

Participatory Water Management in Brazil: Legal, institutional and political aspects (1988 – 2008)

Maria Gravina Ogata

Manager of Environmental Planning, Salvador de Bahia, Brazil
mgoconsult@yahoo.com.br

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Abstract

The article presents the results of a study that aims to understand and evaluate the performance of the water resources new public policy in Brazil, promulgated by the Federal Law N°. 9,433, of 8 January 1997, in full observance by the Brazilian State Reform (1995). This policy brings significant innovations in water management, considered by the Federal Constitution of 1988 as a public good, under the control of the Union and the Federated States. The innovative aspect of this policy is the management system, provided by the National and State Water Resources Councils and Water Committees. Participatory management is based on the participation of representatives of Public Power, water users and civil society, who were listened in the interviews. This new policy has been built unevenly throughout the country and reflects the characteristics and peculiarities of each Brazilians region. Thus, the study examines regional experiences in the theoretical approach of concepts related to participatory management and multilevel water governance, with emphasis on the issue of Brazilian federalism. Civil society believes in this form of management of water resources and has high expectations that better results could be obtained with the strengthening of Brazilian democracy. The recovery of citizenship, the participation in the implementation of public policies, the quick deliberation on conflicts about the use of water have been the great gains that society has registered in favor of this new form of managing water resources.

Keywords

New Public Management, Participatory Management, Sustainable Water Management, Democracy.

La gestión participativa del agua en Brasil: aspectos legales, institucionales y políticos (1988 – 2008)

Resumen

Este estudio analiza y evalúa la nueva política pública de recursos hídricos de Brasil, cuyo marco normativo es la Ley Federal n° 9.433, del 8 de enero de 1997, promulgada en pleno período de Reforma del Estado Brasileño (1995). Esta política trajo importantes innovaciones en la gestión del agua, considerada bien público bajo el control de la Unión y de los Estados Federados por la Constitución Federal de 1988. El aspecto innovador de esta política es su sistema de gestión, basado en los Consejos Nacionales y Estaduales de Recursos Hídricos y los Comités de Cuencas Hidrográficas. La gestión participativa se basa en la participación de representantes del Poder Público, de los usuarios del agua y de la sociedad civil, cuya opinión se recogió mediante entrevistas en profundidad. Esta nueva política pública se implantó de forma desigual en todo el territorio nacional y es reflejo de las características y peculiaridades de cada región brasileña. Este trabajo analizó las experiencias regionales a partir de los enfoques teóricos de la gestión participativa y las relaciones multinivel en la gobernanza del agua, teniendo en cuenta las particularidades del federalismo brasileño. Los resultados de la investigación reflejan que la sociedad civil confía en esta forma de gestión de los recursos hídricos y tiene grandes expectativas de que podrían lograrse mejores resultados fortaleciendo la democracia brasileña. La recuperación de la ciudadanía, la participación en la ejecución de las políticas públicas, y la deliberación rápida de conflictos sobre el uso del agua han sido algunos de los principales logros de esta nueva forma de gestión de los recursos hídricos.

Palabras clave

Nueva Gestión Pública, Gestión Participativa, Gestión Sostenible del Agua, Democracia.

INTRODUCTION

Water resource management at the end of the 20th century and beginning of the 21st century has an strategic importance in the modern world. The present capitalist economic development model strongly depends on the quantity of raw materials such as water, minerals, forests and other natural resources as components for feeding the productive process.

It can be observed that there is a vast discrepancy between the renewal capacity of natural renewable resources and the velocity in which the productive processes seize these resources. This issue has been the object of great concern worldwide, for that reason important international events have occurred under the auspices of the United Nations Organization, with the aim of identifying mechanisms to promote sustainable development and at the same time foster improvement in the quality of life, caring for present and future generations.

In view of this concern, three important UNO conferences were performed regarding the environment: in 1972 (in Stockholm), in 1992 (in Rio de Janeiro) and in 2002 (in Johannesburg), where the principle of sustainable development prospered and was strengthened.

Apart from these international events, another three important specific conferences on water resources were performed focused on water management, resulting in the Declarations of Mar del Plata (1977), Dublin (1992) and Paris (1998). These events were the consequence of a diagnosed “global water crisis” which indicated, since the last quarter of the 20th century, the need for a more efficient use of this natural resource, by controlling pollution and its implications to the health of mankind.

During these three important events on water resources, some important principles were proclaimed: a) potable water is a vulnerable and finite resource, essential for sustainable life, development and the environment; b) water management should be based on a participatory approach, involving consultation with the public both in planning and in the implementation of projects; c) women have a central role in provision, management and safekeeping of water; and d) water has an economical value in all of its uses and should be recognized as an economical asset.

In this new scenario the necessity for sustainable water manage, starting from the adoption of a new territorial planning unit, with new technical and administrative limits, was emphasized: the river basin.

In order to comply with the advances made internationally in the new approach dealing with water management and water governance, from a conceptual viewpoint, a reform of the legislation of the countries was proposed in order to adjust these legislations to the necessity of making them more appropriate for the present times, with emphasis to the participation of the civil society at all levels of management.

Despite the fact that international agreements were not signed by the countries participating in the international conferences on water, only “Declarations” were produced, those participating in these events incorporated water management into their political agendas, with alterations being made to the legislations, as had been proposed in the Paris Declaration, in 1998. The outcome of this was an adjustment in the administrative structures of the countries, with the incorporation of new principles, guidelines, instruments and financing systems of the new management for water resources.

During the Paris Conference, the French experience in water resource management was highly valued, having been pointed out as a reference for new water management and considered as quite adequate for the new times, taking the river basin as a planning unit and sharing this management between public authorities, water users and civil society.

In this context, within the mechanisms of minimizing the mentioned “global water crisis”, Brazil established a National Policy for Water Resources, through the enactment of Law 9433, on January 8, 1997, based on the assumption that water is an asset of public domain which has economic value, and its management should be decentralized and participatory, with the river basin being designated as a territorial planning unit.

This new water resource public policy makes explicit, in the same manner as it was defended internationally, that its management should be decentralized and participatory. In order to guarantee the management efficiency, the National Water Management System (SINGREH) was established, by means of the mentioned Law, where “who’s who” in national freshwater management was defined. It should be observed that this policy does not refer to sea, saline or brackish waters.

In this context, the National Water Agency (ANA) emerged, in 2000, as an executive agency, governed by the new premises that began to manage Brazil’s New Public Management, as of 1995, in the context of the Master Plan for Reforming the Brazilian State. The premise of this Plan is the adoption of the management model in

substitution to the bureaucratic model. This Master Plan established specific guidelines for each type of activity of the State, with emphasis to the insertion of a new organization model for the New Public Management - NPM: regulatory and executive agencies, which occur mainly due to the privatization processes of state-run companies and other public institutions.

The agencies were considered as special autarchies, endowed with new instruments of control, inspection, regulatory, collection and administrative policing powers, with its typical State actions.

In this context, the public policies for water resources established new management instruments, all of which are foreseen to be instituted in a participatory basis, this aspect was not previously recognized in water management in Brazil. These waters, after the prevailing date of the Federal Constitution of 1988, became of public domain.

In view of this new reality, it is not only listening to society to obtain subsidies for decision making that one hears about. One hears about arbitration of conflicts between the water users, representatives of the collegiate and Public Authorities, in the identification of overriding projects, as well as where and when the financial resources obtained from the payment for the use of water shall be used.

OBJECTIVES OF THE RESEARCH

The present article analyzes the meaning of the new public policy for water resources in the present Brazilian historical context, in a federated country of continental dimensions, with an extensive democratization process in course, inserted in a globalized market economy, mainly since 1990.

The purpose is to understand the adequacy of the decentralized and participatory management model of water resources with the social, environmental, political and economic realities of the country, as well as identifying the advances rendered for the exercise of citizenship, for strengthening democracy and for a greater efficiency of Public Administration in Brazil.

Along these lines, the present study aims to understand in which manner the different federate agencies have been translating and applying this new legal-institutional reality established for the management of water resources for the whole nation. With this concern, the experiences of three states in Brazil were selected, located in different regions of the country in order to identify the varied forms of application of the mentioned public policy in view of the historical-cultural, climatic diversities, among other aspects. The chosen federate entities reflect situation in which great imbalances occur between the water availability and demand, being the reason why they were pioneers in the implementation of the new water resource management instruments.

The study on the modern implementation of this public policy is worthy of an accurate analysis from the legal, institutional and political outlook, because it brings consequences in the most diverse spheres of power, once Brazil is a Federation which involves multilevel government and governance (Federal, state/district and municipal), all of which have political, financial, administrative and legislative autonomy.

It is important to stress that Brazil has 26 states, one Federal District and 5,561 municipalities, over which the federal entities superimpose other deliberative levels, such as giving territorial division of the water basin, adopted as a planning unit for water management. This new planning unit does not coincide with the political and administrative limits of these federate entities, inaugurating a very different political and administrative situation to the structure developed with a successful outcome by the French experience on water management.

One can also consider that up until the present moment the country has not been able to resolve countless issues that are typical of a federate country, concerning the autonomies of these federate entities and the form in which these entities articulate in the “cooperative federalism” of multilevel governance. Thus, to the issues traditionally related to the lack of integration of the various levels of power, there are the added issues of difficulties in articulation due to the adoption of new planning units, such as water basin, becoming a new space for holding political and administrative power.

This leads to believe that the mere transference of a management experience from a unitary country (French experience), to a federative country (Brazil experience), in itself alone, create several political and administrative difficulties when put into action a public policy of this magnitude and importance.

On the other hand, considering the lack of democracy that historically characterized Brazil, especially before 1985, it is important to verify how the application of this new national water policy is being carried out, with the involvement of the population in a process of decentralized and participatory management. It is important to note that this policy is being made possible, to a great extent, by means of financial resources obtained from interna-

tional development banks, which stimulate this social participation inserting in their loan contracts the question of the institutional strengthening of both the Public Authorities as well as the civil society. This mechanism aims to water governance through the application of the principles, fundamentals and guidelines established in the Declarations resulting from the three specific international encounters on the theme of water.

In the face of this new modality of decentralized and participatory management, the identification of the gains that civil society and the water users have received with its implementation is set forth in the center of this study. In other words, it would be important to know how the citizens are benefitting from economic, social, environmental and technological advantages, as well as to the improvement of the democratic process and the efficiency of the public administration.

These have been the demands of civil society whenever the process of construction of relations between the Public Authorities, water users and civil society begins, at the time of the meetings for awareness and mobilization of the interested parties in partaking of the decisions made in the scope of the new public water policy. The answers to these questions are essential, because it is a process in which people turn out great efforts for collective construction and expect a good performance from the administrative machine to fulfill their social needs and, mainly, resolving the conflicts regarding the use of water.

Thus, this paper aims to understand the process for the participation of civil society, within the neoliberal model, where it is believed that the national water policy has been developed, as well as counterpointing with a water management experience, outside this context, managed in another historical moment, where society itself takes over the process of self-management, becoming independent from the State structure.

Even when the themes of interest in this study have been materialized, it is important to emphasize that the effort in this research illustrates mainly how Brazil has been reacting to the global pressures, with substantive alterations in Public Management, in the legal system and, particularly, the institutional aspects which made possible, especially as of 1990, with the explicit adhesion of the country to the open market.

DELIMITATION OF THE OBJECT OF THE STUDY

From the timeframe outlook, the study focuses on a period of two decades, from 1988 to 2008. The first date determines the moment in which the Federal Constitution of 1988 redefined the public domain of waters in the name of the Confederation and of the States/Federal District (excluding the public domain of the municipalities and private domain).

Although the present paper focuses on the analysis of a more restricted period of time (1988 to 2008), it is necessary to contemplate a wider timeframe, which starts in 1930, with the Interventionist Brazilian State, and goes until 1995 when the New Public Management - NPM principles were adopted, according to the Reform of the Brazilian State (in 1995). In this context, the privatization process and the creation of the regulatory and executive agencies took place, in which the National Policy for Water Resources was established.

From a territorial viewpoint, the study involves a multilevel approach. On a **national level**, the public policy for waters was treated historically by the main laws and by the Brazilian administrative apparatus. At a **regional level**, diverse experiences of participatory water management were examined, identifying the existing differences in some Brazilian regions, focused in the way water is regionally managed.

In order to exemplify experiences, three Brazilian regional were chosen: Bahia, São Paulo and Rio Grande do Sul. In the first case (Bahia experience), it is possible to illustrate the situation of a State placed in a territory suffering from water scarcity, in semiarid area. The others two experiences (São Paulo and Rio Grande do Sul) can illustrate the most important experiences in the country about the implementation of the water resources participatory public policy, in the consolidated way.

Two other Brazilian regions were not contemplated by this research, because of their late application of the instruments and guidelines of the new national policy for water resources. It is the case of the Northern (Amazon Region) and Midwestern, where there is a large availability of water and low population density, with a very favorable balance between the offer and demand for the use of this natural resource. Therefore, in these two regions the water crisis has not been felt with the same intensity verified in the three other selected regions of Brazil.

The present study includes, also, to the presentation of **international experiences** which were financed by international development banks, through which the principles and guidelines defended in the three international conferences on water resources were disseminated. Apart from the experiences of various countries, the present study also focuses on obtaining a greater understanding of the experiences of France and Spain. The French mo-

del for water management was a source of inspiration for the creation of the Brazilian model for water management, as well as to several other countries, in the context of a neoliberal economy.

In turn, Spain, apart from a modern water management system, implemented under the European Water Directive (Directive 2000/60/EC and alterations), it combined with the traditional and millenary experience of the Valencia Water Court, which has been uninterruptedly overseeing and controlling the use of waters from the Turia River (since 960 A.D.) where interests reside in the degree of legitimacy and solidarity reached by the water users, in the self-management of this natural resource. The performance of the State, in the case of this Court, is limited to defining constitutionally the legality of the decisions attributed to the irrigation farmers in the management of the waters of the mentioned river, through a common-law court.

It should be highlighted that, both the neoliberal experience of water resource management defended in the international conferences, as well as the millenary experience of the Valencia Water Court, despite a distance of a millennium between them, both register participatory experiences in the management of water resources, observing different forms of performance of the State and of the public affairs in the aim for efficiency and effectiveness.

MAIN QUESTIONS OF THE RESEARCH

The preparation of this study was based on the following research questions:

Question 1: Can the water resource management model used in Brazil be considered adequate to its social, political and economic reality? Will it be possible to harmonize its decentralized structure of a federate nation – with multilevel government and governance autonomy – and other deliberative levels, without any political and institutional issues which could interfere in the effectiveness of an important natural resource, as is the case of water?

Question 2: Can public management of water resources in Brazil be considered as an indicator of how Public Administration in Brazil is being conducted during these last few years?

Question 3: Is participatory management an instrument of democratic progress runs the risk of transforming into an element of political manipulation?

Question 4: Are there visible economic, social and environmental advances from the adoption of the new public policy for water resources in Brazil, on a participatory basis?

Question 5: Is it possible for this new public policy in Brazil, inspired in a participatory management model, established due to the pressures and demands of a globalized world, to be efficient?

THEORETICAL APPROACH AND METHODOLOGICAL PROCEDURES

In order to answer the questions and meet the objectives the research methodology was structured in three phases:

1. analysis of conceptual aspects and bibliographic survey;
2. analysis of aspects related to Public Administration in Brazil and participatory water management;
3. considerations of advantages, difficulties and trends in the management of the National Water Resources Policy.
4. With regard to the 1st methodological phase, theoretical and conceptual aspects, a vast literature was consulted on the topics related to the functions and role of the State, Democracy, Governance and Governability, Participatory Management, New Public Management and intergovernmental governance.

Concerning the creation of the State, its functions, and its role in the global world, as well as its consequences on the Public Administration, were consulted, among other authors: Bobbio 1992, Fukuyama 2005, Bresser Pereira 2001, and Bañón & Carrillo 1997.

Furthermore, were highlighted the social participation in the Public Administration; Local Government; social movements and Reform of the Brazilian State, especially through the writings of Gohn 1990; and Teixeira 1996 and 2002. About the Reform of the Brazilian State, were highlighted the following studies: Diniz & Azevedo 1997; Bresser Pereira 1997; Cardoso 1993; as well as the studies of Brasil 2003.

From a conceptual standpoint, much of the study was devoted to the knowledge of the various meanings attributed to Democracy, highlighting their relationships with Liberalism / Neoliberalism and globalization. In this

sense, were used mainly studies of Markoff 1999; and Guéhenno 2003. Furthermore, the relationship between Social Democracy and Participation, had the support of important conceptual references: Rodríguez Villasante 1995; Font 2001; Dahl 2001; and Huntington 1991. Democracy in Latin America has been studied especially from the lessons of Boron 1994; Nun 2002; and Weffort 1994. With regard to the concepts of Civil Society, Governability and Governance society, were emphasized the studies of Bobbio 1997 and 2002; and Arbós and Giner 1996.

About the 2nd methodological phase, the study analyzed the Public Administration in Brazil, and in particular on the Reform of the Brazilian State, Social Control and Regulatory Agencies, social participation in public administration, giving emphasis on the legal and institutional aspects involved.

In order to know how this participatory management of water resources in Brazil has been done, information was raised with members of the collegiate water resources comprising the National Water Resources Council – CNRH, three State Water Resources Councils (Rio Grande do Sul, Sao Paulo and Bahia) and six Watershed Committees (two from each of the three states).

It is worth noting studies that show the problematic of national water resources management, highlighting the studies of Tucci et al. 2001; MMA/ANA 2001; Abers 2010; Pompeu 2006; among other studies.

For this survey, 78 people were interviewed, qualitatively, supported by questionnaires which searched the perception of the three segments that make up the basis of participatory management in Brazil, on the implementation of new public water policy in the country: water users, civil society and public authorities.

The main points of the interviews were: legal and institutional aspects; federalism and jurisdiction over water resources; deliberative capacity of collegiate; integration of environmental policies and water resources policies; advances from the implementation of participatory public policy of water resources (economic, social, environmental and technological) to improve the Brazilian democratic process, efficiency of public administration, as well as the difficulties and trends in implementation of this public policy.

Besides members of the collegiate mentioned, managers and technicians of federal and state water resource management public agencies, consultants, academics, representatives of civil society organizations and water users were interviewed. In addition, a representative of the World Bank, which manages a project of participatory management developed in Brazil, and members of the Court of Water of Valencia / Spain were also interviewed.

About the 3rd phase of the methodology, trends, advances and difficulties arising from water management in Brazil were considered, based on the theoretical approach and the results of the interviews.

The bibliographic references presented at the end of this study represents some of the literature used in this research.

ANALYSIS OF RESULTS

Attempts were made to obtain results to the five questions previously presented and the conclusions can be summarized as follows:

A – With reference to the adequacy of the model adopted for the management of water resources to the Brazilian reality (**Question 1**), upon examination of the experiences of São Paulo, Rio Grande do Sul and Bahia, it was possible to realize that it is very difficult to perform the management of water resources in the country from a consolidated conceptual and organizational basis for the whole nation.

Due to the extensive cultural, political, historical, climatic, among other, diversities, it is not possible to apply one national water policy for the whole country, in a homogeneous manner.

There are various different “Brazils”: from the Amazon to the semiarid; from the Coast to the Central Plateaus; from the Pampas to the wetlands, with great differences from physical, biotic, socio-cultural and economic viewpoints.

In view of the structure instituted by the National Water Management System (SINGREH) for the whole nation, there was no legal provision for the free organization of the society for water management. There is a pre-defined format for social participation in water management which is adopted and comprehended by national authorities. With exception to the case of Ceará, where a mechanism of *negotiated water allocation* was made feasible, a format not contemplated under the law, there is no space for the participatory process to be structured in any other manner than the one identified under the law that established the National Policy for Water Resources.

In fact, among the guidelines listed under this national water policy, it was foreseen that the water resource management must be adequate to the physical, biotic, demographical, social and cultural diversities of the diffe-

rent regions of the country. Nevertheless, with the rigid structure defined in the National Water Management System (SINGREH), there is a strong inhibition for society to organize itself and manage water in a manner they find more plausible. The mechanisms for participation are formatted under the terms established by Law 9433/97 and only in the course of the years will the necessary alterations be made to contemplate the regional and local peculiarities of the different corners of the country.

Considering that the national water policy was structured from the assumptions defended in the international water resource events, it shall not be easy to apply the proposals presented in these events, once various alterations of legal, institutional and administrative natures shall be necessary and a certain amount of time in order for these changes to be incorporated in the routines of Public Administration (a much larger time segment than foreseen in this research).

It should be observed that many of the problems encountered in this country, were also recounted in the Spanish experience, which aims to apply the provisions of the European Water Directive - Directive 2000/60/EC, which is based on the same assumptions defended internationally.

At any rate, the identification of how the modern water management should be in order to face the “global water crisis”, shall have to go through many adjustments in any country in which the internationally defended assumptions are to be adopted, with each country having to make their own understanding of how to face their problems related to the management of their own waters.

This means that adjustments shall have to be made at the cost of much collective effort in order that they may be feasible. This implies a lot of time of confrontation and pressure among the different spheres of power, of integration of different public policies, until a moment of accommodation and reasonableness is reached in the implementation of this policy.

In this manner, the country shall adjust itself to the proposed institutional model, and there shall be alterations due to the different realities existing in the country.

B – With reference to the adoption of public management of water resources in Brazil as indicator of how Brazilian Public Administration is being conducted during the last few years (**Question 2**), it is evidenced that this type of decentralized and participatory management of water resources is a part of a set of actions that aim to offer more efficiency to Public Administration, not being an isolated experience in the implementation of the water resource policy. The implementation of this policy exposes all the inherent facets to this historical moment in which the Brazilian Public Administration is going through, which, in fact, is due to a great movement of reviewing the models of the State which is assuming a new role in the context of a globalized world.

As a matter of fact, the national State now has an important role in the globalized world. All bets are on the country to be the driving force in policies of global interest inside its frontiers, where global processes are truly made feasible. Within its territorial boundaries the rights, duties and rules of law that capital needs to grow and prosper are guaranteed. In this sense, Public Administration begins to have a relevant role, because through its institutions and its practices, everything that is expected from the State in this new context is made feasible.

In this line of thought, despite the State is going through countless problems, stating that the State is under crisis, what is observed is that it is stronger than ever, nevertheless it must adjust to this new reality. The crisis attributed to the State elapses from the maladjustment existing from its prior situation (centralizing decisions), to a new situation in which it is an orchestrator that makes possible the processes for attending to the demands of the global world (especially for those entering the open market, which is the case of Brazil).

Thus, the national policy for water resources is inserted into this new context of the National State, in order to minimize the “global water crisis”, inspired in the new management models defended internationally.

In this context, the answer to Question 2, is positive because, in fact, public management of water resources in Brazil can be taken as an indicator of how Public Administration in Brazil has been conducted in the last few years. In general, participatory management of public affairs, the financing of the intended changes, the form in which the financial resources are granted, among other aspects, are common situations to countless policies in progress in the country, once they were defined from rules drawn-up in the model of the State and their priorities defined in 1995, with the insertion of the regulatory and executive agencies in the Brazilian administrative structure.

C – In relation to the risk of water resource participatory management being transformed into an element of political manipulation (**Question 3**), it was verified that this risk exists, either on the part of the Public Authorities as well as on the part of the other sectors involved. Nevertheless, this was considered by most of the parties inter-

viewed as a defense of legitimate interests of the segments involved.

In relation to the party-politics manipulation, it was demonstrated that this is refuted in the water resource collectivities, and it is possible to say that there is a certain “shielding” by these collectivities against the influence of parties in this management, in the same way as occurs in the millenary experience of Valencia/Spain.

It was pointed out that the decentralized and participatory management has been arousing great interest in the segments involved with the use of water. Civil society believes in this form of management of water resources and has high expectations that better results could be obtained with the strengthening of Brazilian democracy. Results were even mentioned as being superior to the Participatory Budget, a Brazilian experience which was carried out by the Brazilian left-wing in the nineties.

The recovery of citizenship, the participation in the implementation of public policies, the quick deliberation on conflicts about the use of water have been the great gains that society has registered in favor of this new form of managing water resources. This is of extreme importance for a population that has suffered of a democratic deficit during two decades of Military Dictatorship (1964 to 1985) and for other long periods without democracy that prevailed during the history of Brazil. Therefore, the expansion of spaces for social participation has been a conquest of Brazilian society, supported by the new institutionalization defended in the international conferences on environmental and water management.

In this context, it is possible to say that there is both an internal and an external demand which flow together in the same direction for the management of public affairs in the modern world, always from the outlook of participatory and democratic processes, which fact has resulted in the broadening of spaces for social participation. These participatory processes have helped minimize conflicts related to the use of water resources.

One can say that the water governance has been of great encouragement to the segments involved, once the opportunity to minimize or solve conflicts and share concerns with various interested parties has been made possible. This state of mind could be inferred from the expressions of the interviewed parties who demonstrate how this decentralized and participatory management is occurring: “under development”; “reasonable and promising”, “in the correct process of implementation”.

All indications are that the moments of crisis have served as motivation for the implementation of the participatory processes, through democratic instances and channels, where it is possible to say, in the case of the present study, that among all the types of democracies identified in the consulted literature, the concept of “democracy of conflicts”, according to WEFORT (1994), could be applied, whereby the conflicts or the dissent are institutionalized, recognized and constituted as rights.

Despite the outlook of the participants of the participatory processes on this new modality of management being positive, it should be observed that there is a large amount of distrust among the actors involved in this participatory management process, mainly in relation to the Public Authorities once they have privileged information and are not used to listening to the society, and when they do, they do not put into effect what they hear.

For this reason a lot of time has been invested in the creation of clear rules in order to achieve equal opportunities to everyone, demanding many hours of dedication of the members of the collegiate in the definition of an equanimous participatory space, supported by mechanisms that aim for a consensus, where bureaucracy is a fundamental part of the management process with the necessity of proceeding with the registration of all the phases of the participatory process.

This situation is substantially different to what was observed in the Valencia Water Court, where the trust among the irrigation farmers permits oral decisions to be sufficiently capable of validating the participatory process, due to the simplicity in which solidarity and existing cohesion occurs among the actors. In this context, the laymen participate on decisions that are related to them, with the knowledge accumulated and transmitted from generation to generation.

The management experiences of the Ceará/Brazil dams and the River Turia/Spain demonstrate how the cultural issue is essential to attain good results in decentralized and participatory management. Although these results were positive, it is necessary to recognize that water management implies the necessity for technical knowledge, which fact, in general, could make the participation of various of the actors involved difficult, once the Public Authorities have greater technical knowledge of the hydrological aspects and of how the water policy can be implemented.

It is essential to point out that water technocracy, in a certain manner, has made the understanding of the content of the water resource plans difficult, once their contents are expounded in a manner not very appropriate

to those deliberating in the water resource collectivities. This has meant a loss of opportunity to deliberate in a more conscientious manner on the most important planning instrument of the water resource policy.

It was verified throughout this study that where there is water crisis, due to the unbalance between the demand and the availability of water, it is easier to achieve the understanding of those involved and a proactive posture in the sense of resolving it (with or without technical knowledge). Apart from the crisis situation, there is a predominance of lack of understanding on the necessity of performing a rational management of water resources, verifying behaviors that are not very solidary among the actors taking part in the participatory process. In this situation, each one tries to take advantage of the others. Thus, *crisis, democracy and globalization* are aspects that move side by side and complement each other, with strong impacts to the role of the State and Public Administration.

D – With reference to visible economic, social and environmental progress from the adoption of the new public water policy in Brazil (**Question 4**), it was verified that the expectation exists that all the shared collective effort between the Public Authorities, water users and the civil society will transform into an answer for social and economic development. Nevertheless, it was not evidenced whether this development will or will not occur. Further, should it in fact be possible, it is not known how long it will take and what are the variables possible to count on to define it.

In order for the effective environmental and economic gains to occur, it is necessary to obtain other kinds of gains which, at present, are intangible and non-materialized gains, such as social gains and improvement in the participatory process. It was verified that the intangible gains, although they are not measurable, prevail over the other gains, which demonstrates that the process is in an embryonic phase, with many adjustments required, which implies in long years for these to be made possible (of political, structural, legal, institutional types, among others).

E – In relation to the effectiveness of this new public policy in Brazil, of decentralized and participatory management, established due to pressures and demands from the globalized world (**Question 5**), it was verified that even with great efforts from the Public Authorities to give an answer to the world water crisis, the strengthening of the management entities to face the crisis has not been seen.

Added to this are the great difficulties found in intergovernmental relations due to the federalism existing in the country, whereby these issues will prolong for some decades (under the best hypothesis).

Although many advances have been noticed, it is important to mention many people have had problems in relation to the participatory management of water resources and these difficulties befall mainly on the form in which the Public Authorities have been positioning themselves towards this process.

Up to date, the lack of implementation of various instruments of the water policy and the void in the operation of the National Water Management System - SINGREH (especially the lack of implementation of the Water Agencies, or Basin Agency), has caused everything to be maintained in an incomplete manner and without visibility to the society in general.

One cannot forget that it is necessary to qualify the participants acting in the participatory process in relation to information of a technical nature, to the changes in behavior presently demanded and to the state of mind that the New Public Management requires. Also, the society is not able to draw away from the submissiveness that they find themselves in the face of the State, waiting for the State to send the answers for the welfare of all, as has always been the case.

Although the management of waters is decentralized and participatory, the conduction of this process in Brazil is centered in the hands of the Public Authorities who have the domain of the waters and control the agenda of the collegiate (Federal, State/District governments). Therefore, it remains in the hands of the Public Authorities the rhythm, in which this management will be performed, as well as the advance and continuity of the participatory processes, with the possibility, also, of being interrupted or dismantled. In view of situations of this nature, so common in Public Administration, especially due to the administrative discontinuance, there is a certain disbelief regarding the participatory processes.

Although the water is managed under a decentralized and participatory way, the conduction of this process, in Brazil, is centered in the hands of the Public Authorities which have the domain of the waters and the control of the water collegiate agenda. Therefore, the rhythm in which its management will be performed, as well as the advance and continuity of the participatory processes, remains in the hands of the Public Authorities. So, this participatory process can be interrupted or dismantled according to the interest of the government. Because of this,

there is a certain disbelief regarding the participatory processes.

It is evidenced that this participatory management of the water resources appears to be irreversible where there are concentrations of economic and of the population, with high social capital, and strong pressures from the civil society towards the Public Authorities, as can be verified in the states of São Paulo and Rio Grande do Sul. Nevertheless, the same cannot be said for other stretches of the national territory where there is the lack of these requisites, and at every moment the participatory process suffers setbacks with the administrative discontinuity, often losing all the efforts carried out throughout the years.

There is also criticism to the Public Authorities regarding the low capacity for offering answers to the social demands, due to their inadequacy in relation to the new historical moment concerning the interests of the demands of the global world. In this context, to guarantee the governability and institute mechanisms for resolving conflicts, this is included in the list of the objectives of the modern State. Thus, within the national water resource policy, these mechanisms are designed and working, especially where the problems exist, for this reason it can be stated that the State has been fulfilling its role.

At the same time in which spaces for social participation are increased, the Public Authorities run the risk of not fulfilling what is demanded from them, which fact could generate ungovernability, due to the large volume of demands. Nevertheless, with the mechanisms set up, the priorities are established jointly with the actors involved, having to await the agenda socially established, guaranteeing in this manner governability, which is obtained from the adoption of democracy as a management method of public affairs.

In reality, one must recognize that, in the end, there is not only the control of the society over the Public Authorities, as seems to occur with the enhancement of the democratic mechanisms, but, mainly, the control of the Public Authorities over society, once it is the Public Authorities that conduct the matters and public agenda of the global world in its territory.

According the historical process, one thing is certain: a country with continental dimensions will always be targeted for the exploration of its natural resources, as it has been occurring in Brazil since its discovery by Pedro Álvares Cabral in 1500.

It was in this context that various cycles that were part of the country's economic history appeared, with the exploration of the Brazilian redwood, sugar cane, gold, rubber, coffee and, also, the transformation of raw-materials by industry. In reality, when observing from this angle, nothing has changed since the beginning of Brazil's history to date, once the country continues in the role provider of raw-materials and semi-industrialized products, engaged always in the "modernity of the processes" at different moments of history at which times Public Administration has always had to be adjusted and continuously restructured.

Looking from the inside, it is necessary to guarantee that the Brazilian people are not deprived of their assets, and the Public Authorities have to decide how to use these assets in favor of a better quality of life for the people. Looking from the outside, the logic consists of *those who have, should share what they have*, once, more than ever, the world has become a small place where everything is connected, and this kind of "egoism" should not be admitted – of those who have possession and will not share.

The technically innocent concept of the hydrographic basin is the best example of how this occurs. When superimposing the boundaries of the hydrographic basins to the political and administrative boundaries, historically ordained, one cannot help but to ponder that the concept of autonomy is breached (in the case of the internal basins in the country) and of sovereignty (in the case of water courses inserted in territories of various countries), in the measure in which, for those that are in the lower course (downstream), have the right to interfere in the political and administrative units that are in the higher course (upstream), once everything is highly connected.

CONCLUSIONS

In the face of these results, this study reinforces the idea that, the mere transfer of an experience of positive management of water resources, from one country to another, by itself, does not guarantee that it will be successful. There are typical aspects of each country, in its administrative experience, territorial dimensions, and cultural differences, among others, that need to be considered. Therefore, there are many aspects that need to be examined before putting in place a policy of the magnitude and the importance of the national water resources policy.

It also remains clear that to manage waters means, ultimately, to manage territory, which is where the concept of hydrographic basin becomes interesting when the idea is to share waters from *those who have the asset with those who don't*. In this context, the words "*sharing*", "*democracy*" and "*negotiation*" seem to be the motto

of the modern capitalized world. Through this, and many other mechanisms of the same kind, the equilibrium of demand for the use of water is promoted in different geographical scales (local, regional, national and global).

At the same time in which the world defends the principle of sustainable development, on the other hand, progress are made over water resources (and other natural resources) unbalancing the balance between the availability of water and the demand, increasingly causing the water crisis to become more acute, despite the adoption of public policies by the State, it is no longer possible to revert the condition of degradation, since there has not been any preventive actions in this context, as already evidenced herein.

Thus, the tacit rule of investing in countries like Brazil, which disposes of large quantities of water resources, continues valid, since it is not necessary to send this resource *in natura*, as is the case of other natural resources, once it is embedded in goods produced in the country, which uses thousands of gallons of water to be produced (virtual water concept).

To know whether democracy and the participatory processes shall be capable of respond to citizen's needs, and guarantees governability in a context of expansion of capitalism, it is necessary to have the knowledge of countless variables that are yet unknown.

It is necessary to know what social capital Brazil can count on to enforce its necessities in the view of external demands. Democracy is being a good escape valve for a country that has always fought to conquer it and the fascination of all participants of the water management process is notorious, once it opens possibilities for managing the resource in an open and negotiated manner, even worn down the way it has been.

In relation to external demands for the use of Brazilian waters, initially it does not seem to be easy to identify with whom to dialogue and it seems to be an impossible dialogue, with an unknown and very distant being. Nevertheless, the institutional mechanisms created by the SINGREH, with the establishment of water resource collegiate, places face to face, each looking at the other, and who are placed side by side in dynamic meetings that occur with the systematic pre-established by all, identified by any of the parties that are part of the tripod responsible for the decentralized and participatory management of waters in Brazil.

Thus, the water resource collegiate in actual fact function as "*institutional platforms*" used as support to offer present the quick responses that the globalized world demands.

BIBLIOGRAPHIC REFERENCES

WaterResources:

ABERS, Rebecca Neaere (2010). *Agua e Política: atores, instituições e Poder nos organismos colegiados de Bacia Hidrográfica no Brasil*. Organização Rebecca Neaera Abers. São Paulo: Annablume. 248 p.

MMA/ANA - MINISTÉRIO DO MEIO AMBIENTE — MMA. AGENCIA NACIONAL DE AGUAS — ANA (2001). *Experiências de Gestão de Recursos Hídricos*. Rodrigo Flecha Ferreira Alves e Giordano BrunoBontempo de Carvalho (orgs.). Brasília: MMA/ANA, 204 p.

POMPEU, Cid Tomanik (2006). *Direito de águas no Brasil*. São Paulo: Editora. Revista dos Tribunais, 512 p.

TUCCI, Carlos E. M. et al.(2001). *Gestão das Águas no Brasil*. Brasília: UNESCO, 192 p.

PublicAdministration:

BAÑON, Rafael M. & CARRILLO, Ernesto (1997). *La Nueva Administración Pública*. Madrid: Alianza Editorial, S. A.

BRASIL (2003). *Análise e Avaliação do papel das Agencias Reguladoras no Atual Arranjo Institucional Brasileiro*. Relatório do Grupo de Trabalho Interministerial. Presidência da República. Brasília, setembro, 43 p.

BRESSER PEREIRA, Luiz Carlos (1997). Una Reforma basada en la gestión aplicada a la Administración Pública de Brasil. In: *Gestión y Análisis de Políticas Públicas-GAPP* Madrid: Instituto Nacional de Administración Pública - INAP, n.9, mayo-agosto, p.113-132.

_____ (2001). Uma nova gestão para um novo Estado: liberal, social e republicano. In: *Revista do Serviço Público*. Fundação Escola Nacional de Administração Publica. Ano 52, n. 1 (jan-mar). Brasília: ENAP, p. 5-24.

CARDOSO, Fernando Henrique (1993). Notas sobre a Reforma do Estado. In: *Novos Estudos CEBRAP*. São Paulo: n. 50, março, p. 5-11.

DINIZ, Eli & AZEVEDO, Sergio de (1997). *Reforma do Estado e Democracia no Brasil*. Brasília: Editora da Universidade de Brasília, 425 p.

FUKUYAMA, Francis (2005). *Construção de Estados: governo e organização mundial no século XXI*. Tradução de Nivaldo Montingelli Jr. Rio de Janeiro: Rocco, 168 p. (Idéias Contemporâneas).

Democracy:

ARBÓS, Xavier & GINER, Salvador (1996). *La Gobernabilidad: ciudadanía y democracia en la encrucijada mundial*. Siglo Veintiuno de España Editores S.A. Madrid. p. 1-112.

BOBBIO, Norberto (1992). *Estado, Governo e Sociedade. Para uma teoria geral da política*. São Paulo: Editora Paz e Terra, 173 p.

_____ (1997). *Liberalismo e Democracia*. Tradução de Marco Aurélio Nogueira. São Paulo: Editora Brasiliense, 100 p.

_____ (2002). *O Futuro da Democracia*. Tradução de Marco Aurélio Nogueira. São Paulo: Paz e Terra. Pensamento Crítico, 63.

BORON, Atílio (1994). *Estado, Capitalismo e Democracia na América Latina*. Rio de Janeiro/São Paulo: Paz e Terra, 272 p.

DAHL, Roberto A. (2001). *Sobre a Democracia*. Tradução de Beatriz Sidou. Brasília: Editora Universidade de Brasília, 230 p.

FONT, Joan (coord.) (2001). *Ciudadanos y Decisiones Públicas*. Barcelona: Ariel Ciencia Política, 242 p.

GOHN, Maria da Gloria (1990). *Conselhos Populares e Participação Popular*. In: Serviço Social e Sociedade. São Paulo: Cortez, ano XI, n. 34, dez. 1990, p. 65 – 89.

GUÉHENNO, Jean-Marie (2003). *O Futuro da Liberdade: a democracia no mundo globalizado*. Tradução Rejane Janowitz. Rio de Janeiro: Bertrand Brasil, 192 p.

HUNTINGTON, Samuel (1991). *The Third Wave. Democratization in the Late Twentieth Century*. Oklahoma: University of Oklahoma Press.

MARKOFF, John (1999). *Globalização e Democracia: conexões conturbadas*. In: *Globalização e Identidade Nacional*. BARROSO, João Rodrigues (coord.). São Paulo: Atlas, p. 65 - 97.

NUN, José (2002). *Democracia. !Gobierno del pueblo o gobierno de los políticos!* Prólogo de Fernando Vallespin. Madrid: Siglo Veintiuno de España Editores. 174 p.

TEIXEIRA, Elenaldo Celso (1996). *Movimentos Sociais e Conselhos*. *Cadernos ABONG*. São Paulo, ABONG, n. 15, jul, p. 7 – 19.

_____ (2002). *O local e o global: limites e desafios da participação cidadã*. São Paulo: Cortez. Recife: EQUIP; Salvador: UFBA, 224 p.

RODRÍGUEZ VILLASANTE, Tomás (1995). *Las democracias participativas*. Madrid: Hoac, 273 p.

WEFFORT, Francisco Correia (1994). *Qual Democracia?* São Paulo: Companhia das Letras, 165 p.