Modernizing the Spanish Public Administration or Reform in Disguise

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Working Paper n.20 Barcelona 1990 Reforming the administration is a permanent subject of discussion in contemporary Spain. From the beginning of the 20th Century up to the 1989 proposal for modernizing the administration a number of more or less coherent attempts has been made to transform the workings of the Spanish administration. Although these attempts differed in perspective, they all shared the same objective of adapting highly inflexible structures to a society in which change is rapid and sometimes radical. (We are not referring here to the reform of the Spanish administration in terms of the territorial power structure but in terms of organizational and personnel structures and the way the administration operates).

1.- From the Maura Statute to the purifications of the Franco Years (1918-1957)

In 1918 Spain shifted from the spoils system to a true Statute of Public Management which decreed the immovability of civil servants and established the "Special Corps", designed along French lines. The Maura Statute was the first major attempt to modernize a, system of public administration which had previously been run along the lines of a spoils system and linked to the "pendulum effect" of constant shifts of government between the two most important parties of the times: the conservatives and the liberals. Although this reform did not put an end to political patronage and corruption it at least laid the foundation for a system of public administration which largely survives today (Baena del Alcazar, 1985, page 182 on).

There were a number of reasons for this reform, among the most important of which was Spain's abrupt retreat into itself at the end of the 19th Century, following the loss of its last colonies, and the need to reorganize and improve the country's own administrative system which had until that time been considered purely as a source of endowments and private benefits. Furthermore, a system which was beginning to adjust to such new concepts as the banking system, profit-making, maintaining a neutral position in world conflicts, etc. had a number of new needs which required a more professional, less nepotistic type of public administration. The Maura Reform did a great deal to consolidate the continuity of the Special Corps which had been increasingly untouched by the constant swings of the Restauration's political pendulum.

During its first years dictatorship of Primo de Rivera (1923-1930) attempted to "moralize" the activities of the Administration in consonance with General Primo de Rivera's image as "The Iron Surgeon" which was intended to give an authorative and authoritarian response to the serious social problems which affected the country during a particularly conflictive period. During this time attempts were made to reduce public spending, increase control over civil servants (improve their punctuality, reduce the number of job vacancies, etc.) while taking the first steps towards serving the public and providing private citizens with their first opportunity to formally register

complaints. Moreover, this period saw the creation of a number of autonomous entities and associations which represented both public and private interests, as well as the establishment of some of the most important public service companies, such as CAMPSA (which had the monopoly on oil products), and Telefónica (a public/private telephone company). During this period there began to be signs of Italian-type corporatist influences, which were a mixture of respect for the market economy and public intervention conceived as an aid to private initiative and the precursor of an aimed-for economic nationalism.

The II Republic approached the subject of State Administration in much the same "enlightened" and "radical" way it approached many of the numerous problems that plagued Spain in the 1930's. Behind many of the attempts made to reform the Spanish public administration during the II Republic lies a mistrust of this very administration, political mistrust (The Defense of the Republic Act) and scepticism about the usefulness and honesty of the administration's activities (attempts to reduce public spending by reducing the number of civil servants and reorganizing the administration's operating systems). A "Committee to Study State Reform" was created in 1934 and its findings caused autonomous agencies to be abolished and regulations on pay for administrative personnel to be established (Garcia Madaria, 1977).

During the second leftist government (February 1936), mistrust of autonomous agencies was overcome and a good number of them were created in an attempt to apply specific policies in fields such as agrarian reform, public health, labor and social security, etc. (Baena del Alcazar, 1985). The ideology of the genuinely republican forces was based on the idea of reinforcing the executive branch and a vision of transforming the country "from the top down" in which a loyal and efficient administrative system was absolutely essential. In this respect, obtaining civil servants' political loyalty was a priority issue (and little wonder, given the short space of time the Republican government survived), despite the fact that political purification could prove a traumatic experience.

The triumph of Franco's rebel troops in 1939 once again raised the issue of the political loyalty of public servants as a key element in shaping a New (Mussolini-style) State. This led to the establishment of a noteworthy system of political "purification" (via the Political Responsabilities Act) and vacant positions were assigned either to people who may or may not have been professionally capable, but were at least absolutely loyal or to people whose performance in the Civil War deserved reward. Moreover, the corporatist-authoritarian interventionism which marked the first years of the Franco regime continued Primo de Rivera's practice of creating autonomous agencies and public companies. The Instituto Nacional de Industria (INI) was created in imitation of the Italian IRI. Here we have a mixture of the purest nationalism with imported fascist corporatist formulas which

were to some extent foreign to the Spanish conservative ideology, which was one of tradition and authoritarianism rather than ideological renewal.

Once the difficult autarchic period of the 1940's with its serious economic problems and its perennial scarcities was over and the international isolation in which Spain found itself at the end of World War II came to an end, the Franco regime was faced with the need to reorganize an administrative system in which political loyalty was no longer sufficient and in which the importance of professional knowledge and skills was beginning to be recognized. The Administration was faced with an ever greater obligation to increase social benefits and services (Social Security, etc.) in order to compensate for the lack of civil liberties and political pluralism. This triggered a certain crisis in the excessively "ideological" management of administrative systems and caused the major emphasis to be shifted to the technical and professional skills involved in the increasingly complex task of public administration.

2.- From technocracy to political transition (1957-1977)

As the Franco regime became politically and economically more entrenched, it was also gradually "informally" included in the Western bloc. Consequently its power structures and administrative mechanisms needed to be given a greater degree of "formality". This led to a period of "juridification" of the system which lasted from the late 1950's to the early 1970's and virtually laid the administrative foundations of the regime. Moved by a spirit of reform (Baena del Alcazar, 1985, p. 190) administrative structures were reorganized; the administrative procedure was defined and established with juridical rigor, guaranteeing the citizens' right to information and recourse; and the civil service system was altered in such a way that the different corps of officials were unified and a system of job classification and remuneration established. All of these innovations were essentially juridical and procedural in approach.

In these years the Franco regime was anxious to enter the new Europe that was then being shaped and much in need of economic trade with other countries and income from tourism. In order to achieve this, changes in the very system of government were necessary. Still, the country managed to survive into the boom years of the Sixties with a political and ideological structure that was totally obsolete. During this time power shifted from the old guard Falangists to the technocrats of the Opus Dei, who combined a high degree of technical skill with an ultra-conservative ideology. This facilitated contact with other Western European countries without jeopardizing the authoritarian basis of Spain's political system.

Under these circumstances, the legal and administrative reforms that took place in Spain between 1957 and 1964 must be viewed as an attempt to establish

administrative practices comparable to those of Western Europe's States of Law ("rechtstaat"), but within a context of political authoritarianism which denied any form of pluralism. At the same time, these reforms gave Spain a more rational and efficient basis from which to confront the new needs of a State whose administrative system was growing and whose economic interventionism was increasing.

Thus, the crisis of the system was not caused by its administrative or technical inability to guarantee the workings of the various state agencies. The crisis of the Franco regime was essentially caused by its inability to provide institutional, political and representative outlets for a society, that was fully developed economically and clearly rooted in ideological and cultural pluralism. It was this political inability and its increasingly serious effects on the economy which led to the blockade of the regime during the dictator's final years and caused the entire system to crumble once the dictator himself ceased to exist. In fact, the end of the Franco years did not bring about significant changes in the structure of Spanish public administrations which instead survived in a sort of tense expectation, awaiting what promised to be inevitable change (Nieto, 1986).

3.- Continuity and change -in the democratic administration

Shortly after the transition to democracy got underway, Spain entered a constituent period and at the end of 1978 a new Constitution was approved. Its most noteworthy effect was the radical transformation caused by the introduction of political pluralism and democratic systems of representation in a country which had enjoyed full political freedom during very few years of its entire contemporary history. Moreover, the introduction of regional autonomy founded on the principal of legal recognition and complemented with references (Art. 103) to efficiency, hierarchy, decentralization and coordination (Baena del Alcazar, 1984) caused a radical change in the territorial organization of Spain's public administration. No particular political "purification" was enacted in this moment. But on the contrary, the new democratic regime accepted the incorporation as civil servants of the 27.000 former bureaucrats coming from this falangist party and the franchoist union (Beltran, 1990).

Although regional autonomy is not the subject of this paper, we cannot fail to emphasize the drastic change that took place in the workings of a traditionally centralized administration when 17 autonomous regions or "communities" with full legislative and administrative powers were established. Apart from this, the new Spanish Constitution also brought the country's public administration system into the same general legal framework which governs the administration systems in other European democracies.

Surprising as it may seem, there was no significant change in Spain's public

administration system until 1984. During the seven years that elapsed between 1977 and 1984, the country's governments (first the UCD centrist who held office from 1977-1982 and then the socialists who have been in power since 1982) seem to have felt that changes of an institutional or legislative nature were more important (Nieto, 1986). It is also true that restructuring the State into autonomous regions meant a radical change which involved tremendous efforts and exhausted a large part of the available energy. Finally, in 1984, an emergency law was passed on the reform of the Public Administration. This law was, however, limited to the matter of civil servants and left the more general reform for a later date, thus reducing the possibilities that might have been permitted by a political change such as the one which has taken place.

This law was strongly criticized (Nieto, 1986; Baena del Alcazar, 1985) for its poor technical quality and the problems involved in applying it. The law defines a certain policy for personnel employed by public administrations, unifies the different corps that existed, provides a list of public service jobs and establishes a certain career path within the public administration. A few years later (1987) the Civil Service Act was passed. This establishes public servants' channels of representation, their working conditions and rights of participation and implicitly recognizes their right to join labor unions and participate in negotiations on working conditions and salaries.

Since this law was enacted, the labor organizations that have proven strongest in the public administrations are the communist inspired "Comisiones Obreras", the socialist "Unión General de Trabajadores" (which are the strongest unions in sectors other than the administration), and the "Confederación Sindical Independiente de Funcionarios", which is not linked to any particular political party and is more conservative in outlook.

1987 saw the beginning of a new attempt to globally reform the Spanish public administration. The focus and approaches of this restructuration process are hitherto unknown in the country's history of public administration and are analyzed on the following pages.

4.- Modernizing the Administration

Following the 1986 elections, when the Socialist Party once again won an absolute majority, a Ministry of Public Administrations was created. This Ministry is basically empowered to organize the system of administration and civil servants and coordinate the public administrations in the autonomous regions. In April 1989 the Ministry's report, "Reflections on Modernizing the Administration" was published. According to its introduction, the report is the result of more than two years of work by the Ministry. Once it has been thoroughly examined and discussed it should serve as

a guideline for the "administrative reforms still pending" (Ministry of Public Administrations, 1989, p. 2) (Previously see Prats, 1982).

a) The basic premises

There are three basic premises: 1) sufficient time will be devoted to diagnosing and evaluating the variety of situations contained under the heading of Public Administration; 2) the approach will be empirical, based on the experiences compiled; 3) the Ministry will be able to integrate the partial solutions found into the design of a future framework for public administrations. The approach to the entire project is openly "non-legalistic" and represents a clear break with tradition and a spirit of innovation which is confirmed by the rest of the report and by the first experiences which have taken place since the report was published.

The origin or motivation of the report is also clear: "the Administration's proven unsatisfactory performance". To this is added: 1) Spain's entry in the EC and the consequent adaptations which must be made; 2) the need to achieve intrastate cooperation in order to improve public services; 3) the desire to improve the ever-increasing number of State services by introducing "new management technologies" (MAP, 1989, p. 6).

According to the authors of the report, this involves separating politics from administration, completely redefining the role of the administration and introducing a new administrative culture which is more in line with the "desired goals of modernization and efficiency". (MAP, 1989, p. 8).

As Joaquín Almunia, Spain's Minister of Public Administrations, said recently, the country is trying to "shift from a culture based on the legality of the activities being carried out to a culture which does not question the principle of legality but prides itself on getting results while abiding by the law. A culture in which officials are beginning to stop feeling smug about simply doing their assigned duties and starting to think about how these duties can be changed and enhanced so that within a year or two the content of each job or each section of the Administration will improve". (Almunia, 1990).

b) Proposed areas of change

The modernization project is based on the assumption that the much needed change in administrative culture will take place and specific attention will then be paid to three principal areas:

-organizational aspects

- -functional aspects
- -human resources

All the reports which serve as a basis for the process first describe the current state of affairs, its conditioning factors and deficiencies and then examine the improvements proposed or outlined. Table 1 below is a summary of the diagnosis given and the range of reform measures proposed.

Among the outstanding features are the following:

- 1) Attempts are being made to change the administrative culture from a model which was predominantly juridical and guaranteed the workings of an administration that was basically intended to "regulate" life and cared little about the outcome of the actions of the public powers to a management-based model that is deeply concerned about getting results and serving the "customer" or user of public administrations which are increasingly becoming purveyors of services.
- 2) In the field of organization, emphasis is being placed on the need to change from a very rigid structure of "mechanical bureaucracy" (Mintzberg, 1979) in which, the responsibilities of politicians and public servants are not clearly defined and where there are. contradictory opinions about peripherical administration of the State and how it should relate with other administrations (regional or local). The modernization project proposes changing to an organizational model based on grouping functional areas into self-sufficient modules, budgeting by objectives and using audit-based methods of control.
- 3) The functional aspects and procedures have also been highly criticized on the grounds that there is a wide gap between the increase in tasks which must be performed by the various public administrations and the outmoded management methods being used. Senior public servants do not have well-defined fields of action; they are not sufficiently autonomous and they are subject to excess control. The proposal is to change this for a system of. management by objectives, with greater freedom of movement, streamlined procedures and use of new information and management technologies.
- 4) Last but not least, there is the matter of human resources. Public Administrations are strongly criticized for subjecting their personnel to excessively standardized treatment; it is difficult to attract and maintain qualified personnel; there is a serious lack of motivation among low, training civil servants. Pay is opportunities limited and there is little chance for advancement. The proposed reform aims to shape a better system for recruiting and training professional civil servants, create more rational salary scales and improve the chances for advancement.

c) What has been done thus far?

The Ministry of Public Administration's aim in publishing the paper "Reflections on Modernizing the Administration" was to get discussions started within the Administration itself and particularly among the higher ranking officials of the different ministries and the labor organizations which represent civil servants. Furthermore, the mass media and specialized publications for civil servants were used to publicize the basic aims of the proposed modernization measures and open the way to reform.

After these first discussions, the text of the proposal was amended to include the most noteworthy contributions and a poll was taken in order to "more systematically determine the opinions of various administrators as regards the most important aspects of their management activities and how they perceive the existing problems" (MAP, 1989, b). The Delphi system was used and the poll managed to create a certain spirit of consensus and involvement in the process of reform.

Parallel with this, a series of prudent measures was enacted (Law 23/1988; Royal Decree 28/1990), bringing improvements in some aspects of civil servants' job selection and career opportunities.

d) Operational Service Inspections

At the same time, the General Office of Public Administration Service Inspections (IGSAP), which was established in 1986, has been carrying out what are known as Operational Service Inspections. IGSAP is in charge of streamlining bureaucratic processes, procedures and working methods and developing standards of rationalization for public administration (Royal Decree 22/1987), along the lines of the "de-bureaucratization" which has taken place in other countries.

IGSAP began as a private consulting operation, developing its own working method. Each OSI is intended to improve the workings of a single unit or service of the public administration and permanently evaluate bureaucracy and public services. They try to avoid giving the impression that they are a means of control or a "threat", as other types of evaluations tend to be (Wildavsky, 1985). Operational Service Inspections are carried out only at the request of the agency to be inspected ant the agency must participate actively in diagnosing its problems. IGSAP is currently working on a project called Module Zero which aims to reveal which agencies have the greatest problems in their relations with the public. Among the sources of information used in this project are the reports issued regularly by the "Defensor del Pueblo", or Spanish "ombudsman".

An OSI begins with a preliminary study of the section or service to be inspected. The inspection team then carries out field work and completes the study by presenting its conclusions and recommendations. IGSAP guarantees a follow-up and advisory service during the time recommended changes are being made.

The first trial inspections took place in 1987, after which the procedure was refined. The OSI system is now being used in regions such as Asturias and Catalonia and in some large cities, such as Barcelona. Operational Service Inspections were made in 14 Ministries during 1987 and 1988 and affected 40 executive departments and 150 service sections. The OSI system is working well so far and IGSAP's contribution to the Ministry of Public Administrations' modernization process is considered exemplary.

e) Creating and reorganizing autonomous agencies, public firms and management centers

There has lately been an increase in the number of autonomous agencies, associations of private patrons and other organizations which are taking charge of public activities formerly handled by government administrations. The aim here is abundantly clear: cut trough the red tape which is so typical of public administrations in order to assure more transparent management practices and get better results.

At the same time a growing number of public firms are being privatized. In some cases the firm is simply sold to a private company (as in the case of SEAT and Wolkswagen), but in most cases attempts have been made to run public companies along private lines by giving them greater operating freedom and/or eliminating the subsidies and special credits which they received solely by virtue of being publicly-owned. Here in Spain the "neoliberal" system of selling off the stock in public companies or privatization pure and simple has not really taken hold. Instead the government has tried to maintain the controlling interest in its public firms while eliminating their privileged position on the market. In some cases, stock has been sold to private parties and former State-owned companies like Repsol are now quoted on the Stock Exchange, but the government still holds the controlling interest.

As a rule a privatization strategy offers five options: 1) pure privatization; 2) "embarrassing" privatization or selling-out; 3) "silent" privatization; 4) deregulation and elimination of discriminating features; 5) private management of public companies (Cuervo-Fernández, 1986). The tendency in Spain has been to opt for the latter two alternatives. However, the public sector in Spain has never been all that important nor has it ever been a clear and transparent government option. At the time democracy came to Spain in 1977 the public sector was little more than an

"avalanche of companies in crisis" (Garcia Fernández, 1986). At first, political concerns shouldered aside any thought of whether it was economically opportune for the government to be involved in business operations (Subirats, 1989). Since the Socialists have come to power and more or less monetarist economic measures been adopted, there has been a tendency to look less at the size of the public sector and more at ways of improving its performance. Nevertheless, a number of publicly-owned companies that were considered unsalvageable or an excessive drain on the State have been sold or transferred at low cost to private investors.

f) Why modernize public administrations?

Although we do not intend to go into the complex combination of factors that have caused Spain's Socialist government to opt for modernizing its public administrations, we can nevertheless list a few reasons for its doing so.

1) Consolidation of both internal and external democracy in Spain.

Once the dangers of introducing democracy were behind and Spain had been admitted to such Western bulwarks of cooperation in economics and defense as the EEC and NATO, political leaders began to turn their attention to the most pressing matters in terms of the country's economy and administration.

2) The public administration as a bottleneck to Spain's economic development.

In 1977 foreign investment began trickling into Spain. By 1982, the trickle was on the way to becoming a flood. Investors from Western Europe, the United States and Japan moved in despite repeated warnings (The Economist, 1988) that Spain's public administration is a major obstacle to the country's economic development, largely because it is unwieldy and inefficient in its handling of necessary administrative procedures; its operating methods are obscure and access to information difficult.

3) The predominance of values that rate management, efficiency, risk-taking and individual success over ideological convictions, the collective good or simple security.

Spain has not been exempt from the major change in collective values that has taken place in recent years. The rebirth of the spirit of enterprise, the drive for individual success As reflected in numerous signs and many publications. It is especially evident in the negative image of civil servants who are viewed as a symbol

of obsolescence and failure to adapt to change.

4) The feeling that political acceptance is earned more through results than through a shared ideology.

At the outset of Spain's democratic transition, one's ideology appeared to play a fairly important part in determining political acceptance. However, with time an image of efficiency and getting results became more important than political ties, which were never very highly thought of in Spain. Voters were influenced more by their leader's images, personality and the results they had achieved than by the ideologies they professed.

5) The increasing complexity of Government tasks, growing budget constraints and the need for improved management.

Spain's public spending increased from 27% in 1978 to 42% in 1988 without there being a significant increase in the number of civil servants and with no change having been made in the management methods used. At the same time, the need to contain public spending as part of the economic strategy designed by the government has emphasized the need to improve public management.

6) The public's negative image of the quality of service provided by public administrations.

Spanish public administrations have a very poor public image. Though not always confirmed by actual facts, the general impression is that private health care and education are better than their public counterparts.

7) The opportunity for change provided by new technologies.

While in many cases the introduction of new information technologies has not resulted in substantial changes in the organizational or management process, the fact remains that these new technologies for processing documents and data, etc. make it possible to program integrated changes in management and technology in a much more efficient way.

8) The adoption of tendencies already observed in many other Western European countries.

Spain and its Ministry of Public Administrations have studied the cases of Sweden, the Netherlands, England and France with a great deal of interest. In fact, the Ministry has even sent missions of high-ranking civil servants for a firsthand look at the workings of public administrations in these countries. These visits have served

as a point of reference and reinforced the proposed modernization methods.

9) The need to prepare Spanish public administrations for the demands of the European Single Market and the ever more important issue of international competitiveness.

The Spanish government aims to see that Spain is not overlooked in this process of economic integration. Updating the workings of the country's public administrations is certainly a relevant issue here.

Among the obstacles to modernizing public administrations can be mentioned the following:

- 1) The scepticism of civil servants themselves as regards what they consider to be "yet another" attempt to reform the administration and feel is more a matter of image than an actual possibility of change. Although civil servants tend to be more in favor of change than opposed to it (Beltrán, 1985), the fact is that there is not much enthusiasm about the chances of this "yet another" attempt to reform public administration.
- 2) The labor organizations' resistance to the "threat" that civil servants will lose some of their privileges or their jobs will be endangered.

The labor organizations have been reluctant to accept the first measures that have been taken. Although they are not actively opposing change, they appear to be resisting it.

3)The flight of high-ranking public servants to private business.

In recent years there has been a steady exodus of high-ranking officials from public administration or State-owned firms to companies in the private sector. Because Spain has no law similar to the American "revolving door" legislation, many public employees use their government positions as a springboard to private employment that is directly related to their former public positions.

4) The shortage of managers and other personnel specifically prepared to act as agents of change in public administrations where the juridical/legislatic approach is dominant.

So far there has been no significant change in the process of training and selecting personnel for public administrations. New training alternatives are urgently required and both access to the civil service and the subjects of preliminary study must be altered accordingly.

5) The lack of-consumers organizations which can pressure for improvements in the public sector.

As yet Spain has no strong organizations of consumers or users of public services and this means that there is no effective channel through which the public can articulate its feelings and complaints about the malfunctioning of public administrations.

6) Vulnerability of the party in charge of the process of change.

At the moment Spain's political scene is in a fragile condition: the Socialists have suffered an erosion of power and no other party offers a definite prospect of change in the short term. This may lead to changes at the top in those public agencies which are immediately involved in the modernization process. Moreover, we can by no means be certain that the tensions between different ministries caused by the first attempts at change (the March 1990 State auditors' strike) will not lead to a major rerouting of the path to follow.

5.- CONCLUSIONS

Although it is still too soon to offer any definite opinion on what is an ongoing process, it can safely be stated that a radical change of focus is taking place in what have been almost continual attempts to reform Spain's public administrations. While previous attempts at reform were largely juridical in nature and aimed at changing the status of public servants, the current attempt being made by the Ministry of Public Administration is explicitly non-juridical.

Also noteworthy is the fact that this new attempt at reform has greater support than its predecessors, both in terms of theory and international example. Moreover, there is greater pressure from below and from political organizations searching for greater acceptance. Spain's entry in Western economic and political circuits is forcing the country to improve its decision-making and implementing processes in order to meet the demands of tougher international competition.

It is still too early to guess at the outcome of this operation which we have labeled "reform in disguise" in an allusion to the way the term "modernization" is being used to avoid giving the impression that this is just another incidence of changes being imposed from the top and leading nowhere. Even the political architects of this "modernization" give the impression that a lengthy process is involved and that the road ahead will be paved with "micro" rather than "macro" experiences and achievements and consequently the alterations and improvements

will suffer from low visibility.

Last but not least, we can state that the process is a fragile one, subject to pressure both from within (strained relations between different ministeries jockeying for a leading position) and without (a political situation in which it is not clear whether the ministerial team that instituted the process will survive or even how long the Socialist government itself will last).

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