

**THE IMPORTANCE OF POPULAR PARTICIPATION IN PUBLIC ADMINISTRATION
COMPLIANCE: A LOOK FROM THE SOCIAL OBSERVATORIES**

*A IMPORTÂNCIA DA PARTICIPAÇÃO POPULAR NA COMPLIANCE DA ADMINISTRAÇÃO PÚBLICA:
UM OLHAR A PARTIR DOS OBSERVATÓRIOS SOCIAIS*

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RESUMO

Cada vez mais se exige uma Administração Pública mais eficiente e idônea, que use com sabedoria os recursos públicos, prestando contas de sua atuação para a população. Diante disso, o presente trabalho almejou analisar a importância dos Observatórios Sociais no estímulo para uma maior participação popular na gestão da administração pública. Para isso, foram definidos alguns objetivos específicos, a saber: (i) Descrever a participação popular no Brasil, a partir da concepção de democracia; (ii) Elencar as formas de participação popular e as dificuldades para implementação de uma gestão mais participativa (iii) Apresentar o funcionamento e as atividades dos Observatórios Sociais; e (iv) Compreender o papel dos Observatórios Sociais na ampliação (ou não) da participação popular. Quanto à metodologia, partimos de uma abordagem qualitativa, utilizamos ainda o tipo de pesquisa descritivo-explicativo, e os procedimentos técnicos adotados foram o bibliográfico e o documental. Os resultados apontaram que os Observatórios Sociais ampliaram a participação popular nos locais em que foram implementados; contudo, é preciso estimular uma maior heterogeneidade entre seus integrantes; além disso, a visão preconceituosa da política partidária pode ser prejudicial em nossa democracia.

Palavras-Chave: Observatórios Sociais. Participação Popular Compliance. Administração Pública.

ABSTRACT

Increasingly, a more efficient and suitable Public Administration is required, which uses public resources wisely, accounting for its actions to the population. In view of this, the present work aimed to analyze the importance of social Observatories in encouraging greater popular participation in management. of public administration. To achieve this, some specific objectives were defined, namely: (i) Describe popular participation in Brazil, based on the concept of democracy; (ii) List the forms of popular participation and the difficulties in implementing a more participatory management (iii) Present the functioning and activities of the Social Observatories; and, (iv) Understand the role of Social Observatories in expanding (or not) popular participation. As for the methodology, we started from a qualitative approach, we also used the descriptive-explanatory type of research and the technical procedures adopted were bibliographic and documentary. The results showed that the Social Observatories increased popular participation in the places where they were implemented, however, it is necessary to encourage greater heterogeneity among their members, in addition, the prejudiced view of party politics can be harmful in our democracy.

KEYWORDS: Social Observatories. Popular Participation. Compliance. Public Administration.

INTRODUCTION

Democracy is the basis of the Brazilian legal system, as laid down in the Federal Constitution of 1988 (CF/88), which states in the sole paragraph of the Article 1 that: "all power emanates from the people", this provision also spells out that the exercise of this power will take place through elected representatives or directly.

Democracy is closely linked to the concept of citizenship, since it is through the actions of each citizen that the sovereign will of the people is expressed.



Despite this constitutional provision for popular participation in public administration, we can see that the public's monitoring of public management is still very shy.

Our country is marked by a very heterogeneous population, allowing us to have social groups that understand the importance of exercising citizenship, through a greater concern with public life. However, on the other hand, there is a huge population of miserable people, who are below the poverty line, whose concern is centered on guaranteeing their survival and who are oblivious to the debate on public affairs due to their absolute condition of being excluded.

Despite this, it must be acknowledged that in recent years there has been a growing public interest in monitoring public management, albeit discreetly. It can be said that this change has been stimulated by the new democratic order that has been consolidated since the promulgation of the Brazilian Constitution in 1988. In addition, the Constitutional Amendment No. 19 of 1998, which instituted an administrative reform in Brazil, sought to overcome the bureaucratic model of public administration that had been in force in our country until then, replacing the bureaucratic model of administration with the managerial model, bringing the management model of private companies to the Public Administration, based on the adoption of a posture focused on good governance and a management that values transparency.

Other legislative norms have also been important in encouraging greater popular participation, such as those detailed later in this article.

With this in mind, we established the following research problem: What is the importance of Social Observatories in encouraging greater popular participation in public administration management?

In order to answer this problem, the following general objective was established: To analyze the importance of Social Observatories in encouraging greater popular participation in public administration management. The specific objectives defined were: (i) To describe popular participation in Brazil, based on the concept of democracy; (ii) To list the forms of popular participation and the difficulties in implementing more participatory management; (iii) To present the functioning and activities of the Social Observatories; and, (iv) To understand the role of the Social Observatories in expanding (or not) popular participation.

Methodologically, a qualitative approach was used, which favors studies focused on the human sciences, since it emphasizes an analysis aimed at understanding the object of study in its entirety, without prioritizing only

quantitative aspects. As for the type of research, descriptive-explanatory was chosen, as the Social Observatories were described, as well as an explanation of their importance in the Brazilian Public Administration scenario.

Finally, the technical procedures adopted were bibliographic and documental, the former being carried out in the doctrine on the subject, in particular, from a survey of the literature on the subject in academic articles, scientific papers and books; the latter was carried out in the legislation that deals with the subject, as well as in the constitutive documents of the Social Observatories.

This article is structured around four topics: Democracy and popular participation; Forms of popular participation and the difficulties in implementing more participatory management; What Social Observatories are and how they work; The role of Social Observatories in expanding (or not) popular participation.

1 DEMOCRACY AND POPULAR PARTICIPATION

This topic will characterize popular participation, highlighting its importance for the democratic consolidation of a state, because if people participate more in state activities, they will be exercising more active citizenship.

Baquero (2008) identifies the degree of involvement of citizens in politics as a fundamental element for the quality of democracy. According to Baquero, in order to consolidate democracy today, it is necessary to exercise active citizenship, in which each individual can take part in the political arena; if this does not happen, the process of building democracy will lose its legitimacy, leaving only its formal dimension.

It is necessary to establish a broader concept of citizenship than merely exercising the right to vote and be voted for. It is in this sense that Benevides (1993) advocates active citizenship, which allows each citizen to participate effectively in the decision-making process, confirming popular sovereignty as an essential element of democracy.

However, the construction of active citizenship in Brazil has not been satisfactory because, as already mentioned, there has traditionally been an apathy on the part of the population, the majority of which shows no interest in participating in public administration. This reality is due to political and legal history of Brazil, marked by several dictatorial periods. In fact, "the trajectory of national public administration reflects the very trajectory of the Brazilian nation,

with the mishaps of intermittent periods of dictatorship and the influences of the colonization process” (MENEZES, 2005, p.3).

Menezes (2005) also highlights social inequality as a decisive element in determining the loss of political participation by the Brazilian people.

The new legal order inaugurated by the Federal Constitution of 1988, however, has gradually stimulated a change in this reality, allowing Brazilian citizens to gradually become more interested in monitoring public management. The Brazilian Magna Charter:

(...) pretende possibilitar a superação das desigualdades sociais e regionais por meio do progressivo aprofundamento da democracia participativa, social, econômica e cultural, só possível com o fortalecimento da esfera pública política, de uma opinião pública livre e de uma sociedade civil organizada e atuante (BALESTERO, 2011, p. 46).

The constitutional text itself contains a number of provisions that encourage this participation, including fundamental rights and guarantees that legitimize the act of participation, such as: freedom of association (art. 5, XVII), the right to petition (art. 5, XXXIII), the right to information (art. 5, XXXIV), the right to an adversarial proceeding and a broad defense (art. 5, LV), the right to due process of law, both in the judicial and administrative spheres (art. 5, LIV).

The Federal Constitution of 1988 also provides for constitutional remedies to protect these rights, based on the participation of the individual themselves, such as: the writ of mandamus (art. 5, LXIX), used to annul an illegal act or abuse of power practiced by a public authority; and the popular action (art. 5, LXXIII).

Several other provisions throughout the constitutional text deal with the issue of participation. Lock (2004) has identified all of them. The list begins with the article 10, which provides for the participation of both workers and employers in the collegiate bodies of public agencies, in which aspects of professional or social security interest to these actors are analyzed. There is also the article 14, which recognizes the sovereignty of the people through direct, secret voting, which is valid for all voters, as well as providing for plebiscites, referendums and popular initiatives as fundamental tools for establishing participatory democracy.

Focusing on the municipal context, we highlight item XII of the article 29, which guarantees that the population can participate in the planning of the administration. Related to this article, there is also the paragraph 3 of the article 31, which guarantees the people the role of overseeing public accounts.

Another constitutional provision worth highlighting as a guarantor of popular participation is the paragraph 3 of the article 37, which states:

Artigo 37, § 3º A lei disciplinará as formas de participação do usuário na administração pública direta e indireta, regulando especialmente

I – as reclamações relativas à prestação dos serviços públicos em geral, asseguradas a manutenção de serviços de atendimento ao usuário e a avaliação periódica, externa e interna, da qualidade dos serviços;

II – o acesso dos usuários a registros administrativos e a informações sobre atos de governo, observado o disposto no art. 5º, X e XXXIII;

III – a disciplina da representação contra o exercício negligente ou abusivo de cargo, emprego ou função na administração pública.

It is worth mentioning that this paragraph was included in the Constitution by means of the Constitutional Amendment (EC) No. 19 of 1998, which, as already mentioned, led to an administrative reform in Brazil, from which popular participation was given the status of a constitutional guarantee. This reform inaugurated a managerial vision of public administration, replacing the bureaucratic model that had prevailed until then. The managerial approach brings measures adopted by the private sector to the public sector, i.e. “the reform proposes a partnership with the private sector and with society in general in order to increase efficiency and legitimacy” (MENEZES, 2005, p. 7).

Initially, the focus of this partnership was on the delegation of public activities, through concessions or permits, or the private sector collaborating with the public administration by carrying out non-exclusive public services, as exemplified in this case by parastatal entities. Lately, the focus has been different, favoring:

(...) a atuação do particular diretamente na gestão e no controle da Administração Pública. É nesse sentido que a participação popular é uma característica essencial do Estado de Direito Democrático, porque ela aproxima mais o particular da Administração, diminuindo ainda mais as barreiras entre o Estado e a sociedade (DI PIETRO, 1993, p. 32).

Returning to the hypotheses of popular participation described in the constitutional text, the possibilities for the people to participate through the legislative process should also be highlighted.

(...) através de audiências públicas e reclamações contra atos das autoridades, nas comissões das casas legislativas, previstas no Art. 58, II e IV, bem como a participação diretamente na produção de leis, através da iniciativa popular prevista no Art. 61, § 2º. Possibilitando a atuação do cidadão enquanto fiscalizador da conduta do administrador, prevê o Art. 74, § 2º, a possibilidade de denunciar irregularidades ou ilegalidades ao Tribunal de Contas da União (LOCK, 2004, p.124).

There is also the possibility of participation as a member of the Council of the Republic, according to item VII of article 89, in addition to the possibility of class representative entities participating in the choice of the constitutional fifth, which may become a member of the Federal Regional Courts, as well as the State and District Courts (art. 94).

Finally, it is worth highlighting the provisions that provide for the possibility of popular participation in the administrative management of certain matters selected by the constituent, namely:

(...) dos produtores e trabalhadores rurais no planejamento da política agrícola (Art. 187); dos trabalhadores, empregadores e aposentados nas iniciativas relacionadas à seguridade social (Art. 194, VII); da comunidade em relação às ações e serviços de saúde (198, III); da população através de organizações representativas nas questões relacionadas à Assistência Social (Art. 204, II); a gestão democrática do ensino público (206, VI); da colaboração da comunidade na proteção do patrimônio cultural (Art. 216, § 1º); da coletividade na defesa e preservação do meio ambiente (Art. 225); de entidades não governamentais na proteção à assistencial integral à saúde da criança e adolescente (Art. 227, § 1º) e das comunidades indígenas, inclusive nos lucros, das atividades que aproveitem os recursos hídricos e minerais das suas terras (231, § 3º) (LOCK, 2004, p.125).

All of these constitutional provisions were relevant to providing a more favorable environment for popular participation, in the particular paragraph 3 of the article 37, which was included in the Federal Constitution of 1988, following the Constitutional Amendment 19 of 1998, should be highlighted, as it

(...) determinou ao legislador infra-constitucional a regulamentação do direito a participação, especialmente quanto às reclamações relativas à prestação dos serviços públicos em geral, ao acesso dos usuários às informações e à disciplina da representação contra o exercente de cargo, emprego ou função administrativa (MENEZES, 2005, p.3).



Since then, some infra-constitutional rules have introduced other forms of popular participation into the Brazilian legal system. One such example is the Fiscal Responsibility Law (Complementary Law 101 of 2000), which provides for public hearings to be held to assess the fiscal targets set by the Public Administration and to discuss the processes of drawing up and discussing plans, the budget guidelines law and budgets.

There is also the City Statute (Law No. 10.257, of 2001), which obliges municipalities to build democratic city management, and the following instruments must be used, according to the article 43 of this law, for this management to take place: collegiate urban policy bodies, at the national, state and municipal levels; public debates, hearings and consultations; conferences on matters of urban interest, at the national, state and municipal levels; popular initiative for bills and urban development plans, programs and projects.

This rule also stipulates that when there is a process to implement an undertaking or activity that has potentially negative effects on the environment or the population, public hearings must always take place, allowing the government to hear from the population concerned (Article 2, XIII).

In addition, there must also be public hearings and debates that allow for the participation of the population when drawing up the Master Plan of the municipalities (article 40, paragraph 4, I). Finally, this rule also provides for the need to implement participatory budget management, including holding public debates, hearings and consultations on the proposals for the multiannual plan, the budget guidelines law and the annual budget, as a mandatory condition for their approval by the Municipal Council (article 44).

These instruments provided for in the Fiscal Responsibility Law and the City Statute have led to better compliance with the constitutional principle of popular participation.

Lock (2005) points out that the Courts of Auditors must be attentive to whether the population was actually given the opportunity to be heard during the public hearings provided for in these laws:

A comprovação deve ser exigida porque a participação popular é princípio constitucional e condição obrigatória nos processos de elaboração e discussão das Leis Orçamentárias e Planos, nulificando o processo que não observar minimamente o dever de ouvir a sociedade. A não observância deste princípio vicia o processo de feitura da lei orçamentária, pois terá preterido formalidade essencial, pois se é certo que a participação popular é princípio constitucional, afronta-lo enseja a



invalidação de qualquer ato praticado sem a sua observância (LOCK, 2005, p.130).

However, in practice, public participation in these hearings is very low, often being restricted to specific groups that have personal interests in the issues discussed.

An example of this is the regulatory agencies, in particular the National Electric Energy Agency (ANEEL) and the National Telecommunications Agency (Anatel), which are also obliged to hold public hearings to make it possible for the public to participate.

a participação do usuário-cidadão na regulação e controle dos serviços públicos concedidos aos particulares (concessionárias), verifica-se um fracasso (...). A participação mais expressiva é realizada através dos grupos organizados. Como os grupos econômicos são mais bem estruturados, acumulam mais poderes nos processos decisórios, que os indivíduos isolados (MENEZES, 2005, p.5-6).

For this author, in order to guarantee the effective implementation of popular participation, it is necessary to go beyond the mere provision of the subject in the legal text, otherwise “the public hearings and consultations held by these sectors of state activity only distort legitimacy, since participation is only made by the regulated sectors themselves” (MENEZES, 2005, p.7). In this way, it will only serve as an obligatory bureaucratic step, but without the aim of making the participation of the population in administrative activities effective.

Another rule worth mentioning is the Transparency Law (Law No. 12.527 of 2011), which stipulates that all citizens must have access to public information, covering the executive, judicial and legislative branches of all state entities, as well as private entities that receive public funds. This regulation is important because access to information will help the population to learn more about public management and, as a result, be able to effectively monitor and participate in this management.

It is also important to highlight how citizens can exercise their participation, as seen above, which can be direct or indirect. In the next topic, these forms of participation will be explored in greater depth.

2 FORMS OF POPULAR PARTICIPATION AND THE DIFFICULTIES IN IMPLEMENTING MORE PARTICIPATORY MANAGEMENT



The Western democratic model privileges the latter, which will occur through elected representatives. In fact, “since the establishment of the Rule of Law, indirect democracy has monopolized democratic systems, in order to translate what would be the effective realization of popular sovereignty” (BALESTERO, 2011, p.48).

Di Pietro (1993) lists the following forms of indirect participation: the first would be popular participation in consultative bodies, and the author even lists the hypotheses of this type of participation provided for in the Federal Constitution of 1988; however, she points out that it is difficult to make this form of participation in administrative management effective, because the constitutional rules that deal with the subject are programmatic, requiring subsequent measures so that they can become effective, and many of these matters have not been regulated by the legislator.

The second form, described by the author, would be participation through the “ombudsman”, which does not exist in Brazil. It would be like an office of the ombudsman, a body designed to receive complaints and/or petitions from citizens and make the necessary referrals.

Finally, the third form would be participation through the Judiciary, considered by the author to be the most effective in Brazil, with citizens or representative bodies being able to control the public administration through the following procedural instruments: collective injunction, popular action, injunction and action for unconstitutionality by omission (DI PIETRO, 1993).

Another important resource for popular participation is the transparency portal, in addition to which social networks and mobile apps have made it possible to publicize state actions more widely, thus enabling them to be better monitored by the population.

There are also forms of direct participation, which can take place through plebiscites and referendums.

(...) são vistas como meios similares consultivos da opinião popular nos negócios do Estado e basicamente divergem em virtude do momento de suas realizações. O plebiscito é uma consulta prévia que se faz aos cidadãos no gozo de seus direitos políticos, sobre determinada matéria, a ser, posteriormente, discutida pelo Congresso Nacional, já o referendo, consiste em uma consulta posterior sobre determinado ato governamental para ratificá-lo, ou no sentido de conceder-lhe eficácia (condição suspensiva), ou ainda, para retirar-lhe a eficácia (condição resolutiva) (LOCK, 2004, p. 126).

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Os Orçamentos Participativos romperam com os paradigmas clássicos da Administração Pública e proporcionaram a integração da sociedade no processo de tomada de decisão sobre a alocação de recursos públicos, passando a incorporar uma dimensão deliberativa que abrange abrangendo a construção do consenso, considerando peculiaridades e diferenças sociais (BALESTERO, 2011, p.71–72).

The PB experience began in the city of Porto Alegre in the 1980s and was later disseminated to several Brazilian municipalities, having been replicated in other Latin American, African and European countries.

The PB was important because it institutionalized citizen participation, meaning that it defined a concrete form of popular participation, endorsed by the government, allowing direct and effective communication between the people and their rulers. With the implementation of the PB, the population could define priority areas for investment, not to mention the fact that its structure demanded greater transparency in the actions of the State; in addition, it made it possible to create an educational and formative dynamic to promote citizenship (DIAS, 2008).

On the other hand, the author points out the limitations of the PB: The process was very focused on solving more immediate problems, which prevented more strategic planning in relation to the development of the municipality; there was also a greater focus on investment, related to capital expenditure, not covering the direct form on other operating expenses or on the revenues themselves. In addition, the financial capacity of municipalities hinders the resolution of the numerous problems that affect city territories. Another relevant limitation is the local aspect of the PB, forcing the participatory process to be restricted; finally, there is unequal participation among social groups, such as women and young people, who are not well represented in the decision-making spaces of the PB.

In addition to these limitations presented by Dias (2008), there is also the use of party politics in the PB. Many people involved in the PB voting procedure took



advantage of the budget debates to make themselves known in the communities, and then seek an opportunity on the political scene.

As can be seen, the Brazilian Magna Charter and the infra-constitutional norms have brought great advances with regard to popular participation. However, there is still great difficulty in implementing these forms of participation, based on the brutal social inequality that exists in Brazil, which has a large number of people in extreme poverty, making it unfeasible for them to be interested in participating in the democratic management of public administration, when they are struggling to survive.

Given this social context in Brazil:

Não se pode negar que a heterogeneidade da população brasileira, abriga segmentos com uma compreensão mais ampla do conceito de cidadania focada na preocupação com a vida pública. Por outro lado, não se pretende ocultar a realidade da imensa maioria de miseráveis que mendigam o pão de cada dia, alheios, pela absoluta condição de excluídos, à ideia de interesse público (MENEZES, 2005, p.3).

This heterogeneity of the Brazilian population is also noticeable when it comes to access to education: while a few have the opportunity to study in the largest centers of the country, the vast majority attends poor schools. The lack of education, therefore, also represents a limiting factor in the Brazilian popular participation. Not to mention the fact that administrative issues are not addressed in regular education, due to the lack of interest on the part of the government itself in implementing transparent management.

How can you actively participate in public consultations on government budget guidelines if you don't have the slightest knowledge of the public budget? It is possible to state empirically that even in university centers there is no in-depth dissemination of this type of knowledge, there is a lack of fiscal education, because

(...) a participação do cidadão como agente fiscalizador dos atos públicos ocorre de forma eficiente, a partir do momento que o indivíduo recebe condições para participar efetivamente das discussões em relação a esse processo. Entretanto, é essencial que o mesmo obtenha uma educação de qualidade, isso não se trata de adquirir conhecimentos clássicos referentes as etapas de ensino, mais sim, no sentido de a pessoa adquirir conhecimentos e informações primordiais para



conseguir compreender tanto os seus direitos e deveres enquanto mero cidadão brasileiro (COSTA; SOUZA, 2018, on-line).

In addition to this, it is possible to see that, culturally, there is a naturalization of corruption within Brazilian society, which means that a huge portion of the population shies away from participating politically in state activities, due to the discrediting of the political class.

Despite this negative scenario, specific experiences are emerging, demonstrating that it is possible, despite recognizing these difficulties, for popular participation to take place. One of these experiences that have gained prominence on the national scene is the social observatories, which will be presented in the next topic.

3 WHAT ARE SOCIAL OBSERVATORIES AND HOW DO THEY WORK?

The first Social Observatory to emerge was in the municipality of Maringá, in the state of Paraná, in 2006 – Social Observatory of Maringá (OSM) – when there were numerous cases of corruption in the city, denounced by the media, which embezzled millions of reais in public money. According to Sager and Bossi (2017, p.835), the OSM

(...) é uma associação sem fins econômicos e sem vinculação partidária que visa valorizar a cidadania e a ética. Formado por profissionais de diversas áreas, entre advogados, juízes, contabilistas, economistas, funcionários públicos federais e estaduais, empresários, estudantes, aposentados, a entidade mantém um metodologia de trabalhos focado no acompanhamento de processos licitatórios, que vai desde a publicação do edital, a análise dos processos e a verificação da entrega do produto ou serviço.

It is important to note that many of these professionals who are part of the OSM (and other Social Observatories as well) are part of business groups, such as the Chamber of Shopkeepers (CDL), or are members of unions of employers or workers, there is also emphasis on the participation of people who are part of the Freemasons, as well as traditional associations such as the Rotary Club and the Lions Club (DOIN et al., 2012), (SCHOMMER et al., 2011).

All of them came together with the aim of overseeing public administration, encouraging fiscal citizenship on the part of the population, as well as encouraging actions aimed at fiscal education.

Doin et al. (2012, p.69) point out that



A atuação do OSM foi reconhecida pela FINEP como Tecnologia Social do Prêmio de Inovação, em sua etapa regional, em 2008. E foi a primeira colocada no V Concurso de Experiências em Inovação Social, promovido pela Comissão Econômica para América Latina e Caribe das Nações Unidas – CEPAL, com o apoio da Fundação Kellogg, na cidade de Guatemala, em 2009.

With this repercussion, by 2008 there were already six more Observatories with a similar format in different cities.

At that point, there was a need for a central Observatory that could standardize the actions of the municipal Observatories, as well as train the people who make up these local institutions. In 2008, the Brazilian Social Observatory (OSB) was created, which coordinates the entire Brazilian Social Observatory and Social Control Network.

The OSB defines itself as “a space for the exercise of citizenship, which should be democratic and non-partisan and bring together as many representative entities of civil society as possible with the aim of contributing to the improvement of public management” (OSB, 2019).

In addition, the following values are defined for its work: non-partisanship; citizenship; commitment to social justice; ethical, technical and proactive attitude; preventive action and long-term vision.

These values reflect the main characteristics of the OSB Network, non-partisanship was placed first, because according to Bona and Boeira (2018, p. 230) it is

(...) é visto como princípio fundamental da rede, que deliberadamente busca distanciar-se dos partidos políticos porque não vê na atuação dessas organizações um vislumbre de solução dos problemas sociais locais, tampouco um sincero desejo de defender o interesse público mais amplo.

The other values are associated with the lines of action of the Observatories, which, according to Schommer et al. (2011) are centered on three main groups: monitoring public spending, education for fiscal citizenship and improving the quality of public management.

It is important to note that despite the attempt by the OSB to standardize the actions of all OSs, in practice the actions of each OS end up prioritizing one or other of these groups. Nunes (2015) reports that the OS in the city of Itajaí-SC

focuses on actions aimed at education to combat corruption, transparency and fiscal citizenship. In any case, monitoring actions are still carried out.

This author explains that the focus is on observing public management and if there is a need for any clarification on the state's actions, first of all there should be a formal request to the responsible manager, and if there is no response within the legally stipulated timeframe set by the Access to the Information Law, the Observatory forwards the case to the City Council, which is constitutionally defined as the inspector of the municipal executive. If the case is still not resolved, it is referred to the Public Prosecution, which, if it sees fit, can open a Public Civil Inquiry, which can later be transformed into a Public Civil Action¹. (NUNES, 2015).

There are Social Observatories in several Brazilian cities². One of the focuses of the OSB Network is to expand the number of observatories more and more.

4 THE ROLE OF SOCIAL OBSERVATORIES IN BROADENING (OR NOT) POPULAR PARTICIPATION

This topic will analyze the role of OSs in expanding (or not) popular participation, checking how these institutions allow the population to monitor public administration more closely and consequently demand better action from state administrators.

Initially, it is worth highlighting the fact that the creation and dissemination of OSs in various locations has aroused interest in popular participation, at least on the part of the people involved in the activities of the Observatories. The simple fact of getting out of the inertia of social control through popular participation is already something positive:

(...) na origem de muitos dos observatórios está a indignação da sociedade com escândalos de corrupção, mau uso do dinheiro público e apatia da população diante disso, o que contraria a visão muitas vezes propagada de que as pessoas tendem à acomodação e a acreditar que no Brasil “tudo acaba em pizza”. Mostra que muitas pessoas querem sim participar da esfera pública e podem fazê-lo de diversas maneiras (SCHOMMER; MORAES, 2010, p.322)

¹ O autor relata que em Itajaí, em 2015, já tramitavam 06 (seis) Ações Cíveis Públicas, decorrentes da atuação do OS Itajaí-SC, além disso, ele enumera também que a partir do monitoramento das licitações houve uma economia de cento e oitenta e dois milhões de reais, a partir da diferença entre o que o Município pretendia pagar e o que efetivamente pagou.

² Para consultar o quantitativo existente acessar a página: <<https://osbrasil.org.br/mapa-sistema-osb/>>



It is also important to note that in the places that have OSs there has been a greater demand for better state action, through more transparent management.

The monitoring of public accounts and the demand for the development of effective and efficient public policies aimed at the population has gradually led public administrators to adopt a management approach geared towards corporate governance, which is associated with the idea of encouraging greater participation by people interested in the success of the organization, thus establishing mutual cooperation between the external and internal publics of the organization. From the point of view of public administration, it will be characterized precisely when there is teamwork to carry out administrative management.

In this way, there will be a stimulus for the participation of the people who make up the OSs, but indirectly it may also encourage other citizens to develop an interest in participating more in state administrative activities.

The pillars of corporate governance are accountability and compliance³.

It can be said, in general terms, that accountability “refers to the relationship between two parties, in which the first delegates responsibility to the second, who must exercise the management of resources, which generates an obligation for the second party to render accounts to the first” (BUTA et al., 2018, p. 49). It is a mutual relationship in which one person is obliged to meet the expectations of the other.

At the state level, Schommer and Moraes (2010) define a specific type of accountability, which is democratic accountability, also known as political accountability, understood as the “set of institutional mechanisms by which rulers are forced to answer, without interruption, for their acts and omissions to the governed”. In other words, in these cases it is the ruler who is responsible for meeting the expectations of the governed.

The OSs have contributed to the development of democratic accountability, since they act to reinforce this constraint for efficient, ethical and effective management on the part of public administrators. Although they do not have the cogent force to determine sanctions, in cases of negligence their action may give rise to other forms of administrative control, through formal institutions such as the Court of Auditors, the Public Prosecution, the Legislature and the Judiciary,

³ Nos últimos anos, tem sido possível visualizar o uso desses instrumentos no Direito Administrativo em algumas normas, pode ser citado o Estatuto Jurídico das Empresas Estatais (Lei nº 13.303, de 2016); a Lei nº 13.334, de 2016, que criou o Programa de Parcerias de Investimentos (PPI); e o Decreto nº 9.203, de 2017, o qual dispõe sobre a política de governança da administração pública federal direta, autárquica e fundacional. Todas possuem dispositivos que obrigam os administradores a agirem com mais transparência e eficiência.

the observatories can therefore be seen as instruments for achieving social control, mainly as activators of other accountability mechanisms. In addition, they can influence elections and state laws, allowing developments that will lead to the strengthening of citizenship and local democracy (SCHOMMER; MORAES, 2010).

Compliance, on the other hand, literally means the idea of

(...) tem origem no verbo inglês to comply, que significa agir de acordo com a lei, uma instrução interna, um comando ou uma conduta ética, ou seja, estar em compliance é estar em conformidade com as regras internas da empresa, de acordo com procedimentos éticos e as normas jurídicas vigentes⁵. No entanto, o sentido da expressão compliance não pode ser resumido apenas ao seu significado literal. Em outras palavras, o compliance está além do mero cumprimento de regras formais. Seu alcance é muito mais amplo e deve ser compreendido de maneira sistêmica, como um instrumento de mitigação de riscos, preservação dos valores éticos e de sustentabilidade corporativa, preservando a continuidade do negócio e o interesse dos stakeholders (BERTOCCELLI, 2019, p.49).

In this sense, the OSs have been important because the control and monitoring of public spending, the demands for government action aimed at the common good end up encouraging those in power to respect the laws and principles that govern administrative law.

Another positive aspect of the OSs, in terms of encouraging popular participation, is the stimulus they provide for fiscal education, and even educational actions represent an important line of action in many Observatories.

According to Grzybovski and Hahn (2006), the function of tax education is to provide citizens with guidance on the administrative control mechanisms that exist in the public service, as well as training the population so that they know how and when they can complain to the Administration, in addition to strengthening the population so that they can satisfactorily exercise their social rights, encouraging them to have a sense of community and spreading reflection on the responsibility of each person for the collective good, based on an understanding of the importance of the taxes paid. The authors summarize by stating that tax education “aims to raise awareness in society about the need to finance the State through tax collection, the duty of the taxpaying citizen to pay them and the right to monitor their application” (GRZYBOVSKI; HAHN, 2006, p. 843).

Tax education is an important line of action for OSs. The Social Observatory of the city of Itajaí, in the state of Paraná, for example, “bases its action on three explicitly educational fronts, which constitute the three great causes for which the institution fights: Educating people to fight corruption; Educating people for transparency; Educating people for Fiscal Citizenship” (NUNES, 2015, p.10).

It must be recognized that “(...) this process, however, is not linear. There are advances, stagnations, setbacks, in terms of trust between agents, shared activities and results” (SCHOMMER et al., 2015, p.1.393).

This lack of linearity is expressed in the difference between each SPO; some manage to carry out their activities more effectively, while others find it much more difficult to keep up with state management.

In the study carried out by Schommer and other authors (2015), they observed that some OSs

(...) obtiveram resultados significativos no combate à corrupção e no monitoramento das atividades da administração pública. Outros, no entanto, enfrentaram dificuldades, como: problemas para levantar fundos, baixa capacidade operacional para realizar as atividades necessárias e para estabelecer uma comunicação entre a sociedade e as agências governamentais⁴ (SCHOMMER et al, 2015, p.1394).

This means that in some municipalities the Observatories are more engaged and consequently have greater popular participation, while others have more difficulties in developing educational activities and more effective social control.

In this sense, it is possible to argue

(...) que essas organizações contribuem, em diferentes graus, para a educação fiscal e o controle social local e também abrem espaços para prestação de contas e co-produção de informações e co-produção de controle da administração pública. As atividades dos observatórios sociais demonstram o potencial de inovação nas práticas de administração pública, porque envolvem várias organizações e cidadãos na melhoria da administração pública, trabalhando em uma rede e

⁴ Tradução nossa, no original: “Some observatories under study have obtained significant results in fighting corruption and monitoring public administration activities. Others, however, face basic institutional difficulties, such as problems to raise funds, low operational capacity to undertake the activities needed and to communicate to society and government agencies”.

fortalecimento da co-produção de serviços públicos⁵ (SCHOMMER et al., 2015, p.1.394–1.395).

It can therefore be seen that in many ways the Observatories have been decisive in broadening popular participation, but on the other hand it is necessary to recognize that they have some limitations. First of all, they are made up of a very specific social group, made up of people with high purchasing power, mainly from the business sector, as well as members of recreational associations such as the Rotary Club and class associations of the employers.

Another important data is that Schommer et al. (2011, p. 34) report that there are “twice as many men as women”. During the period in which the research was carried out by these authors, there were around 34% women in OSs and 66% men.

It can therefore be seen that wealthy men predominate in these spaces,

Lamenta-se o fracasso das democracias na promoção da efetiva participação cidadã. Em geral, apesar de certos segmentos da administração pública despenderem esforços para a ampliação da esfera participativa, atraem apenas um segmento populacional limitado, representantes de grupos de interesses organizados e que, via de regra, já tinham presença ativa nos assuntos daquele segmento específico (MENEZES, 2005, p.4).

In the Schumpeterian view, when there is a complete weakness of logic in the processes of collective mentality, and a complete absence of critical bias and rational influence on the experience and responsibility of the individual, there will be a greater likelihood of certain groups wanting to exploit other people. It is known that

Tais grupos podem consistir de políticos profissionais, expoentes de interesses econômicos, idealistas de um tipo ou outro, ou de pessoas simplesmente interessadas em montar e dirigir espetáculos políticos. A sociologia desses grupos não tem importância para o nosso argumento. O importante é que, sendo a natureza humana na política aquilo que sabemos, tais grupos podem modelar e, dentro de limites muito largos, até mesmo criar a vontade do povo. Na análise dos processos políticos, por conseguinte, descobrimos não uma vontade genuína, mas

⁵ Tradução nossa, no original: “(...) that these organizations contribute, at different degrees, to fiscal education and to local social control, and they also open spaces Accountability and co-production of information and control for co-production of public administration control. The activities of social observatories demonstrate the potential for innovation in public administration practices, because they engage various organizations and citizens in improving public administration, working within a network, and strengthening co-production of public services”

artificialmente fabricada. E, amiúde, esse produto é o que realmente corresponde à vontade générale da doutrina clássica. E, na medida que assim é, a vontade do povo é o resultado e não a causa primeira do processo político (SCHUMPTER, 1961, p.314).

This raises questions about the representativeness of the Observatories. To what extent do the actions they carry out express the will of the people or do they serve particular interests?

We have seen in this study that these institutes try to avoid this type of questioning by promoting neutrality in their actions and proposing to distance them from the partisan debate. It is strictly forbidden for members of the OSs to be affiliated to political parties.

However, this determination is contradictory, because

(...) essa separação entre gestão e política não é coerente com a estratégia de atuação preventiva e colaborativa proposta pela rede. É como se um político que, antes, não merecesse credibilidade por ser filiado a um partido, mas depois de eleito passasse a merecer apoio do OS porque tornou-se gestor. Ou seja, a negação da política partidária pelos OS não contribui, necessariamente, para a prevenção da corrupção ou a melhoria da eficiência pública que almejam. Afinal é dos partidos que sairão os representantes eleitos que, mais tarde, serão reeducados, orientados, fiscalizados e até mesmo denunciados pelos OS (BONA; BOEIRA, 2018, p.230).

It is also essential to emphasize that popular participation will not be complete “before solving or minimizing a traditional problem in Brazil – social inequality, the archenemy of social democracy (MENEZES, 2005, p.5)”. In this way, proposals aimed at stimulating popular participation in the social control of public administration need to develop activities that are also aimed at reducing or minimizing social inequality, because only in a more egalitarian society that fosters social democracy will it be possible to have a greater number of people who develop an interest in monitoring public management.

FINAL CONSIDERATIONS

The aim of this study was to analyze the importance of Social Observatories in encouraging greater popular participation in the management of public administration.



In this sense, the reader was initially presented with a description of popular participation in Brazil, it was seen that Brazilian history, marked by authoritarian regimes, influences the lack of interest that citizens have in the social control of public management, allied to this is the social inequality that creates an abyss among the Brazilian population and prevents the less favored classes from feeling stimulated to popular participation, since they need to be focused on their own survival. This debate is based on the understanding that participation is a *sine qua non* condition for democratic consolidation, as it enables the exercise of active citizenship.

The forms of popular participation were presented, which can be direct or indirect. It was pointed out that priority has been given to indirect forms, through the election of citizen representatives; however, recently a change in this paradigm has been proposed, with the adoption of mechanisms that encourage direct participation being increasingly advocated.

The main difficulties in implementing more participatory management were seen, including the presentation of the example case of participatory budgeting.

Later on, attention was focused on the OSs, the object of study of this work, presenting how they work and the main activities they carry out.

Finally, an attempt was made to understand the role of the Social Observatories in expanding (or not) popular participation. It was found that they are fundamental in stimulating popular participation, because they have allowed the Brazilian population to emerge from the inertia that previously prevailed.

Numerous reports of corruption involving politicians who should be acting in the public interest, but who have favored their personal interests, profiting from the misappropriation of public money, while the population suffers without adequate public services. This context has accentuated the indignation of several people, and the proposal to create the OSs has arisen. OSs have already shown positive results as a result of their work in several municipalities, as reported in this study.

Another positive factor in the work of the OSs is the incentive they have brought to expand fiscal education, training the population to better understand the public budget and administrative management.

The performance of the Observatories, however, is not linear, they have different degrees of development in their lines of action, in other words, some manage to be more effective in controlling and monitoring public administration, while others act more timidly.

All these aspects show that they have greatly helped to increase participation and the population's interest in public affairs; however, it must be recognized that “not everything is flowers”, and some relevant limitations have been identified in their work. Firstly, the embarrassment arising from the lack of representativeness of various sectors of Brazilian society was mentioned, since the members of such observatories are mostly men with high purchasing power. Next, the paradox of the rejection of political parties was highlighted, given that they act politically, condemning what is political.

In light of the above, it was possible to state that the OSs have led to a significant increase in popular participation; many municipalities have been able to count on the engagement of the population in administrative activities; however, it is necessary to encourage greater heterogeneity among their members, otherwise we will have the will of a small group of people prevailing, dressed up as the general will. Furthermore, it is necessary to overcome this prejudiced view of party politics, conceiving that this is the model adopted by Brazil, and therefore it is necessary for it to exist, and for politics to be put into practice in this country. This doesn't mean that the OSs should be allied with political parties, but it does mean that bridges should be created to foster dialogue, because in this way popular participation will be an ally of the Public Administration.

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