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The social responsibility of the Public Administration*

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The aim of this article is to reflect on the new role of the State: encouraging participation in society, become jointly responsible of the social justice and promote balanced development.

To realize this idea we must consider the three levels of government and the three public powers that do not disappear, but transform its practices in order to ensure rational cooperative exercise in relation to the aims of the State.

I. Context

Nowadays, the prevailing economic, political, social and cultural circumstances arising from a concentrator globalization of power in a few centers in the world, which have the technology and knowledge, for that reason are dominant in the so-called *information age*, even creating prone circumstances to expand their transnational domain in financial markets and goods and services, based on the paradigm of cementing the collective welfare in individual development, putting sideways the development comprehensive and balanced socioeconomic.

II. State responsibility

The term responsibility derives from the Latin "answer", which refers to a person who is committed to a particular case; this commitment gives it a sense of ethics mandatory to meet the consequences of its actions, and at the same time it refers to its ability to respond to facts which have not yet occurred.

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The need to live collectively leads the human being to belong to a political community. Only through cooperation that enables collective life can satisfy the most basic needs. However, in order to ensure social cooperation it is necessary the existence of vertical relationship's forms. Therefore, the relationship of leadership, management and coordination involving the government defines the political nature of a community.

Throughout history, people have formed different political communities, from the ancient Greek *polis*, through the Roman *civitas*, as well as communes, Empires and States leagues. The modern State, i.e., the current political organization, was originated in the sixteenth century. Its main feature was defined by Max Weber as the "monopoly of physical force within a given territory."[1] This definition explicitly refers to the sovereignty over a territory. Similarly had pointed out long before Jean Bodin,[2] when he defined the republic —term used to denote what now we call State— as that supreme, absolute and perpetual power, i.e. sovereign. This is the reason that the State is the political organization par excellence. Its constituent elements are: population, territory and government. From the preservation of these elements emerge their goals: Security and social peace, the well-being of the population, political and economic stability and sustainable development.

The responsibility for the welfare of its subjects has not always been the responsibility of the modern State, was not an easy conquest neither. The idea of social responsibility and the duty of the State to take care of people in poverty were not always linked to the State. In the Middle Ages the notion of poverty as well as lack of food, included aspects such as helplessness, loneliness and abandonment. For Christianity, to love one's neighbor is a constitutive duty. It is a notion that corresponds mainly to the Church, specifically the monasteries. Nobility also had the duty to protect and assist its people in poverty.[3]

With the development of cities in the Europe of fourteenth century, result of a premature capitalism, starts a process of social change. The first non-church institutions appear to help the poor people. They are pious brotherhoods founded by individuals whose purpose is to organize charity. At this time, the membership of a particular guild also represented one of the earliest forms of social assistance.[4]

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[1] See Max Weber (1998), "La política como vocación", *El político y el científico*, trad. Francisco Rubio Llorente, Madrid.

[2] Jean Bodin (2010), *Los seis libros de la República*, trad. Pedro Bravo Gala, Madrid, Tecnos [originally published in 1576].

[3] Ignacio Sotelo, *El Estado social. Antecedentes, origen, desarrollo y declive*, Madrid, Trotta, p. 140.

[4] *Ibidem*, p. 141.

The early history of social policy is developed within the framework of absolutism, specifically in its manifestation as enlightened despotism. The German cameralism had as a main objective to strengthen the State through the creation of general wellbeing. In essence, they argued that economic development was not exclusively a matter of economics but encompasses areas of State administration.[5]

The consolidation of the social State also originated in Germany. In the late nineteenth century, Otto von Bismarck, Chancellor of William II, launched the first social security program. Although he acted with strategic intentions looking to incorporate to the workers into State's institutionalization, it was the first effort to ensure their working conditions and the risks associated with it.

In the twentieth century some of the most important contributions regarding the social responsibility of the State are given in England. The first was the creation of unemployment insurance contained in the *Unemployment Insurance Act* of 1920. On the other hand, we will highlight the role that two Englishmen had in the creation of the welfare state. On the one hand, Keynes, who developed the economic theory that gave it foundation, on the other William Beveridge, responsible for promoting the project.

Although has changed the role of the State over time, the essence of the ends still remains. That's why the State remains the central actor in the conduct of public affairs. His performance goes two ways: within its territory and abroad in their expressions with other actors in the international context. This primordial and regulatory function obviously is based on the law, with a regulatory framework specialized and intricate by the amount of public affairs is responsible.

III. State of Right as responsibility

In this section I intend to highlight a constant, related to the application of law in public life, and although there are plausible exceptions, they usually go unnoticed. What is apparent is rather a separation between policy and practice, however in the constitutional and legal engineering everything seems in order.

Throughout the history of Mexico a pale culture is evident in compliance with the principles of lawfulness and legality, if we attend to the perceptions of the importance of compliance with the Law, related to atavistic habits comprising both society and the government in its three branches of government and its three powers and, of course, include the operators of the rules, i.e. public servants, can be argued that attachment to the

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[5] *Ibidem*, p. 147.

regulatory framework is not one of our distinctive signs (Financial Group Banamex-Accival, 2012).

Faced with this reality is relevant to consider two questions: what does the law mean for the Public Administration? And, vice versa, what is the significance of Public Administration for the Law?

The law, as a scientific discipline, aims to study human behavior for the regulation of social life and, on the other hand, Public Administration was established as the concrete institutional expression of the government, designed to help achieve the objectives of each branch of *government.*[6]

Thus, the Law in its relationship with the Public Administration regulates linking public service to society, the way how the government is organized, and the functions entrusted to public bodies.

The link between the Public Administration and the law has been so close that led to the emergence of Administrative Law, whose main field of study, according to Gabino Fraga, is: "the rules of organization and operation of the Executive and the rules that regulate the activity of that Power, which is made in the form of administrative function".[7]

The author believes that the administrative act is the way how "the primary purpose of the State is to meet the public interest by the police, comprising the steps necessary to safeguard public order, i.e., the tranquility, social safety and public health, through interventions to regulate and promote the activity of individuals, through public services that provide benefits to meet the collective needs and direct management in the economic, cultural and charitable life".[8] Thus, these State's goals soon will become and enrich themselves to lead, among others, to the Social Security and Social Peace, Stability, Comprehensive Wellness and Sustainable Development.

These purposes are held not only in the Administrative Law but, for example, in the Right to Information, International Humanitarian Law and Public International Law, on children, women, the elderly population, new rights in civil, etc.

But the complexity under which we live has caused the Public Administration has been transformed on the progress and, in some cases, has exceeded the constitutional and legal framework. This is one of the reasons that lead us to analyze the current situation of law in its relationship with the public administration. In this sense, we can formulate the following propositions:

[6] Eduardo García Máynez (2000), *Introducción al Estudio del Derecho*, 50ª ed., México, Porrúa, 2000.

[7] Gabino Fraga (2012), *Derecho administrativo*, México, Porrúa, p. 84.

[8] *Ibidem*, p. 227.

First: The regulatory legal order of the Public Administration has become cumbersome and outdated, causing misunderstanding of public servants on the meaning of legal norms;

Second: The difficulty in linking the law to administrative practice causes to be considered as an obstacle, leading to paralysis and the consequent loss of results;

Third: The public servants do not clearly perceive the sense of responsibility due to ignorance of the law;

Fourth: The observance of the Constitution is rejected in practice because it has ignored the education and training over the importance of law in the exercise of public power;

Fifth: The law is applied more for fear of sanctions that the conviction of acting according to should be.

The relationship that keeps the application of the Rule of Law to public life is a notion that should be present at all times. Although sometimes a disconnect between policy and practice can be seen, the principles of legality and legitimacy, guarded in constitutional engineering of each country are accepted and recognized by the United Nations (UN) and commitments that allow them join this global organization.

In this sense, is important the joint effort of several countries to meet the Millennium Development Goals. With this tool of international cooperation, global responsibility of various governments is recognized in order to reverse the problems of poverty and environmental degradation.

IV. The depletion of the statist model of social responsibility

The representation of the State is the government, and this one is organized according to the Law. So, it is constituted in three branches: one in charge of creating the rules (legislative), the other for executing them (Executive) and last one charged of supervises its compliance (Judicial). Despite its age this discourse continues. The set of government activities constitute the Civil Service, present in all three branches of government and in the three levels of government: national, sub national and local. I would add, overcoming the idea that the Civil Service is exclusive of the Executive.

The nature of Public Administration is comprehensive. One of its main manifestations is the Public Administration. If we take as a base point to what specialists in administrative law say, the primary purpose of the State is to meet the public interest through the administrative act, which manifests itself in three ways: first, through the provision of public goods

and services; second, for the direct management of economic, cultural and charitable life, and the third by the police to maintain public order.

Now, the expansion of the welfare model became a crisis. The pressure exerted by the excessive increase of demands (inputs) to the political system led to two serious problems. On the one hand, a crisis of the political system response that manifested as lack of rationality in the administration. On the other, a crisis of inputs, which is evidenced by the scarcity of resources by fiscal means to maintain high public spending was generated.[9]

In view of overloading demands of society, the government is bound to meet them, so it has to share its responsibility favoring its regulatory role in economic and social relations. This exercise of authority is not questioned, but the State's ability to respond fully to the various demands and social requirements. The insufficiency in meeting the citizens' needs resulting in a decline in the legitimacy of the Government.

Since the late twentieth and beginning of XXI century, this openness and collaboration with civil society is most evident in the handling of issues of general interest. Rights and benefits in two areas are recognized: the provision of public services and the protection of human rights with emphasis on vulnerable groups.

This is exemplified by public transport, water treatment, garbage collection, production and distribution of energy, etc. Similarly in handling specific issues such as protecting groups for the environment, care for people with disabilities. This is accomplished through alliances with civil society organizations, for various purposes whether profit or altruistic.

The State should not abdicate its responsibility and the exercise of his rectory. If we recall what has happened when it leaves its monitoring, results are disastrous, just refer to what happened with the speculative financial market.[10]

Responsibility and raison d'être of the State is to meet its goals. To keep it is essential to strengthen the capacity of coordination and ongoing communication between the government, its three branches and areas, and the society that supports them. Recognizing the legitimacy of different and even conflicting interests, abuse of certain rights or positions is avoided i.e. is responsible for the costs and consequences of one's actions, which

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[9] Luis F. Aguilar Villanueva (2013), "Gobernanza: el nuevo proceso de gobernar", *Gobierno y Administración Pública*, México, Fondo de Cultura Económica / Conaculta, pp. 275-279.

[10] I refer to the financial crisis of 2008-2009, from which the globalized world is not recovered.

poses a public perspective and not particularistic social problems. For this, the State must establish itself as a strong institutional framework to prevent its capture by factional interests.

This responsibility is systemic, which must be understood holistically, encompassing the political, economic, administrative and legal areas. A government failure has repercussions throughout the system.

In the context of globalization, the State responsibility means assume, precisely, the feasibility of the country for the welfare of its people,[11] in cooperation with other social actors.

V. Joint responsibility in the construction of public space

In the context of globalization, the traditional positions on the role of the State have changed. Therefore, the concept of the public is reconsidered. Until a few decades, the functions or activities of the government were considered "public" and the field in which they developed was called "public sector" or "public space".

According to Nora Rabotnikov the notion of the public involves three basic senses: first, what is of interest or common good to all, that is what concerns all, and second, as what is obvious or manifest, i.e. it is for everyone to see, and finally what is open and accessible to everybody, therefore, inclusive.[12] Consequently the public space to which we refer is an area in which the participation of everyone is allowed, it is the place where common interests are discussed and everything is done in an open and transparent manner.

Today, talk of public space means to refer to the hinge between the accomplishments by the government and civil society in a single space. The concept encompasses everything can realize jointly. Therefore, when speaking of the public sphere, again, it is something beyond of the specifically governmental. In this context governance arises, which gives responsibility to each of the actors. From a broad view, governance is stability, security, social peace, wellness, employment, investment, sustainable development, in short, everything that interests us as citizens in particular and as an organized society and, ultimately, of interest to country.

Thus, in the management of public space is possible the participation of private companies, civil associations or other organizations. It is part of the collective and its use is common for citizenship. The media and ICT play

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[11] José R. Castelazo, *Administración Pública: Una visión de Estado*, 2nd ed. Revised and enlarged, México, Instituto Nacional de Administración Pública, p. 4.

[12] Nora Rabotnikov (2010), "Discutiendo lo público en México" in Mauricio Merino (coord.), *¿Qué tan público es el espacio público en México?*, México, Fondo de Cultura Económica / Universidad Veracruzana / Conaculta, pp. 28-30.

a vital role in its settings to influence and guide its behavior, particularly differing from the governmental. In this sense, open government is an effort of linking between the government and society itself, into a shared public space.

The *public-private partnership* refers to mechanisms of cooperation between governmental institutions and those of the private sectors, mainly business, with a common goal. The ways in which public-private partnerships are performed may vary, ranging from outsourcing, *business management of public utilities*, and the design of hybrid organizations to share risk, or simply co-production government and private actors.[13]

In a context in which the relations between the public and private sectors are given under the logic of governance, social responsibility should not fall solely on the government, nor should it be an isolated effort of private companies. Collaboration between both of them is inevitably required to generate higher social welfare.

Therefore, new strategies to combat poverty must lie in new forms of social collaboration in the design and implementation of public policies. Given the complexity of the problem, ordered and incremental solutions must be found in the short and long term, without neglecting the immediacy required by the socioeconomic conditions of the majority of the population in Mexico and in the world.

Importantly, the current shape of public space is in constant confrontation: between trying to determine some influential groups, owners of the media, versus what the governmental action field defines as the public agenda. Related to this, pressures of the powers exercised outside the formal channels (*fácticos*) and society are added in order to influence in this new public space, which requires democratic channels of participation in order to include all members of the population.

Public space also has social, cultural and political dimensions. It is a place of connection and identification of political demonstrations, contact between people, urban and rural life and community expression. In this sense, the quality of public space can be evaluated mainly by the intensity and quality of social relations that facilitates, by their ability to interact between different groups and by the ability to contrast different behaviors, without ceasing to encourage the symbolic identification, the expression and the cultural integration.

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[13] Chris Skelcher (2005), "Public-Private Partnerships and Hybridity", in Ewan Ferlie *et al.* (eds.), *The Oxford Handbook of Public Management*, Oxford, Oxford University Press, p. 347.

The public space, political expression par excellence, is assumed to be public domain, collective social use, where various activities are performed, is where actually happens or not the distribution of power. In this framework there are plenty of possibilities of expression until the virtual space, with challenges for the three public actors: the government to regulate it, society and citizenship for use it by the tacit and express acceptance, as appropriate, of shared responsibility.

If the notion of public space also refers to the place of coexistence of society, where people and government cohabit to perform common activities, the construction of this space must be approached with a partnership focus.

Government responsibility in the configuration of this shared scenario supposes the ability to manage and resolve conflicts in the best way. In a situation where resources are always scarce and the demands of society are always many and growing, every governmental decision is inevitably political and therefore public. From the other side, the decisions that incur other actors are equally political and public.

The quality of this space can be evaluated mainly by the intensity and depth of social relationships they adopt, for their ability to interact between different groups and to contrast different behaviors, stimulating symbolic identification, the expression and cultural integration in spaces physical or virtual, we must emphasize the importance of social networks as a mechanism that facilitates the informal expression of feeling a part of society and can influence decision-making.

In addition, public space has democratic features: it belongs to everyone and, therefore, of no one in particular. Although society and government are jointly involved, the latter is recognized as the legal and legitimate representative of authority. Stability, security, social peace, wellness, employment, investment, sustainable development, in short, everything that interests us as citizens in particular and as an organized society, defines a public agenda, which should be specify beyond that set by the government.

Consequently, the public space is constituted as a place where the exchange of views, discussions and reflection of the various projects are encouraged. Moreover, given its nature, encourages diversity and plurality. To the latter can express the creation of public places such as libraries, coffee bars, streets, squares and gardens is encouraged.[14] Thus, a positive relationship between physical and social conception of public space is created.

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[14] Ricardo Uvalle, (2010), *Nuevas racionalidades de la Gestión Pública*, Toluca, Instituto de Administración Pública del Estado de México, pp. 44 y 45.

Government activity is clearer to go back to its etymological origin. The term derives from the Greek *kibernetes*, which designates the ships' rudder. The rudder controls the direction and ensures the balance of the ship, hence, from this word appears the adoption of these meanings to name the institution that represents the State and the captain of the ship, identified as the ruler.[15]

Using the analogy of government as the rudder, the government should be able to give a good direction to society, dodging different interests. It should not be hostage of any actor in society.

Safeguard social stability and peace is the responsibility of both, the government as a representative of the State and Public Administration, through all their institutions; priority is not only for such government but also for society. Therefore, both are called to mitigate social conflict, economic scarcity and destructive political confrontation, so that there are spaces large enough to find joint solutions to difficult and complex problems.[16]

In essence, the social responsibility of the government lies in everything that adds value to the cohesion of the nation. The articulation of the various and multiple social interests complicates the government action. When the well-being of the population in the process of decision making is considered, social value is added. The product of co-responsible interactions of the community life is the governance of public space.

This public space of joint responsibility is nothing that governance. As noted by Luis F. Aguilar, "governance is an approach / post governmental concept of governing." Its main foundation lies on emphasizing "the necessity or advisability of a new management process of the society, rather than reproduction of the structured management process only or primarily by government action."[17] Moreover, contemporary society must be aware that to solve their welfare and safety in current global conditions, is required to build new forms of public action that add to the leadership of public power the skills of private sector, such as productivity and innovation, knowledge and sensitivity of social organizations in synergy.

In this scheme of governance, the government is linked to its constituent elements, encouraging sustainability in a cross-cutting approach; enhance their capacity through education and culture to raise awareness of the values that sustain it. (See Table 1).

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[15] José R. Castelazo, *op. cit.*, p. 19.

[16] *Ibidem*, p. 25.

[17] Luis F. Aguilar, *op. cit.*, p. 298.

Table 1. Duty of the Government to the elements of the State		
Government	With regard to government	Ensuring public interest over private interests. Constantly update the regulatory framework and innovate practices. Train and professionalize public servants.
	With regard to the Population	Promotes the development and social justice. Provides tangible and intangible goods and services. Poses mechanisms of cooperation and participation.
	With regard to the Territory	Protect natural resources and the environment.

VI. The future: the Agenda

To achieve a suitable driving of the State, the government must act with a sense of vocation and professionalism.

Vocation. Vocation is an internal call that leads us to take any action in particular. In the case of politics and public administration the characteristics that assume vocation are very special. Not everyone can perform the task of a politician or a public administrator.

Professionalization. I understand professionalization as a perfectible process by which an individual undergoes in order to polish their work. The servers of government and of the Public Administration cannot be oblivious to this process of individual and collective growth. The professionalization must be conceived to fill all levels, positions and places, at the risk of continuing to open an increasingly wide and deep gap between the operational and supervisory structure, on one hand, and the coordination and direction, on the other.

This is to ensure that the access to administrative posts be based on merit and preparation. A good public service should begin with the principles of legality, honesty, dedication of public service, institutional loyalty and job stability, decent wages and benefits, equal opportunity, knowledge and ability, and fairness performance by results.

Public interest. The guidance provided by the government on the management of public affairs at any time must consider the public interest. Although the government is always subject to pressure from special interests of some groups or powerful sectors of society should be able to stay the course. Act on the public interest is acting on behalf of what is common to all.

Opening. To satisfy the public interest, the government and public administration must be open and to account for its actions. Essentially,

transparency try to expose the public affairs handled by the State to public scrutiny, seek protection in the right to information and on the duty of accountability on the form, substance and content of public decisions and management. In this sense, transparency affects the whole political system and society at large.

One of the most important consequences of transparency is that gives to citizens a real power, as well as serving to achieve the objective of the survival of the State. This leads to the creation of a new relationship of coexistence between the government, civil society and citizens.

Transparency is one of the conditions of accountability, because reduces or eliminates the asymmetry of information's possession between the government and citizens.

This opacity, resulting from unequal access to information, is the source of corruption. Only when politicians, officials or public servants know that the population has access to all the information they hold, as well as records of decisions they had taken, the incentives are removed to fall into unethical behavior. That is, corruption is possible in situations in which the margin of discretion is wide. Therefore, any strategy that seeks to eliminate corruption should be based on the promotion of transparency (See Table 2).

Table 2. Social responsibility of the actors in governance.	
Government must:	Act with a sense of vocation and professionalism. Strengthening institutions with effectiveness, efficiency, consistency and honesty. (Knowledge and application of the Law). Promoting anti-corruption and integrity (transparency and accountability and social participation) measures.
Private sector must:	In coordination with the public sector, encourage the creation of public-private partnerships to address the many issues of general interest. Create codes of ethics for socially responsible companies that are respectful of the regulatory framework and does not violate freedoms.
Society must:	Encourage citizen participation mechanisms with the use of information and communications technologies for the provision of public goods and services (social networks and e-governance). Open spaces for citizen's observatories.

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