**PUBLIC POLICY COUNCILS**

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**Context**

Although promoting public participation in fiscal policies is already a challenge in itself, it can be even harder when the participants face problems of continuity. Event-based participatory processes or any other methods in which the mediators face a dynamic and changing audience each time, despite their merits in promoting access and universalization, force the promoters to redouble the efforts to assure common grounds of knowledge and understanding. In practical terms, without the learning that comes from experience, participants can become overdependent on the support that comes from the governmental bureaucracy, affecting not only their abilities to defend their own interests in a meaningful way, but also the sustainability of the whole process.

That is the reason why high-level and strategic governmental decision can make good use of mechanisms for permanent participation, rather than event-based ones. Although not mutually exclusive, permanent and transitory participation can differ a lot in terms of the outcomes: while the latter can lead to ways to enforce direct democracy, the former would bring more qualified inputs, being more influential over time. Thus, here is presented the model of public policy councils, as an alternative of permanent participation mechanism.

**Concept**

Public policy councils are administrative boards created by some ministries to promote inclusive participation of civil society within the discussions about public policies. According to the Brazilian legal definition, it is a “permanent, thematic collegiate instance, created by a normative act, of dialogue between the civil society and the government in order to promote participation in the decision-making process and the management of public policies”[[1]](#footnote-1).

Councils are not a recent trend in Brazilian government (there are registers of councils of some sort since the XIX Century, at least) and can be found in all three levels of Federation (municipalities, states or national). They are thematic, which means that each council is devoted to discuss a specific public policy or to address the interests of a specific social group.

The key element of the councils is its composition. Both governmental and non-governmental representatives take part as “councilors”, usually on the same proportion (“parity”). Thus, civil society and government are forced into dialogue in order to reach a decision. The mandate of councils can be widely varied, from mere advisory commissions to fully-empowered boards responsible for normative and managerial control of a public policy.

**Functioning**

Councils are created by law or other official acts. Representatives of civil society are usually selected through some sort of election among their peers, without external interference. Governmental representatives are appointed by their ministries. Once installed, the council is responsible for setting its internal rules and a calendar of meetings. The host ministry provides the resources needed for those activities, as well as a secretary and support personnel.

As they are permanent bodies, the councils tend to interact more frequently with the governmental bureaucracy, establishing a wide network and influencing the decision-making processes in all its phases. Depending on its prerogatives, a council can act either as an instance of control and auditing or a source of advocacy and “soft power”.

**Budget competences**

Budget planning usually is a complex and long process, during which finance ministries will interact and be influenced by many other governmental bodies – councils included. Thus, more or less explicitly, councilors can defend the interest of their constituents, bringing different voices and perspectives into this process, from within. Also, collectively, the council can advise their respective minister, in order to support politically and back his or her claims for more resources to a specific public policy, during the internal budgetary disputes or even after the proposal is submitted to the Legislature.

Besides this political role, councils can also hold specific budgetary competences. There are cases in Brazil (in Health and Social Assistance policies, for instance) where the council hold the power to review and approve the budgetary proposal for that public policy, before the national budget is aggregated and submitted to the Legislature. In other cases (regarding Children and Adolescent, and Elderly People), public policy councils are responsible for the management of a specific public fund, with full autonomy to define its guidelines and decide all sorts of expenditures.

Also, it is important to bear in mind that councils are permanent bodies and, so, can be part not only of the planning, but also of all stages of budget execution. As a matter of fact, since all information regarding public expenditure is meant to be public in the most transparent way, any council can act as an instance of oversight, regardless of specific power for that. Any civil society organization can do that, but the councils gather together a larger set of capacities, since they are closer to the governmental bureaucracy and supposedly more engaged with its internal processes.

**Inclusiveness**

Councils are instances of representation and, thus, they can be as inclusive and diverse as its composition allows them. From the start, they are always at least one step ahead of the traditional bureaucracy, in terms of representativeness, since they are composed by civil society councilors, elected by their peers specifically for that role. Combining this characteristic with some specific rules regarding racial, gender, age and regional diversity, the councils can be formed as a representative sample of the national (or local) population.

The problem is that the opposite can also be true. If there is not a fully open and transparent process – attentive to the interests of minorities – for selection of civil society councilors, the councils can be easily dominated by well-organized interest groups that can perpetuate themselves into that role. Or the whole group can face a hostile bureaucracy and be bent into a submissive position. Any risk traditionally associated to spaces of representation can actually happen, but no one of them is enough to minimize the relevance and potential of the initiative.

**Meaningfulness**

As any other governmental body, the effectiveness of the councils depends initially on the extension of its mandate. Councils created with a specific budgetary role (be it as a mechanism of proposition, planning, oversight, monitoring or whatever) tend to grow in specialization and capacity, until they become a collaborative side agency to the finance ministry, improving the quality (especially the democratic quality) of the budget itself. Apart from the traditional technical bureaucracy that many finance ministries already count on, councils provide an additional and different type of support, as a kind of “participatory bureaucracy” based on inclusiveness, representativeness and legitimacy.

The political nature of the councils can be extremely helpful when decisions are taken far from the control of finance ministries. When the budget is submitted to the Legislature, for example, there is little to nothing that finance ministries or its bureaucrats can do, besides talking to parliamentarians and providing required data. Civil society councilors, on the other hand, are not submitted to official constraints and, if they were chosen through a truly fair selective process, they represent actual and relevant political forces from the society, that can be mobilized to defend that specific proposal. So, besides the technical assets that finance ministries supposedly already have, councils can add a meaningful and timely political capacity that can make the difference.

**Potential**

The underlying aspect is that the councils actually are mechanisms for exchange of political power. While most initiatives for transparency and participation are seen under a unilateral perspective, in which the government appears as a superior actor providing information and opportunities in favor of the vulnerable and deprived ones, the councils operate on a less asymmetrical way. Civil society counselors – if well chosen – are not gaining that much prestige from this position, as they supposedly already are sufficiently prominent and leading figures on their specific sectors. They come to the councils not to drain power from the government, but to join forces through a common agenda.

The key for the success is to regard the councils are microscalar social pacts, where the forces that currently occupy the government can permanently test and adjust their initiatives and discourses facing (friendly) socially representative counterparts. Treating this compact as just another meeting is a sure way to underestimate and waste its potential.

**To know more:**

Public Policy Council – [Participedia](https://participedia.net/en/methods/public-policy-council-brazil)

Taking a seat on Brazil’s Health Councils - [Opendemocracy](https://www.opendemocracy.net/en/taking-seat-on-brazils-health-councils/)

National Council for Social Assistance – [Latinno](https://www.latinno.net/en/case/3078/)

STEP BY STEP

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| 1. CREATION   A Public Policy Council is a governmental body, as any other. In many countries, public bodies are created **by law**. Usually, the same legal act that establishes the public policy also creates a collegiate body to oversight it, indicating competences and composition in general terms. | |
| Example:  National Council of Environment (Conama) was created by the [Law n. 6.938/1981](http://www.planalto.gov.br/ccivil_03/leis/l6938.htm), the same one that organizes that public policy: | *Art. 7 - The National Council of Environment - CONAMA, whose composition, organization, competence and functioning will be established, in regulation, by the Executive Branch, is hereby created. (...)* |
| 1. REGULATION   After a Public Policy Council is created within a public policy system, it needs to be regulated. Commonly, a specific **Presidential Decree** establishes additional rules regarding competences and composition, as well as some prescriptions about functioning, election and appointment of members and sources for operational support and resources. | |
| Example:  National Council of Health (CNS), created by law, was then regulated by [Presidential Decree n. 5.839/2006](http://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2006/Decreto/D5839.htm): | *Art. 10. The functions of member of the CNS will not be remunerated, considering its exercise a relevant public service.*  *(...)*  *Article 11. The organization and operation of the CNS shall be regulated by internal regulations, approved by the plenary and ratified by the Minister of Health.* |
| 1. ELECTION   Next step involves filling all the seats. A regular electoral process requires the installation of an Electoral Commission, who will issue some resolutions and launch an official **public call for applicants**. According to the regulations, the applicants will elect, among themselves, the new members of the council, who will then be appointed as such by the Ministry or President. | |
| Example:  National Council of Policies for Promoting Racial Equality (CNPIR) started its latest election through the [Public Call n. 01/2018](https://www.mdh.gov.br/todas-as-noticias/2018/setembro/SEI_MDH0563770Edital.pdf): | *2.1. The selection process will be regulated by this Public Call and aims to fill 19 (nineteen) seats of the CNPIR by non-profit civil society organizations. 2.2. The selection process will be composed of 3 (three) stages: registration, qualification and selection, this last stage being effected by election, in which the organizations registered and considered qualified vote and are voted. (...)* |
| 1. INSTALLATION   Once regulated and bearing full composition, the council is ready to be installed. An **inaugural session** can then be held, during which the new councilors can be sworn in, its directors or presidents can be chosen, its internal regulations can be discussed and a calendar of activities can be decided. | |
| Example:  National Council of Social Assistance (CNAS) started its latest election through the [Public Call n. 01/2018](https://www.mdh.gov.br/todas-as-noticias/2018/setembro/SEI_MDH0563770Edital.pdf): | *2.1. The selection process will be regulated by this Public Call and aims to fill 19 (nineteen) seats of the CNPIR by non-profit civil society organizations. 2.2. The selection process will be composed of 3 (three) stages: registration, qualification and selection, this last stage being effected by election, in which the organizations registered and considered qualified vote and are voted* |
| DOCUMENTATION -  OTHER SOURCES: | National Council of Health – [Law](http://www.planalto.gov.br/ccivil_03/leis/l8142.htm) – [Decree](http://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2006/Decreto/D5839.htm) – [Internal Regulation](http://conselho.saude.gov.br/apresentacao/regimento_alterado_14042011.pdf)  National Council of Social Assistance – [Law](http://www.planalto.gov.br/CCivil_03/Leis/L8742.htm) – [Decree](http://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2004/Decreto/D5003.htm) – [Internal Regulation](http://www.mds.gov.br/cnas/legislacao/resolucoes/arquivos-2011/cnas-2011-006-09-02-2011d.pdf/)  National Council of Education – [Law](http://www.planalto.gov.br/ccivil_03/leis/L9131.htm) – [Internal Regulation](http://portal.mec.gov.br/cne/arquivos/pdf/CP/RI.pdf)  National Council of Environment – [Law](http://www.planalto.gov.br/ccivil_03/leis/l6938.htm) – [Decree](http://www.planalto.gov.br/ccivil_03/decreto/Antigos/D99274.htm) – [Internal Regulation](http://www2.mma.gov.br/port/conama/legiabre.cfm?codlegi=656) |

1. Decree n. 8.243, 23 May 2014. <http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2014/decreto/d8243.htm> [↑](#footnote-ref-1)