

Higher Education Reform in Brazil: Reinforcing Marketization

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Higher education in Brazil began based on institutions organized as isolated establishments, and mostly privately owned. Nonetheless, public institutions created as universities and developing research activities and other services became the desired ideal for higher education.

The first educational institutions in Brazil were created in the sixteenth century, by a Catholic denomination, the Jesuits. Higher education in Brazil remained mostly privately owned and organized based on isolated institutes until the 1950s. With the re-establishment of democracy in Brazil, after Getúlio Vargas's authoritarian government (1930-1945), and within the political environment of state intervention for development and reconstruction, there was a process of transforming private and state-owned institutions into federal institutions, and afterwards, during the 1960s, transforming them into federal universities. Thus, within the period 1954/64, 63% of the students were attending universities and not isolated establishments. And public institutions – most of them federal and a few state maintained – were encompassing 81% of the total higher education enrolments (CUNHA, p.97). The practice of free tuition within public institutions, a repeated demand of students and professors with a more democratic perspective, has become common since 1950.

Brazil, went through a military dictatorship that lasted twenty one years, from 1964 to 1985. Just after the military coup of state political parties were abolished and Congress closed, there was persecution, death, and the cancelling of social, political, and human rights. Although this process firmly hitting democracy, the military government in Brazil, dreaming of the idea of “Brazil as a great power,” fostered the creation of graduate courses and research within public universities and Catholic ones, as well as reinforced national governmental institutions both to foster basic and applied research, and increase the qualifications of teaching personnel. There were also signed several agreements between the Brazilian government and the USAID, going from teacher training, to books publishing, as well as agricultural/vocational education.

In 1968, dictatorship got more harsh, with the edition of the Constitutional Amendment number five, known as AI-5, in which military strengthened their power, concentrated more resources within the federal government and reduced human and social rights, starting summary judgment, prohibiting and criminalizing most student reunions and public manifestation, it was sanctioned a higher education law (Law 5540/68) The mentioned Law also stated that higher education should be organized in university-type establishments, proclaimed the unbreakable association of teaching, research and services to society, and called for the progressive hiring of professors as full-time personnel. At the same time, the Reform consented to and was supportive of the expansion of private institutions at the undergraduate level, without establishing any meaningful quality control

over them. Consequently, there was a huge expansion of enrollments in the private sector. As mentioned by Vieira (1989, p.24), ten years after the reform; that is, in 1978, total enrolment in higher education reached 405,367 students, distributed among 64 universities and 798 isolated higher education institutions, most of which were privately owned.

It is worth mentioning that the dictatorship engendered the growth of opposing movements, which gave rise to large national unions, and, later, a new political party, the Workers Party (PT). University personnel, both professors and administrative staff, became unionized and created National Unions. Professors and administrative personnel achieved some more benefits, such as early retirement (after 25 years of work for women or 30 for men) with an additional compensation of 10% over the salary; and sabbatical leaves and paid leave for post-graduation.

With the two oil shocks, the lending scheme of petrodollars to third world countries and later the emergence of the debt crisis with the Mexico default in 1982, the strategy prescribed by the World Bank and the IMF was of tightening expenditures and rising exports in order to increase countries' money availability, and thus redirect it to pay debts. This situation renewed the idea of privatization and charging fees for higher education. However, the tightening of social expenditures, wage freezes and high inflation generated huge disapproval from Brazilian society and enhanced social movements. There was great pressure to return to democracy and large public demonstrations were organized. Thus, the discourse of privatization (charging fees) within public higher education did not succeed.

The end of the military dictatorship in Brazil in 1985 found the country with great social mobilization, and wishing to restore and redistribute concentrated power, money, rights and services. A process of constitutional reform was launched and a new Brazilian Constitution was approved in 1988.¹ This Constitution reinstated human and social rights and the duty of the State to provide them.

In terms of higher education, Article 206, item V of the 1988 Constitution established that education is to be tuition free in public establishments. Article 207 stated that universities have the benefit of pedagogical, administrative and managerial (finance and patrimony) autonomy, and are to obey the principle of unbroken association between research, teaching and service to society. Moreover, Article 211, defined that the Federal government would finance federal public educational institutions while municipalities were to preferentially serve the elementary level of education and children's education, and states, middle and high school levels. Article 212 established that the Federal government must spend no less than 18%, and states and municipalities

¹ See Congresso Nacional, Constituição Federal.

no less than 25% from their tax revenues.² By this time there was also the beginning of discussions to set a new national law on education.

In 1989, NUPES³ (a think-tank on higher education studies, partially funded by the Ford Foundation) organized two seminars and divulges a series of documents. Some of them were used in a 1991 World Bank (WB) paper on higher ed reform in Brazil.

In its analyses about Brazilian higher education, the WB document praised the existence of diversification, with a variety of public and private institutions, as being “one of the strengths of the system” (WORLD BANK, 1991, p.31). Although recognizing that “Brazil has had some success in building quality institutions [World class higher education institutions],” it was emphasized that: “the costs, especially in the federal system, are excessive” (ibid., p. 2).

The main issues established to be dealt with within Brazilian higher education were: the cost of federal institutions, the system of governance and management of federal institutions, the oversight of private higher education, and the system of higher education financing (ibid., p. 11).

Some of the measures that the government was advised to introduce in order to improve governance and management within federal institutions and which found opposition were: a) the repeal of the “law of isonomy,” and the end of civil service status for university staff and their admission using the same rules applied for private sector employees; b) the definition of funding on the basis of a formula calculated on estimated cost per student and student performance; c) the adoption of some mandatory policies, such as teacher qualification, requiring masters or Ph.D. for all associates of full professors, as well as the observance of unit-cost and student-teacher ratio and the minimum size for enrolment in undergraduate classes; d) the exclusion of students not attending classes or not completing their course-work within a specified period of time; the creation of a new Federal Council of Higher Education with budgetary power; the halt in the construction of any new facilities or the establishment of any new federal universities until the existent ones reach an “adequate” level of space utilization, by for instance doubling their enrolment; the sponsorship by the government of a program of university management using the NUPES study group, the master’s degree program of the Federal University of Santa Catarina (UFSC) and also fostering through CAPES overseas training in university management (ibid., p. 37-41).

Moreover, the document also stated that, “[T]uition should be charged at Brazilian public institutions,” and that student loan programs were to be established for needy students and only for

² See Congresso Nacional, Constituição Federal.

³ Some of NUPES members were: Simon Schwartzman, Elisa Wolynec, Jean-Jacques Paul, Jose Goldemberg, Sergio Costa Ribeiro, and Eunice Durham.

tuition payment purposes. Moreover, students' subsidies should be eliminated and students be charged full costs for meals or pay "an additional \$31 per year" (ibid., p. 46).

Although there was the advocacy of the establishment of minimum requirements regarding private institutions, there was a clear position favouring the growth of those establishments –praised for their numerous virtues– coupled with an attempt to disguise the low quality of many of those private institutions, as can be seen in the following excerpts:

...The Government should end the backlog of 3000 applications for new private higher education institutions [and] encourage the opening of new private institutions as a means of putting more competition and choice into the system. (World Bank, 1991, p.42) The virtues of the private sector, especially compared to the public system include: (a) internal efficiency and management – almost no waste, lean organizational chart, better decision-making flow, less discontinuity of administration, agility in crisis solution, better students/teacher and students/staff ratio; (b) flexibility to hire/fire teachers, determine their salaries according to market values and cost levels; and (c) flexibility to adapt quicker to labor market needs and thus change curricula....Private institutions are often accused of getting excess profits and paying inadequate attention to quality... although there has never been a systematic demonstration of their existence". (ibid., p.69, emphasis added).

These studies and pressures to introduce World Bank guidelines for higher education during Fernando Collor's Presidency (1990-1992) did not fully succeed for the reason that people were still mobilized due to the recent discussion and approval of the new Constitution and the discussion about a new National Law of Education; both very contested terrains, evincing the dispute among those defending a private and a public perspective for education. (SIQUEIRA; BRZEZINSKY)

Another factor that hampered the immediate introduction of higher education reforms was the system of corruption brought about by Collor's close allies, which generated many public demonstrations all over the country, and he had to resign the Presidency during an impeachment procedure. Despite the fact that educational reform did not go very far, the dismantling of the State began in his government through a privatization processes. Itamar Franco, Collor's vice-president assumed office as Brazilian President exerted pressure on public universities to increase enrolments, mainly at evening courses.

The same rich group that joined forces and resources to elect Collor, also came together sustaining Fernando Henrique Cardoso's election. Paulo Renato de Souza, an economist, former

rector from the State University of Campinas (UNICAMP), São Paulo, and an advisor of the Inter-American Development Bank (IDB), was designated Minister of Education within Cardoso's government.

A renewed and stronger campaign against civil servants, unions and retired public employees was launched, using the media. Some of the usual terms used by his government to refer to these groups were: sluggish, negligent, agitators, old-fashioned, unpatriotic, selfish and lazy.

Meanwhile, the government began doing piecemeal reforms by introducing changes using mostly temporary Presidential acts with strength of law (Medidas Provisórias - MP).

On March 16, 1995, Fernando Henrique Cardoso signed MP 938. This MP introduced new criteria for the election of university rectors in which only professors with a Ph.D. or in the last two levels of their career could be registered to be candidates. Moreover, the weight of 70% of all votes was to be from the staff of professors, thus reducing the voting power of students and the administrative staff. Student State-wide certification examinations (known as Provão) were also introduced and the results of this evaluation were to be used both to rank institutions, as well as to renew their authorization for operation.

The government used the media at large to criticize the new education law project approved by the House of Representatives and to make acceptable government/World Bank proposals in terms of education reform.

The Ministry of Administration and State Reform (MARE) whose head, Luiz Carlos Bresser Pereira, was an economist with a long career in the private sector declared that tuition was to be charged and university staff was not to have job stability.⁴ In fact, he and his team elaborated a proposal for State reform in which all educational, cultural and health institutions (public universities, hospitals, museums, etc.) were to be transformed into "social organizations."

Large public demonstrations from civil servants and high school college students mushroomed all over the country and those measures were not introduced

Through two Constitutional Amendments, in 1995 and 1996, respectively known as PEC 233-A/95 and PEC 370/96, the government tried to change the principle of university autonomy as stated in Article 207 of the Brazilian Constitution by adding the sentence "as expressed in the law". With this addendum the government aimed to create a specific law to define university autonomy, in which it would end the national law of wage isonomy and the civil servants' status of university staff making each institution use market forces or productivity criteria for hiring/firing and defining wages; change the mandatory full remuneration on retirement paid by the government and stipulate

⁴ Ibid., p. 8.

that retired workers had also to contribute to the civil servant retirement fund; introduce a new pension fund; institute a “global budget,” in which transfer would be dependent upon revenue collecting and not a total amount at the beginning of the year or by a fixed bimonthly disbursement; create a national fund for higher education comprised by a percentage of the total amount of the compulsory 18% of the federal government revenue on taxes. Whereas MEC proposed the percentage of 75%, the economic area stated that this was up for discussion, aiming to reduce it. Moreover, after ten years, this public fund was also to be transferred to private institutions, thus, reducing public funds to public institutions.⁵

Continuing to show the influence of other ministers affecting public universities, the Ministry of Planning determined budget cuts effecting social areas, including education, and began denying the possibility of adjusting salaries of university personnel facing inflation, as well as new hiring, to encompass vacancies due to retirements and deaths. Using this practice, a process of reducing personnel, compressing salaries and fostering brain-drain from public to private institutions began. The Ministry of Finances neither liberated resources on time nor in the needed amount.

Other measures proposed and initiated by the government and in accordance with World Bank guidelines were: a) the creation of “flexible, faster, supposedly cheaper programs, such as distance higher education and professional masters’ programs, the latter to be carried out in two years or less and aiming at training personnel by imparting a practical and immediate perspective; b) the introduction of an additional remuneration for federal higher institution teaching personnel based on individual performance (GED).

In this milieu, private institutions, with their business-like management practice and behavior, continue growing, mainly within the two-terms of Cardoso’s government. Thus, profit was the main aim of those higher education institutions, most of them non-university type of institutions. Data from the Brazilian National Institute of Study and Research in Education, know as INEP, institution subordinated to the Brazilian Ministry of Education, show that in 1992 there was 893 higher education institutions in Brazil, being 227 (25.4%) public ones, and 666 (74.6%) private. By 2002, there was a sharp increase in the total number of institutions, reaching 1,637, being 195 (11.9%) public ones, and 1,442 (88.1%) private.

Higher Education Institutions by administrative type 1992 - 2002

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⁵ See Câmara dos Deputados, Substitutivo à proposta de Emenda à Constituição nº 370/96.

Year	Total	Public	%	Private	%
1992	893	227	25,4	666	74,6
2002	1.637	195	11,9	1.442	88,1

Source: MEC/INEP/DAES - Higher Education National Census- Statistical Syntheses - Technical Resume- 2002

From this total of 1,637 institutions only 8.8% were Universities. The non-university institutions were subdivided in University Centers (4.3%), small isolated institutions (75.5%) , and Center for Technological Education (5%), all off them with no aim or need to develop research.

As states Marilena Chauí (2001), a Brazilian philosopher, “ if historically higher education served an strategic logic, in which university, mainly public provided, were the main pillars for a scientific and technological development policy, during the 1990s, this logic changed to be that one of the market”.

The huge growth or private institutions lead to a significant increase in the offer of higher education places. For instance, based on INEP data, The 2002 Higher Education National Census, in 1997 there higher education institutions opened 500.000 places, whereas by the end of 2002, this opening reached 1,500.000.

This, in fact, increased student enrolment at higher education, but at the same time, coupled with increased unemployment, payment decrease, reduction or extinction of ancient social benefits (such as health assistance, double paid overtime, and so forth), all result from capital greed to increase its accumulation, hit most workers in Brazilian society and made for difficult to assure their survival and that of their family. Thus, tax and fees charged at private higher education institution became unbearable to most students enrolled at those institutions, resulting in large dropouts and/or growing debt default.

Succeeding Fernando Henrique Cardoso at the Brazilian Presidency, it was elected Luiz Inácio Lula da Silva, known as Lula, former union leader and defeated in the three last presidential elections (once he ran against Collor, and twice against Cardoso) Lula’s election carried out a large expectation for changes of direction.

However, Lula was elected by a wide alliance and his cabinet was chosen based on such political deal. As a consequence of this alliance, he has moved away from the original propositions and political practices (democratic debates, ethics in politics, etc.) of his founding party, the

Workers Party, known as PT. There are many denounces regarding the trade of benefits for votes, such as government positions, resource liberation. (e.g. Civil servant pension system reform - the new law was voted without the text in the plenary session at the Congress).

Within the economic area Lula's Government didn't alter policies guidelines adopted by the government it succeed (FHC), based in tight monetary and fiscal constraints. The current government continues to privilege the Capital, mainly the speculative one, in the detriment of social expenses and the production. This can be exemplified by the maintenance of high interests rate (almost 16%), increase of the primary economic surplus to percentages higher than demanded by the IMF (3,5%; 3,75%, 4,25%, reaching more than 5%). In this context, the banking sector has been presenting successive high profits. This primacy to the speculative Capital has been generating great resources restrains, with lack of money for social expenses⁶, and also fostering unemployment; sub-employments, salary decrease, and so forth. Besides the bank and export sectors have been growing, in the detriment of the internal market, that suffers with the increment of charges for social needs, such as water, electricity, telephone, public transportation earlier under government's responsibility, and that nowadays are just "controlled" by the government, increasingly adopting a practice, not more of public good for all, but of its offer just for the ones that can pay, with immediate cuts, in case of lack of payment. In this rationale of privileging and remunerating the Capital, the idea against universal policies, and favorable to focused and compensatory policies is reinforced.

In a document known as "Social Expenditure of the Brazilian Central Government: 2001 and 2002", elaborated by the government's economic area (BRAZIL, MINISTRY OF FINANCE, 2003) there is a clear defense social expenses reform, alleging that there would be a "exaggerated protection... for a small segment of the society" and that there would be the need to redirect "resources to serve basic and urgent social demands." In this sense, the document not only criticizes public service pension system⁷, but also public tax-free higher education.

Regarding education, the document of the economic area restates a belief, constantly defended by the economic liberal thought, from Adam Smith on: that higher education should not

⁶ Data from the Brazilian Debt Citizenship Auditing Bureau (Auditoria Cidadã da Dívida), from 2003 to 2005, shows that government expenditure with interest payment from internal and external debt reached (in thousands of Brazilian currency) R\$ 132,491.140 in 2003, R\$ 124,119.549, in 2004, and R\$ 139,000.000 in 2004. Whereas, with social expenditure, it was R\$ 70,802.493 in 2003, R\$65,249.035 in 2004, and R\$99,000,00 in 2004.

⁷ The public service pension' system went through some recent changes, such the end of 10% salary bonus on retirement; the increment of years of contribution to the social pension system, as well the establishment of minimal age for retirement, with a linkage with them; and the end of parity between retirement pay and current workers, through a new regulation known as GED (Gratificação de Estímulo à Docência), that introduced payment based on productivity, and does not allow the total value to retired people.

be a government's task, but a private initiative, because it would bring more individual benefits for a privileged small group, in detriment of great part of the population and, therefore the document stand for channeling resources to basic education. Similarly to the gospel that World Bank experts' advice have been proclaiming since the 1980s. The document stresses that: “[there is] a great concentration of resources in higher education.... *[which] ends up benefiting segments of larger income and restricting the application of resources in basic education, whose impact on the social well-being would be more expressive.*” (BRAZIL, MINISTRY OF FINANCE, 2003, p. 23).

It is worthwhile to mention, that World Bank itself, in the “joint” document with UNESCO, (WORLD BANK.THE TASK FORCE ..., 2000) recognized that it underestimated the social benefits of higher education, as this level of education also brings great social benefits, through the professionals it provides, such as doctors, teachers, engineers, judges, etc, who contributes with new discoveries and progress in their areas, benefiting society in general.

In addition, in this debate the Finance area seems to neglect the Brazilian Constitutional design that defines the elementary and middle education as a responsibility of local governments; junior high and high school, as States duties, whereas higher education as a central/federal government task. The Central government has a supplementary action regarding the other levels that it does not have a direct duty⁸. Actually, the mentioned Constitutional mandatory percentages is not being executed by the Government; not only the government includes other expenditure as education expenses, but also created, in 2000, a new mechanism, known as DRU- Desvinculação de Receita da União⁹, to deviate these earmarked revenues, allowing the Government to hold part of it. Using such mechanism, in 2003, 2004 Lula's government took out R\$ 7 billion (around US\$ 3,5 billion) that was to be used in education (BRAZIL, 2003f).

The mentioned document of the Finance area also emphasizes that the average per student cost in higher education in Brazil would be bigger than the one of the Organization for Economic Cooperation and Development (OECD)'s countries, and of other developing countries such as Chile, Uruguay, India and China. The referred document concludes that: “the specificity of the Brazilian case is to spend relatively more than the rich countries and much more than the developing countries” (BRAZIL, MINISTRY OF FINANCE, 2003, p. 34-35).

⁸ The Brazilian Constitution establishes that the Central Government must apply 18% of regular federal taxes it gathers on education, whereas States and local governments 25% of their respective taxes.

⁹ The DRU mechanism was created by a Constitutional Amendment n.º 27/2000. It allows the federal government to reduce 20% of all federal taxes gathered from the base of calculus of the 18%. With the application of such mechanism, the INEP estimated that in 2003, the federal government deviated around R\$ 20 billions (or US) from the calculus, leading to a reduction of R\$ 3,6 billion (around US\$ 1,3 billion) in the federal government budget to education.

However, in this point the document seems to forget that the Brazilian higher education system is very new, in which public universities were only created with the last century. Whereas in OECD countries higher education exists since the 12th century; in China it has a millenary tradition and in many developing countries of Hispanic colonization, like Argentina, universities were created in the 17th century; that is before the Brazilian ones. Therefore, it is not possible to compare expenses of a recent institution, with secular institutions, with the hundreds of years of countries investments in the construction of class rooms, installation of laboratories, structuring the administration, furnishing libraries, establishing research groups, auditoriums, cafeterias, lodgings, gyms, pools, movies, theaters, hospitals, and so forth. A system as the Brazilian, that doesn't have a century, would necessarily have to spend more to build all these needed facilities to a real university life.

It is worth to stand out that in a document on higher education reform in Brazil, the World Bank affirmed that the expenses in Brazil are similar to that one of OECD and not higher (WORLD BANK, 2002). However, in Brazil, the population with age to higher education attendance and the number of students graduating from middle and high school is rising, whereas in OECD countries is decreasing. Therefore, it can be concluded that higher education expenditure in Brazil is to be larger and increasing.

The document of the Ministry of Finance reaffirms that the channeling of great part of the education budget for the financing of higher education federal institutions (IFES) reduces the available amount for the other education levels. According to the document, “about 46% of the central government's resources for higher education would benefit just the 10% richer of the population. At the same time, the expansion of loans to low income students, with subsidized rates, would allow to enlarge the access of those students to higher education, with costs more reduced for the public sector, through you FIES ¹⁰” (BRAZIL, MINISTRY OF FINANCE, 2003, p.35). That is to say, that this is a proposal of higher education expansion through the transfer of public resources to the private sector. Indeed, in 2003, stated that the government channeled R\$ 900 millions [around US\$ 330 million] to FIES (HELENE and VALENTE, 2004).

¹⁰ Loan scheme for higher education students attending private institutions, named as Fundo de Financiamento ao Estudante do Ensino Superior, created in 2000? to substitute the existent scheme -Crédito Educativo (Creduc)- that present a large number of unpaid loans. To solve this problem, the FIES start to demand third part fiduciary guarantee, with made more difficult the concession of loans to those who really need it and are facing large unemployment, salary decrease; higher cost of basic services. Moreover FIES only pays 70% of the monthly tuition, and not total tuition costs.

Studies of the Government's office, the National Institute of Educational Research Anísio Teixeira – INEP, part of the Ministry of Education, dismiss the idea that only rich people attend public higher education institutions:

“Even in programs [that have a higher rate student/place in the entrance examination exam- Vestibular], as Dentistry, it is larger the presence of students from lower income group. In that area, 5% of the public institutions graduates are part of the R\$ 720,00 (or US\$ 270,00) monthly income group. At private institutions, this percentage is of 2,9%. In the 26 areas [evaluated by Provão – ex-National Evaluation Exam at the end of B.S. degree programs], 26,5% of the students from public institutions and 12,9% from private ones are in this income group.” (BRAZIL, MINISTRY OF THE EDUCATION. INEP, 2003c)

The document of Finance just makes a critic, in a no-outstanding way, to the already existent transfer of public resources for private higher education institutions, through tributary benefits to the said entities without lucrative ends, that includes large private institutions. It is worth to mention again Helene and Valente (2004):

The fiscal renouncement in favor of private IES [higher education institutions] reached, in 2003, about 870 million; added the social security renouncements of R\$ 462 million, to the social security debts of R\$ 184 million (as May 2004), and to the expenses with FIES, about R\$ 900 million, it reaches the figure of R\$ 2,4 billion. [US\$ 900 million]

But the great focus of criticism, mainly from the Planning and Finance area, remains on public institutions, specially the federal ones. According to the Finance area, the education reform should aim at “equalizing the distribution of educational opportunities”, seeming to be understood as channeling public resources to private higher education institutions since they have reduced costs and supposedly attend the poorest, while federal higher education institutions only assists the rich ones and are more expensive.

There is not a superficial discussion concerning the difference between federal and the great majority of private higher education institutions, that, except for some exceptions, mostly those linked with some religion denomination, are not universities, do not carry on research, and concentrate its operation on those more lucrative activities, that is to say, courses of cheaper costs, with reduced length, using less qualified teachers, with smaller time for dedication to the students, few and poor laboratories, libraries, finally, without an atmosphere favorable to an appropriate education in a supposed superior/higher level.

These Ministry of Finance’s guidelines perfectly matches with World Bank (2004), recommendations, as well as developed countries (ZOELLICK, 2003) and entrepreneurial groups requests (IFC, 2001; WEM, 2002), keen for broadly entering in educational area, dealt with as the

great market of “educational services”, plus counting with the benefit of public resources. This attitude is surely reducing the importance of the federal higher education institutions- IFES, that are being suffocated by the lack of resources for maintenance and as well as to carry on its activities— not just teaching dimension—and are being pressed to adopt the market rationale, in which the competition reigns, for the sale of services and the offer of shorter and faster courses and programs..

Out of the education domain, the transfer of public resources for the private sector, besides the progressive growth of private entities know as “Third Sector”, it seems that will be enlarged with approval of the Law 2546/2003 (BRASIL.CONGRESSO. 2003c), proposed by the Ministers of Planning, Guido Mantega and of Finance, Antonio Palocci Filho, seeking to “regulate” Public-Private Partnerships - PPPs. The Art.2 of referred Bill, states that PPPs would be a “an agreement between the public administration and private entities, establishing a juridical linkage for the implementation or administration, in the whole or partly, of services, enterprises and activities of public interest”.

Actually, PPPs was presented as the **singular** mean of providing society basic needs, such as public sanitation, sewage, waste disposals, highways maintenance, rivers cleaning, bridges construction and repair, electricity supply, etc. However, the legislation means that PPPs can be the defense of a type of capitalism without risks or financial loss for the “private partners”, but with incurring obligation for the public treasury; that is, for society in general. The Art.3, § 2 expresses this perspective in a very clear way: “in public service concessions and permissions the public administration can offer to the private partner additional funds to the user's collected tariff, or, in justified cases, fully compensate its remuneration.” (BRAZIL, CONGRESS. 2003c. emphasis added)

Cristóvam Buarque was the first minister of education within Lula's Government and has explicitly been more concerned with basic education, especially with literacy, and in fact, he didn't want higher education in his Ministry. Even so, during his dispensation, some projects reforming aspects of higher education were presented both by the House of Representative and by other sectors of the Executive.

Within the executive ambit its was elaborated a document by an inter-ministry work group (GTI) for higher education reform. Such document recognizes the crisis of the federal universities, attributing it to the fiscal crisis of the State, but, once again, there is not any discussion on the origins, the practices, the maintaining such crisis, such the DRU, the emphasis in the monetary control and tight fiscal constraints; benefits to the bankers, like PROER, as well as to the sugar cane

big land lords, to the great debtors of the welfare with REFIS, the loans of BNDES for privatizations, etc.

In summary, Lula's Government kept tight monetary and fiscal constraints, emphasizing debt payment to the detriment of social expenditure. The following table pictures the huge difference among government expenditure with debt payment and social areas.

Government expenditure with social areas and debt payment (in thousands R\$)

Government Expenditure	2002 -Cardoso	2003	2004	2005
Social	70,937.676	70,802.493	65,249.035	99,000,00
Debt Payment	119,547.325	132,491.140	124,119.549	139,000.000

Sources: Auditoria Cidadã da Dívida - 2003, 2004, 2005, 2006

The GTI's document presents a growth goal of 600 thousand students in 2003 to 1,2 million in 2007, but it also mentions that this enrolment increment would be gotten with the increase of the teachers' hourly load in class room, the raise in the student-teacher ratio and the use of distance education. It is worth to highlight that the own document indicates that e-learning should assist 500 thousand students (BRAZIL. INTERMINISTERIAL TASK GROUP- GTI, 2003). That is to say, the supposed creation of 600 thousand new registrations would mean in fact just 100 thousand in presence programs.

With the document it is possible to notice the liberal and World Bank view regarding university autonomy, emphasizing the search for resources, with reinforcement to the creation or the consolidation of a parallel power in the public institutions: the "support foundations."

Regarding private institutions, the GTI's document recognizes that there was a great expansion of these institutions in the last years, and now such institutions would be "threatened by the risk of a generalized student's payment default and also a growing distrust in relation to its diplomas."

Minister Cristóvam Buarque, that began to ask more budgets for the education, criticizing the economic politics, was dismissed by telephone, and substituted by Tarso Genro, a lawyer, member of the national direction of the PT, and former-mayor of the city of Porto Alegre. One of Minister Tarso Genro first pronouncements was that would he buy 300 thousand places in the

private institutions; number reduced for 100 thousand. And, soon after, the University for ALL Program was launched (PROUNI).

PROUNI was initially presented as a bill, in april 2004, signed by the Ministers of the Education and of Finance, through Interministerial Explanation of Reasons 026 , claiming to aim “to democratize the access of low income population to the higher education” (BRAZIL, PRESIDENCY OF THE REPUBLIC, 2004e).

PROUNI, was also implanted through the use of arbitrary measure; that is to say, through a presidential act: MP 213/2004 (BRAZIL, PRESIDENCY OF THE REPUBLIC, 2004b). The original Project, that was already quite contestable, was modified partly by MP 213/2004, and being already altered, in larger benefit of the private institutions.

In spite of the name, PROUNI, University for All, that induces that there will be offer of university education, actually places are being offered mainly by no-university institutions, that only work with the dimension of the teaching, offering not only undergraduate programs, but also a kind of credit courses, know as sequenciais.

As this PROUNI is not for everybody; it doesn't have the “universal” character, but of a focused policy, directed to students coming from low-income families and also public school teachers. That means: lousy education to the most need.

Moreover, all the institutions signing the PROUNI agreement enjoy exemption of several taxes, such as: Enterprise Income Tax - IRPJ; Social Contribution on the net profit - CSLL; Contribution with social ends- COFINS and Social Integration Program- PIS. Such exemption would be applicable for 10 years, and can be renewed for the same period. Thus, the PROUNI also means the indirect transfer of public resources to private institutions and also the creation of public paid and reserved spaces in private institutions. In 2004, private higher education institutions offered 2,011.929 places, but only 1,015.868 students enrolled, thus there were almost 50% of unfulfilled places (BRAZIL. MEC. INEP. 2004 Higher Education Census).

It is worthwhile to mention that international groups such as Apollo, which owns 50% of Pitagoras, as well as Laureate Group, that bough 51% of Anhembi-Morumbi University, are receiving such exemptions in their operation in Brazil.

Another project approved within Lula’s government is the **Technological Innovation Law**. This is a very important feature that will bring about great challenge to university life, mainly regarding research, knowledge production, distribution and countries’ intellectual sovereignty.

Actually the bill was presented in April of 2004, through the Interministerial Explanation 028 (BRAZIL, PRESIDENCY OF THE REPUBLIC 2004d), signed by the Ministers of Science and Technology; of the Development, Industry and External Trade; of Finance; and of the Civil House of the Presidency of the Republic. That is to say, without the participation of the Minister of the Education, in a theme that involves directly public universities. According to the legal text, the bill it seeks too “improve” the relationship among universities, research institutes and national productive section. However, face the GATS regulation proposal, as well as the agreement on intellectual property (TRIPS), what be offered to the national groups, shall also be extended to foreign groups, obeying the national treatment clause (SIQUEIRA, 2004b).

Actually, this law resembles to constitute a legal permission for a practice quite questioned within public universities, that is of tenured teachers, many pressed by the salary flattening, they be more and more developing paid services inside and out of its institution, being with less time for the attendance to students, to teach classes, to participate in internal commissions, to offer free courses, to exercise direction positions, to organize events, etc. Finally, less time for the academic life.

Such a project will benefit mainly companies that usually never invested in research; in the researchers' formation (what takes decades and requires high costs) and maintenance of research teams and nor they created or maintained laboratories.

In summary it will allow:

- The use of laboratories, equipments, instruments, materials, personal, buildings and public spaces, with the objective of developing projects of interest of companies and not directly necessary to teaching or to university's basic research.
- The extra remuneration to the public servant (professor, administrative staff and technicians) will foster difference in remuneration difference between those working in external paid projects and those doing universities traditional and needed internal duties, such as teaching non-paid courses, attending students, occupying academic-administrative tasks, etc.
- No-paid license, with maintenance of the job contract, to create a company related to the innovation, for a 03 year-period, renewable for the same period. This will imply in a workload increase for those remaining working at the universities, as well as could embezzle and/ or dismantle research groups.
- Creation of restrictions to the dissemination of scientific knowledge. Knowledge, produced at public university and by public university personnel, and most of them counting with public funds, will be only available after previous authorization. This hurt profoundly and

severely the principle of knowledge as public good; a social construction and a social right, turning it into a private property.

- The warranty of the intellectual property for the institution that owns the social capital, according

Another venture within Lula's government was the approval of the 2005-2010 National Graduation Plan, emphasizing distance learning, in service training and professional master and PhD courses, in the detriment of a sound intellectual, cultural and scientific-academic education. Indeed, a strong weight is placed on the teaching dimension, reducing the ancient emphasis on basic research. In summary this Graduation Plan stresses a profit seeking behavior to be followed by graduate institutions and programs, regarding the offer of paid and faster courses (MBAS, professional and e.learning), the development of research linked with enterprises profit-seeking goals, through partnerships legalized by the Technological Innovation Law, or attending government goals through special funds to some specific areas. All these changes place diverge graduation programs from the idea of knowledge as collective construction, and thus a human and social right, to that one of a private property, developed in a atmosphere of secrecy, competition and no longer collaboration and to be spread to society as a whole, but directed only to those able to pay.

Facing criticisms regarding the creation of public places in private institutions, through the PROUNI, in the government decided to create in 2006 new federal "universities." The creation of these news institutions was done basically by a stroke of a pen, located in disadvantaged neighborhoods. The search for buildings or partnerships with public schools, as well as the hiring of professors and administrative personnel took place later. So, most of these news "universities" do not differ from the majority of the non-universities higher education institutions, concentrated in teaching and dissociated of any research work. However, these new institutions are named federal universities and are tuition free, creating a pseudo-sense that the government is enlarging the offer of public, tuition-free university level education to disadvantaged groups in society. Thus, it seems to be another populist measure, deceiving the most needy.

CONCLUSION

As it is possible to notice, the government Lula is acting in an arbitrary way and proposing reforms that far away from enlarging the access to the public and free higher education, it seems to have incorporated the speech of the "lack of resources," and also that the few existing financial

resources are benefiting the rich ones in detriment of the more poor, justifying them the adoption of focused policies, extinguishing the concept of universal policies embedded by Bill of Rights.

In terms of public higher education, there is a strong emphasis in the extension function, that is, the offer of paid courses and also in partnership contracts for the development of applied research. University autonomy is mostly to seek new resources in the “market.”

In terms of private higher education, there is a clear tendency to help private providers from the growing student’s payment default.

The reform proposals for the higher education increase the risks of consummation of the internal privatization of the public universities, already in process, making the public system more vulnerable to the rules of the regulation of the services, in discussion within WTO and bilateral proposals.

Moreover, all these changes place diverge universities, higher education and graduation programs from the idea of knowledge as collective construction, based on collaboration, and thus a human and social right, to be spread to society as a whole, to the idea of knowledge as a private property, developed in a atmosphere of secrecy and competition to be appropriated only by those able to pay.

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