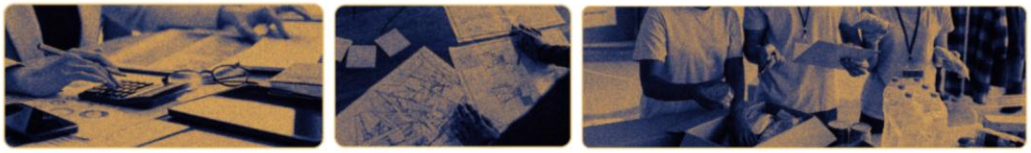

IMPACTO CIENTÍFICO EDITORA

NEW PUBLIC MANAGEMENT AND THE 1988 CONSTITUTION: EFFICIENCY, INNOVATION AND RESPONSIBILITY AS LEGAL IMPERATIVES

NOVA GESTÃO PÚBLICA E A CONSTITUIÇÃO DE 1988: EFICIÊNCIA, INOVAÇÃO E RESPONSABILIDADE COMO IMPERATIVOS JURÍDICOS

LA NUEVA GESTIÓN PÚBLICA Y LA CONSTITUCIÓN DE 1988: EFICIENCIA, INNOVACIÓN Y RESPONSABILIDAD COMO IMPERATIVOS LEGALES

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ABSTRACT

This article aims to analyze the transition from the 'old' to the new public management considering the 1988 Federal Constitution, with emphasis on the introduction of the principle of efficiency by art. 37, caput, and on the legal, administrative and functional implications of this paradigm shift. Since Constitutional Amendment No. 19/1998, Brazilian public administration has become legally bound to the delivery of results, rational allocation of resources and institutional innovation. The study contrasts the traditional bureaucratic model, characterized by excessive formalism and hierarchical rigidity, with the modern management model, based on efficiency, digital government, ongoing training of civil servants, electronic and efficient processes and management by results. The methodology adopted is qualitative and documentary, with research in normative, jurisprudential and doctrinal sources. The article shows that the modernization of public administration is not a mere administrative guideline, but rather a constitutional obligation imposed on public managers and servants. It is concluded that efficiency, innovation and continuous institutional development are essential pillars of the current legal-administrative regime, and their omission is subject to liability. The new public management, in this context, represents the effective fulfillment of the fundamental right to good administration.

Keywords: Public Administration. Federal Constitution. Efficiency. New Public Management. Public Servant. Governance.

RESUMO

O presente artigo tem o objetivo de analisar a da 'velha' para a nova gestão pública à luz da Constituição Federal de 1988, com ênfase na introdução do princípio da eficiência pelo art. 37, caput, e nas implicações jurídicas, administrativas e funcionais dessa mudança de

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paradigma. A partir da Emenda Constitucional nº 19/1998, a administração pública brasileira passou a ser juridicamente vinculada à entrega de resultados, à racionalidade na alocação de recursos e à inovação institucional. O estudo contrapõe o modelo burocrático tradicional, caracterizado pelo formalismo excessivo e pela rigidez hierárquica, ao modelo gerencial moderno, baseado na eficiência, no governo digital, na capacitação permanente dos servidores, nos processos eletrônicos e eficientes e na gestão por resultados. A metodologia adotada é qualitativa e documental, com pesquisa em fontes normativas, jurisprudenciais e doutrinárias. O artigo evidencia que a modernização da administração pública não constitui mera diretriz administrativa, mas sim uma obrigação constitucional imposta aos gestores e servidores públicos. Conclui-se que a eficiência, a inovação e o desenvolvimento institucional contínuo são pilares imprescindíveis do regime jurídico-administrativo vigente, sendo a sua omissão passível de responsabilização. A nova gestão pública, nesse contexto, representa o cumprimento efetivo do direito fundamental à boa administração.

Palavras-chave: Administração Pública. Constituição Federal. Eficiência. Nova Gestão Pública. Servidor Público. Governança.

RESUMEN

Este artículo tiene como objetivo analizar la transición de la “vieja” a la nueva gestión pública a la luz de la Constitución Federal de 1988, con énfasis en la introducción del principio de eficiencia por el art. 37, caput, y las implicaciones jurídicas, administrativas y funcionales de este cambio de paradigma. Tras la Enmienda Constitucional nº 19/1998, la administración pública brasileña quedó legalmente obligada a la entrega de resultados, a la asignación racional de recursos y a la innovación institucional. El estudio contrasta el modelo burocrático tradicional, caracterizado por un excesivo formalismo y rigidez jerárquica, con el modelo moderno de gestión, basado en la eficiencia, el gobierno digital, la formación continua de los servidores públicos, los procesos electrónicos eficientes y la gestión por resultados. La metodología adoptada es cualitativa y documental, con investigación de fuentes normativas, jurisprudenciales y doctrinales. El artículo destaca que la modernización de la administración pública no es una mera directiva administrativa, sino una obligación constitucional impuesta a los directivos y servidores públicos. Se concluye que la eficiencia, la innovación y el desarrollo institucional continuo son pilares esenciales del régimen jurídico-administrativo vigente, y su omisión está sujeta a responsabilidad. La nueva gestión pública, en este contexto, representa el cumplimiento efectivo del derecho fundamental a la buena administración.

Palabras clave: Administración Pública. Constitución Federal. Eficiencia. Nueva Gestión Pública. Servidor público. Gobernancia.

1 INTRODUCTION

The Brazilian public administration underwent profound transformations after the promulgation of the Federal Constitution of 1988, which established the Democratic Rule of Law and enshrined, in the caput of its article 37, the principles of legality, impersonality, morality, publicity and, subsequently, efficiency. This new constitutional arrangement broke with the merely bureaucratic logic of state administration, typical of the previous period, and began to require public managers not only to comply with the law, but to promote effective, transparent public policies aimed at the collective interest. In this scenario, the overcoming of the traditional model, marked by excessive formalism, hierarchical rigidity and the culture of functional stagnation, has become not only a social demand, but a legal imposition arising from the constitutional text itself.

Thus, at present, the objective is to analyze the transition from the so-called "old public management" to the "new public management" in the light of the Federal Constitution of 1988, with emphasis on the centrality of constitutional principles and the accountability of public managers for the duty to innovate, train and deliver concrete results to society. It seeks to understand how the introduction of the principle of efficiency, consolidated by Constitutional Amendment No. 19/1998, and the contemporary legal and jurisprudential guidelines shape a new institutional profile for the Brazilian public administration. The analysis adopts a normative and critical approach, based on bibliographical, jurisprudential and documentary research, with the purpose of demonstrating that the modernization of public management is not a mere alternative of government, but a true constitutional duty of the State.

2 FOUNDATIONS OF PUBLIC ADMINISTRATION IN THE FEDERAL CONSTITUTION OF 1988

The promulgation of the Federal Constitution of 1988 represents a watershed in the conformation of the Brazilian State as a Democratic State of Law. In the *caput* of its article 37, the Magna Carta inscribes the principles of legality, impersonality, morality, publicity and efficiency as the foundations of direct and indirect Public Administration, at all federative levels. Such principles, classified by the doctrine as "express", configure the normative foundation of the legal-administrative regime, being mandatory and binding for all public entities and agents.

According to Mazza (2025), these constitutional principles perform a double function: hermeneutics, by guiding the interpretation of administrative rules; and integrative, by filling gaps in the legal system. From its inclusion in the constitutional text, there was an expansion of legal and social control over the Administration, reinforcing the accountability of managers,

active transparency, access to information and rationality in the allocation of public resources. The State ceases to be a mere executor of norms and becomes an agent that promotes social justice, sustainable development and citizenship.

The principle of legality, in this new constitutional arrangement, acquires a substantial dimension. In addition to strict compliance with the law, it is required that administrative acts be aimed at the concrete achievement of public purposes, with fiscal responsibility, economy and respect for fundamental rights. For Mazza (2025), modern administrative legality is part of the so-called "block of legality", which encompasses not only formal law, but also constitutional principles, jurisprudence, administrative customs, and secondary normative acts. Legality, therefore, can no longer be an instrument of inertia, but rather of rational, ethical and efficient action.

Another relevant foundation is the principle of administrative morality, which is linked to objective standards of conduct, such as institutional loyalty, good faith, honesty and zeal for public affairs. This is a principle that, according to the doctrine of Maria Sylvia Di Pietro (2022), has gained normative density and binding force, allowing judicial and disciplinary control of acts that, although legal in the formal aspect, are in disagreement with public ethical standards. Mazza (2025) also highlights that morality constitutes "an element of legal and political legitimacy of administrative action", being incompatible with arbitrariness, clientelism, or mismanagement.

The principle of publicity, in turn, transcends the simple publication of acts in the official gazette. In the constitutional context of 1988, it is projected as a guarantee of active transparency, social control and citizen participation. The Public Administration, as provided for in article 37, paragraph 1, must ensure broad access to information, respecting legal restrictions. This active publicization is a central element of democratic governance, as it enables inspection by external control bodies (such as the Court of Auditors and the Public Prosecutor's Office) and by the citizen himself. In this way, the active transparency of data (advertising) allows society to evaluate the real effectiveness of public policies, driving the administration to be more efficient in the delivery of its services.

The principle of efficiency, introduced by Constitutional Amendment No. 19/1998, represents the most significant inflection between the traditional bureaucratic model and the new public management. It imposes on the Administration the duty to produce results with rationality, minimizing waste and maximizing public value. For Mazza (2025), efficiency is the "principle of the managerial era of Public Administration", being a criterion of validity and requirement of institutional performance. Ineffective, unnecessary or expensive

administrative acts violate this constitutional commandment and may be subject to judicial or sanctioning control.

It is understood that the efficiency sought by the Constitution is a "qualified" efficiency, which is not to be confused with pure economy, but rather with the optimization of resources for the achievement of the public interest, always within legal, ethical and impersonal limits.

Efficiency, in this expanded context, does not translate into mere productivism or the search for results at any cost. On the contrary, it is inseparable and conditioned by the other constitutional pillars. Modern legality requires that efficiency be achieved within the dictates of the law, rejecting illegal shortcuts in the name of an alleged result. Administrative morality imposes that the search for results be guided by ethics, probity and honesty, ensuring that efficiency gains do not become undue advantages or waste of public resources. Impersonality ensures that efficiency benefits the community in an equitable way, without favoritism or persecution. Finally, publicity, in its dimension of active transparency, is a fundamental assumption for measuring efficiency, allowing social control over the performance of the administration and the accountability of managers.

The Constitution also establishes planning instruments such as the Annual Contraction Plan, provided for in Law 14,133/21, and the Multiannual Plan (PPA), the Budget Guidelines Law (LDO) and the Annual Budget Law (LOA), provided for in arts. 165 to 169. These mechanisms aim to ensure predictability, rationality and commitment to results in the conduct of public management, linking managers to collective goals and priorities. The omission or non-compliance with these instruments may constitute a serious irregularity and generate administrative and political sanctions.

Another pillar of the new constitutional administrative order is the protection of the rights of users of public services. Article 37, § 6, establishes the State's strict liability for damages resulting from its actions, requiring quality, continuity and respect for administrative principles. The Administration now has the duty to institute channels of service, evaluation and active listening to the citizen, consolidating a logic of accountability and user-centricity.

The 1988 Charter definitively breaks with the patrimonialist and personalist vision of state power. Access to public office by competitive examination, the requirement of bidding for hiring, and the provision of internal and external control mechanisms reinforce impersonality, meritocracy, and accountability in the management of public affairs. Mazza (2025) emphasizes that this transition reflects the institutional maturity of the country, which no longer tolerates arbitrary, discretionary practices that are uncommitted to the public interest.

In summary, the 1988 Constitution establishes a normative model of democratic public governance, guided by obedience to legality, objective morality, transparency, efficiency, and the appreciation of citizens' rights. Any form of management that deviates from these guidelines will be in dissonance with the constitutional text and with the ethical and legal commitments that underpin the Brazilian State. The new public administration is, therefore, a republican, technical, responsible administration focused on the generation of public value.

3 THE OLD PUBLIC MANAGEMENT: BUREAUCRATIC MODEL AND ITS LEGAL LIMITS

The so-called "old public management" is based on the classic bureaucratic model formulated by Max Weber, who proposed a rational-legal administration based on hierarchy, impersonality and strict legality as an antidote to the patrimonialist and clientelist practices that historically permeated the public service. This model was widely adopted in Brazil, especially from the Vargas Era onwards and formalized by Decree-Law No. 200/1967, which consolidated an administrative structure focused on procedural efficiency and decision-making centralization. Although it represented an advance in its historical context, bureaucratic rigidity became an obstacle to the effectiveness of state management in the contemporary constitutional scenario.

With the advent of the Federal Constitution of 1988, the prevalence of the bureaucratic paradigm was maintained, at first, notably due to the restrictive interpretation of the principle of legality. Any administrative innovation not expressly provided for by law was viewed with suspicion or as a potential offense to legality. According to Professor Mazza (2025), this limited view of the principle of legality contributed to administrative inertia and distancing from the public purpose, as it prevented the manager from acting proactively, even in the legitimate interest of the collectivity.

In practice, the old public management operated as a self-referential system, in which routines and processes prevailed over results. The focus was on compliance with procedures, not the delivery of public value. The functional evaluation was based on attendance and length of service, disregarding the merit, performance and quality of the actions developed. This logic reinforced an institutional culture of resistance to change, decision-making centralization, and low accountability for results.

In addition, the excessive formalism of the traditional bureaucracy was translated into practices such as the compulsive use of papers, stamps, authentications, notarizations and other notarial requirements that, although they symbolized "legal certainty", did not guarantee effectiveness or real control over administrative acts. Long and ineffective physical

processes, excessive steps, duplication of records and the multiplication of hierarchical levels made administration slow, costly and often inefficient.

From a legal point of view, such practices are incompatible with contemporary constitutional principles, especially after the express introduction of the principle of efficiency by Constitutional Amendment No. 19/1998. The Constitution began to require a Public Administration guided by results, economy, fiscal responsibility and institutional innovation. As Mazza (2025) points out, administrative efficiency has become "a criterion for the validity of the exercise of public function itself", which implies the need to overcome models that privilege the rite to the detriment of the purpose.

For the old management, the structural limits of the old management is the dissociation between planning and execution. Administrative actions are often formalized in plans and budgets, but lack effective mechanisms for monitoring, evaluating and correcting directions. This fragility compromises the cycle of public policies, removes responsibility from managers and weakens accountability, an essential element of good governance.

Another limiting factor is the excessive dependence on the legal command and the consequent lack of decision-making autonomy of public managers. This rigidity makes it impossible to respond quickly and adaptably to social demands, especially in sensitive sectors such as health, education, public security, and technological innovation. The fear of accountability, combined with the absence of clear guidelines for discretionary decisions, paralyzes the public machine and reduces its ability to promote social well-being.

In addition, the traditional bureaucratic model does not recognize the citizen as a subject of rights, but as a mere applicant who must submit to the formal requirements of the Administration. This distances the State from society, undermines the effectiveness of public policies and compromises the legitimacy of State action. The absence of focus on the user of public services is one of the most criticized characteristics of the old administration, according to Mazza (2025), as it contributes to institutional discredit and social dissatisfaction.

Finally, it should be noted that the permanence of archaic and inefficient practices, even if supported by infra-constitutional norms, may constitute an indirect violation of the constitutional principles of efficiency, morality and administrative reasonableness. In certain situations, such conduct may be framed as an act of administrative improbity by omission (article 11, caput, of Law No. 8,429/1992), especially when it compromises the good management of public resources and the delivery of results to society.

Thus, it is evident that the bureaucratic model, although it has played an important role in the professionalization of Public Administration, is insufficient to meet the requirements of the contemporary State, which demands agility, innovation, effectiveness and focus on the

citizen. The overcoming of the old public management is, therefore, a legal, institutional and ethical requirement imposed by the Federal Constitution of 1988.

4 THE NEW PUBLIC MANAGEMENT: EFFICIENCY, INNOVATION AND DIGITALIZATION AS CONSTITUTIONAL IMPOSITIONS

The so-called New Public Management (NGP) represents a paradigm shift in state administration, being marked by the incorporation of management techniques used in the private sector, adapted to the reality and legal limits of the public sector. The constitutional basis for this model is found in the introduction of the principle of efficiency in the caput of article 37 of the Federal Constitution, through Constitutional Amendment No. 19, of June 4, 1998. This principle began to demand from the public administrator not only the formal legality of his acts, but also the rationality, productivity, economy and quality in the provision of public services.

Constitutional efficiency, therefore, requires a public administration focused on results, goals and performance, breaking with the paradigm of procedural and static bureaucracy. This is not only an administrative efficiency, but also a constitutional and legal one, since its non-observance may imply liability of the public manager, especially in the event of damage to the treasury, waste of resources or unjustified omission.

In this way, the new public management is legally linked to values such as planning, performance evaluation, technological innovation, personnel training and institutional modernization. The public administrator, in this new scenario, can no longer claim ignorance or inertia as a justification for obsolete practices. The Constitution itself implicitly imposes the duty to govern based on evidence, data, indicators and good management practices.

The modernization of the State also implies the strategic use of information and communication technology (ICT). Instruments such as the National Electronic Process (PEN), the Transparency Portals, the digital internal control systems (SICONFI, SIAFI, e-SIC), some instituted and implemented by the Federal Government, among others, are expressions of the new state rationality, which seeks active transparency, digital accessibility and institutional interoperability. Law No. 14,129/2021 (Digital Government Law) reinforces this duty of innovation by establishing as a guideline digital access to public services, the implementation of electronic processes, and the progressive elimination of the use of paper.

In the field of people management, the New Public Management presupposes a new model of competence development, overcoming passive stability and promoting the appreciation of merit, continuous training and performance evaluation. The public servant is no longer just an occupant of a stable position and becomes a strategic agent of results, and

his performance must be monitored, trained and rewarded according to objective and constitutional criteria.

Another central aspect of the New Public Management is control by results, replacing exclusively procedural control. This model seeks to identify, measure, and evaluate the concrete impacts of administrative actions on society, promoting accountability and the continuous improvement of public policies. The administration is not justified by having followed the legal procedures, but by having delivered public value in an efficient, ethical and effective way.

The adoption of management contracts, provided for in article 37, paragraph 8, of the CF/88, exemplifies this new institutional arrangement. Through these instruments, public administration bodies and entities can make commitments to goals and results to be achieved, with greater managerial and budgetary autonomy. Performance is now measured based on objective criteria, which strengthens the transparency and accountability of the manager.

In addition, the New Public Management is connected to international principles of public governance, such as those recommended by the OECD (Organization for Economic Cooperation and Development), which include: open government, competency-based management, regulatory impact assessment, administrative simplification, social control, and institutional integrity. Such guidelines, although supra-legal, are fully compatible with Brazilian constitutional principles and must be interpreted in conjunction with article 37 of the Constitution.

It is important to highlight that the 1988 Constitution, although originally marked by the bureaucratic model, gradually incorporated contemporary management mechanisms. Administrative decentralization, the autonomy of federative entities, the valorization of governance, the role of social control, and the growing computerization of the State are all traces of this evolution, which intensifies from EC No. 19/1998, the LRF (Fiscal Responsibility Law), the LGPD (General Data Protection Law), and the Digital Government Law.

Thus, the New Public Management is not a managerial option, but a legal-constitutional duty. The manager's failure to promote the modernization of the public machine, to invest in training, innovation and efficiency, or to insist on outdated models of administration, constitutes a violation of the constitutional regime of public administration. Thus, efficiency, innovation, electronic processes and procedures, and digitalization are no longer theoretical flags and have become public obligations of constitutional governance.

The accountability of the public manager for omission or mismanagement, especially in the era of New Public Management, is a fundamental pillar to ensure compliance with

constitutional principles and the delivery of value to society. In the face of negligence or non-compliance with the duties of efficiency, innovation and responsibility, the administrative legal system provides for a framework of measures aimed at curbing practices that are harmful to the treasury and good administration. Such measures may manifest themselves in the form of sanctions, with a punitive nature, or recommendations and determinations, aimed at correcting and improving public management, reflecting the State's commitment to probity and effectiveness in the provision of services.

Within the scope of administrative sanctions, the Federal Court of Accounts (TCU) has the competence to apply a range of penalties. Among the most common, fines stand out, which can be imposed on managers and those responsible for irregularities that result in damage to the treasury or in violation of legal and regulatory rules. In addition, the TCU may declare the disqualification of the person responsible for the exercise of a position in a commission or position of trust within the Federal Public Administration for a certain period, a measure that aims to remove from management those who have demonstrated conduct incompatible with the required standards. These sanctions are applied in inspection and control processes, seeking to repair the damage and punish those responsible.

Other control bodies also play crucial roles in the application of sanctions. The Office of the Comptroller General of the Union (CGU), for example, acts through disciplinary proceedings and administrative accountability proceedings (PAR), which can result in sanctions such as warning, suspension, dismissal, and declaration of disrepute. In the specific context of data protection, the National Data Protection Authority (ANPD) has a list of administrative sanctions provided for in the General Data Protection Law (LGPD) in case of non-compliance with the rule. Such sanctions range from warnings and the publication of the infraction to simple or daily fines, in addition to the suspension or prohibition of data processing to which the infraction refers, evidencing the seriousness of the failures in data governance.

In addition to sanctions, control bodies also issue recommendations and corrective determinations, which have the character of guidance and command to improve management. The TCU, for example, frequently issues determinations for managers to adopt specific measures to correct flaws identified in audits, such as the implementation of information security policies, the mapping of personal data, or the preparation of action plans for compliance with the LGPD. The recommendations, in turn, suggest good practices and improvements in management, without the imposing character of the determinations, but with strong moral and technical weight, encouraging the public administration to seek excellence and innovation.

Ultimately, the application of these sanctions and the issuance of recommendations by the control bodies reflect the consolidation of a legal regime that requires the public manager to take a proactive and responsible stance. Failure to adopt data governance policies, promote the training of civil servants or implement technologies for efficiency, can not only generate material losses to the State, but also shake citizens' confidence in the administration. Accountability, in this sense, is not only a punitive instrument, but a mechanism that induces continuous improvement, aiming to ensure that the public administration acts in full compliance with constitutional imperatives and society's expectations.

4.1 CHALLENGES AND OBSTACLES TO THE FULL IMPLEMENTATION OF THE NEW PUBLIC MANAGEMENT IN BRAZIL

Despite the unequivocal normative advances and the clear constitutional imposition of a more efficient, innovative and responsible Public Administration, the full implementation of the New Public Management (NGP) in Brazil still faces a set of significant practical and cultural challenges. The transition from an entrenched bureaucratic model to results-oriented management is not a linear process or devoid of obstacles. The gap between the ideal legal framework and the daily operational reality imposes a series of barriers that require attention and continuous strategies to be overcome, ensuring that the legal imperatives of the New Public Management (NGP) translate into concrete benefits for the citizen.

Some of the most persistent challenges lie in cultural resistance and bureaucratic inertia. Decades of a model focused on procedure and formal hierarchy have shaped a mindset that is often reluctant to embrace flexibility, innovation, and accountability for results. Employees and managers, accustomed to the security of strict compliance with rules, may find it difficult to adapt to an environment that requires proactivity, problem-solving skills, and a more entrepreneurial vision. Changing organizational culture is a slow and complex process, requiring engaged leadership, effective communication, and incentives that deconstruct the fear of the new and value initiative and continuous learning.

Another obstacle of great relevance is budget limitations and scarcity of resources. The implementation of the New Public Management (NGP), especially in its aspects of digital government, process modernization and personnel training, requires substantial investments in technology, infrastructure and human development. However, the Brazilian fiscal reality, marked by budget restrictions and contingencies, often prevents the allocation of sufficient funds for these transformations. The absence of adequate resources can compromise the acquisition of modern software, the updating of equipment, information security, and the

maintenance of multidisciplinary teams, slowing down the pace of reforms and the materialization of the necessary innovations.

Also with regard to human resources, the gaps in practical training and in the continuous development of skills represent a significant bottleneck. Although the article highlights training as an institutional duty, in practice, many civil servants still lack adequate training in crucial areas for the New Public Management (NGP), such as data governance, cybersecurity, project management, data analysis, and agile management tools. The gap between existing competencies and skills demanded by the new reality of public management hinders the full adoption of digital processes and the optimization of services, compromising the efficiency and innovation capacity of organizations.

Finally, technological barriers and the persistence of digital inequality constitute obstacles to the universalization of digital government and the full implementation of the New Public Management (NGP). Despite the Digital Government Law (Law No. 14,129/2021) and the advancement in the provision of online services, the technological infrastructure in many regions of the country is still deficient, and the share of the population with limited access to the internet or robust digital devices remains significant. This "digital divide" creates challenges for the accessibility of digital public services and can deepen inequalities, requiring NGP to pay attention to digital inclusion as an integral part of its modernization strategy. Overcoming these obstacles requires a coordinated and strategic effort, with continuous investments, long-term policies, and an unwavering commitment to the cultural and technological transformation of Public Administration.

5 THE GENERAL DATA PROTECTION LAW AND DIGITAL PUBLIC GOVERNANCE AS CONSTITUTIONAL IMPERATIVES OF EFFICIENCY

The publication of Law No. 13,709/2018 – the General Law for the Protection of Personal Data (LGPD) – inaugurated a new phase in the Brazilian public administration, imposing normative standards of information security, digital transparency, and institutional responsibility in data processing. The LGPD, although inspired by international guidelines such as the European Union's General Data Protection Regulation (GDPR), has peculiarities applicable to the public sector, expanding the requirement for efficiency and control in the use of technologies by state agencies and entities.

The Federal Constitution of 1988, although prior to the digital revolution, contains provisions compatible with data governance and informational protection, such as items X and XII of article 5, which ensure the rights to intimacy, private life and the inviolability of communications. With Constitutional Amendment No. 115/2022, which elevated the

protection of personal data to the status of an autonomous fundamental right, the integration between the LGPD regime and the Brazilian constitutional system was definitively consolidated, linking the entire administrative structure to respect for the citizen's informational guarantees.

The relationship between the LGPD and the New Public Management (NGP) is direct and complementary. The NGP imposes on the public administration the obligation to act in an efficient, innovative, and citizen-centered manner, which requires not only the digitalization of processes and institutional debureaucratization, but also the adoption of ethical and legally responsible practices in the use of data. The protection of privacy and digital integrity become, in this context, part of the expanded concept of public efficiency, which involves both practical results and respect for fundamental rights.

From this perspective, the implementation of the LGPD in public bodies is neither optional nor ancillary: it is a legal imposition derived from the principle of legality (FC, art. 37) and a natural consequence of the principle of efficiency. Poor data management, failure to implement information security measures or the absence of structures for incident response constitute, in practice, violations of good administration and administrative morality, giving rise to functional accountability of the public manager.

The National Data Protection Authority (ANPD), when regulating the application of the LGPD to the public sector through Resolution CD/ANPD No. 2/2022, made it clear that all entities of the federation are subject to data protection rules, including with regard to the obligation to appoint persons in charge of the processing of personal data (DPOs), prepare impact reports (RIPDs), and maintain governance policies accessible to citizens. Refusal or negligence to comply with these requirements can be framed as a serious administrative omission.

In addition, the digital governance provided for in the LGPD and complemented by Law No. 14,129/2021 (Digital Government Law) establishes a new relationship model between the State and the citizen. This relationship must be mediated by accessible, secure and interoperable digital systems, which allow the user to exercise control over their information and monitor, in real time, the use that the Administration makes of their data. Administrative efficiency, in this sense, cannot do without institutional intelligence derived from data analysis based on criteria of legality, proportionality, and transparency.

The digital transformation of the State, therefore, demands not only technological infrastructure, but above all a cultural and legal change in the way of administering. The contemporary public manager needs to master concepts such as anonymization, legitimate purpose, cybersecurity, data minimization, and digital accountability. These requirements are

not technocratic, but constitutional, as they are linked to the protection of the dignity of the human person (FC, art. 1, III) and to the principle of publicity, understood as responsible transparency and not as indiscriminate exposure.

The Federal Supreme Court (STF), in judging ADI 6387/DF, recognized the full applicability of the LGPD to the public administration, highlighting that the processing of data must be conditioned to the public interest, but within the limits of proportionality and legal certainty. The Court stated that the absence of clear regulation on the use of sensitive data by the Administration constitutes a risk to the Democratic Rule of Law. With this, the thesis was established that data protection is an integral element of efficient and legitimate public governance.

In the same sense, the Federal Court of Accounts (TCU) has consistently emphasized, in its rulings, the importance of public agencies implementing robust privacy policies, conducting detailed data mapping, and promoting internal educational actions on information security. The absence of data governance policies, in this context, can be interpreted as a management failure, subjecting institutions to sanctions and corrective recommendations. For the TCU, data protection should be directly integrated into institutional strategic planning and be an essential component of internal audits. We can cite as an example the TCU Ruling No. 1384/2022-Plenary, considering the most important on the subject, which warned of a high risk to citizens' privacy due to the low compliance of public bodies with the LGPD, we also have TCU Ruling No. 1,384/2022-Plenary, which assessed the compliance of federal agencies with the General Data Protection Law (LGPD), and, TCU Ruling No. 2,587/2018-Plenary, which, although prior to the full effectiveness of the LGPD, this ruling already pointed out the need for data integration and the shared use of government databases to protect the administration and identify irregularities. It recognizes the importance of data management as a tool for controlling and improving public management.

In short, the LGPD and digital governance are not mere administrative instruments, but mechanisms for implementing the constitutional principles of efficiency, morality, publicity, and legality. The New Public Management, in its most advanced phase, requires not only that the State digitize processes, but that it does so in a safe, responsible and compliant manner with fundamental rights. Neglecting data protection in public management is, in current terms, neglecting the Federal Constitution of 1988 itself.

6 THE ROLE OF THE CIVIL SERVANT AND TRAINING AS AN INSTITUTIONAL DUTY

The New Public Management (NGP), shaped by the principles of the Federal Constitution of 1988 and by the logic of results-oriented administration, imposes a new

conception of public service. The civil servant is no longer a mere executor of bureaucratic routines and is now conceived as a strategic agent of the State, capable of directly influencing institutional results. Valuing the public workforce requires, in this context, a combination of continuous training, performance evaluation and incentive to innovation, under penalty of functional obsolescence and structural inefficiency.

The Federal Constitution, in its article 39, paragraph 2, provides that the Union, the States and the Municipalities must establish government schools for the training and improvement of public servants, with entry and functional progression being conditioned to participation in training programs. Such a provision elevates the functional qualification to the category of constitutional commandment, linking it directly to the fundamental right to good public administration. As Alexandre Mazza (2025) points out, the Constitution requires a professionalized Administration, in which the public servant must be "able to respond efficiently and legitimately to the social demands that justify the existence of the State itself".

In this scenario, training ceases to be an occasional benefit or administrative privilege to become a functional duty of the civil servant and an institutional responsibility of the State. Technical, legal, managerial and behavioral training is an essential requirement for public agents to be able to act with competence, speed and responsibility. The contemporary world requires mastery of new technologies, critical thinking, a culture of results, and a systemic view of public management — skills that are not limited to the possession of a position by competitive examination.

The state's omission in the provision of training constitutes not only a failure of management, but also a violation of the constitutional principles of efficiency, morality and reasonableness. The maintenance of unprepared staff compromises the quality of the services provided and weakens the legitimacy of the Public Administration. For this reason, institutional planning must include structured and permanent professional qualification programs, with their own budget, evaluation of results and integration with the government's strategic goals.

Valuing human capital, in this context, is an essential condition for the implementation of good administrative practices. Technological innovation, the modernization of processes and the improvement of the provision of public services depend on the engagement and competence of civil servants. Therefore, people management must be guided by objective criteria of merit, performance and continuing education, always with respect for isonomy and stability provided for in the constitution, but without renouncing the search for functional excellence.

In this model, the evaluation of functional performance acquires new relevance, ceasing to be a merely bureaucratic instrument to become a strategic management tool. The measurement of individual and institutional results enables the continuous improvement of administrative performance, as well as the identification of training needs and course corrections. In addition, it ensures that career progression is not only due to seniority, but also due to merit and dedication to public service.

The accountability of the civil servant also takes on a new face. Although article 37, paragraph 6, of the Federal Constitution ensures the strict liability of the State, the public agent is liable, under the terms of the law, for intentional or culpable acts that cause damage to the Administration or to third parties. Functional negligence, willful omission or refusal to qualify for the full exercise of duties may constitute a disciplinary infraction or even an act of administrative improbity, as provided for in article 11 of Law No. 8,429/1992.

Training, therefore, is an instrument for protecting the public interest and promoting efficiency. It is up to the Administration to create the means — government schools, agreements with educational institutions, corporate education programs and digital learning platforms — and it is up to the civil servant to responsibly adhere to this culture of continuous improvement. It is a two-way street, where the State offers the instruments and the public servant responds with commitment, dedication and focus on the collective interest.

This perspective is in line with the guidelines of the Organization for Economic Cooperation and Development (OECD) and the United Nations (UN), which point to the professionalization of state bureaucracy as a fundamental pillar for the institutional development of democratic countries. Training, integrity and merit are recognized as vectors for transforming the Administration and strengthening public trust.

Finally, it is imperative to highlight that valuing the civil servant through training and recognition of merit is not a managerial option, but a constitutional imperative arising from the principle of efficiency and the supremacy of the public interest. Breaking with the culture of inert stability and adopting a republican, transparent, accountable and citizen-centered management is a necessary condition for the Brazilian Public Administration to advance in the fulfillment of its institutional mission.

The evolution of the Brazilian public administration, since the Federal Constitution of 1988, shows a movement of rupture with the traditional bureaucratic model and the construction of a new paradigm based on efficiency, transparency and orientation towards results. The introduction of the principle of efficiency by Constitutional Amendment No. 19/1998 formalized a legal duty that obliges the State to manage its resources with rationality, responsibility and focus on the public interest. The new public management, thus conceived,

does not admit obsolete, omissive or merely formal practices, requiring the public agent to conduct proactively and in line with republican values.

7 FINAL CONSIDERATIONS

In this context, the appreciation of public servants and their constant training become structuring elements of good administration. The civil servant is no longer a mere executor of bureaucratic tasks and starts to occupy a strategic role in the formulation, implementation and evaluation of public policies. The institutional duty of qualification, provided for in article 39, paragraph 2, of the Constitution, and reinforced by Law No. 14,133/2021, reinforces that functional training is not a privilege, but a constitutional requirement and an indispensable instrument for efficiency, legitimacy, and administrative morality.

Therefore, overcoming the old management logic and consolidating a new public model require an institutional reconfiguration that integrates planning, innovation, responsibility and professionalization of public staff. Good governance, based on constitutional principles and the valorization of human capital, is the path to a modern, effective and citizen Public Administration. Only with this transformation will it be possible to meet, in a concrete way, the ideal of a democratic State that ensures dignity, social justice and results for the population.

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