

IS THE BRAZILIAN CIVIL SERVICE REFORM ABOUT TO SUCCEED?

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ABSTRACT: *In late 2017, Brazilian president Michel Temer commissioned a survey about civil service and government expenditures at the World Bank. The results were catastrophic: The Brazilian government spends significantly more than it collects and allocates its resources in an inefficient way, impacting negatively the Brazilian economy growth. One of the villains pointed by the report is precisely the size of the government, the inefficient Federal Civil Service, especially the high salaries, and disproportional benefits from the Executive branch, especially regarding the Social Security regime. The initiative is part of the Federal Government to follow through a controversial reform on civil service, under current Congress debate, in a year of presidential elections. Will the reform succeed? We analyzed the challenges and pitfalls on the Brazilian Civil Service, and its reform proposals, in comparison to: (a) private service, and (b) to equivalent civil services from other countries. Finally, we addressed the discussion on its implications to the Brazilian economy, and brought recommendations for public managers, as well as future research.*

KEYWORDS: Brazil, Civil Service, Public Administration

INTRODUCTION

The present case investigated the Brazilian Civil Service and its reform proposals, scheduled by the government Michel Temer to be voted in 2018, year of presidential elections. Is it a political manoeuvre to perpetuate the presidency for additional four years, or a strategy devised to increase state efficiency? Hence, the Brazilian Federal Government (BFG) devised a reform proposition on its Social Security (*Reforma da Previdência*), which impacts directly on the government's spending on the Civil Service, and therefore, its efficiency (Capretini, 2015).

The BFG ordered a survey to the World Bank on its public expenditures, who in turn published the report on November 21, 2017 (World Bank, 2017). The objective was to create a solid argumentation basis for the reforms to be implemented on its Social Security (*Previdência*), aimed to increase the state efficiency on its expenditures in 2018. Therefore, this study addressed the most currently debated topic in Brazil, related to Public Administration. However, the idea of social security reform dates from 2016, through Constitutional Amendment Proposition (*Proposta de Emenda Constitucional*) PEC 287/2016, and has been changed many times, since then.

The reform is subject of Constitutional Amendment, and should be voted by 308 from the 513 congressmen at the Brazilian Congress, and subsequent approval by the Senate (Brasil, 1988). Regarding the Civil Service reform, president Michel Temer declared recently that "our congressmen echo, convey what the people think. If the people are convinced that reform is important, it will influence deputies and senators" (G1, 2018).

This research is limited to the Brazilian Civil Service, and social security reform, although recognizing similarities and possible correlations between governments from different countries, which can be directly benefited from the present research, since the subject is widely

investigated and useful for overall governments, agents, civil or commissioned servants, academics, public managers and practitioners.

In this case, we compared the size of public sectors in selected countries in terms of value added and expenditures, for instance. The objective is introducing a broader perspective on the Brazilian civil service reform.

We reported the legal basis for the Brazilian civil and private service existence, comparing rights and other indicators among them, to foster a larger perspective on the subject, and to provide subsidies to further analysis and discussion.

The implications for the society in general represent a great deal of amount, since there are approximately 11 million civil servants, or almost five percent of the Brazilian population (IBGE, 2018).

We analyzed and discussed the inedited points of the government reform proposition, promoting the debate under the subject investigated, criticizing some obscure points in the reform proposition, and adding useful recommendations, the novelty on a subject widely studied in Brazil.

METHODOLOGY

The present case study investigates the Brazilian Civil Service as the unit of analysis (Yin, 1988). Through extensive literature review, archival research on the subject, as well as search for secondary data available at the BFG agencies, as well as.

Primary data collected through current enforced legislation on the Brazilian Civil Service, remarkably the Brazilian Federal Constitution from 1998, and the Constitutional Amendment no. 19, which recognizes both private and civil servants, under different Laws. Civil servants are ruled by the Civil Service Law no. 8.112/90, which establishes the basis for the statutory regime. Private ones are ruled by the Consolidation of Labor Laws (*Consolidação das Leis do Trabalho*), and Federal Law no. 9.962/2000. Therefore, although acknowledged by the Brazilian Federal Constitution, both civil and private workers have two different laws to abide, as well as different rights, to be further investigated.

Civil Service in Brazil

The Brazilian Constitution of 1988 delineated the Public Administration and Civil Service frame of government. Article 37 established also the direct and indirect administration (later altered by Constitutional Amendment no. 19, from 1998):

The direct and indirect public administration of any of the Powers of the Union, of the States, of the Federal District and of the Municipalities shall obey the principles of legality, impersonality, morality, publicity and efficiency (Brasil, 1988).

The Brazilian Civil Service is ruled by Law no. 8.112/1990, created two years after the 1988 Federal Constitution, which establishes, on Article 5, the minimum requirements to Civil Servants (*Servidores Públicos*):

I - Brazilian nationality;

II - the enjoyment of political rights;

III - discharge with military and electoral obligations;

IV - the level of education required for the exercise of the position;

V - the minimum age of eighteen years;

VI - physical and mental fitness. (Brasil, 1990)

Civil Servants are also workers from all three Powers (Executive, Legislative, Judiciary), within all government branches (Federal, State or Municipal), allocated in the Direct and Indirect Administration, including state owned companies, congressmen, ministers, senators, mayors, the president of Republic, among others (Brasil, 1988).

There are two categories of civil servants, (a) *commissioned* and (b) *effectives*:

Commissioned are nominated by public authorities, since respecting Article 5, from Law 8112/90 aforementioned. For instance, the President of Petrobras, the largest state owned company in Brazil, is pointed directly by the president of the Republic. Therefore, a *commissioned* civil servant. There is no public contest, or meritocracy. There is no probation period, like the effective ones. Resignation is also responsibility of the same public authority.

Effectives are civil servants who abide by Law 8.112/90 and passed a mandatory written exam (in particular cases, oral exam also), and further academic examination. If approved in the first step (written examination), are required to present their academic titles, further submitted to aptitude tests. All the contest phases are eliminatory. The candidates with the highest grades in all phases are then nominated, according to the available vacancies to the position applied, to a classification list.

This list is valid for two years, with maximum extension for two additional years. After that, the application expires, and a new public examination is required (Brasil, 1990).

The civil service positions are extremely disputed in Brazil. For instance, to the Petrobras exam, had in 2018, 37.343 candidates applied for 112 positions, or 333 candidates per position. Another example is the Intelligence Brazilian Agency (ABIN - *Agência Brasileira de Inteligência*), which registered 64,882 candidates to 300 positions, or 216 candidates per position ratio (Folha Dirigida, 2018). The government's guarantee of job stability is one of the main attractive to such fierce competition (Dias, 2016).

After entrance, the candidates are submitted to a two-year period of probation, with six-month performance evaluations by the immediate chief. Once the probation period is ended, the civil servant has granted the right of stability, i.e., cannot be fired anymore (Brasil, 1990).

This is the last time a civil servant has the performance being evaluated in the public career. The employment stability has been appointed by the World Bank Report (2017), as one of the causes for the ineffectiveness.

There is one exception: the military services (Army, Aeronautics, and Navy), who are evaluated every six months during the entire career. This is one example to be followed by civil servants, to enhance civil work productivity.

Comparison between Civil Service and Private Sector in Brazil

The labor Laws are different for civil and private workers in Brazil, as shown in Table 1, ahead. Civil servants are ruled by Law no. 8,112/90, while private workers are ruled by the Consolidation of Labor Laws (*Consolidação das Leis do Trabalho*), Laws 5,452/1943 and 9.962/2000. The basic differences are displayed in Table 1, as follows, and is summarized here as: (a) stability for Civil servants vs. no stability to private workers; (b) the admission process for civil servants requires public contest, not for private workers, usually admitted through curriculum analysis and interviews; (c) previdency for the civil servants is denominated pension fund (*fundo de pensão*), while for private workers are supported by the Brazilian National Institute for Social Security (INSS – *Instituto Nacional de Seguridade Social*), under different rules, with clear advantage to civil servants, to be further discussed.

The differences also reach the remuneration system, affecting wages: the Federal civil servants' medium wage is 67 percent greater than the private sector,

even after taking into account the level of education and other characteristics of workers such as age and experience. This public sector wage premium is atypical in relation to international standards. The salaries of state employees are also very high and, on average, more than 30% higher than those offered to equivalent workers in the private sector. In relative terms, the wage gap appears to be particularly broad in the Judiciary and Legislative branches (World Bank, 2017, p.10).

The BFG spending on civil servants payroll is about 12% the annual budget, where “the high levels of spending are driven by the high salaries of public servants, not by the excessive number of servers” (World Bank, 2017, p.39).

Table 1: Comparison between Brazilian civil servants and private workers

Characteristic	Private	Civil
Legal	Decree Law 5.452/43 (Consolidação das Leis do Trabalho - CLT)	Law 8.112/90 (Estatuto do Serviço Público)
Admission/ Selection	Interviews, group dynamics, Discretionary for the company or the immediate report	Public notice, open public tender, legal qualification, wait to be called (or not) and
Salary	Free negotiation/market/syndicates	Government settings
13 th salary	yes	yes
Probatory period	3 months	3 years
Job stability	No	Yes
Employer's penalties for contract termination without a justified cause	40% termination penalty, 30-day early warning	No penalty, Exoneration notice
Paid Vacation / year	vacation of 22 working days	vacation of 22 working days
Extra paid vacation	No	1 extra day for each 10 years of work and 3 months after 5 years of work
Previdency	INSS (Instituto Nacional de Seguridade Social)	Government Fund Previdency
Retirement Fund	Fundo de Garantia por Tempo de Serviço (FGTS)	No

Additionally, the annual remuneration from Federal civil servants (the highest salaries among the overall civil servants), and private workers is displayed in Figure 1, as follows:



Figure 1 Annual remuneration per public servant in the federal government and in the private sector (thousand BRL in 2016), 2003-2016. Source: World Bank, 2017. Reprinted under permission.

Figure 2 compares the expenses with personnel for civil service in the BFG from 2003 to 2016. It is remarkable the increase of the civil servants from the Executive branch more than double in 13 years, (from up 40 to up 80 billion BRL). This is the major distortion between salaries. The Executive branch civil servants have the best salaries in Brazil, with more benefits than any other category in the country, far exceeding the private sector under equivalent positions.



Figure 2 Expenses with personnel for power in the federal government (billions of BRL in 2016 prices), 2003-2016. Source: World Bank, 2017. Reprinted under permission.

In the same vein, the highest salaries are also paid to the Executive civil servant’s branch, located at Brasília, Federal District (the seat of power in Brazil), as shown in Figure 3, as follows:

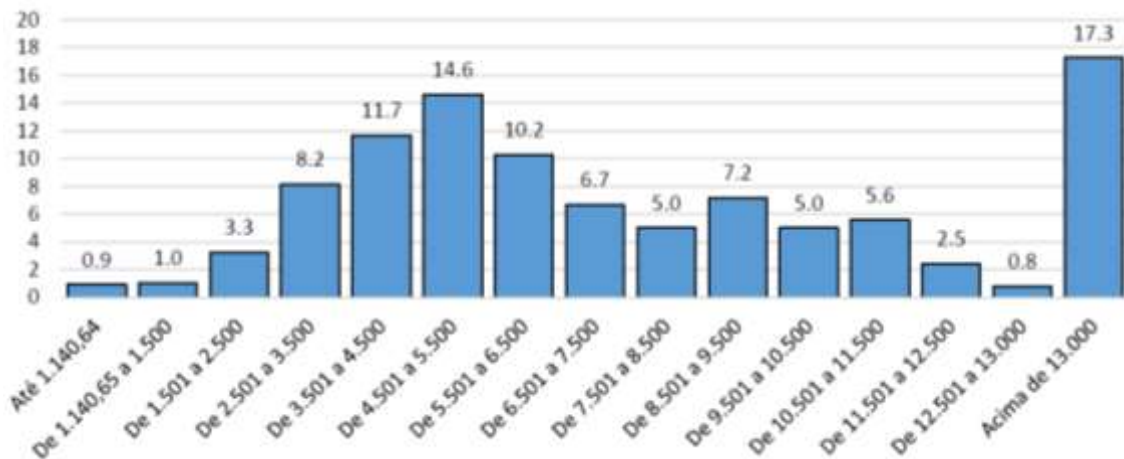


Figure 3 Distribution by salary bands - federal public servants (Executive Branch only, percentage of total). Source: World Bank, 2017. Reprinted under permission.

When compared to other countries, the federal civil servants, especially those allocated in the Executive branch, have the clear advantage, over the countries available at the World Bank report (2017), as shown in the following Figure 4:

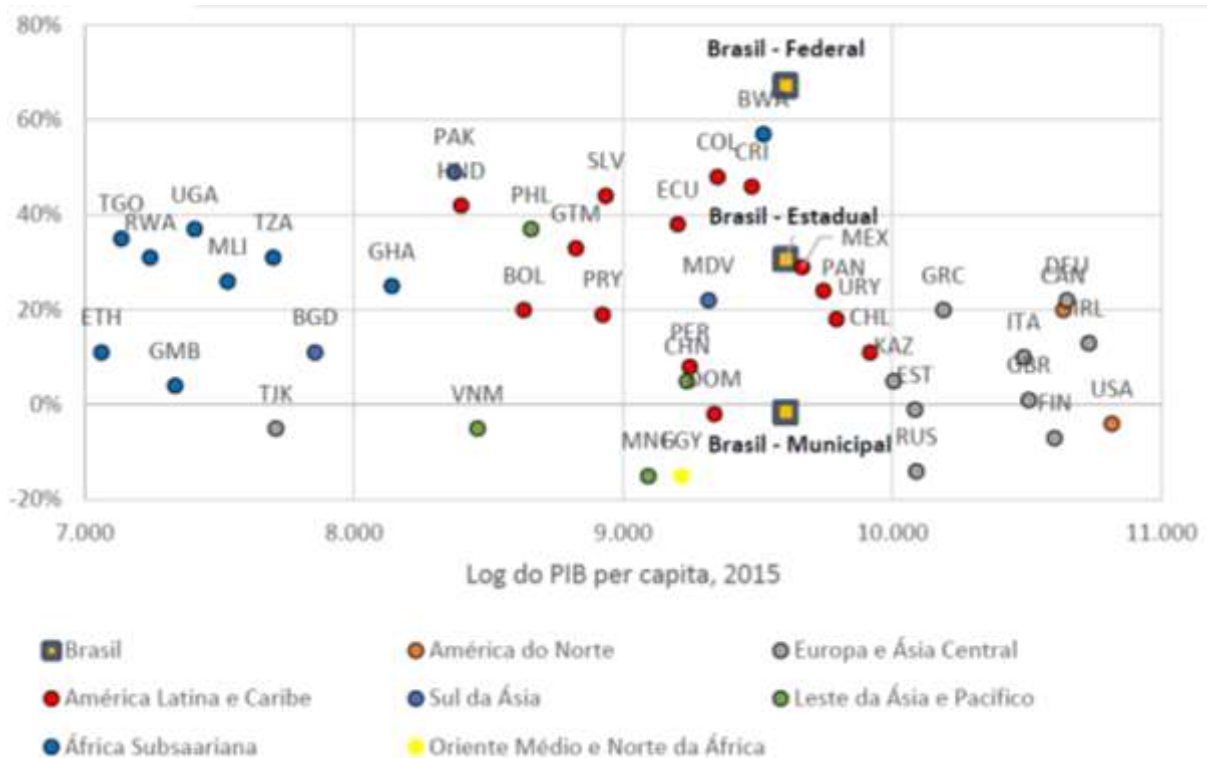


Figure 4 - Brazilian salary of the public sector in relation to the private sector (controlling the level of schooling, professional experience, gender, location, etc.), compared internationally. Source: World Bank, 2017. Reprinted under permission

The federal civil servants from all three branches (Executive, Legislative and Judiciary), also have the best benefits in the country, plus additional benefits,

In addition to participation in the Social Security Regime (RPPS), the federal public servants of the three branches of government (Executive, Legislative and Judiciary, as well as the Federal Attorney General and the Office of the Controller General / Ombudsman) have access to nine additional benefits, such as food, transportation, housing and medical care, as well as a series of bonuses (..). Expenditures on benefits paid to civil servants totaled BRL 16.6 billion in 2016, which represents a little less than 11% of the payroll, on average. The benefits of the Executive Branch compromise about 11% of that power's payroll (BRL 12.9 billion in 2016). The benefits of the Judiciary, the Legislative Branch and the Union Advocacy General accounted for 9%, 12% and 13% respectively of their respective payrolls (World Bank, 2017, p.49, our translation).

The federal civil servants' benefits and the additional ones are listed on Table 2, as follows:

Table 2: Federal civil servants' benefits and additional ones.

federal Civil servants benefits
<ul style="list-style-type: none"> • Food aid. • Medical and odontologic assistance. • Transport aid: compensation for the use of own vehicle for business trips. • Daily: compensation for the costs of missions and work trips (tickets and daily expenses). • Housing allowance: reimbursement of rent and housing expenses. Housing assistance is granted to public servants based on pre-defined criteria. • Childcare assistance. • Cost Help: Compensation for moving expenses to new location. • Funeral aid: aid for funeral expenses. • Help-nativity: help for childbirth expenses. • RPPS social security program.
Gratuities and additional benefits
<ul style="list-style-type: none"> • Remuneration for the exercise of management, leadership and advisory functions; • Christmas bonus; • Additional for the exercise of unhealthy, dangerous or painful activities; • Additional for the provision of extraordinary service; • Extra nightly; • Additional vacation; • Others, relating to the place or nature of the work; • Gratuity for a course or competition.

Notes: Some of these additional are constitutional forecasts, also foreseen for the private sector worker, such as, for example, the extra night work; by unhealthy, dangerous or distressing activity; and the Christmas bonus (13th salary).

Sources:

http://www.planalto.gov.br/ccivil_03/leis/L8112cons.htm;

<https://www.servidor.gov.br/management-of-people/lei-8112-anotada>;

<https://www.servidor.gov.br/management-of-people/lei-8112-anotada>

Brazilian Social Security: current challenges

BFG is responsible for maintaining two different social security regimes: the General Social Security Regime (RGPS, or *Regime Geral de Previdência Social*), destined to accommodate the private sector workers, and the Social Welfare Regime (RPPS, or *Regime Próprio da Previdência Social*) designed to accommodate both civil and military civil servants. Both regimes coexist. The RGPS holds approximately 59 million taxpayers and around 30 million beneficiaries (IBGE, 2016). The retirement age, today is 65 years old for men and 60 years old for women, both regimes. However, the regimes are collapsing. The deficit with the social security RGPS is estimated in

11% of GDP by 2027, and the structural deficit of the RGPS should exceed 4% of GDP in the same period, reaching 7.5% by 2037 and more than 16% of GDP by 2067. In RPPS, civil servants who entered earlier 2003, are now receiving much more generous retirement packages (World Bank, 2017, p.72).

Therefore, the BFG accepted the conclusion of the World Bank report, and its negative impact on the Security system debt,

The present value of the cumulative future deficits of the RGPS is estimated at 150% of GDP, roughly double the public debt contracted by the National Treasury, which stood at 73.9% of GDP in September 2017 (World Bank, 2017, p. 73).

The reform on the social security regimes, as anticipated by president Michel Temer, however, is focused only on benefits reduction, increase of contribution time, increase of retirement time, among other items investigated in the next section (Boueri et al., 2015, Dias, & Navarro, 2017). There is no proposal to increase civil service productivity, such as the end of the job stability, or less dramatically, the creation of the annual civil service performance evaluation (Bonomo et al, 2015). It seems that the reform proposition is incomplete, because it does not focus only in the *quantitative* part of the problem, i.e., the social security debt, while it is important also to drive the attention to the *qualitative* part of the equation, the civil servant efficacy (Benmaker et al, 2009).

Brazilian civil service and social security reform proposition

The reform was proposed through PEC 287/2016 (substitutive). Table 3 shows the main points proposed for the RGPS, as follows:

Table 3: Social Security reform proposition. Source: PEC 287/2016.

Reform proposition (RGPS)
Retirement at the age of 65, if a man,
and at 62 years of age, if a woman, and 25 years of contribution time;
- Value of benefit:
- 70% of the average + 1.5 for each year that exceeds
25 years of contribution time; + 2.0, for the
who surpass 30 years; and +2.5, in order to overcome 35, up to 100%;
- 100% of the salaries received by the insured
since 1994 will be counted towards the average;
increase in age due to the increase in expectancy of survival.

When compared to other countries, the Brazilian reform on the age of retirement is benevolent, if compared with the 70 years old retirement age for both male and female in Denmark (DK), as shown in Figure 5, as follows:

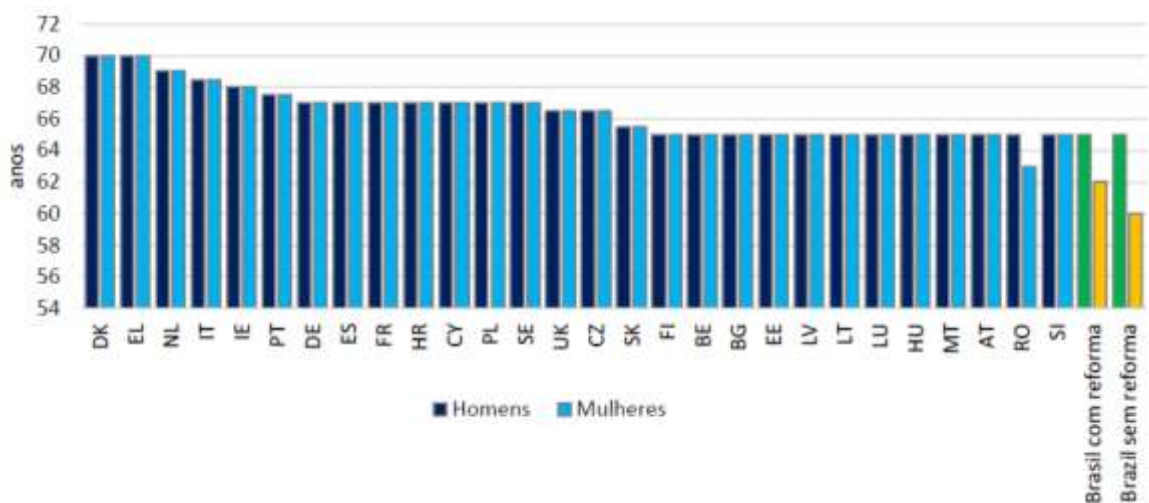


Figure 5 Retirement age comparison among countries. Source: World Bank, 2017. Reprinted under permission.

The social security reform is not a popular subject. On January 28, 2018, the BFG ordered IBOPE, Brazilian Institute of Public Opinion and Statistics (*Instituto Brasileiro de Opinião Pública e Estatísticas*), the largest survey company in Brazil, a research about the public opinion on the social service reform: between January 11 and 29, 2018, were interviewed 2,002 people, located in 140 municipalities, with a 2% error margin. The results evidenced the following: 14 percent of the interviewees point out the reforms as positive; 39 percent does not have an opinion, and 44 percent reject the reform proposal (IBOPE, 2018; Reuters, 2018).

In the same survey, IBOPE pointed out a remarkable 74 percent of disapproval of the Michel Temer Administration, as evidenced in the Figure 6, as follows:

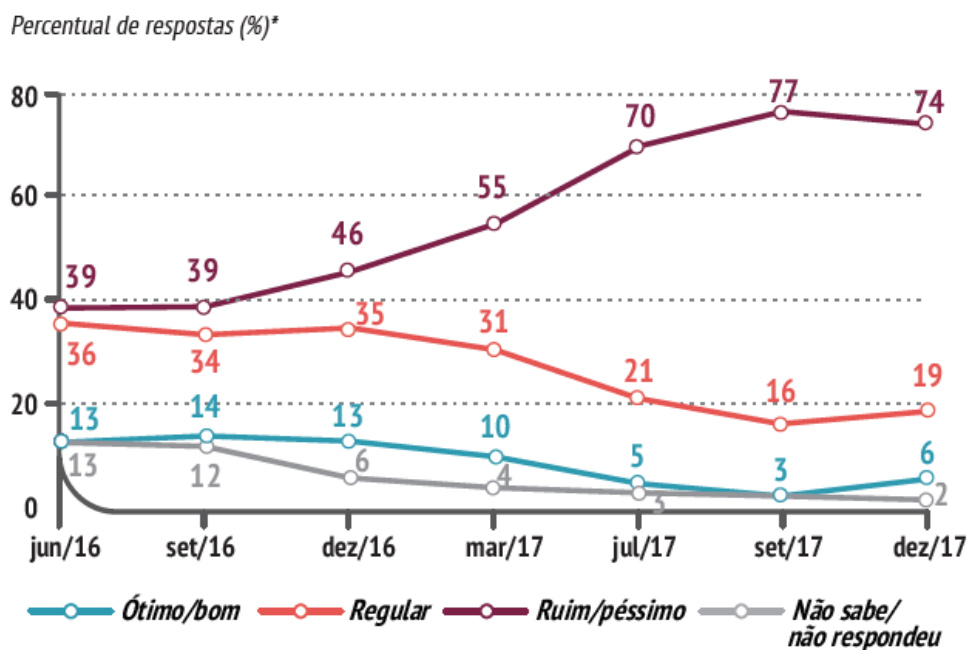


Figure 6 - President Michel Temer government evaluation. Source: IBOPE, 2018.

On March 11, 2018, 221 out of the 513 congressmen declared voting against the reform (Folha, 2018). Hypothetically, if all the remaining 292 congressmen voted for the reform, it still it would not pass, since 308 are the votes necessary to approve the reform in the Congress. In a year of presidential elections, it is traditionally difficult the approval of unpopular propositions (Charnes et al., 1978; Dias & Navarro, 2017).

One of the main contributions of the reform would be the spare of the BFG of BRL 18,6 billion (approximately USD 6 billion) spending on social services (G1, 2018), as well as an increase of the civil service effectiveness. As a consequence, for the first time in Brazilian history, RGPS and RPPS would have, the same rules and benefits for both civil servants and private workers. Of course, the civil servants would lose the additional benefits described on Table 2, and therefore, are against the social security reform. Opposed to the reform is the congressman Rogerio Rosso, from Federal District, who stated recently about the reform proposition: "It removes acquired constitutional rights, cause flagrant legal insecurity, harms citizens, civil and military servants. The change in the retirement pension provided is immoral. It does not

promote the expected tax result” (Valor, 2018, p.1). It seems that there is a long way until the civil service reform prosper under the current circumstances.

DISCUSSION

The question is far from being entirely addressed. Despite the BFG attempts in accelerating the social security reform on its schedule, there are points to consider, and lessons learned from this case that suggest:

1. *First things first, there are credibility issues. Therefore, one must regain Trust.* In the middle of the largest corruption scandal in the overall Brazilian history, people just do not trust president Michel Temer’s administration. A recent survey pointed out 90 percent of distrust on his government (IBOPE, 2018). Trust repair (Dias, 2016), is a delicate issue, but fundamental. President Temer is also accused of being part of the corruption scheme, with facts to be further clarified.
2. *The social security reform suffered so many changes that its credibility was compromised, and there is a perception that the overall project is failed, consequently the BFG is not properly prepared to rule the country.* Initially, the Brazilian should retire at 70 years old, both male and female workers, then changed to 65 for both, now 65 males, 62 years old female. Too many changes that misconfigure the original project, and raise legitimate questions and concerns regarding the overall proposition, about its efficacy.
3. *The Brazilian worker, civil or private, would have to work more.* To fight a growing population ageing, Brazilians should work more, and to contribute more. This measure is unpopular, and tends to increase distrust between population and their government. The recommendation is to reduce the highest salaries in the three branches, and to cut all the extra benefits of the three Powers.
4. *The proposition does not aim to solve the poor civil service productivity issues.* The job stability to civil servants breeds accommodation at work, absenteeism, and all sorts of inefficacy. This should be changed urgently, even before the social security reform. The public services in general are considered very low quality. Therefore, the Brazilian population loses trust and blames the government for the poor services. If the civil servants are the most well paid workers in the entire country, why are the services so poor? This is a question to be addressed for future research, and a limitation in the present article. One recommendation, is to follow the military forces example, where stability is also granted, but the military servant’s productivity is regularly evaluated.
5. *The BFG should be more transparent.* Still today, it is unclear how much the reform would save for the Brazilian economy, since there are contradictory or missing overall information disseminated. Once more, lack of official and consistent information affects credibility (Dias et al, 2014; Dias, 2016). The government should be much more transparent regarding the reform facts and figures, and should disseminate it properly.

6. *Other programs should be investigated, and optimized.* The World Bank report (2017, p.147), pointed a 2 percent economy on Brazilian GDP if inefficient programs were eradicated. Therefore, parallel strategies should be developed to increase government spending, especially on civil service.

Finally, for future research, we encourage practitioners to revisiting the case, and to address questions about the civil service productivity through the creation of regular evaluation, or even the impacts of job stability on civil service productivity and effectiveness.

REFERENCES

- Benmarker, H., Mellander, E. and Öckert, B. (2009): Do regional payroll tax reductions boost employment? *Labour Economics* 16, 480–489
- Bonomo, M., R. Brito and B. Martins (2015): The after crisis government-driven credit expansion in Brazil: A firm level analysis. *Journal of International Money and Finance* 55: 111-134.
- Boueri Miranda, Rogerio; Rocha, Fabiana; and Rodopoulos, Fabiana (2015). Avaliação da qualidade do gasto público e mensuração da eficiência. Tesouro Nacional, Brasília.
- Brasil (1988). *Constituição da República Federativa do Brasil de 1988*. Retrieved from http://www.planalto.gov.br/ccivil_03/constituicao/constituicaocompilado.htm, on March 10, 2018.
- Brasil (1990). *Dispõe sobre o regime jurídico dos servidores públicos civis da União, das autarquias e das fundações públicas federais*. Retrieved from http://www.planalto.gov.br/ccivil_03/Leis/L8112cons.htm on March 1, 2018.
- Brasil (2001). Lei no 10.303, de 31 de outubro de 2001. Retrieved from http://www.planalto.gov.br/ccivil_03/leis/leis_2001/110303.htm on March 1, 2018.
- Caprettini, B. (2015): Turnover taxes and Productivity, Evidence from a Brazilian Tax Reform. Universitat Pompeu Fabra.
- Charnes A, WW Cooper and EL Rhodes (1978): Measuring the Efficiency of Decision Making Units. *EJOR* 2: 429-444.
- Dias, M., (2016). São Francisco River Transposition Civil Work: Challenges to the Brazilian Economy. In: *The International Journal of Business & Management*. Vol. 4, Issue 12, pp. 65-70.
- Dias, M. & Navarro, R. (2017). O Fator Confiança em Relações Governamentais e sua importância para o futuro da atividade. In: *Revista Brasileira de Relações Institucionais e Governamentais*. 3a. Edição comemorativa, agosto de 2017, pp.38-41.
- Dias, Murillo et. al. (2014). Domestic Workers' Rights in Brazil: Improvement of Labor Regulation. In: *Humanities and Social Sciences Review*, vol.3(2), , ISSN 2165-6258, pp. 9-21.
- Folha de São Paulo (2018) 220 deputados declaram que votarão contra reforma da Previdência. Retrieved from <http://www1.folha.uol.com.br/mercado/2017/12/1940020-220-deputados-declaram-que-votarao-contra-reforma-da-previdencia.shtml>, on March 11, 2018.
- Folha Dirigida (2018). *Concursos*. Retrieved from <https://folhadirigida.com.br/concursos>, on March 11, 2018.
- G1 (2018). *Michel Temer diz que há 'compreensão na sociedade e no Congresso' sobre reforma da Previdência*. Retrieved from <https://g1.globo.com/politica/noticia/temer->

diz-ha-compreensao-na-sociedade-e-no-congresso-sobre-reforma-da-previdencia.ghtml, on February 28, 2018.

IBOPE (2018). Avaliação negativa do governo Temer para de crescer. Retrieved from <http://www.ibopeinteligencia.com/noticias-e-pesquisas/avaliacao-negativa-do-governo-temer-para-de-crescer/>, on March 11, 2018.

Reuter (2018) *Pesquisa Ibope encomendada pelo governo aponta menor rejeição à reforma da Previdência, diz Moreira Franco*. Retrieved from <https://br.reuters.com/article/domesticNews/idBRKBN1FJ2GR-OBRDN> on March 11, 2018.

Valor (2018). Deputado do PSD divulga vídeo contra a reforma da Previdência. Retrieved from <http://www.valor.com.br/politica/5292305/deputado-do-psd-divulga-video-contrareforma-da-previdencia>, on March 11, 2018.

World Bank (2017) . *Um ajuste justo: Análise de eficiência e equidade dos gastos públicos do Brasil*. Retrieved from <http://documents.worldbank.org/curated/pt/884871511196609355/pdf/121480-REVISED-PORTUGUESE-Brazil-Public-Expenditure-Review-Overview-Portuguese-Final-revised.pdf>, on March 11, 2018.

Yin, R. (1988) *Case Study Research: Design and Methods*. Newbury Park, CA: Sage Publications.