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PUBLIC POLICY MANAGEMENT AND TRANSPARENCY

**GOVERNMENT MODERNIZATION AND CIVIL SERVICE REFORM:
DEMOCRATIC STRENGTHENING, CONSOLIDATION OF THE RULE
OF LAW, AND PUBLIC POLICY EFFECTIVENESS**

WORKING PAPER

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Government Modernization: challenge for development in Latin America and the Caribbean

1. The direct correlation between the capabilities of government and countries' development has a long tradition in political and scientific thought, and is based on vast historical evidence. The most powerful nations' strength and ability to create and distribute wealth cannot be explained without acknowledging the central role of public institutions. However, the reaction against the excesses of the government's leading role, a result of the exhaustion of development models based on unlimited expansion of the public sector, has led, in recent years, to the need to question what has historically enjoyed unanimous acknowledgment: the direct relationship between the quality and strength of public institutions and economic development.
2. We have also learned, from past experience, that the correlation between government capabilities and development must be fine-tuned in order to be positive. Not all governments can contribute to development; their strength should not be measured by their size; nor should government view its role in isolation from the roles of other institutions, nor are government's various functions equally important for development, nor are the means of government intervention immaterial to achieving these ends. The expression "institutional capacity" was coined to encompass the rules of the game, and there is a positive correlation between necessary collective functions and countries' development. Institutional capacity is a concept broad in scope and depth, that goes beyond government functions, encompassing the public functions performed by the market and civil society, including not just organizational and technical capabilities, but also values and informal behavioral goals that explain the existing circumstances.
3. Similarly, there is broad consensus that certain government institutions are the backbone of countries' institutional capacity, but they are neither indispensable nor replaceable. This leads us to assert, first of all, the direct connection between democracy and development, affirming, in contrast to authoritarian and technocratic views, that only the countries' democratic institutions ensure sustainable, high-quality economic development. As stated repeatedly by Amartya Sen, Nobel Laureate in Economics, democracy is both the means and the end of development. Second, the essential nature of governmental functions extends to those that ensure that a Rule of Law and legal certainty, essential for the effectiveness of laws and political and economic freedom, and, therefore, for the efficient operation of the market economy, prevail. Finally, a capable government is necessary for the production of the public

property that ensures high-quality development, adding to growth the element of equitable distribution thereof, which corrects inequalities and makes it possible to eliminate poverty.

4. Despite these arguments, the years following the Washington Consensus were dominated by reforms based on the idea that less government is better, when the correct idea would have been that better government is better. Privatization, deregulation, decentralization, and simple cessation and abandonment of entire sectors of activity because of insufficient resources, marked the reform agenda. True, fiscal reorganization of the government was needed to regain macroeconomic equilibrium. True, the preceding period left a legacy of inefficient government machinery, poorly adapted to social needs. But, it is also true that, in more than a few cases, the result was a rickety, disjointed government, defenseless in the face of problems for which it nevertheless remains responsible to society, and whose credibility has been undermined by the ideological devaluation that accompanied reform.
5. Given the [above], the Inter-American Development Bank has reiterated, in recent years, that “there is a direct relationship between economic development and the quality of the process of government. The success of economic reforms and poverty-reduction strategies requires a growth of institutional capacity¹”. In this respect, the objective of government modernization, beyond the fiscal adjustment, has, of necessity, been included in the Bank’s work agenda. This has led to significant actions, through loans and technical cooperation, aimed at reforming public institutions. Initially, the actions focused on the Executive Branch, especially in the fiscal and financial area, and they were later extended to other areas and branches of government, such as the judicial and legislative. Along the same lines, the Bank has also supported consensus-building activities through national and regional dialogue, to enhance the viability of these reforms.

The importance of the Civil Service

6. Government modernization is impossible without civil service reform. This institution originated with the change from hereditary government to the government of law, in which the government employee becomes, rather than a personal servant of the Crown, a servant of the Government, an impersonal institution subject to the rule of law. The basic principles of the Civil Service in the constitutional state, merit and equality, are set forth in Article 26 of the Declaration of the Rights of Man and of the Citizen, which proclaims the equal eligibility of all citizens to “all dignities and to all public positions and occupations, according to their abilities and with no other distinction than that of their virtues and talents.” In the modern state, the Civil Service extends its contribution to strengthening both democracy and the rule of law, and, finally, to the efficient provision of public property [and] services.

Civil Service and strengthening of democracy

¹ “Marco de referencia para la acción del Banco en los programas de modernización del Estado y fortalecimiento de la Sociedad Civil, [Referential Framework for Bank Action in programs to modernize government and strengthen Civil Society] IDB, GN-1883-5, 13 March 1996)

7. The Civil Service is an essential part of the so-called republican component of democracy, associated with the general idea that the exercise of public duties should be a virtuous activity requiring subjection to the law and obedience to the public interest at the sacrifice of private interest. From the republican component arise consequences for the relationships among the government powers, but also for the design of the executive branch. The most important of these, which Shumpeter added to his definition of democracy, is the existence of a professional Civil Service with a strong institutional position and sense of duty. The Civil Service, while under political control, operates in this way, thanks to its professionalism and impartiality, as a counterweight to the politicians who are in charge, respecting the law, looking out for the general interest, and providing continuity in public functions. It is clear that the weaknesses of democracy in the developing countries, often related to limited protection of liberties and political rights, are as closely or more closely related to the non-existence or imperfect condition of Civil Service systems. It would not be overstating to say that in the more mature democracies, the three components of democracy, the representative, the liberal, and the republican, have advanced in parallel, without major imbalances among them, contrary to what has occurred in the developing countries.

Civil Service and consolidation of the Rule of Law

8. Similarly, the Civil Service is very important to the protection of a key value of modern constitutionalism and the market economy: legal certainty. The guarantee of impartiality and professionalism which the Civil Service offers works, in democracies, to curb arbitrariness and safeguard legal certainty, without which the development of market institutions is impossible. Recent empirical studies have shown that the existence of a professional public bureaucracy is a necessary, but not sufficient, condition for the countries' economic development. In the same way, the professional nature of the Civil Service is the critical variable that explains the reduction of corruption: where the rules of the game separate the bureaucracy from the political elite and give it power that allows it to remain neutral, corruption declines. In short, while the Civil Service is not sufficient to guarantee the rule of law, its absence, in and of itself, may be sufficient to seriously jeopardize democratic governability.

Civil Service and public policy effectiveness

9. Beyond legal certainty, the reality of government and contemporary society demands that this perspective be supplemented with that of the requirement for efficient, effective government action. If legal certainty requires the impartiality and transparency of public servants, effectiveness is the value protected by the merit system requirements of professionalism and capability. As human resources are one of the critical variables for the production of services in companies, so are they in the public sector. Access to public services, and their quantity and quality, depend, in large part, on the capability and motivation of government employees.

Definition of Civil Service

10. What we mean by Civil Service must be clarified, since it is often used in different ways, on the one hand with reference to its scope, and on the other hand with reference to its institutional significance. As we will argue later, the functions we have

just attributed to it and which explain its importance, depend on a certain broadening of the concept and its institutional requirements.

11. From the standpoint of scope, the term Civil Service is sometimes used restrictively to identify subsets of government employment on the basis of various criteria. The first is legal-formal, and would identify the Civil Service with the segment of government employment regulated by rules of administrative law. Another criterion, also legal, but different from the above, would restrict the Civil Service to the system whose constituent parts are defined by the law and administered unilaterally by the public employer. A third criterion would identify the Civil Service with the government employment involved in administration of the central government, excluding the lower levels. This last criterion is functional in nature and would identify the Civil Service as the employment system for some government employees, specifically, those who perform functions connected with the exercise of the so-called public powers related to implementing the rule of law. But it is difficult to formulate a concept of Civil Service which is useful for the purpose of Government Modernization, if we accept definitions that restrict its scope. The performance of the three functions we have attributed to it requires us to accept a notion of Civil Service that extends to all government employment, regardless of the nature of the legal relationship, the functions performed, or the level of government from which it operates.
12. From another perspective, the term Civil Service can generically refer to the system of government employment in any country, regardless of the features of its institutions. This interpretation is not consistent with the profound meaning of the term which, historically and constitutionally, refers to much more than a system of employment. The Civil Service is one of the central institutions of the democratic rule of law and, as such, in order to exist and be maintained, it must [include] certain institutional mechanisms that permit a professional administration based on the principles of merit and equality. By this definition, all countries would have a system of government employment, but not all would achieve the status of Civil Service.
13. The basic institutional hallmarks of the definition of Civil Service would be:
 - a) the maintenance of a professional administration, meaning one which, [while] under political authority, enjoys a sphere of autonomy and impartiality in its operation for reasons of public interest;
 - b) the existence of specific rules regarding access to and retention in government employment, guaranteeing the application of the principles of merit and equality, which means that the mere existence of legal rules may not be sufficient to confirm the existence of a Civil Service, their real and effective application being necessary;
 - c) the existence of mechanisms that protect job security (not the inability to remove or employment for life), as opposed to arbitrary dismissal, as a guarantee of impartial, professional conduct.
14. It is normal, in many countries, for these conditions to result in specific rules, mostly of public law, sometimes known as the Civil Service or Public Officials Law. But this is not necessary for its existence; it is perfectly possible for the Civil Service to exist

with its conditions implicitly identified in ordinary law. In other words, the concept of Civil Service does not presuppose a statutory legal system, or a single model for the management of government employment, nor does it entail rigidity or uniformity in the working conditions of public servants. In fact, it takes shape validly in very different models, with varied organizational structures (which may be centralized or decentralized), human resources policies (with different types of performance incentives), and management techniques (systems of positions or career systems). Nor does this idea prejudge the different paths to institutionalization of the Civil Service; various strategies which are useful, depending on the political and institutional context of each country, can be recognized.

Guidelines for Civil Service reform

15. Civil Service reform, understood in these terms, may seem strange given the trends toward government modernization, which highlight the bureaucratic dysfunctions of public administration and stress the need for a “businesslike” organization for the public services. But there is no such contradiction, since defending the validity of a Civil Service system with a sound institutional position is the necessary assumption for the success of the much-needed managerial reform. In this regard, one should not confuse the concept of Civil Service with the implementation of rigid, uniform systems of managing human and financial resources, or with the hypercentralization of structures and administrative procedures. The problem is not the Civil Service *per se*, but rather the way it has been implemented in some countries, frustrating its purpose with structural perversions that have given rise to corporatism and the irresponsibilization of public agents.
16. The evidence we have of the compared experience shows us that nowadays it is possible and desirable to implement administrative reforms under the dual requirement of legality and efficiency, introducing modern human resources management techniques and flexible modes of organization and operation. Merit with flexibility is the expression that best summarizes this trend, in which the best practices of the most advanced countries can be recognized. A set of central ideas in the trends toward modernization of public sector human resources can be highlighted:
 - a) putting value on human resources management in the public sector, and understanding it as the management of professionals and their knowledge;
 - b) viewing government employment as a pluralistic system in which, in contrast to the traditional restrictions and standardization, different modes of employment and patterns are seen in working conditions;
 - c) commitment to the managers, as the authority which coordinates policy and administration, to whom most of the human resources management functions are delegated;
 - d) openness to the influence of the private sector and the progressive convergence of government and private sector employment, questioning the excessive protection and stability of government employment, but without eroding its institutional bases as a merit system.

17. Along these lines, it is also necessary to abandon the strict efficiency-oriented view of Civil Service reform, prevalent in some countries, based only on staff reductions. We now have sufficient evidence that successes in reducing government employment and containing salaries have been few, modest, and short-term; nor have they entailed improvements in the accessibility and quality of public services. What is important is not just the reduction in personnel costs, but the way in which they are achieved. Reductions, when necessary, must be accomplished within the framework of long-term strategies to achieve a stable, competent public sector workforce. In some cases, an “invest to save” strategy should be adopted, exceeding the previous staff of necessary qualified personnel to support programs for containment and cutting of public expenditures.
18. Finally, the problem of the Civil Service should be recognized as a structural problem, in which partial progress is possible, but necessarily requires an overall vision and strategy. *Ad hoc* solutions for parts of the public sector that have been able to build specific capabilities using separate recruitment and salary plans have frequently been employed. However, partial remedies are insufficient and counterproductive for the effectiveness of overall administration. In fact, one of the problems that international cooperation is causing in some countries is the creation of implementing units, separate from public administration, that attract the best professionals available inside and outside of the government system to ensure that projects are carried out, but at the cost of damaging the public system as a whole and its potential for long-term development.

Basic Lines of Action for The Bank in Terms of Civil Service Reform

19. The basic lines of action for the Bank in support of Government Modernization and Civil Service reform for the countries in the region aim to strengthen democratic governability through strong institutional development of the Government, which means supporting the adoption of mechanisms that enhance the transparency of public administration in general, and to establish a modern public administration with a professional Civil Service and high standards of ethics and transparency in public management.
20. Civil Service reform should be approached carefully in its application [to] the conditions resulting from each country’s institutional framework. This recognition prevents considering Civil Service reform as a merely technocratic operation; formulas are worthless, as are mimetic repetition of techniques and models. The method of intervention should vary substantially in accordance with the objectives of reform and the situation of the affected country, with specific consideration for variables such as the composition of the group promoting the reforms, the involvement of the affected parties, the continuity of the necessary political support, or the time needed for the effects to be felt. In this regard, each reform is unique, and its success or failure will depend on the ability of its strategists to harmoniously orchestrate the inevitable conflicts of interest and values that are in play.
21. In addition, Civil Service reform operations suffer from a scarcity and low reliability of data for objective diagnosis of the situation at the outset. The available statistical sources are difficult to interpret, often inaccurate, and inconsistent with each other,

revealing a high level of political sensitivity of data on government employment. Nor is the information on successes and good practices sufficient. This makes diagnosis, especially comparative diagnosis, and project design, very difficult. Progress is therefore needed in terms of the availability of reliable, practical quantitative and qualitative information on the Civil Service in and outside of the region so the countries and the Bank can formulate and implement valuable, well-founded reforms on the evidence of objective diagnoses.

22. Finally, Civil Service reform requires the countries to adopt long-term policies based on a broad consensus of the social actors and their representative organizations. The IDB, in addition to its financial and technical resources, offers the countries a process of dialogue to generate shared diagnoses of the countries' problems and achieve a common definition of the objectives of cooperation. Not in vain is the IDB an institution that goes beyond the conventional relationship between a Bank and its borrowers and works together with its member countries.