

Chapter 5

Reforming Portuguese Public Sector: A Route from Health to Higher Education

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Introduction

In Portugal, as in many other developed countries, recent public policies have been implemented under the influence of New Public Management (NPM) or managerialism.

These concepts are usually applied in reference to a package or a menu including a diversity of elements that translate the three E's perspective: economy, efficiency and efficacy. Nevertheless NPM must be interpreted as a more general and broad movement and can not be signified as a simple and neutral management technique. Based on a technocratic and hard managerialism ideology it intends to promote the deconstruction of the welfare state (Clarke and Newman 1997; Reed 2002; Meek 2003; Santiago and Carvalho 2008) by changing state bureaucracies and professional regulation.

NPM is usually presented as a convergent and inevitable trend in public reforms intending to promote changes in the state's role. However more in deep and focused analysis reveals that in spite of its general common principles, or ideological foundations, NPM does not translate into unique, single, or common political initiatives and, as consequence, does not imply the same results. This is particularly visible in inter-country comparative analysis (Ongaro 2009; Pollitt and Bouckaert 2011) but can also be noticed in comparative analysis in the same country (Ferlie et al. 1996; Kirkpatrick et al. 2005).

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In Portugal, since the end of the 1990s, attempts to introduce NPM or managerialism at the rhetorical level have been developed. The new century brings with it changes in public policies intending to impose the NPM framework in public institutions. The first and most visible attempt to introduce NPM was materialized when 31 public hospitals (half of the public health supply) were reorganized into public corporations. The idea of increased effectiveness and the promise of de-bureaucratization were the main banners used to legitimize socially and politically the new hospital management law (27/2002). Major organizational changes were only noticed in higher education 5 years later with the Law 62/2007 (RJIIES).

How do these legal frameworks express or materialize NPM principles? Are there any differences in the two sectors? What are the major transformations imposed to professional bureaucracies and professional regulation?

This chapter intends to contribute to develop comparative analysis on NPM by reflecting upon its implementation in health and higher education in Portugal. It starts with a theoretical overview concerning NPM and managerialism and tries to turn more explicit the route it has been defining in Portugal. The methodology is also exposed followed by data analysis and discussion. Finally a conclusion is presented with the intent to leave new questions for further research.

New Public Management – More than a Fashion

Since the 1980s in developed countries the public sector has been submitted to what is usually labeled as a ‘revolutionary reform’ described under the epithet of NPM or managerialism. Even if reflections upon these terms have been produced for more than three decades consensus is still absent concerning their specific nature, meaning and practical results. It seems that NPM is still a sneaky label. Nevertheless it is usually associated with a package or menu that includes: imperatives of efficiency and efficacy; an orientation to the customer who replaces the citizen; the creation of quasi-market mechanisms based on a great diversity of institutions, which deliver the service; complex relations between public and private services providers competing for resources; decentralized control and accountability for results sustaining the idea of a cascading chain of contracts between the state, the institutions and the professionals.

This package or NPM menu has been applied in countries all over the world in part due to incentives proposed by international institutions as the World Bank or OECD. The way its principles are globally exposed induces the development of a convergence idea that presents NPM as inevitable to be adopted by governments independently of their political orientation. However comparative studies reveal that it is not possible to define a single line of action in all countries (Pollitt and Bouckaert 2011). That seems to be true even when the analysis is restricted to a group of more comparable countries like Ongaro (2009) does for the South European ones.

Analysis developed in the same country also reveals the same complexity. In analyzing NPM development in the United Kingdom, Ferlie et al. (1996) present

four different stages or moments in its evolution: (1) efficiency drive – emphasis on efficiency and value for money; (2) downsizing and decentralization – contracted out functions and autonomous business units; (3) in search of excellence – emphasis on the importance of organizational culture change by charismatic forms of top-down leadership and (4) public service orientation – integrates private management practices with a distinct public service mission and context. More recently, Ferlie and colleagues claim the existence of a new stage (Network Governance) based on an emphasis on partnerships and networks – replaces hierarchical control by network-based modes of coordination (Addicott et al. 2006). In the same national context, Homburg et al. (2007) and Deem et al. (2007) also conclude that NPM is crafted and shaped differently in various institutional contexts. A great number of these studies are developed in the Anglo-Saxon perspective. It is our conviction that knowledge on NPM could improve with analysis from other countries.

In trying to analyze NPM route in Portugal we assume the perspective that it can only be interpreted in a more broad and general context. NPM does not translate a simple management technique not even a neutral attempt to turn public sector more efficient as the political discourses try to present. It is part of a more general and broad movement that intends to promote the deconstruction of the welfare state (Clarke and Newman 1997; Reed 2002; Meek 2003; Santiago and Carvalho 2008; Deem et al. 2007).

In fact since the end of the 1970s, in line with the economic and fiscal ‘crisis’ and the emergence of neo-liberal ideologies, attempts to replace the dominant configuration of the state were in place.

To deinstitutionalize the welfare state idea meant also to deconstruct its main structural pillars. In this sense, the traditional Keynesian economic pillar has been dethroned by a mixed of public choice theories, based on Hayek’s (2001) “philosophy of economy” and on the Schumpeter economic theories. The social pillar was replaced by the idea that civil society should be responsible for its own living conditions. Finally, NPM can be considered as the instrument used to put the weberian bureaucratic administrative pillar in question. In fact NPM assumes that private management policies and practices are more efficient than bureaucratic rules and norms for public administration. Based on this pre assumption bureaucracy’s main principles¹ are substituted by the main principle of giving managers freedom to manage. In this line, NPM can be interpreted as a tool device to introduce managerialism in the public sector. Managerialism represents an ideology translating the idea that management is a dominant value in society. According to this ideology business management principles and practices can be applied to any social and political domain. Nevertheless one must emphasize that these principles and

¹The bureaucratic main principles are: system of supervision and subordination; unity of command; extensive use of written documents; training in job requirements and skills; application of consistent and complete rules and assign work and hire personnel based on competence and experience.

practices are mainly associated with a hard and technocratic version of management distant from a soft and humanistic one (Carvalho and Santiago 2010).

The administrative pillar of the welfare state integrated both administrative bureaucracy and professionalism (Clarke and Newman 1997). The professionalization of occupational groups was, in fact, straight related/embedded in welfare (Henriksson et al. 2006; Wrede 2008; Salter 2001, 2004). Professional expertise was an essential element to define professional bureaucracy (Mintzberg 1994) – characterized by being based mainly on professional self-regulation, meaning that professional autonomy was embedded in collegiality and trust.

Since professional expertise was associated with public ethos professionals were assumed as those more able to protect and assure welfare to citizens. However, the new political and institutional framework (helped by the emergence of public denounces of professional misbehavior) announces a new professionalism.

In the welfare state occupational groups were socially accepted as professionals based on their expertise, acknowledged by a higher education credential (Freidson 1977). A fundamental step in all professionalization processes was to assure the need of this expertise to successfully accomplish the task ascribed to the group in the social division of labor (Johnson 1972).

Adding to this there was a privileged relation professional groups had with the state (Larson 1977) that assured their different status and privileges based on monopoly and control processes (Parkin 1979; Murphy 1988). These allowed professions autonomy and self-regulation (Freidson 1986, 2001). With NPM this relation has been questioned and a new professionalism is emerging.

The new professionalism assumes that professionals must be externally controlled throughout competition and market. Instead of state and public ethos principles the new professionalism is expected to assume efficiency and economic results as the main principles to take decisions in public services. Under this context, professionals are now expected to perform their work under predefined quality standards and to be accountable to consumers/clients.

The lack of consensus in NPM definition is also extended to its practical results and real implications. Empirical studies reveal positive and negative outcomes. It seems undeniable that there is now a greater consciousness of costs and choices and more public organizations working more efficiently (Freiberg 2005) but NPM objectives are far from being fully accomplished.

In imposing market and managerial values NPM is destroying traditional public values like social equality, integrity and equity, welfare and social justice (Diefenbach 2009). Concerning internal structures and processes NPM proposes more flexible structures, less hierarchy and fast decision-making processes. But, empirical studies reveal that these attempts are, on the contrary, imposing new forms of centralization and concentration of power (Pollitt 1993; Courpasson 2000; Carvalho and Santiago 2010). The new NPM structures and processes, because based on standards and procedures, are also increasing bureaucratic formalization and routines leaving less time for professionals to do the 'real work' (Hoggett 1996; Kirkpatrick et al. 2005; Carvalho 2012). This tendency, along with new systems of professional controls

based on complex processes of performance management and measurement systems, lead professionals to increasingly complain about stress, burnout and lack of motivation (Kirkpatrick et al. 2005; Barry et al. 2006).

In the same line, it is not consensual that NPM can directly transform professionalism. If some authors assume as an evidence the decline in professionals autonomy and dominance (Freidson 1988; Allsop and Mulcahy 1996; Harrison and Ahmad 2000; Reed 2002; Deem et al. 2007), power to exercise control (Freidson 1994), and in their capacity to self-regulate their work (Macdonald 1995), others defend, instead, the agency processes developed by professionals who, in group or individually, try to avoid the threats from NPM/managerialism by adopting strategies that allow them to maintain or even increase their power and status within institutions (Ferlie et al. 1996; Exworthy and Halford 1999; Kirkpatrick and Ackroyd 2003; Kirkpatrick et al. 2005; Salter 2004; Carvalho and Santiago 2009).

NPM – The Portuguese Way

There are different welfare state models. Attending to Portuguese singularities the country is usually characterized as a member of the South European Welfare Model (Ferrera 1996). The reasons for including Portugal in this group are related with such factors as the late emergence of welfare state, the lower economic development, low GDP and low wages.

Even if the emergence of the Portuguese welfare system is recent it does not mean that the welfare crisis is not present in the political and social discourse. In fact, under the influence of the economic and fiscal environment as well as of the international institutions Portugal has been, at least in the rhetoric discourse and political initiatives, assuming the NPM and managerialism discourses (Santiago and Carvalho 2008; Carvalho and Santiago 2010).

Only in the 1960s, far later than in other European countries were the first steps taken towards a modern state-run welfare system. However, the services this system provided were incomplete, irregular, and woefully underfunded. In 1973 a higher education reform was implemented (Veiga Simão reform) that, inspired by OCDE reports, created a binary system and allowed the development of the system to other geographic areas. Health and social welfare programs were established only after the April 1974 democratic revolution (known as the carnation revolution). At this time, a National Health Service (NHS) was created (the 1976 Constitution established several social rights ranging from education and health care to housing and cultural goods).

After this first period, which can be characterized as the momentum of the institutionalization of the welfare state, four other moments can be identified in public policies: The retreat in the welfare principles (1980–1995); Approaching the market ideology (1995–2002); Corporatization and approaches to liberalization (2002–2007) and Consolidating a new framework (2007–2010).

The Progressive Withdrawal of the Welfare State (1980–1995)

One key dimension of this second period was that the core principles supporting policies aiming at developing a welfare state started to be mitigated. Changes introduced in the Portuguese Constitution in 1986 and 1989 expressed a distance from the principles that framed the first democratic Constitution passed after the 1974 Revolution, based on the idea of providing care as a free, public and universal service. To some authors this early retreat in the NHS principles resulted in an absence of its complete materialization (Campos 1996; Pereira et al. 1997). In fact, the Portuguese health system has always lived together with other subsystems, namely with special health care insurance schemes for certain professions and voluntary health care insurance. However, it is only fair to recognize the undeniable advancement of the health status of the population, including the dramatic decline in infant mortality and the increase by 4.5 years in life expectancy (OPSS 2002).

In health two important political initiatives were developed during this period: The creation of five regional health administrations, the start of a decentralization effort that was never completed (due to the absence of autonomy over budgets), and the passing of the basic Law of Health (1990). The main innovative element in this law was the inclusion of private providers in the framework of the national health system.

In higher education this period is defined by the normalization of the system (Amaral et al. 2002) and by the emergence of private institutions assuming the system as integrating simultaneously public/private institutions.

It was also in this phase that the autonomy law was created (Law 108/88) that allowed HEIs freedom to establish their statutes with scientific, pedagogical, administrative, discipline and financial autonomy (Amaral and Carvalho 2004).

Approaching the Market Ideology (1995–2002)

In this period the welfare state crisis rhetoric started to be assumed (Tervonen-Gonçalves and Lehto 2004) and claims for adopting private initiatives increasingly found a favorable audience in government actors and professional groups.

The notion of health as a collective and social good was still dominant but this was mainly visible in the political concerns with public health care. In practice, attempts to provide hospitals with more autonomy and managers with more managerial freedom over budgets and staffing resulted in a first experience of private management in a public hospital in 1993. This experience was extended to other three hospitals through the end of the decade.

In Higher Education, the humboldtian philosophy, based on the academics knowledge logic, remains, until the late 1990s, the main frame of reference and the organizing principle of HEIs' power structures and academic activities and tasks (Santiago and Carvalho 2004; Santiago et al. 2006; Carvalho and Santiago 2008).

But, at the end of the 1990s market and managerial pressures over HEIs become more explicit (Santiago et al. 2006, 2008; Carvalho and Santiago 2009); and the enterprise model emerged, in the governmental discourses, as a kind of ideal-type to lead reforms in higher education institutions governance and management.

In the beginning of the new decade a new law was approved (Lei 26/2000) which decreased the HEIs autonomy to create and change their teaching programs. Since then, public HEIs were submitted to the same state control as the private ones (Amaral et al. 2002).

Corporatization and Approaches to Liberalization (2002–2007)

In different public sectors this was the period when public policies were more aligned with NPM and managerialism.

In health, the reform agenda that began in 2002 had as one of its main intents to increase the role of the private sector in the NHS. Several measures were implemented such as initiatives aimed at reducing surgical waiting lists and a few changes in primary health care centers. However, it was in the hospitals' organizational structures and management that major changes were introduced. In fact, in this period a growing wave of NPM initiatives found its way into hospitals when 31 traditional public hospitals were transformed into corporate organizations – state enterprises hospitals. The idea of increased effectiveness and the promise of de-bureaucratization were the main banners used to pass the new hospital management law (27/2002, 8th November). As a consequence of these changes annual hospital budgets became based no longer on historical spending and plans but, instead, on performance contracts negotiated with the Ministry of Health, followed by attempts to formalize an 'accountability culture'. Private human resource strategic management policies were allowed, meaning an introduction of increasing mobility among services and numeric flexibility in the recruitment procedures (individual and fixed term contracts). In 2005 when the socialist party assumed the government, these hospitals changed from previous SA (anonymous society) to EPE (public enterprises) (DL n° 93/2005). This change maintained the private management and governance model for hospitals but it turned more difficult for hospitals to become private entities.

Two other significant changes occurred in health in this period: one was the ministry restructuring with a downsizing process that eliminated 22 middle structures; the other was the primary health restructure with a great administrative or management decentralization of primary health centers.

In Higher education one of the major incentives for transformations was the Lisbon Strategy or Lisbon agenda that established the growing plan for European economy until 2010 based on knowledge economy. Under this context, the emphasis on the HE contribution to the knowledge society/economy (the importance of the vocational programs for the new 'post-fordist' market labor and of the knowledge transfer to the industrial and service actors) became a current topic in the governmental discourses and science policies.

But, more important in this phase was the emergence of a new Higher Education Act (Law, 62/2007) that imposed a new HEIs governance and management model, which represents both a rupture with the previous one, rooted in the collegial tradition, and a moving to the ‘enterprise/entrepreneurial’ culture. This law is known as the RJIES (Juridical Regime for Higher Education Institutions).

This set of transformations in the public institutions power architecture calls for ruptures in the traditional alliance (Musselin 2008; Bleiklie and Michelsen 2008) between the bureaucratic and the collegial regimes, in place since the 1974 Portuguese democratic revolution, and can produce important potential changes in professionals.

Consolidating a New Framework (2007/2010)

Since 2007 one can say that the previous initiatives to promote ruptures with the welfare state were deepened and consolidated. The legal framework expanded NPM to professionals. With the Law 12A-2008 the statute for all public servants changed and they started to be defined as workers in public duties. Those who were previously in a secure position maintained their status but all the newcomers established a contractual relation with public organizations based on the individual contract.

In health new national plans for ending surgery waiting lists, combining private and public hospitals, were implemented and a great emphasis was put on services quality with the creation of the Department of Quality in Health in the Ministry.

In higher education the Decree-Law 205/2009 (for universities) and Decree-Law 207/2009 (for polytechnics) changed the academic career that had been unmoved since the end of the 1970s (Decree Law 448/79 – university career; and Decree Law 185/81 – polytechnic career). Even if this new statute maintained its hierarchical nature (with more or less the same career paths) it changed the entrance that started to be based on PhD and introduced the non-tenured figure.

Methodology

Having this general context as framework this chapter intends to analyse recent changes in the legal framework of health and higher education in order to understand how NPM and managerialism have been implemented in Portugal in a comparative perspective.

The chapter intends to contribute to understand: how legal reforms intend to change the main characteristics of bureaucratic structures; how are these changes followed by transformations in professionals’ regulation, and, if organizational and professional legal changes are similar in health and in higher education.

Table 5.1 Content analysis dimensions and categories

Dimensions	Categories	
Internal organization	Structures and processes	Organizational values and norms
	Changes in governance and management bodies	Norms and values elected as the main principles to sustain organizational structures
Professional framework	Professional regulation	Locus of decision making
	Changes in the relation between professionals and public institutions	Changes in professionals' participation in decision making

To accomplish these objectives a qualitative study was developed sustained in semi-structured interviews and document analysis. Interviews were developed with nurses and academics working in public institutions (even if some had a foundational statute). It is important to reveal that, in the two groups, only professionals with leadership roles were selected. In the nurses cases this included the nurses director and ward manager, in academics interviewees were deans, vice-rectors (the same as vice-chancellors) and rectors (the same as chancellor). Professionals with managerial duties are not only the first to deal with public reforms narratives as they are, usually, leaders of their professional groups and, in this sense, have a greater probability to influence their dominant norms, values and professional practices. Data scrutiny was based on content analysis of the narratives of 83 nurses in 10 hospitals and 56 academics in 4 universities and 4 polytechnics.

Data was collected in two different stages. The first, corresponding to nurses interviews in 2006 and the second, interviews with academics in 2009. Professionals agreed to do the interview in their working place with the promises of anonymity and that their identity would be protected and non-element that could identify the cases included in quotations.

Document analysis was applied to the main legal pieces intending to promote transformations in Higher Education (Law 62/2007) and Health (Law 27/2002 and Decree-Law 93/2005).

Both interviews and document analysis were submitted to content analysis 'closure process'. Four main categories, out of two dimensions, were used based on theoretical framework and, simultaneously, in data gathered from the legal documents. The two dimensions considered were internal organization and professional framework.

The first intends to capt the changes the legislator intends to promote in hospitals and higher education institutions organizational archetype and the way professionals perceive them. The second has the purpose to analyse the meaning attributed to professionals in these legal documents, as well as their own perspectives over changes in place in the organizational micro field. Each of these dimensions is subdivided in two main categories as can be seen in the previous Table 5.1:

In the next section, the selection of findings will be presented and discussed.

Comparing Changes in Internal Organization and Professional Regulation in Health and HE

As mentioned previously it was in the beginning of the new century that NPM started to be applied in the Portuguese context. First in health, and, then, in higher education, different legal initiatives have been directed by the NPM ideological context being hegemonic in the Portuguese government policy agendas for public services. To analyze how NPM and managerialism ideological principles and organizational strategies intended to change state bureaucracies and professional regulations in health and higher education it is important to start with the analysis of the new legal framework. Different legal documents (Law 27/2002; Decree-Law 93/2005 and Law 62/2007) were examined based on the two previously referred dimensions (internal organization and professional framework) and four categories of analysis: structures and processes; organizational values and norms; professional regulation and shifts in the locus of decision making. The main conclusion of this analysis is exposed in Table 5.2.

Important changes have been coercively imposed by these legal frameworks both to Hospital Institutions and Higher Education Institutions. There were some common NPM assumptions that lead the transformations imposed to these institutions, namely: changes in the legal statute translating attempts to create a market driven institutional environment; increases in financial and countable control² and restrictions in collective bargaining and concentration of power.

Nevertheless there are important differences in the legal pieces that must be evidenced. It was in the hospitals new management and governance law that changes were imposed in a more coercive way and the managerial rhetoric more embedded in the economic rationality. In opposition in HE changes in the locus of decision making were more evidenced putting in question the professionals' culture and traditional autonomy.

These differences seem to be also producing distinct impacts on professionals in health and higher education. Nurses perceive the hospital environment as more economically oriented:

People with management responsibilities, anyone (being a, b or c) always think: 'I'm here to manage the hospital in an efficient way' ... (Interview 74, Hospital I).

For me the main differences in the hospital is that before we had already some concerns with the results but the main concern was to do the best for the patient; today the first and most important concern/value is the hospital's profit (Interview 9, Hospital A).

Academics also perceive changes in the organizational environment but tend to justify them by external pressures.

(...) The university's strategy which is more managerial is more oriented to financial issues. The pedagogic and training issues, which should be the aim of the university, are not taken into account in the same way (...). These issues have to be more present in the university policies and strategies. (...) the management issues have been limiting our action (Interview 7, University A).

² Among others, through the figure of the Chief Financial Officer *Fiscal Único*.

Table 5.2 Changes in internal organization and professional framework in health and higher education

Categories	Health	Higher education
Internal organization	<p>Transformed in public enterprises (Public organizations with private management)</p> <p>Governance and management bodies: Administrative Council, Chief Financial Officer (Fiscal único) and Consultative council</p> <p>Hospitals organised as unity cost centers</p>	<p>Academic, cultural, scientific, pedagogical, discipline, patrimonial, administrative and financial autonomy</p> <p>HEIs can opt for a public or foundational statute – public organization (with private management)</p>
Professional framework	<p>Organizational values and norms</p> <p>Professional regulation</p> <p>Locus of decision making</p>	<p>Governance and management bodies: General Council, Rector or President; Management Council; Chief Financial Officer and, for Foundation Board of trustee</p> <p>Maintenance of the traditional HEIs mission but emphasis on economic utility of knowledge</p> <p>Employability as a new concern</p> <p>Emphasis on the continuity of students' social action</p> <p>The 'public interest' is mentioned as a professional value</p> <p>Emergence of the non-tenure designation and establishment of the relation or proportion between tenure and non-tenure staff. Defines the number of academics in full time for each institution</p> <p>Employment stability is defended. Stipulates the similar rules for professionals working in public and private institutions</p> <p>Institutions must report costs with human resources each 3 months</p> <p>The Rector or President is responsible for administrative and financial management and for the efficient use of resources</p> <p>Their action is regulated by external audits and by the General Council</p> <p>Strategic decision-making concentrated at the top in the General council</p> <p>Intents to restrict collegial power. Reconfiguration of the traditional scientific and pedagogical bodies</p>

In what concerns the institutional imposition on the structuring of the internal organization, in both sectors, the route was opened to a more flexible organization at the operational level and to a greater concentration of power in the top. These changes translate transformations in the institutional configuration more in line with the private law. Hospitals were coercively transformed into public enterprises with the main objective to leave health costs out of public expenditure. With this new statute hospitals still belong to the state but are ruled by private law.

On the contrary, in higher education the possibility for HEIs to be transformed in public foundations (ruled by private law) was given to their own decision. In this context, HEIs, more than hospitals, had the opportunity to decide if they wanted or not to transform their legal status and assume new governance and management models. In higher education the legislator seemed to be conscious that change could not be imposed from outside, especially because HEIs, more than hospitals, were conceived as “knowledge intensive organizations” (Deem et al. 2007); were organized around collegiality and had a high tradition on autonomy and collective decision making (Miller 1995; Kogan and Bauer 2000; Santiago and Carvalho 2004). In fact, the prototypical characteristics of HEIs as “knowledge intensive organizations” were still acknowledged in law that maintained all different types of autonomy (academic, cultural, scientific, pedagogical, disciplinary, administrative and financial). In this context HEIs had also more freedom to decide on their internal structure.

Concerning governance structures the organizational system imposed to universities included the: General Council (in charge for approving the planning, budgets, creation and extinction of basic units and for the rectors/president election), Rector (for universities) or President (for the polytechnics); Management Council (in charge for administration); Chief Financial Officer (Fiscal Único) and, in the Foundation regime the board of trustees (Conselho de Curadores). Nevertheless the law also allows for the existence of other governing consultant bodies, namely an academic senate or even others. The governance and management bodies at the middle level are defined by internal legal norms and rules meaning that each can define different structures in the basic units.

For hospital institutions the law imposes the existence of three governance and management bodies, namely: Administrative Council (in charge for administration, planning, and operations), Chief Financial Officer (Fiscal único) and Consultative council (integrates professionals designated to advice the administrative council).

The creation of the figure of Chief Financial Officer as well as the reference to external audits in both sectors is the expression of one of the main NPM principles: the accountability straight linked to the accounting and financial control and supervision.

Operational decentralization to basic units seems to be more evidenced in health since hospitals are incentivized to work as Responsibility Centers (Centros de responsabilidade integrada).

As referred in other national contexts (Kirkpatrick et al. 2005; Diefenbach 2009) in Portugal professionals (in health or in higher education) do not recognize great success in the changes in organizational structures and processes. In fact the attempts

to decentralize and turn processes of decision making more quick are perceived, on the contrary, as imposing more centralized and slow processes to take decisions.

[There are several institutions calling hospitals to account] They call us to account, they ask for responsibility. They ask for the same things, they ask for the same maps. Presently, there are four organizations to which we continuously have to report. It is therefore a very theoretical independence. (Interview 3, Hospital C)

At the same time the increasing use of technologies and bureaucratic procedures to increase control over processes and professionals answering to accountability imperatives are creating a greater workload in both sectors.

Now, the workload has been increasing. Everything needs to be registered, everything needs to be justified...I'm starting to do a lot of work at home (Interview 48, Hospital E).

(...) the bureaucratic exigencies have increased dramatically. Since we started to have a quality system there are a lot of procedures to do (applications, formularies, etc.). Things are so confused. (...) it was better to have improvisation. (...). Problems were solved with the same effectiveness (Interview 23, Polytechnic XZ)

Even if in both systems there is the same tendency to turn organizational structures, rules and procedures more flexible and more in line with private management the reference to private organizational values and norms is also distinct in the two legal frameworks. The principles of economic rationality are more present in health. Along the legal text one can find several references to efficiency and efficacy in the use of resources. An example of this is Artº 5º when it refers to the management principles that must be accomplished: “b) To guarantee to users the delivery of care with quality and a rigorous control of the resources used” or “d) To finance the activities in accordance with the valorization of the acts and services that are effectively accomplished, based on a predefined price by common accord with the NHS”. These management principles translate a new conceptualization and legitimation for public health services.

The reference to the traditional service public ethos or to the patients' welfare is almost absent without a clear reference to the rational use of available resources.

These changes are having some impact on professionals' subjectivity and professionalism. It was possible to find in a few nurses discourses an almost integral incorporation of management language.

One of our main goals is to combat the waste of money, manage resources in an efficient way and, most of all, to satisfy our customer (Interview 27, Hospital C)

However, this new discourse does not seem dominant since there is also another relevant group who is denying the 'intrusion' of a managerial discourse in health.

I think that now people are more concerned with profitability than with care and I don't agree with it. People talk a lot about resources and economy and less about caring. I think we are concentrating in efficiency, because 'it has to be'...and the other side is also made but with a minor emphasis. (Interview 82, Hospital J)

The RJIES seems to plunge in a little different ideological underpinning since there is emphasis on the traditional HEIs' mission and in public service ethos. An example is artº 106º defining independence and role conflict: “1. Members of HEIs'

governing and management bodies are exclusively in service of the public interest of their institutions and are independent in exercising their roles”

Nevertheless there are also references to the possibility for creating economic value from research knowledge materializing a tendency to approach HEIs to market oriented research that was already mentioned in other studies (Santiago et al. 2008).

Interviews with academics seem also to reveal the same denial of extreme positions. The interviewed tend to recognize the need to create mechanisms to turn HEIs more efficient but maintaining their traditional values.

An enterprise is an enterprise, a university is a university and a rock is a rock, they are distinctive things. And the fact that we should do our best to manage efficiently a university does not mean that a university is an enterprise (Interview 12, University X).

The same ambiguity is also visible for students. On one hand HE is defined as an important instrument for equal opportunities affirming public support to students' social action. In this context it is possible to read in the artº 20º: “In its relation with students, the state assures the existence of a social action system that favors the access to higher education, and a well succeeded frequency to students in an economic disadvantaged position by positive discrimination”.

On the other hand, enhancing students' employability is identified as HEIs responsibility inducing the idea that students should be trained for the labor market or for a specific profession assuming their role simultaneously as ‘heirs’ and ‘consumers’. In fact, even if there are no explicit references to students as consumers or clients there is an idea that the trust relation between students and teachers is broken since the figure of students' provider (Provedor do Estudante) was created for the first time.

Somehow the maintenance of legal support to students' welfare can be justified by the strong power students always had in Portuguese HE system. In fact, there is a great tradition of social movements from students (Estanque 2008, 2010) and in recent history higher education ministers were removed from post due to students' contestation. This may also be the justification for the support to students union (artº 21).

The changes in internal organization (both in structures and processes and in norms and values) have the ultimate intent to change professionals, their position in institutions, their professional culture and ethos, the way they behave, in a word their professionalism.

Professionals have been usually referred as one of NPM preferred targets (Dent et al. 2004; Exworthy 1998; Ferlie et al. 1996; Fitzgerald 1994; Pettigrew 1992; Slater 2004; Wrede 2008; Carvalho and Santiago 2010). In both sectors there is a great change in professionals' regulation. For the first time, changes in health and HE legal framework allow institutions to employ their staff directly and to determine terms and conditions of employment. In this sense the standardized employment practices that traditionally dominated in these areas, as in all the public sector (Farnham and Horton 1996) come to an end. Along the legal documents analyzed there are always references to at least two different groups: public employers with a

collective contract and public employers with an individual contract. Only the first group was able to obtain full time employment, job security and conditions of standard salary bands (Farnham and Horton 1996). The others, even if performing the same tasks, do not have a perspective of a job-for-life having, instead, a salary and career prospects linked to line managers' perceptions of their performance. The changes in professional regulation are in line with Baileys' perspective that "(...) the most dramatic change in public sector (...) has been the redefinition of the concept of equity from one based on notions of the "going rate" and a "rate for the job" to one based on labor market and individual performance criteria" (Bailey 1994: 133).

Nevertheless there is a tendency in higher education to externally regulate the deregulated professionals. Meaning that law 62/2007 presents explicit norms for the equilibrium that all institutions must have between the tenure³ and non-tenure staff, makes the apology of employment stability and stipulates the existence of similar working conditions for those in public and private institutions.

More than the employment conditions a particular point in professional bureaucracy was professionals' participation in decision-making that assumed a collective character. In both sectors there is a deconstruction of this principle; however it is much more evidenced in higher education. In health, at the top level, professionals see their role limited to a consultant position, but, at the middle, there is a strong concentration of power in the clinical directors that start to be accountable for the management and organization of their service. Clinical directors must now define the objectives of their services, the resources they need and the criteria they defined for performance appraisal. The delivery of care and the resources management is concentrated in professionals being legally assured their autonomy in the accomplishment of their work and in discipline issues. The increasing power of doctors in management duties is particularly felt by nurses.

We have lost the team spirit. Our director is no more seen as a leader (...) now he is manly seen as the one in power (Interview 57, Hospital G).

In higher education, with the creation of the new organization and management bodies, namely the General Council new actors are included in the decision-making process that withdraw some of the power professionals had. The general council has between 15 and 35 members, from these 15 % are elected students, at least 30 % are invited external members – stakeholders (public figures from cultural, professional, economic and social life) and the others are representatives of teachers or researchers and also one from the administrative staff. Diverse competencies are assigned to the council – approval of HEI budget, long-term programming and annual accounts; supervision of financial activities and performance of its services; promotion of cooperation of society in HEIs financing, but, one of the most important, is the rectors' election that previously was made by universal suffrage among all university members.

³The Law distinguishes, also for the first time, between tenure and full time professors.

The decision making based on collegiality is also deconstructed at the middle level. For basic units the law defines a one nominal (uninominal) body with executive power – the director or unit president. A collegial body can be created by the institution but it can only have 15 members being the majority (60 %) teachers, researchers and students. The director has symbolic competencies (representing the unit), academic (responsible for the academic and pedagogical issues), professional (discipline duties) and management (to do the budget and financial report).

Even if the discourses of academics interviewed are not homogeneous, there are some cases (even if a minority) that tend to accept changes in collegiality.

This is the moment for big changes and we need them. They are inevitable. There was something in collegiality that was linked to corporatism (...). We must be more efficient (...) universities have a tradition of slowness (...). The rectors decisions were a complex 'business' because a lot of academics were consulted before its definition and implementation (...) Now it must be different (...). It is not possible to implement changes in another way (...). However, they have to respect people (Interview 21, University Z).

Others reinforce its importance seeing it as a way to control the centralization of power in deans.

I think [collegiality] is not a bad thing because a Director can do whatever he wants. This body is needed in order to impose some limits. (Interview 20, Polytechnic Z)

Based on the analysis of legal documents one can say that even if in higher education there seems to be a concern with professionals regulation allowing for some security in employment relations there is a clear tendency to transform HEIs from 'academic communities' to 'management organizations' (Harley et al. 2003). In trying to restrict the collegial decision making and concentrating the power in one person (who can be appointed by the rector) – the unit director or president – there is a tendency to organize and manage HEIs like private organizations as if they could be classified as integrated organization (Carvalho and Santiago 2010), or as 'complete organization' (Enders et al. 2008). The analysis reveals that NPM is distinct in different public sectors. In the Portuguese case in health there is a great emphasis on changing organizational norms and values turning these institutions more managerial while in higher education the emphasis is great on changing the locus of decision making with professionals decreasing their participation in strategic decisions for the institutions. Changes in professional regulation seem to be those more common to both sectors. In this context Freidson (2001) asserts that professions have been weakened while others sustain that we may be assisting to a deprofessionalization process (Oppenheimer 1973; Derber 1982; Hall 1975). However as there is no linear way for NPM and managerialism to be introduced in public sector one can not expect that the effects would be the same in all different professional groups.

Even if NPM has been introduced in Portuguese public sector under the same ideological and social context, its approach is not unique. While in health there is a more technocratic approach emphasizing efficiency and value for money, translating a neo-taylorism perspective (Ferlie et al. 1996) in line with a hard version which is imposing changes coercively to institutions and actors; Higher education intends to

promote a shift away from the traditional bureau-professional way of management maintaining some core values of professional regulation and HEIs traditional mission. In this sense it is more aligned with a soft NPM version near the fourth Ferlie et al. (1996) model: Public service orientation.

These results are somehow surprising. The strong emphasis of law in health in economic and managerial language is justified because this is one of the sectors that represent a high percentage of expenses in the public budget. These differences in law seem to have some echo in professionals. Health professionals interviewed seem to be integrating the new language more uncritically than academics. One of the reasons for this difference may be related with the presence of distinct professions in hospital institutions that may tend to focus more on inter-professional power relations than in the organization.

Conclusions

NPM and managerialism have been a popular object of study for the last decades in social science. However, important doubts still remain concerning the specific use of the two concepts. This chapter reveals that comparative analysis is particularly valuable to enrich the discussion and provide insights valuable to understand NPM.

In describing the specific route NPM has been developing in Portugal it is almost evident that there are differences between distinct public sectors. These differences are evidenced when one looks at the legal documents promoting major reforms in health and higher education.

From the content analysis of the legal documents it is possible to sustain that the traditional bureaucratic way of organizing public institutions has given way to a more rational one. However analysis of interviews discourses does not allow the same conclusions. Interviewees refer to increased workload, centralization of power and increasing bureaucracy.

There are also important differences between sectors concerning organizational values and norms. Law in health put a strong emphasis on substituting the traditional public ethos by the private management values and norms and, at the same time, interviewees' discourses also confirm a tendency for health professionals to assume more these new values in their discourses.

Concerning the professional framework there are also important differences. Professionals in higher education have softer changes in law and there is not a total deregulation of professionals' labor market. In both sectors there is an increasing concentration of power in professionals with managerial duties but this is particularly evidenced in higher education where collegiality seems to be coming to an end.

To conclude one can say that the way NPM has been introduced in health and higher education is not similar in Portugal and the same is also true of its impact or practical consequences. These differences are justified by the particular characteristics of the two sectors but also by the distinct weight they have in the national public budget.

Changes in structures and processes as well as in organizational values and norms are aligned with the efficiency purpose. In this sense using Ferlie et al. (1996) models one can say that this is an efficiency driven model. In higher education NPM a soft dimension is revealed. The traditional HEIs mission is generally maintained, there are important changes in professional regulation (namely with the emergence of the tenure figure) but, at the same time, a concern in regulating the insecure positions; the major changes are developed in internal structures and processes and in the locus of decision making with clear attempts to restrict collegial bodies and decision-making processes. In this sense one can say that the HE model is near the Ferlie et al. (1996) orientation to public service model since there are important concerns with efficiency and rationality but public ethos is also referred as an important device.

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