

# THE ART OF NOMINATING<sup>1</sup>

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PATRÍCIA SILVA

## A Arte de Governar

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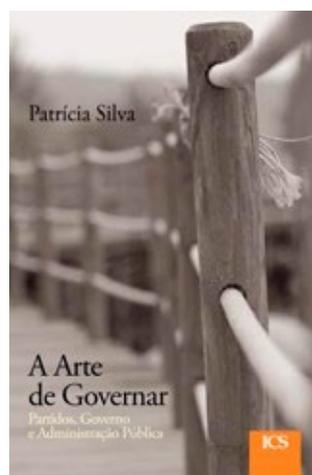
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The tension between meritocratic criteria and forms of patronage in the processes of nomination for public offices arises as a central issue in Political Science, flawlessly captured in the book *A Arte de Governar* by Patrícia Silva, published in 2018 by Imprensa de Ciências Sociais.

Her work is the outcome of an approach to the nomination processes in political structures which strove for an enlargement of the scope of analysis both in horizontal terms – with the inclusion of a large share of public administrative areas – and in vertical terms – seeking to compare different levels of the hierarchy –, without losing sight of the overall European context.

Composed of nine chapters, *Arte de Governar* falls within current scientific debates devoted to understanding patronage as a political phenomenon, introducing an analysis methodology grounded in statistical data and interviews, which ambitiously endeavours to answer a number of questions pertaining to this issue.

The study at hand pores over a relatively extended time frame – from 1991 to 2009 –, encompassing six legislative terms and four different prime ministers (p. 25), having as object of analysis a total of 9821 executive nominations, divided into different levels of public administration hierarchy (p. 27).



Throughout her work, it is quite patent the author's concern with understanding not only by means of which legal and formal mechanisms does the phenomenon of patronage emanate – and its tension with impulses that aim to introduce meritocratic criteria into the nomination methods –, but also its goals, motivations and results, never overlooking the Portuguese context, crucial for a holistic understanding of this issue.

### PATRONAGE

Following a Weberian logic in the analysis of the relationship between the political

sphere and bureaucracy, the issue behind the present study carries us precisely to the constant tensions arising from the introduction of meritocratic practices in public office nominations – a reinforcement of professionalisation –, and the need for governments to exercise control over a public administration which, the more independent it is, the more elusive in terms of control by the executive. In other words, the growing bureaucratisation of the State's political structures may lead to a certain institutional inertia, as a consequence of a more robust and independent public administration which, in specific circumstances, becomes a hindrance to the execution of political prerogatives originating at partisan governments. Patronage emerges, therefore, as a crucial piece to “oil the gears” of the State.

Patronage is defined as the mechanisms with which partisan governments are endowed in order to solve, through nominations for public administration offices, a number of potential governing problems. Although literature on occasion sees patronage as a palliative, the author interprets it also as an instrument of governance, which fulfils a set of functions facilitating the achievement of political goals defined by the partisan governments (pp. 38-39). Likewise, despite the fact that public administration is increasingly more independent, that does not mean the absence of political preferences and that it may work as a brake or an accelerator of the effecting of executive prerogatives, depending on the accordance between its

preferences and those of the incumbent government. As such, partisan governments are driven to colonise public administration by means of patronage mechanisms, in order to make the latter's preferences more consistent with those of the executive.

### **PORTUGUESE CONTEXT**

After the two initial chapters, the author proceeds with her research debating the historical legacy of the Estado Novo and analysing the role of patronage in the transition to the democratic period. In this third chapter, she puts forward the idea that, during the dictatorship, the role of the central administration in terms of coordination and control was quite evident, a feature which constitutes one of the surviving chief legacies of the Estado Novo (p. 67).

The revolution of the 25th of April of 1974 was characterised by a non-negotiated regime transition, which entailed that the officials of the previous regime were ousted, leading to a “cleansing” of the top layer of the political hierarchy (p. 74). One of the most important marks of the post-revolutionary period – 1974-1976 –, was the fact that emerging parties such as PSD and PS took on a relevant part in the transitory regimes little after they were founded and before they had built a popular base ensuring strong social entrenchment. As such, the building of the partisan structures that PS and PSD exhibit today owes greatly to the fact that they were able to put them together with the help of State resources (pp. 73-75).

After the consolidation of the new democratic regime, a gradual and constant expansion in State structures. The number of workers in central administration, 196 thousand in 1970, surpassed 500 thousand in 1996 (p. 88). In addition, the number of public institutes grew from 22 in 1974 to 350 in 2007 (p. 93). The exponential growth in size of public administration in the decades that followed the democratic transition was a natural catalyst of forms of patronage, mechanisms which collided with a growing pressure, on the other hand, for transparency and meritocracy in nominations for public offices.

These two forces have been ever since on a permanent collision course with one another: the promotion of transparency and professionalisation in nominations – catalysed by the pressure from other political parties, by the scrutiny of civil society institutions and organisations such as the European Union – contrasts sharply with the need for executives to maintain certain forms of patronage, a need ensuing from its efforts to control an ever more robust public administration.

From the other side of the bench, the author describes a somewhat paradoxical situation. On the one hand, partisan governments – either PS or PSD –, showed a measure of receptivity regarding the multiplication of mechanisms to halt patronage, through the creation of laws fostering transparency and professionalisation. On the other, they also betrayed a dose of partisan inertia in the implementation of over-ambitious laws to fight patronage. In other words, partisan gover-

nements, susceptible to external pressure, are forced to implement measures that foster professionalisation, preserving, nonetheless, a certain leeway in nominations, thus retaining part of the control over public administration.

Following this reasoning, the author expands, in the fourth chapter, on the concept of formal political discretion, which has to do precisely with the legal capacity or leeway of partisan governments to control nominations for public administration offices (p. 99). Formal political discretion therefore decreases with the introduction of legal documents able to secure rules and criteria based on predefined parameters when it comes to selecting candidates to occupy public offices.

In the fifth chapter, the author delves on formal political discretion in the course of Portuguese democratic period, through the analysis of enacted legislation. Law 13/97 stipulates tendering procedures in nominations for media management positions, while preserving, however, a variety of “exception”. Two years later, Law 49/99 is passed establishing the non-compulsory character of professional training criteria in nominations for middle structures, although the former may serve in the quality of preferred qualification. Only with Law 2/2004 is professional training established as a formal requirement in tenders for the middle structures. That same law also finally introduces the obligation of publishing the nominations for middle and higher positions in the Official Journal (*Diário da República*), which increased transparency. Lastly, Law 64/2011 strikes

the heaviest blow on formal political discretion, introducing tenders for all hierarchic levels, besides the creation of CRE SAP (Commission of Recruitment and Selection for the Public Administration), an independent commission responsible for auditing the nominations for higher management positions (pp. 140-142). Despite a number of efforts to promote professionalisation, these laws – which were gradually introduced in the course of the democratic period – betray, however, the need for partisan governments to maintain a measure of leeway in nomination processes.

### **THE EUROPEAN CONTEXT**

In the sixth chapter, the author frames the present study in the European context. First of all, Patrícia Silva challenges an idea brought forward by literature which presumed that patronage was more common in recent democracies – such as Southern and Eastern European countries – and, conversely, less common in older democracies (p. 157).

After analysing legislation from 19 European countries, the author concludes that the contention does not match reality. Results show that, for instance, while France – an older democracy –, exhibits the higher index of formal discretion on the sample, Bulgaria – a recent democracy –, shares with the United Kingdom the lowest index. Portugal, on the other hand, clings to the average in the analysed sample (p.159).

Despite the absence of a correlation between democratic seniority and political discretion, the author suggests that,

instead, there appears to be an alignment between high discretion and a history of cooperation between the government parties (p. 160). Likewise, the author reinforces the idea that the accession to the European Union and compliance with common rules may have exerted a converging force, which resulted in greater proximity among the indices of European countries (p. 160).

Despite the important results obtained through the framing exercise undertaken in this chapter, the author points out that the index of formal political discretion “refers only to legal possibilities, since the existence of a legal frame allowing for a high level of discretion does not equate to its actual use” (p. 159). In other words, the legal regulation of patronage through the index of formal political discretion may not provide a complete picture of the latter, which makes it necessary to resort to some kind of assessment of patronage that is not exclusively based on the analysis of legislation. The conclusion elicited by these results encourages the author to devote the following chapter to understanding the perception of patronage in Portugal, now focussing her attention on interviews with political representatives<sup>2</sup>, instead of falling back on the index of formal political discretion, which, as this chapter has shown, may not accurately capture the reality of this phenomenon.

### **PATRONAGE IN PORTUGAL: MOTIVATIONS AND GOALS**

The seventh chapter of *A Arte de Governar* elaborates on how patronage is perceived

in Portugal, especially as regards the criteria that define its standards and its goals as a political instrument in the service of partisan governments.

The results of the interviews make it possible to conclude that patronage in Portugal follows on the whole a criterion of technical competence, which suggests an effort towards professionalisation in nominations for public offices. However, the criterion of technical competence is followed by others such as political past, political trust, personal acquaintance and partisan experience (p. 178). Although the different criteria point to different goals and forms of decision-making regarding nominations, the author stresses that they may co-exist.

Given the results obtained in this first analysis, the author now turns to grasping the key motivations of patronage. As explained above, patronage is defined as an instrument of governance fulfilling a number of roles and goals defined by the top of the executive structure. Among these, we shall highlight reward and control. The former has to do with nominations for public offices motivated by compensatory logics therefore seeking to foster various forms of personal loyalty and to improve inter-partisan functioning. Control patronage, on the other hand, is focussed on facilitating the policy making process, making the interests of public administration structures more consistent with those of the executive, and therefore working as a mechanism allowing for more effective control in the implementation of public policies, preventing the ins-

titutional inertia from which a backpedalling public administration may also suffer (pp. 184-186). As a whole, the results show a measure of symmetry between the two key goals of patronage we have highlighted, although a slight preference for control patronage is discernible (pp. 182-183).

Despite the results laid out, the author does not shrink from examining whether patronage goals vary among the different levels of the public administration hierarchy. The author states that the standards of nomination for the middle and lower levels of the hierarchy serve different goals than those that apply to higher positions. Regarding the former, the combination of less demanding technical requirements and lesser scrutiny by independent commissions, partisan opposition and the media emphasises a type of patronage more focussed on compensatory logics. On the other hand, inasmuch as high-level hierarchies have more access to power and are subject to constant scrutiny, it is patent, in this scope, a greater incidence of control patronage, naturally calling for higher standards of transparency.

Lastly, the author crosses nominations for the different levels of public administration hierarchy with the timing of the nominations throughout the legislative terms. Results point to a higher incidence of nominations for higher positions in the beginning of legislative terms and a bigger time gap in nominations for middle and lower positions. This distinction once again betrays the different nature of the goals driving nominations for higher

positions and for middle and lower positions in public administration. The need for control that motivates nominations for top positions is in line with their higher incidence in the initial stages of the legislative terms. On the other hand, the compensatory rationale – more present in nominations for middle and lower positions – is in keeping with their irrelevant timing, which explains why they are scattered throughout the length of the legislatures.

### **CONCLUSIONS**

The book here discussed has gifted the study of patronage in Portugal with a substantial and important contribution. The multidimensional analysis proposed by the author, assessing the goals and motivations of patronage throughout a lengthy time frame according to the different levels of public administration hierarchy, has generated a strong heuristic potential for its subject matter.

The gradual growth in size of public administration and its progressive professionalisation has prompted government parties to counter efforts for a decrease in patronage with mechanisms allowing for the preservation of a certain leeway in handling nominations. In fact, there is a noticeable “tacit agreement” between PS and PSD in the definition of common prerogatives concerning precisely the maintenance of a measure of power by government parties in nomination processes.

In practice, the present study has revealed that many of literature’s assumptions concerning patronage have no echo in reality. In the international context, this work has managed to refute presumptions involving differences in patronage patterns among European countries, clarifying that, in the past few years, there is growing convergence between them, and that the seniority of the democracies is not a determining factor in patronage patterns. By the same token, whereas literature places special emphasis on patronage as a compensatory mechanism, the author is here to show how that outlook fails to provide a full picture of the phenomenon in question, if the different levels of public administration hierarchy are not taken into account. Instead, the gradual reinforcement of professionalisation and of meritocratic criteria in nominations has ascribed to control patronage an ever-greater weight, seeing that an independent public administration is in a better position to elude the control of partisan governments.

This work has somehow brought to light a governance dynamic which, given the current context, takes on a higher importance. Phenomena such as patronage have an ever-increasing weight in a world in which populisms are thriving and the quality and confidence in democracy depend greatly on a perception of transparency in nominations for public offices. **RI**

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<sup>1</sup> This book review was first published in *Relações Internacionais*, n. 67, September 2020.

<sup>2</sup> Interviewees were divided into political office-holders, party leaders, scholars and holders of other offices.

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