

Reforming Public Employment and Administration for Change Between Law and Management

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Abstract. *Public sector management reform driving strategic and organizational change is leading public organizations to rediscover the role of public office as a vocation for developing effective and cultural changes and driving behaviors of public employees. The aim of this study is to elucidate that designing change within Italian public administration relies on public management reform driven by laws and regulations that have influenced the processes of change and the design of public employment relationships. In Italy, public sector reform processes tend to follow a juridical view for sustaining change leading to hybridization between traditional administrative culture and managerial culture. Public sector management reform following a legalistic perspective is leading to a process of change in which new values drawn from managerial principles and administrative principles drawn by law-based tradition and legalistic culture tend to emerge. The study relies on the analysis of literature on organizational change and human resources and considering some trends in the process of public sector reform within the Italian public administration.*

Keywords: *public sector reform, change, public employment, human resources, public organizations.*

Introduction

Public sector management reform helps to rediscover the role of public office as a vocation and drive strategic, organizational and cultural change within public organizations (du Gay, 1996). As institutions serving the public interest, public organizations should rediscover the bureaucracy as form of organization that values the office as vocation and enhance the ethical attributes of good bureaucrat preserving ethic values, impartiality, equity and justice in governing the relationship between public bodies, citizens, businesses and nonprofit organizations (du Gay, 1996; du Gay, 2005; Olsen, 2005).

Reforming public employment by laws and human resources management should help public organizations to sustain public trust, promote the public interest and encourage active citizenship and collaboration by enhancing the interaction of citizens with government in order to foster democratic participation (Denhardt & Denhardt, 2001; Vigoda, 2002).

Public organizations should pay attention to the human side and capital meeting the needs of citizens as active co-producers of social, democratic and public value (Pfeffer, 2010; Moore, 1995).

Increasingly, «there will be more demand for people having the ability to analyze, evaluate, and integrate policy and administration from a sustainability perspective» (Fiorino, 2010, p.85). Following this view, motivating people relies on developing human resource management policies by adequately following a regulation-driven perspective that helps public organizations to reconcile the legal side of reform and the need of change, by indicating new rules but enhancing the possibility to experiment new behaviors that are translated in the task (Solari, 2003).

The aim of this study is to elucidate that the design and implementation of change within Italian public administration rely on public management reform driven by a law-driven view or adopting a *laws and*

regulations-oriented view that has influenced the process of change and the design of public employment relationships. Sustainability of public organizations relies on reforming public employment as a source for change that enables public administration as a community (public servants, citizens, private and public organizations) oriented to create social and public value (Fiorino, 2010; Moore, 1995).

The study relies on considering legislative innovation within public employment relationships as a source that enables change. Laws and regulations provide a source for governing human resources. In Italy, public sector reform and public employment rely on laws and regulations design following a juridical view for change that requires to adapt the contents of laws and regulations to human resources management-oriented policies and organizational behaviors as a satisfying mix and set to drive public administration to proceed towards a sustainable pathway.

The paper is structured as follows. Following the introduction, in the second paragraph, understanding change within public organizations is elucidated. In the third paragraph, the context of public sector reform in Italy is presented. The fourth paragraph identifies the importance of managing people by human resources policies. In the fifth paragraph, a legislative view for governing and sustaining human resources by reforming public employment is presented. Finally, discussion and conclusions are outlined.

Understanding change within public organizations

In 1980s-1990s as theoretical and managerial response to inefficiency of traditional model of managing *res publica*, New public management (NPM) doctrines have driven public sector reform for change leading public organizations to import managerial practices from the private sector, stressing greater parsimony and discipline in use of resources doing more with less (Hughes, 1994; Hood, 1991). Thereby, the management state driven by public sector management reform has shown some limits and constraints (Lane, 2009) increasing unethical behaviors associated with individualistic values reversing equity and legality as traditional values of public servants (Maesschalck, 2004) increasing a decline in motivation and work satisfaction, greater workload and stress (Diefenbach, 2009).

Public management reform lead to change as people are motivated to assume new behaviors and positively influence their work (Costa, 2009; Rebora, 2016; Ruffini, 2016; Rebora, 1999; Bonti, 2000) coherently with learning values as social equity, justice, fair treatment, inclusiveness and equity in compensation, lawfulness, incorruptibility and impartiality, community service and new public service ethos (Van der Wal, De Graaf, & Lasthuizen, 2008; Wise, 2002).

Change is driven by behaviors, values, and culture emerging in antithesis with previous paradigm and norms. Reform supports new behaviors and mentality but re-acknowledge the special nature of legal discipline on public employment and sector. Reform leads to an effective change of practices and administrative culture relying on people motivated to assume coherent behaviors (Capano, 1992). Effective changes may emerge as new organizational behaviors experienced by people are introduced and implemented through explicit and tacit tasks (Dente & Lo Schiavo, 1999; Solari, 2003).

Reforming Italian public sector employment by law and regulations

Since 1990 the public sector management reform process started in the Italian public administration. The Italian public sector reform introduced during the 1990s is part of an international trend (NPM) as a global paradigm. The goal of public sector management reform is to re-orient public administration as an institution focused on attention, results and process to serve the citizen and to make the citizen at the center of administrative action (Hinna, 2009). Since 1992 the Italian public sector reform process has been implemented through a continuous flow of new legislation concerning: the reform of financial management and performance measurement; the reform of the civil service in terms of growing privatization of work relationships of public employees; the devolution of powers and tasks from the central government authorities to regional and local government autonomies. Public sector reform by law and regulations has driven performance management systems within Italian public administration (Panozzo, 2000).

Reform driving managerial development of public administration should help the cultural transition enabling public administration to pay attention to processes, effectiveness, and quality of performance

abandoning bureaucratic behaviors and procedure-driven logic that obstacle the efficiency and efficacy of administrative action (Giannini & Bonti, 1997). Reforming for change by laws and regulations takes the risk to follow a bureaucratic paradigm (Longo, 2003) and fails in terms of public value creation (Rebora, 2012) and contributes to increasing the distance between formal rhetoric and reality (Adinolfi, 2004). The cultural variable is of essential importance to understand why administrative reform can vary in nature and follow very different paths (Capano, 2003). Since public sector reform is to be codified in laws and regulations the legalistic nature of the political and administrative context may influence reform (Ongaro, 2010). The prevalence of the administrative law paradigm influenced the process of change in countries with a legalistic culture or *Rechtsstaat* tradition driving the implementation of administrative reform merging the administrative tradition based on the respect of formal rules and the realization of the *public interest* as perspective coherent with an Anglo-Saxon system driven by New Public Management doctrines leading the Italian public system to orient behaviors of public servants and officials following a laws and regulations view (Pollitt & Bouckaert, 2000; Fedele & Ongaro, 2008; Panozzo, 2000).

Managing human resources for driving people to assume new behaviors and norms

People are the most important resource for the effective and ethical development of public administration (Todres, 1994). NPM doctrines have influenced the role and task of personnel management promoting a new model of human resource management by abandoning the bureaucratic pattern and philosophy. In particular, new attention to human resource management to public employment should help to consider the particular character of the public service following a public management view to developing human capital and capabilities of public organizations (Brown, 2004).

Public management reform drivers should be social equity, democratization and humanization. Public organizations should provide a legal basis for inclusiveness and equity in compensation, adopt policies to empower employees and focus on employee development too (Wise, 2002). Public management reforms have driven public administration to develop human resources management practices and policies in order to support commitment and job satisfaction of employees (Vigoda, 2000).

Sustaining motivation and commitment of employees relies also on the ability of managers to drive people and «emphasize not only how the organization's values coincide with those of employees but also how employee performance contributes to the organization's ability to operationalize those values» (Wright, 2007, p.60). Managers should «inspire their employees to work harder by clear communication how their work benefits society» (Wright, 2007, p.60).

The nature of public service demands a sense of loyalty and attention to service on the part of public employees. Public organizations should support the employee work motivation and commitment to public service creating an environment in which employees feel they contribute to managing *res publica* and rediscovering the organizational mission for people (Moynihan & Pandey, 2007; Wright, 2007), investing in human resources and professionalism of public employees able to learn new behaviors drawn by new policies or innovation to improve quality of public services for citizens and enable the employees to learn how to deal with change (Fernandez & Rainey, 2006; Wright, Christensen & Isett, 2013).

Perry (2010) has elucidated some priorities for human resource management policy and agenda: direct compensation, motivation, cultural aspects, efficacy and effectiveness, training and development. A human resource strategy should help develop human capital and to drive employees to be committed to the goals and objectives of public administration (Horton, 2003). Human resources management policies and practices contribute to achieving high performances and to communicating to employees the extent to which organizations trust employees (Gould-Williams, 2003).

Reforming public employment: a law-driven view for governing the human resources

Traditionally, managing work relationships within public administration implies to protect subordinate work and pay attention to the public servant as acting for the executive branch of public administration. It is possible to distinguish the organic relationship that refers to the organizational relationships between administrative office and the individual having the job in the public office and becoming an essential part of public administration and the service relationship that refers to the work or employment relationship

between the individual as worker and employee and public administration as an employer. In the Italian Constitution few rules govern the work in public administration: equality and prevision of competition-selection in access to public employment (articles 51 and 54); it is a mandatory duty for all the public employees to perform public functions by discipline and honor; penal, civil and administrative responsibilities of public employees (article 28); the design of internal organization of work units and departments within public administration in order to ensure impartiality and the *good way (buon andamento)* in the acting of public administration (article 97).

Preserving the constitutional principles that govern the public administration system relies on ruling public employment by public and administrative laws and regulations as a means to ensure impartiality and the *good way (buon andamento)*. Since the promulgation of law no. 93/1983 the collective bargaining in public employment tends to assume a relevant role with regards to rewards and compensation management, extraordinary work, professional training and personnel mobility coherently with constitutional and legal principles. Reform driving change within public administration occurred in the 1990s by introducing in the administrative law the principles of efficiency and efficacy and economic management as imported by private companies or organizations for profit.

Since the 1990s the role of legislation is to drive change. The law no. 142/1990 concerning the reform of local governments and autonomies and the law no. 241/1990 governing the stages of administrative processes, the efficacy of administrative action and the separation between selection and implementation of political choices have opened to introducing new behaviors in the framework of public employment. The Decree n. 29/1993 introduced private work rules for public employment and attributed to the civil judge the competence in jurisdiction about the controversy between the employee and public administration. The civil judge is competent to evaluate trial regarding public employees. Previously, the administrative judge was absolutely competent for matters concerning controversial motives in public employment between the employee and public administration. Constitutional Court has blessed (sentences n. 313/1996 and n. 309/1997) the *Copernican devolution* occurred in public employment. Privatization of public employment does not an obstacle but reinforces both the autonomy and the independence of public servants and officials in virtue of principles of impartiality and considering the *good way (buon andamento)* of managing *res publica* as a principle informing behaviors and action of public administration (Rusciano & Zoppoli, 1993).

Legislative innovation helps to consider the importance of work relationships between the individual as a public employee and public administration as an employer because it tends to stress the relevance of collective and individual bargaining as a source to restore the relationship between the individual and public administration as an organization. The *Aran* as an agency in charge of representing public administration in collective bargaining and public employment negotiate with unions having particular requisites of representativeness according to quantitative measurable parameters. To have access to collective bargaining in the public sector, only the unions that are mainly representative having a rate of representativeness not less than 5% considering both fees and the percentage of votes in the elections of personnel's representatives. As providing a link between public administration and *Aran*, the *sector committees* communicate to *Aran* the organizational needs of each work unit or department within public administration checking the coherency of the bargained document. Finally, the Court of Accountants checks formally and legally the agreement and the accounts verifying that the limits of expenditures are respected. The agreement is effective for all the public employees even if some of them do not adhere to any union because principles of equitable treatment are prevailing (Carinci, 2013).

Public management reform should contribute to redefining the relationship between the political sphere and administrative sphere in order to avoid blurred roles and enhance competence, autonomy and accountability as ethical values that drive the culture of public employment.

Law-driven reform follows a path of discontinuity than continuity not always following coherent logic. Public management reform processes were reinforced by the Decree n. 165/2001 in which regulations on public employment were revisited and a new wave of laws and decrees (law no. 15/2009 and Decree no. 150/2009) contributed to qualifying public employment as a special matter to re-orient public employment towards the administrative law.

Recently, new rules for private employment were promulgated without any application to public employment (*Fornero law* and *Jobs Act*). Some trends seem to be identified: centralization of selection

procedures and planning; evaluating the merit coherently with new procedures to assess performance and contribution of employees; designing flexible forms of employment as the exception to the rule of full-time employment and protection about the stability of job; special rules for public management. The emerging and recent framework refers to a public servant who benefits of better law protections than private employees because the guiding principle that orient the vision and role of civil service is that better protection should ensure and enhance both autonomy and independence of public employee relying on designing mechanism of assessment to reward and/or sanction economically and financially the conducts based on merit and support productive behaviors coherently with goals and the ends of the public interest to serve citizens as users and beneficiaries of public administration outcomes (Zoppoli, 2018; Fiorillo, 2017; Giubboni & Colavita, 2016).

Discussion and conclusions

Reinventing public administration for driving change relies on managing strategically the potential offered by legislation as a means to establish or abolish not only new rules and regulations or modify the existing ones but to introduce new norms in terms of inspiring new behaviors to be accepted and assumed by employees in performing their task and serving the public interest through the respect of principles of impartiality and good functioning of public administration in front of the citizens.

Reinventing public administration for change relies on managing strategically human resources rediscovering the role of public employees as drivers of strategic, organizational and cultural change and a source for design and implementation of public sector reform.

Regulations could provide only a picture where managing people serves to support public service motivation, commitment and helps employee satisfaction at work. Regulations are promulgated in order to precisely prescribe and address behaviors and actions. In this case, the role of human resource management policies is to follow the principles indicated by the rule as to make the behaviors of employees as mandatory and prescribed.

Regulations can be also introduced in order to communicate new values and prescribe more solutions for behaviors coherent with ethical and impartial norms sanctioned within guidelines and administrative and constitutional rules. Anyway, the role of human resource management policies is to orient and address satisficing and ethically behaviors, conducts and action of employees and public administration searching for a rightsizing between legal side of administration, flexibility and the need of effectiveness by doing more with less in connecting the public administrators with citizens as active co-producers of public services and democratic rights.

Reforming public administration for change relies on providing a legal framework that enables a public employee to rediscover public service motivation to serve the public interest.

Reconstructing an organizational culture within public administration merging administrative tradition and managerial principles is an issue emerging from the reform process and a challenge that public organizations and citizens have to face using regulations and management principles as a source to improve public sector organizations to contribute to value creation.

Reform as a set of laws, regulations, and decrees is leading the process of change in terms of new behaviors and values adopted by people managing techniques and interpreting laws. In the public administration, change may proceed to rely on employees educated to values, beliefs and ideas coherently with behaviors that effectively serve to restore the relationship of confidence between government and people as co-producers of public value by legitimizing behaviors, strategic and operational choices of public administration. Laws and regulations provide a platform that enables public employees and servants to develop behaviors coherently with a public service perspective that contributes to reinforcing the meaning of community where public organizations, businesses, citizens and stakeholders interact for knowledge and values creation and sharing.

The study has some limitations. The analysis is theoretical and narrative relying only on some documents and some references to legislative documentation. Future research perspectives imply to analyze how to change the design within public administration is driven by norms introduced by legislation providing

juridical support to advance and stimulate new behaviors coherently with the office as vocation and source to serve the public interest meeting the needs of citizens.

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