic development.

The article is the result of the documentary analysis of texts and conclusions of international events and conferences related to the subject, as well as results of doctoral, master's and diploma theses related to the subject and the clear trends of international administrative organizations in recent years.

The analysis and synthesis processes developed from the historical-logical to the empirical experience at the level of practical experiences of current public administrations, allows visualizing the forecasts to be adopted so that the globalization process does not distort the basic mission of national and local public administrations. in its own particularities that, ultimately, make up its true existential essence.

Transnational public administration and the globalization of its legal regime: Global Administrative Law

Public administration, in any of its forms, structures and operation, is accompanied, in its dialectic, by its stabilizing and guaranteeing legal regime, that is, by administrative law.

Administrative legal norms serve as support, basis, and legitimacy for the organizational and functional principles of public administration, above all, as has already been stated, to ensure the existence of the rule of law in terms of the security of exercise of rights. of the so-called administered against the prerogatives of the powerful public administration. Therefore, a transnationalized and globalized public administration corresponds to an administrative law that is also transnational and global.

In a less noisy way than the push of transnational companies accompanied by the participation of administrative forces in managing political and economic influences at the world level, administrative law has been covering regulatory spaces to guarantee permanence to the transnational sponsorship of new ways of defining markets and policies that do not stay in the economic, but transcend to the political and social.

This development leads to define global administrative law as one that includes in its legal norms the mechanisms, principles, practices and social agreements that support them and that promote or affect the accountability of global administrative bodies, in particular ensuring that comply with the appropriate standards of transparency, participation, reasoned decision-making, and legality, and promoting the effective evaluation of the regulations and decisions they approve.

Global administrative bodies include formal intergovernmental regulatory bodies, informal intergovernmental regulatory networks and coordination arrangements, national regulatory bodies that operate in relation to an international intergovernmental regime, hybrid public-private regulatory bodies, and some private regulatory bodies that exercise transnational governance functions. of specific public importance.

By proposing such a definition, it is also stated that most of global governance can be understood and analyzed through administrative action: administrative regulation, the administrative procedure that settles conflicting interests, and other forms of regulatory and administrative decisions and management.¹

What is new is not the existence of norms that regulate international transactions, nor the existence of administrative law regulatory bodies at the transnational level, that has always existed since the systematization of this legal science and the clarity of the role it should play. The new results in the way of development that transcends the international relational framework and directly affects public administrations that could be called national and forces them to modify regulation patterns and regulations of national scope to, in turn, nurture this new way of regulate administratively from an economic perspective.

This is especially true in the area of regulation, in which genuinely international action is combined with action by national regulators in global coordination networks that complement, and often even determine, domestic action, thus penetrating deeply into the programs and domestic regulatory decisions.

In addition, in an increasing number of cases, global decisions directly affect individuals and companies, as for example in the decisions of the Security Council of the United Nations (UN) on sanctions and anti-terrorist measures, the activities of the UN Refugee Agency (UNHCR), the Clean Development Mechanism under the Kyoto Protocol, or the quasi-automatic incorporation into domestic law of the decisions of the International Financial Action Task Force (GAFI).¹

If this is taken into consideration and one returns to the definition that was referred to previously of global administrative law, it can be realized that the new way of developing International Administrative Law; This, under its new clothing of global administrative law, must be born for the same reasons and will have to be constituted in the same way as the original administrative law that came from the French Revolution of 1789; a stabilizing right between the state forces and prerogatives and the effective exercise of the rights of the so-called administered, or, in another way, leave a space for action to "democracy", a term used by Eduardo Galeano to characterize transnational companies as , ultimately, the government of social relations in the future in the medium term.

The dilemma becomes clear, either global administrative law is born as a stabilizer and guarantor of the rights of the recipients of the new ways of relating to the driving forces of today's world under administrative guidelines, or world governance responds to business interests, leaving a background the multifaceted realization of the human being.

In this sense, one of the basic principles that global administrative law must adopt is the principle of proportionality, based on which individual principles may be affected in their implementation by transnational administrative rules, but only in due proportion to the importance and implementation. of the public good or the public realization that is correlative to it by virtue of the legitimate public objective that it is intended to protect.

On the other hand, it would be necessary to guarantee the operability of the administrative legal figures that make up the administrative law readjusted to the new conditions, since the original ones and those originating from the determined country could undergo substantial modifications until they become legally distorted.

Ralph Braibanti explained that when administrative institutions are transplanted from one country to another, their development is unpredictable and they tend to satisfy different demands to those they satisfied in the nation of origin. There is the over-determination of the pre-existing, older and entrenched administrative institutions, which shape the newly established institutions through a complex process called "spiral indigenization". This process consists of a dynamic movement with a high capacity for transformation, irradiation and reception of culture, which alters the original qualities of the institution thus implanted.²

A similar phenomenon occurs with imported ideas and models, as noted by Joseph Lapalombara, who criticized the fact that the Anglo-Saxon administrative paradigm, not having been applied in the United States, was proposed as a remedy for administrative defects in other countries.³

Where has the global public administration and its enabling and legitimizing legal regulations directed its gaze?

The global public administration and its enabling and legitimizing legal regulations have directed their gaze towards:

1. The transnational company and its alienated producers, producers and consumers of surplus value as trapped by their own objective and concrete or subjective and conscious products. This leads to remember Chaplin in "Modern Times".
2. The more than lucrative information industry that secures the octopuses and the monopolistic oligopolies. Thus, if you are looking for a product on the Internet, you will be able to appreciate how cyber-intelligence works magic so that offers of all sizes reach your electronic mailbox for the comfortable purchase of the same product about which you inquired a couple of times, for a few minutes, on the Internet. of networks.

This information industry from Information and Communication Technologies (ICT), merges with that of entertainment and submits to more social bodies than the arms phenomenon, this transfers the dynamic function that it brought in past centuries to the first, that is, from armaments to entertainment. Today the interventions are not necessarily military, but cybernetic and, therefore, the "homo economicus ciberneticus" referred to will have as a model the semiotic homo carried out in cyberspace.

This transversal technology crosses every economic sector; This macroeconomic sector must be managed from a public perspective, because however private it may be, it will have public purposes through the market, the law of value and exchange, therefore, it might generate systematic procedures in global public administration. It is the typical complex panorama in which history has always resorted to state control, understanding the state as a historical-systemic response, as the civilizing agent that prevents civil war: in its absolute form as Hobbes's Leviathan; "domesticated" as Locke's constitutional state or as an ethical principle in Hegel's philosophy, culminating in its development in the always important step of the Rule of Law, or what is the same, the reconciliation between absolute power and individual right.

Could this resource be saved from a globalized, usurious and profitable public administration at the cost of the alienation of the modern "homo economicus cyberneticus"? Although it is not known, there would still be the resource of the assimilation of political society by civil society as Karl Marx also foresaw. In this sense, the following questions could be formulated: How much should humanity grow and mature for this assimilation? Will another 21 centuries be required? Next, I will try to find some answers.

A good attempt by Montesquieu with his tri-partition of powers and, furthermore, he added to his merit that he did it without having this described scenario before him, he had one that was a little more malleable and, therefore, less mobilizing. Even so, Bentham doubted the certain sagacity of Montesquieu and asked himself provocatively: how can the division of powers guarantee freedom, if the three powers are controlled by a single social group? Bentham answered himself; "It has a simple answer: it can't."

On the other hand, and for what the famous triad of powers is brought up, Locke, as mentioned in the first paragraphs, unmask a fourth power detached from the actions of the administration, he called it that: the prerogative power and gave it the preponderance over even the law, that is, it could act against *legem* as long as the public or social interest or public utility was protected. These concepts are often

highly used and are appropriate from a failed tenacity to solve administrative collusions and, of course, mask the excesses of power and the ignorance or non-recognition of pre-established rights in the legal system in question.

The Montesqueyan triad does not seem to be a way out either; he returns, then, to the starting point, to Carlos Marx, with his assimilation of political society by civil society. Would this be a balancing power for this new public administration from the globalizing perspective, a mechanism that would establish the limits of its public power and ensure the presence of legal guarantees for the recipients in relation to their decisions?

If so, what doubt is there? Administrative law would once again be what it was at its birth, the tool to tie up the lion, but not to equate it to the monkey, but rather so that the two, finally, are a true society, perhaps better in a cave and stripped of all superfluous anxiety for the material that generates disconcerting human miseries and reborn, like the phoenix, the essential humanism for the multifaceted development of homo sapiens.

But this drive towards essential humanism that must configure the behavior of the human being, at least for the moment, and hopefully so, only for the moment, is nothing more than a summer night's dream due to the forces and especially two specific tensions that are envisioned in the field contest.

Currently, the public administration must positively resolve two tensions that are pulling it towards the shores. The first refers to the struggle between the national traditions of its political and legal life, and the universal principles of public and private management whose application demands an epitome of critical and reasoned adaptability. The second tension implies the collision between a model of government founded on voluntary cooperation as the central motivation of public conduct, and the paradigm of a globalized state that is aimed at satisfying a private interest that does not supersede the public interest.

A contextual referent. Public administration in the third world and in Latin America in particular in the midst of a transition phase

Alonso Dominguez indicates that “it is very significant that a good part of the strategic natural resources would be located in developing and less developed countries, among which we can point out 84% of oil reserves; 40% natural gas; 28% of mineral coal; important reserves of minerals, fresh water and biodiversity. These important resources of the countries must be respected and used rationally since they constitute the Natural Heritage of each nation and substantive elements of their sovereignty and fundamental basis for their development.”⁵

Some time ago, at the end of the 1980s and the beginning of the 1990s, globalization in the Third World manifested itself in: the constitution of a worldwide capital market and the profound destruction of national areas protected by customs tariffs, through various rounds of negotiation of the General Agreement on Tariffs and Trade (GATT), particularly the Uruguay round (1986-1994); the constitution of the Asia Pacific Economic Corporation (APEC) in 1989, which covered 18 states at its inaugural moment; the conclusion of the Maastricht treaties (1992) between the members of the European Union; the North American Free Trade Agreement (NAFTA or TLC) between the EUNA, Canada and Mexico (1.1.1994) and the substitution of the GATT by the World Trade Organization (WTO 15.4. 1994) which has meant in practice the unconditional delivery of the Third World markets to transnational corporations

(Transnationals Corporations TNCs), with the foreseeable consequence of a profound destruction of national industries and ways of life considered incompatible with the interests of TNCs.⁶

On the other hand, the publications on 'administrative reform' in Latin America are as vast as the number of reform attempts in the region. Peter Spink, who carried out a survey in the region, observed that Latin American bureaucracies seem to be permanently involved in administrative reform: "the issue of administrative reform and, more recently, reform of the State, has maintained a visible presence in Latin America for the most part. part of the last 70 years."⁷

But in all the cases studied, administrative reform has meant bureaucratic reform. The objective was to establish in each Latin American country a public service like the one in France and Germany. The difficulty was to overcome patrimonialism and professionalize public administration. Nevertheless, patrimonialism has remained strong in the region and attempts to have a professional public service have often ended only in protection of the corporatist interests of local bureaucracies concerned with achieving or retaining special privileges in relation to the respective markets of goods. worked.

When competent professional bureaucracies were formed, as we can see in the larger Latin American countries, that bureaucracy had little to do with Max Weber's classic bureaucracy: it is much more entrepreneurial, more technical, more flexible, more adjusted to the demands of state entities and companies.⁸

A public administration reform is just beginning in Latin America. An active civil society, where public debate plays an important role in shaping public opinion; and institutional reform, particularly public administration reform, are two strategic factors for promoting political development in the region.

This will happen at a time when the density of public space, the quality of public administration institutions, and the professionalism of public officials prove to be better than what the per capita income level would lead to forecast. For now, despite some progress, it cannot be said that much has been achieved. Of course, civil society advances and Weber's public service is no longer an ideal. Rather, more flexible work contracts and professional and competent civil servants, but more autonomous and responsible, are now required.

Besides, neither the developmental state nor the ultra-liberal minimal state make sense. The statist model of development has run its course, but the ultra-liberal alternative proposed (or imposed) by the rich countries has not produced the promised results. Formulas and models such as the Washington Consensus, the reform policies of the first and second generation of the World Bank and the International Monetary Fund (IMF), and the public management paradigm, implied and imply radical structural changes in the performance of the governments. New goals, such as fiscal balance, efficiency, economy and administrative effectiveness, monetary stability, and the deregulation and opening of economies, redefined the objectives and missions of governments.

New organizational criteria, such as strengthening institutional capacities for policy formulation and implementation, political-administrative decentralization, citizen orientation, transparency and information, responsibility, and participation of the market and civil society in the provision of public goods and services implied substantial transformations in institutional production, processes and

systems. The structural change in these last dimensions led to the massive incorporation of information technologies, new technical and professional know-how, and new management technologies.⁹

For his part, Maldonado-Veloza argues the need to take into account the temporality of events in the epistemology of administration, expressing it as follows: "every time new real events emerge, the epistemological cycle is renewed and repeated. A new fact falsifies the old one, the old construct becomes obsolete, the need for a new construct arises, and the construct is born. This problem leads to the identification of unprecedented facts that justify the emergence of new constructs".^{10, 11}

The region urgently needs better governance, better political and administrative institutions, which will allow their governments to find their own ways of promoting economic development and reducing the evident social injustice: obviously, public administration reform adapted to the circumstances of Latin America has an important role to play in this field.¹²

To illustrate with some contemporary data, it can be affirmed that the immediate background of the recent economic crisis that the Latin American region went through is located in the extraordinary rates of economic growth achieved in the context of the "commodity boom" or "super commodity cycle". basic products", which lasted approximately between 2003 and 2011 and was characterized by the excessive rise in the prices of the main basic products in the world market.

The result, completely unchecked from the secular trend of deteriorating terms of trade, caused a gradual increase in export earnings for most of the Latin American and Caribbean countries. These great benefits obtained by businesses based on natural resources also induced the massive arrival of direct foreign investment, eager to appropriate the wealth of the subsoil, consolidating the extractivist model that has historically prevailed in the region.

The high prices of basic products accentuated the dependence on exports of raw materials, increasing the vulnerability of exporting countries to the ups and downs of the world market. Within this framework, the de-industrialization process that Latin America had been experiencing since the mid-1980s accelerated. According to data from the World Bank, although the industry represented 41.5% of regional GDP in 1984, in 2003 it fell to 32.4% and in 2015 it was 27.4%.

The Latin American and Caribbean external indebtedness, which in 2011 reached 27.4% of the Gross Domestic Product (GDP), began to increase until it reached 39.4 percentage points of GDP in 2016. Said movement implied an increase in the debt of more than 523 billion dollars, which rose in the last year to 1.76 trillion dollars.¹³

The shift from patterns of specialization to specific patterns of specialization in raw materials, services, finished, improved, and value-added production from the large production and service chains on an international scale. Regional, continental and global geopolitics present in this context a very particular dialectical dynamic; it is necessary to move towards an industrial reconversion that puts all countries in a position to integrate into the new type of competition that is being created as the basis of the new It was at the juncture of the creation of the new public management.

The chronic deficits in the export of goods and services from the less developed countries are weighing as a ballast on the advance of the public administration of a new type. This gap does more damage to the

countries referred to than the birth of the new public administration; For this reason, timely foreign investment loaded with new information technology and communications on the one hand and updated know-how on the other, becomes vital for them.

The marginal participation of these countries places them in a fragile position when it comes to negotiating with the large productive chains already formed, which leads them to go to those to be created and to accept disadvantageous conditions for their endogenous development in order to achieve, sometimes, a “fifth of the slice” or less.

What to do? Regardless of the fact that there may be numerous variants of strategies to follow, the national economies of these countries begin to move towards internal linkage in the spheres of production and services, trying to add use value to the product and service that will be proposed to the international scaffolding.

The pattern of international insertion of these countries is obliged to be modified to catch up with the emerging public administration. The resizing of industrial plants persists as guidelines for economic policies that do not mesh easily with industrialization related to new technological development. Just to summarize the idea, it is clear that the negotiations with the international productive chains, the patterns of international insertion and the resizing of industrial plants are becoming pending subjects for the so-called third world countries.

The great asymmetries between the developed economies of the so-called first world and the so-called third world slow down the mutation of national public administrations and their merger or reflection in an emerging global public administration. The fact that the new public management has a high market economy component does not mean that state structures have nothing to do in economic matters.

The states in the new perspective of public administration have a very important role in regulating the satisfaction of the interests and needs of citizens, for example, in the issue of consumer protection regarding the relationship between the economy and the public health; in terms of tariff policies, in the stabilization of prices; in directing the promotion towards those activities of control and supervision, etc.

Transnational public administration: a fact

The two factors that are most clearly evident regarding the consideration of the transnationalization of public administration as a fact are, on the one hand, the development of information technology and communications that have transformed all kinds of relationships in the economic, political and social order in all contexts and in all spheres of modern life and, on the other hand, the struggle of the powerful and determining laws of the market.

An economic base dominated by market forces and a world superstructure connected to the technological revolution that evolves by the day, lay the essential foundation of social organizations from the philosophy of Marxism under its dominant categories of base and superstructure. Here is one of the most interesting dilemmas of the transnationalized public administration: if the development of the society of the future is left to the forces of the market in the midst of the increasing use of technology in human relations in all spheres of life, the chaos will prevail and the dialectic of spiral development would be a chimera.

It is essential to innovate in the way of conducting the paths of development of the public administration of the new millennium to avoid this chaos and try to systematize a dimension of development that guarantees the well-being of the human being on which its principles and regulations will govern. "...what is needed is a true reinvention of the state and public administration, and perhaps something more revolutionary: the substitution of the science of public administration for the art of politics. This, naturally, implies conceiving and implementing new social projects, including economic aspects -as means- and social aspects -as ends. This would be, perhaps, the only way to answer the following very legitimate question: a global market, for what exactly?"¹²

The fact that the actors of the private sector economy increasingly venture into the public sector and ensure the great package of actions and with it the administration of transnational production chains, inexorably modifies the role of public administrations. A significant illustration can be offered by the recent example of the Renault company, new owner of the Japanese Nissan. Renault effectively changed the culture of lifelong sheltered employment that still prevails in Japan. The Japanese government, which had assured the people in charge of Renault that they would enjoy total freedom of management in Japan, could not, once Nissan was sold, go back. Thus, those responsible for the public sector in that country, despite the dissatisfaction of the newly unemployed, and the consequences for their families, despite the protests of the unions and professional elites, understood that the public administrations no longer they are the ones that make or break countries' industrial policies.

However, their responsibility to conceive the necessary or desired adaptations to the current society project remains or arises --even considering that such a project is barely implicit in most countries-- to guarantee socio-economic cohesion. For this, they finally understand that an institutional framework is needed that can only be global.

The world superstructure

There is nothing to be surprised about, since 1954 there were already rules of an international public administration, not with the nuances of today, but thanks to this the new one has a certain degree of advantage in rules of order and regularization of relations. For more than half a century, the international civil service has been guided and inspired by the Standards of Conduct in the International Civil Service drawn up in 1954 by the International Civil Service Advisory Board. Although some of the tone and content of the 1954 edition evokes an earlier time, the rationale behind the Standards, and indeed the principles themselves, have generally stood the test of time.

However, as the world has changed over the decades, the nature of the services provided by the United Nations common system organizations has also changed with the rise and pervasiveness of technology and developments. of relationships and interactions in organizations, both internally and externally.

Regular review and updating of standards should reflect that this common transition world of the United Nations has been changing with the rise and spread of technology and the evolution of relationships and interactions in organizations both internally and externally. Regular review and updating of standards should reflect this world in transition.¹⁶

From its guiding principles to the rules for relating to member states, the use of information and coordination relationships, they regulate the working life of international civil servants and their impact

on the UN relations system; but, as previously stated, it does not have much to do with customary norms and the formation of new regulatory norms of the new public administration, this time the one known as global.

All roads lead to... the trans-nationalization of public administration.

The fact that the transnational companies will really be, based on their relative surplus value, the ones that determine world events is not so transparent either. Just to mention a clue to explain why they could not be, in any way, the only actors, even the main ones, he refers to the fact that this business sector does not have the means to maintain order, peace and tranquility that are it needs for the gigantic commercial transactions in the form of productive chains that are expected to be developed.

These responsibilities respond to the reason of state, which is, ultimately, who has been behind every large-scale transnational business in recent decades. Some examples to take as points of reference and that demonstrate why the 90s have been referred to as a very active precedent in relation to the ideas presented are listed below.

- On September 7, 1993, Al Gore, Vice President of the United States, sent a letter to the President presenting him with a report that, in summary, explained how to "go from paperwork to results to create a more efficient and less costly government." that it was nothing more than the result of a task indicated to a wide spectrum of people interested in a substantial change in the North American way of governing. He also identifies serious government problems: "The federal government is not only bankrupt but also broken. The ineffective regulation of the financial industry caused the catastrophe in the area of savings and credit. Ineffective education and training plans compromised our competitive advantage. Failing welfare and housing programs have been detrimental to our families and our cities. Every year they spend \$25 billion on welfare, \$27 billion on food stamps, and \$13 billion on public housing, yet every year more and more Americans fall into poverty.! They spend \$12 billion annually on the war on drugs... and the signs of victory are still few. They invest in 150 different employment and training programs... plus the average American doesn't know where to get job training, and the skills of workforces lag behind those of competitors."¹⁷
- In February 1994, the aeronautical companies Boeing and McDonnell Douglas obtained a commercial contract worth 6 billion dollars from Saudi Arabia for the sale of civil airplanes, putting the European competition of Airbus out of business. The decision of the Saudis was announced by President Clinton -accompanied by the ambassador of Saudi Arabia in Washington- from the White House. It had been Clinton's lobbying that caused the European proposal to split the business to be scrapped by the Arab government. Additionally, the Secretary of Commerce made two trips to the Saudi capital and also the Secretary of the Department of State. US companies won the battle with an offer that combined official credit guarantees with the negotiation of a \$9.2 billion Saudi debt incurred from previous purchases from the US.¹⁸
- In May of the same year, the American transnational AT&T won a contract valued at 4 billion dollars to modernize the telephone system in Saudi Arabia, despite the fact that its offer was hundreds of millions of dollars higher than that of some competitors. The New York Times reported the event saying AT&T won the contract after the US Secretary of State and Commerce made personal requests for the company during their trips to Riyadh. Other governments also

made representations on behalf of their companies, but did not use as many high-level officials as the United States.¹⁹

So, it is clear that it is not only the economic factor that must be considered when it comes to globalization, but it is also worth mentioning and relating to this fact the movement of trans-nationalized public administration that has been generated for the location of leading companies and with This is the leadership position of these public administrations when it comes to directly influencing global regulations that try to preserve relational tranquility in this location of markets and the economic positioning in them.

The preferential markets will not be decided by supply and demand, and much less, the social utility of the productions, but by interests of domination and supremacy by virtue of controlling “productivity”, understood as relative surplus value; And what's next? Well, the reinvestment of those profits in maintaining the status quo of the transnationalized or global public administration after the configuration of an establishment in accordance with the interests of world public power.

There are four fundamental theses that try to support the institutional changes that must accompany the aforementioned emerging paradigm of public management, namely:

1. The thesis of public choice, which introduces the private sector in public management, will obtain competition mechanisms in this context with the objective of achieving quality in the conception and provision of public service.
2. The transaction costs thesis, which focuses on organizational construction in relation to the most optimal costs.
3. Neo-Taylorism, which defends the reduction of bureaucracy and its rules of action, simplifies the hierarchical structure and seeks perfection in the motivation mechanisms linked to the control system.
4. Agency theory, with its implementation of control tools linked to the exercise of responsibilities based on accountability systems.

The first two theses, that of public choice and that of transaction costs, refer to reforms in the organizational structure and materializes from privatizations, indirect management of services, the introduction of external competition, cooperation and the creation of internal competition.

The second, neo-Taylorism, tends towards a normative and cultural rationalization and leads to a rationalization of administrative procedures, de-bureaucratization, the development of personnel policies, the introduction of private techniques and technological innovation.

For its part, the theory of the agency looks towards the transparency of public administration from the strengthening of external communication and citizen participation in public management.

From these theses, the trends of the new institutional paradigm that fertilizes the ground so that the new public management opens spaces for taking control of the laws of the transnational market, dominating the flow of merchandise, raw materials and financial resources that, ultimately, can be extracted. It will result in an increase in the power of the restructured transnationals in such a way that they dominate

international economic relations through the large production chains that will weave the new, global economy.

On the one hand, in this order of things and in the field of State and market relations, the challenge for the State at this time is to be refunded itself, due to the way in which the market acts on a global scale, which undermines both national economies and the States themselves. creates a new form of politics that comes out of the traditional institutional channels of traditional politics and is now defined by a sub-politicization, which is managed without the participation of the State. The real powers that determine the conditions in which we all operate in these times flow in global space, while our political institutions remain largely tied to the ground; They are, again, local. The idea is not to promote an allergy to the market for the sake of the market itself, but rather to seek and foster the necessary balances between the State and the market.²⁰

On the other hand, but in the same sense, in relation to public administration, its organization and operation, globalization, technological progress, the Internet, social networks, changes in human behavior, the demand for new public services, among others. others, forced a change of thought, a new conceptualization of the predominant model and standardization of public administration, under an improved scheme of organization and operation. Since the 1980s, various administrative methods have sought to promote a less costly, more efficient and effective public management, based on the use of ICTs, in which the fundamental thing is not the balance or the tendency towards equilibrium of the historical systems, but the tendency to imbalance and instability.

What to do? the reconfiguration of public administration.

What to do in the face of this avalanche of powerful international economic efforts that drag behind them global policies that directly affect internal policies, whether they like it or not? How to facilitate the point of balance between market forces and the social demands achieved and with which many societies entered the new century?

The answer to these questions cannot be afforded the luxury of waiting for the course of events, since the public administration that does not become dynamic in the face of radical changes in reality will be inoperative even in its fundamental designs of peace, order and security; In addition, as we know, its essence lies in satisfying public needs in a way that is contextualized with the demands of the economic factor, above all.

It is urgent to deal with this vital issue for humanity and leave behind the fact that, as Gisela Alonso Dominguez puts it: "currently very complex situations are experienced globally where major crises threaten the real possibility of sustaining life in the planet. The international order is unbalanced, unfair and exclusive. Financial, economic, food, energy, health, educational, demographic, migratory, environmental crisis among others. Large gaps in development. Increase in poverty, risk and vulnerability to natural and technological disasters. To this must be added the increase in armed conflicts, including nuclear ones, neoliberal and interventionist policies in the internal affairs of countries. The vast majority of the planet's inhabitants do not have the minimum resources required for a dignified and supportive existence"

Therefore, it is imperative to venture into, at least, indicate some ideas that could put modern public administration in a position to react to the challenges that economic and social globalization means.

First of all, without this meaning a return to Keynes, the role of the State as a promoter of social order and the basic guarantees of coexistence in the society in question must be recognized. In addition, for this it is essential to take into account:

1. The regulation by the State of investment volumes, managing unequal interest rates as a way of stimulating them, preventing misdirected investments, so that speculation does not lead to very preferential development towards certain highly profitable branches and there is an attempt against the necessary proportionality²² in the satisfaction of public interests and needs and there is an over-exploitation of specific branches of the economy to the detriment of others.
2. The necessary reconstruction of the public nature of government policies and institutional attacks on a framework, such as, for example, the administrative decentralization policy, giving decision-making power with real possibilities to local administrations in which the participation of recipients in first instance of public management is actively involved and participates.
3. The design and rational elaboration of public policies of general scope, under the principles of horizontal flexibility, total quality, high productivity, sense of mission and constant innovation.
4. The promotion and support of the science of public administration in its studies of the activity of the apparatus of the entire society and how it should function effectively. Pay attention, in the same sense, to the contributions of means, ways and means to make public administration more efficient.
5. The reengineering of public administrative processes and linking them directly with the client that satisfies their needs or interests from the provision of services by the public or private administration for the public.
6. Achieve a synergistic relationship between the processes developed by the public and private administration for the community through legal instruments par excellence such as the public service management contract with the participation of trained investors who would provide, in place, the know-how, for the sake of training humans with resources for the future of the activity concerned.
7. The necessary revolution in the field of managerial training and education, achieving a managerial behavior that maximizes the effectiveness of the management of productive processes and investors.
8. The training of human beings with resources in the public function; the achievement of directive and managerial capacities that predetermine the success in their management and that of the labor groups they guide.
9. The restoration of the institutional strength, authority, efficiency and planning capacity of the state apparatus in the various economic and social sectors.
10. The elaboration of a public agenda based on concerted priorities and comparison with the most effective experiences in each sector of the economy or of the society of reference.
11. The elaboration of its own content and adjusted to the context and the real and practical situation of a new paradigm of public management culture with a new way of thinking focused on the essential resilience of any system to guarantee its adjustments as the situation arises. dialectic of the factors that directly affect economic and social development.
12. The highly complex nature of intergovernmental relations, simultaneously associated with decentralization, regionalization, and globalization.

13. The new ethics and philosophy of public service with quality and efficiency, oriented to the client-managed.

Cuba stands out for being very clear about this process of globalization of public administration that is taking place; their perspective is offered by professors from the Center for Public Administration Studies of the University of Havana: “Cuban public administration is defined as a complex system, in charge of managing government policies and programs and providing important public services to society, especially the basis of state policies, current laws and legal norms and an assigned budget, with the purpose of generating growing and sustainable levels of economic and social development that have an impact on the quality of life of society, the consolidation of independence, the national sovereignty and governability, ensuring effectiveness in the fulfillment of the objectives, efficiency in the use of resources, equity and social justice in the approaches, as well as honesty, transparency and responsibility in the actions of its managers. As an expression of the State in action, the Cuban public administration works to add value with effectiveness and efficiency in the following objectives: raise the quality of life of the population; increase economic development; guarantee the safety of citizens and preserve national sovereignty.”²³

As Tabares, Pérez and Cárdenas affirm “the United Nations 2030 Agenda speaks of a public administration for development and identifies the most important parameters that must be taken into account in its modernization process. It is about giving citizens more participation, advancing in the professionalization of officials and managers in the public sector, promoting an efficient, effective, transparent management that initiates sustainable development and increases social welfare. It is therefore necessary to understand the complexity implicit in the process of modernization of the public administration, the different dimensions in which its performance is projected, its areas of responsibility and its work. To do this, these dimensions (political, social, legal, economic and environmental) must be identified and projected in an interrelated manner, not making some of them absolute over others, as is generally the case”.²⁴

Modernization, globalization and effectiveness of modern public administration go hand in hand, especially the effectiveness criterion has evolved with various interpretations, leaning in the field of public administration to the relationship between basic variables that link the internal and external environment as the knowledge and identification of the needs of the population, the ability to respond, the objectives that are set to guide government action, and the result that produces changes in the state of affairs and influences the perception of public management in dimensions keys.²⁵

In short, the great slippage of globalization stems from the attempt to dismantle the original and foundational nature of states, that is, the Nation-State model, which holds legislative, executive and judicial authority and which has been taking shape for 400 years. and which consists of the three classic elements: sovereignty, population and territory. The state monopolized the use of force on a population settled in a certain territory, the normative production, the representation of the general interest in the interior and the representation of the interest of the state abroad.

The current State is far from the one that emerged after the English, American and French revolutions of the 17th and 18th centuries. The role of the Nation-State has changed: political, economic, social and cultural spheres. It has lost its monopoly and other actors are acquiring a growing role: in spheres superior to the state, multinational companies and international institutions; and, in areas lower than the state,

regional and local claims. These are two sides of the same coin: globalization stimulates the consolidation of the local, but, at the same time, it generates a mechanism of homogenization.²⁶

One path forward could well be the generation and strengthening of capacities for the management of programs, public policies and strategies that promote the fulfillment of goals in the short, medium and long term aligned with the Sustainable Development Goals, as well as meeting the needs of citizens, constitutes one of the main challenges facing countries today.²⁷

Similarly, the development of a comprehensive innovation policy requires understanding the nature and dynamics of innovation problems and processes in the socioeconomic context, taking into account the participation of interested parties, the most relevant aspects for the country or region, as well as its transformative effects. on the economy and society.^{27,28}

Innovation policies can also contribute to the adaptation of economies with resilience.^{28,29} Establishing a government management model with a preventive approach, supported by science and oriented towards innovation can contribute to the sustainable development of nations.^{27,30}

Conclusions

The reality analyzed seems to indicate that the immediate future of public administration will materialize with its trans-nationalization as an intrinsic part of the globalization process that has been taking place for several decades. This leads to two fundamental consequences, one the necessary reengineering of the state structure and operation and the other the readjustment of the legal regime that regulates administrative designs, that is, administrative law.

Today, more than ever, administrative law must respond efficiently and effectively to its guaranteeing essence of the prerogatives of the recipients of its regulations in the exercise of the rights recognized by current regulations.

The public administration cries out for a new construction of its essence, the global one, for the sake of its real and concrete effectiveness, but this does not mean that it blurs the identities of the national public administrations; these must be preserved in defense of autochthonous and native interests and needs.

In the same sense, the essential balance between, on the one hand, the productivity that is achieved through management in terms of technological production and the management of large corporations and transnational companies and, on the other, the multifaceted development of homo sapiens , depends, to a large extent, on the preservation of the claims and social conquests achieved to date, taken to a new dimension in which they develop their potential in the creation of functional guarantees for the rights of the human being of the 21st century.

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Conflict of interests

The author declares that he has no conflicts of interest