

NORBERTO BOBBIO CONTRIBUTIONS AND THEORY OF GAMES IN THE DEVELOPMENT OF A PUBLIC POLICY

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Abstract

This article was organized as a final activity of the discipline Public Policy for Children and Youth of a Master's Program in Education and aims to identify principles or values that we consider as necessary conditions for the development of public policies in the republican regime. The study also promotes a brief discussion involving the dimensions of the terms ethical, political and moral. As a result, it identifies four principles or values that would be necessary for the preparation of public policy in the mentioned regime.

Keywords: public policies, political formation, Norberto Bobbio, Game Theory.

Resumen

Este artículo se organiza como una actividad final de la Política Pública de la disciplina para niños y jóvenes del Programa de Maestría en Educación y tiene como objetivo identificar los principios o valores que consideramos como condiciones necesarias para el desarrollo de políticas públicas en el régimen republicano. El estudio también promueve una breve discusión entre las dimensiones de los términos éticos, políticos y morales. Como resultado, se identifican cuatro principios o valores que serían necesarios para la preparación de la política pública en el régimen mencionado.

Keywords: políticas públicas, formación política, Norberto Bobbio, Teoría de Juegos.

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1.- Introduction

This article is the result of a study that was promoted throughout the Public Policy discipline for Children and Youth of a Master's Program in Education of a higher education institution whose main objective is to identify principles and concepts (or values) that judge are necessary prerequisites that must be known before the development of public policies in the democratic regime. The study theoretical approach and was permeated by readings that occurred in the school routine.

Throughout the studies, teachers and students were able to make analysis of the concepts studied by several authors. Thus, each study group brought to debate theoretical concepts recorded by several authors in the study.

The approach of the study was qualitative, with the analysis corpus, book report texts read, studied and discussed. Data analysis was done through principles of content analysis to identify "message characteristics itself, its informational value, the words, arguments and ideas expressed in it." (MORAES, 1999, p. 4).

In this sense, this article is outlined as follows: first dialogued with childhood and youth concepts, as well as aspects of Brazilian legislation involving this theme. Next, we seek support in theoretical frameworks of Norberto Bobbio and Game Theory, in order to identify principles and concepts (or values) that we considered necessary in the discussion and formulation of public policy. Following are presented our conclusions and references used.

2.- Brazilian law, children and youth: brief concepts

As we begin the study of public policies for children and youth it is interesting to identify concepts involving this theme. According Houaiss (2004, p. 414 and 440, respectively) childhood is the "period of human life from birth to adolescence"; youth is characterized as a "period of human life between childhood and full development of his body".

When we permeate these concepts by Brazilian specific legislation that deals with the subject children and adolescents, namely the Statute of Children and Adolescents (ECA) (1990), observed that "considered child for the purposes of this Act, the person to twelve years of age incomplete, and that adolescents between twelve and eighteen years of age "(Article 2, of Law No. 8.069 / 90 - ECA). Therefore, from birth to complete twelve Brazilian law recognizes the person as a child. From that age until the age of eighteen, the human person ceases to be a child and becomes a teenager. In exceptional cases, also expressed by the Statute, the person may be considered teen to twenty-one years old. Still on the ECA, it is worth noting:

Art. 3 The child and adolescent enjoy all the fundamental rights inherent in the human person, without prejudice to the full protection of this law, assuring them by law or by other means, all the opportunities and facilities in order to provide them with physical, mental, moral, spiritual and social development in freedom and dignity.

Art. 4. It is the duty of the family, the community, the society and the government to ensure, with absolute priority, the realization of the rights to life, health, food, education, sport, leisure, professionalization, culture, dignity, respect, freedom and family and community (Articles 3 and 4, of Law No. 8.069 / 90 - ECA - emphasis added).

In 2010, through Constitutional Amendment No. 65/2010, the Brazilian Constitution inserted in his text the need for the legislature to draft and approve a statute for youth and a national youth plan, in order to articulate public policies the universe in question, namely:

§ 8. The law shall establish:

I - the youth status, to regulate the rights of young people;

II - the national youth plan, the ten-year duration, aimed at articulating the various levels of public administration for the implementation of public policies (Article 227, § 8, of CF / 88 - emphasis added).

Thus, if the term child may be related to childhood, adolescence term can no longer be only related to youth, under the penalty of making a mistake already in the initial phase of our approach. The Proposed Amendment to the Constitution 138/03, origin of Constitutional Amendment No. 65/2010, established that are in the youth stage youth aged between fifteen and twenty-nine years of age. Therefore, understanding of the age of adolescence and adulthood. The age limit, although not the subject of this study, is a very complex subject for debate. Several international organizations have already spoken about the age that understand youth itself. Among them we can mention the United Nations (UN) and the World Bank, to consider the period of fifteen to twenty-four years as being the youth of the human person.

Resuming conceptual aspects of Brazilian law highlighted two aspects: the first refers to the priority of assurance given by the sole paragraph of Article 4 of the ECA in the development of policies for children and adolescents.

Single paragraph. The priority guarantee comprises:

- a) precedence in receiving protection and help under any circumstances;
- b) service precedence in public services or public relevance;
- c) preference in the formulation and implementation of public social policies;
- d) privileged allocation of public resources in areas related to the protection of children and youth (Single paragraph, of Article 4, of the Constitution / 1988 - emphasis added).

In the second, we highlight the provisions of section II, paragraph 8, of Article 227, of the Magna Brazilian Charter, referring to the development of a national youth plan, points out that the government should be able to articulate the implementation a public policy: "the law shall establish: (...) II - the national youth plan, a ten-year duration, aimed

at articulating the various levels of public administration for the implementation of public policy."

The arguments above are the warning about the complexity of the subject, when we seek only a basic and conceptual understanding of public policies for children and youth. Our job from now, aims to bring together the concepts of ethical, political and moral Norberto Bobbio, along with principles stemming from the Game Theory and answer the question: what principles (or values) that we should follow in time to elaborate public policy?

3.- Interpretations from the perspective of Norberto Bobbio

Speaking of ethics, policy and moral seems to be a recurring theme. And indeed, perhaps it is. However, in a democracy, let us citizens of a democratic society, we speak of ethics, policy and moral for us will be validating the thinking of the political illiterate assigned to Eugen Berthold Friedrich Brecht (1898 - 1956), poet and playwright Italian, who says:

The worst illiterate is the political illiterate. He does not listen, does not speak, nor participates in political events. He does not know the cost of living, the price of beans, fish, flour, rent, shoes and medicine depend on political decisions.

The political illiterate is so stupid that is proud and greenhouse chest saying that he hates politics. Do not know the imbecile that their political ignorance is born the prostitute, the abandoned child, and worst of all the bad guys, which is the political swindler, crook, corrupt and lackey of national and multinational companies.³

The theme (ethical, political and moral) involves personal, moral, Eastern and Western thinking models, history of civilizations, compatibility, convergence, divergence, approaches, antagonisms, among others. And within this scope, this vast conceptions and interpretations elected, the theory of Italian philosopher Norberto Bobbio, a theme that provides a good relationship between the terms. Bobbio (1992) divided the theories that relate ethics and politics in monistic and dualistic. The first - tier - subdivided into rigid and flexible. The second - dualistic - subdivided into apparent and real dualism dualism. Both spent the discourse below.

Starting then, the hard monism, we have the greek origin of the word *monos*, synonymous with alone, single. From this perspective, Bobbio (1992, p.133) includes "hard monism all theories that say there is no contrast between two legal systems, moral and political, because there is only one system." In this sense, it happens "the reduction of politics to morality and the reduction of morality to politics" (ibid, p. 134). The first case can be explained by the existence of two princes in a realm: an honest and the other corrupt. The honest will overcome the corrupt in society by their own values, such as

³ Available in: <http://www.consciencia.net/2004/mes/01/brecht-analfabeto.html> - acess 5 nov 2014.

temperance and honesty. Thus, the satisfaction that Prince "is to be fair, not do great things" (ibid, p. 134).

In the second case - reduction of moral politics - Bobbio (1992, p. 134) recalls the mathematician, political theorist and English philosopher Thomas Hobbes (1588-1679), stating that "the subjects have no right to judge what is fair and unfair because it is up to the sovereign, and maintain that the subject has the right to judge what is just and unjust is considered a seditious theory. For example, for Hobbes men could only live in a peaceful environment if they were submissive to the absolute and centralized state power. In this sense, excluded is the state of submission to the laws created by the state, under penalty of loss of sovereignty. Hobbes thus does not distinguish the prince of the tyrant, does not distinguish the good government bad government.

In flexible monism, the assertion of the existence of only one legal system prevails. However, "he admits as legitimate, justified with arguments pertaining to the rational sphere, exceptions in certain circumstances of time, place, person or action nature" (Bobbio, 1992, p. 135). In this sense grows of importance to the existence of *lex specialis* (special law), or also called the relationship between rule and exception, or principle of exceptionality for cause. For example, Law No. 7.209 / 84, which deals with the Brazilian Penal Code, reflects clearly the rule and exception relationship by saying:

Art. 23 - There is no crime when the agent practices the fact:

I - in a state of need;

II - in self-defense;

III - in strict compliance with legal obligations or in regular exercise of law.

Above, then, we find the so-called "exclusive wrongfulness" which may exempt an individual's responsibility for a criminal act when committed in certain circumstances. A state of necessity case occurs when an individual sacrifices a legal interest in the other. For example, promote the collision of the vehicle drive with another parked vehicle to save the life of a reckless pedestrian crossing the road without looking.

The self-defense happens when someone reacts to an unjust aggression, current or about to happen. Thus, observing the principle of proportionality, the action is a member of the government to respond, drawing and firing his gun in criminal who makes her shots equally.

In strict compliance with legal obligations, one acts based on the limits imposed by law, fulfilling a duty. Thus, this agent can not answer for the crime as if the author was. typical example used by lawyers in the case of the soldier who shoots at his enemy on the battlefield.

In regular exercise right, we have a practical example coming from the medical field that helps us to characterize this aspect. In other words, the doctor can not be convicted for causing injury to the patient in need of an invasive surgical procedure to

cut. Thus, we identified some legal causes that can delete the illegal nature of behavior prohibited by current standards, featuring flexible monistic theory.

We can say that the apparent dualistic theory is originally from flexible monism, "in which the relationship between the two legal systems is solved in a relationship between a general scheme and a special system" (Bobbio, 1992, p. 136). Within a legal analysis, then we have: *lex specialis derogat generali* (special law repealing general) and *lex superior derogat inferiori* (higher law repealing the bottom) within a hierarchical criterion called the laws. This time there is a conflict between two legal systems in the legal system, consider the higher law. Similarly to what happens on the hard monism, here we have two cases: "morality is superior to policy or else politics is higher morale" (Bobbio, 1992, p.137). In the first case, Bobbio uses historian Reasoning questions, writer, and philosopher Benedetto Croce Italian politician (1866 - 1952) to say that "the sphere of politics is the utility of the transactions, agreements, the struggles, and this war continuous, individuals, peoples and states are on guard against individuals, peoples and states, seeking to maintain and promote the very existence (...)" (ibid, p. 137). So difficult it becomes to separate moral policy, because the first "or prepares the moral life and is both instrument and form of moral life" (ibid, p. 138). In Croce's reasoning, moral comes after politics, being superior to it. In the second case - the policy is more than moral - matter be noted that the greatest legal interest, which is the state, is greater than the good of the individual. In this sense, the state exists in a concrete and not abstract and "not one of the many general thoughts taken by moral imperatives, may be the beginning of his acting and his conduct" (ibid, p. 138).

The real dualistic theory can be interpreted based on the positive and negative judgment of their actions. In this sense a decision to be taken can be based on aspects that precede the action, or the consequences that may arise before the decision. To exemplify it, it will be based on the following educational dilemma: the school must delete or not a student for indiscipline? To answer this question, we know that are the responsibility of State and Municipal Councils of Brazil approval of living standards inserted in Procedure School. These, in turn, are the instruments used to regulate relations involving teachers, students and school community. Therefore, these regulations to take effect, shall be approved by the Council that are subordinate. Therefore, expulsion forecast of a student for indiscipline can be expected in the regiment. However, this would be the best solution for the resolution of this conflict? Faced with such an initiative would not be acting school as a medical professional who claims to be unable to identify given pathology and fails to refer the individual to a specialist? However, we would be faced with two ethics? Is the question ... From the moral point of view, an action performed from universal principles seems to be a good deed. From the political point of view, the best action is the one that reached the purpose proposal at its origin.

In short, what is being offered to the public legislator, by Bobbio's theory is the challenge of finding the balance between the morality of the standard and the political objective to be achieved. That said, we can identify this theory guiding principles of the

subject in question. From now on we began to address concepts involving the Game Theory, aiming further corroborate our discussion.

4.- The Game Theory

This subsection starts making a questioning if we understand there applicability of Game Theory in formulating a living rule, ie a rule? We think so, and this, therefore, our burning challenge of time. Our argument then defending the possible application, we intend to justify from now.

Fundamentally, first of all, it is to identify the origin of the Game Theory. However, we do not want to exhaust the subject on the screen and, yes, identify principles of that theory that can help us in making a law. Its origin takes us back to 1928, when it began to be written by the Hungarian mathematician, naturalized American, John von Neumann (1903-1957), from strategy games, like the game of chess and checkers. Subsequently, Neumann received the cooperation of the Austrian economist Oskar Morgenstern (1902 - 1977), who helped and developed the applicability of Game Theory to economic problems. As a result, the authors have published, in 1944, the book Theory of Games and Economic Behavior (Theory of Games and Economic Behavior).

The classic example of game proposed for the analysis of Game Theory is the Prisoner's Dilemma, created by Canadian mathematician Albert William Tucker (1905 - 1995), consisting of:

(...) Two suspects are arrested by the police; this does not have enough evidence to convict unless one confess the crime. The suspects are then kept in separate cells and the police explain to them the consequences of actions they can take, which together represent the profiles of game strategies. The act of explaining the consequences are the rules of the game. If none of the suspects confess, both will be sentenced to a crime of little gravity will catch and one year in jail. If both confess, they will be sentenced to two years in jail. But if only one of them confess, it will be immediately released and the other will be sentenced to three years jail, two for the crime and another for obstructing justice. The prisoners decide what to do separately, unaware of the decision of the other; hence the static character of the game. Also a complete information game, because both know the punishment (or payment) each receive based on the profile of strategies that is selected (ROCHA, 2008, p. 514).

On the proposal of the Prisoner's Dilemma game is more or less penalty to be applied to the suspect. Can the prisoner to confess or deny his involvement in the crime (the dilemma). From its decision can receive a greater or lesser sentence.

Made this brief description of the Prisoner's Dilemma game, we can understand why this theory is being increasingly applied in political science branch, mathematics, military, economic, and ethical issues in philosophy and even in journalism. It is a theory that has as its basic premise the rational choice of the individual. In the Prisoner's Dilemma, the suspects are not under torture, physical disability or threat agents. The

decision to be made by the suspect will be based on your beliefs, attitudes and behavioral norms that follow, as well as their intention of cooperation or non-cooperation. Following arguments coming from social psychology, theory of rational choice of the individual, before this situation will be to evaluate the gains and losses before their decision.

Elster writing about the basic premises of rational choice considered:

(1) structural constraints do not completely determine the actions taken by individuals in a society and (2) within a range of feasible and consistent actions with those restrictions, individuals choose what they believe will bring you better results (ELSTER , 1989, p. 182).

This time, to interpret this reasoning with a variant of the theory of social roles we see that individuals tend to behave or decide for given option because "have been socialized to do so, not because they seek to achieve some goal: causality vs. intentionality" (ELSTER , 1989, p. 182). However, it is noteworthy that people would not act compulsively, but based on preferred structures already formed.

Understanding the proposal of the Game Theory in the traditional view - the Prisoner's Dilemma - left for a critical analysis of this game, in order to develop a legal standard. Initially, we know that there are several players in a game and each will follow its strategy to win. However, to win, not only depend on your strategy, but also the strategy of others. Therefore, "*the gain of each depends on the choice of all.*" In a broader view, "*the gain of each depends on the gain of all*" (Elster, 1989, p. 183). Already in another perspective, it is also necessary to good player, choose a strategy that makes against the kind of opponent's action. So, you should be able to "*predict the decisions of others, knowing that they will be trying to provide for*" (ibid, p. 183). This last statement comes our third and last place, "the choice of each depends on the choice of all" (ibid, p. 183).

In summary, we emphasize, in this approach, the call interdependence of decisions, very common in negotiations for the elaboration of a legal rule, where decisions by the actors in income distribution relationships, power and prestige, for example, influence, so directly or indirectly, to all future users of that standard.

5.- Conclusion

After identified terms aspects of Brazilian law for children and youth and aspects of Bobbio Theories and games, it behooves us to return to the beginning of our theme when we try to identify four principles or values that would be required and prior to the development of public policy even before we discuss it.

Initially, we identified that the ECA considers as child the person up to twelve years of incomplete age and adolescents, that between twelve and eighteen years of age may, in exceptional cases, be considered adolescent person with up to twenty-one years old. Constitutional Amendment No. 65/2010, which amended the wording of Article 227 of the Federal Constitution established that are in the youth stage youth aged between fifteen

and twenty-nine years of age. Therefore, the youth, the Brazilian higher legal standard, comprises part of adolescence, with and of the age of adulthood. Also identified international organizations that have spoken about the age that understand youth itself. Among them we mention the UN and the World Bank, to consider the period of fifteen to twenty-four years as being the youth of the human person. In the present Brazilian political moment we are in the preparation of youth and national youth plan status. And it is from this premise that we try to identify the values that we deem necessary to understand and analyze to build a public policy from the conceptions of Norberto Bobbio and Game Theory.

Bobbio, to talk about ethics and politics, related his design with two theories: the monistic and dualistic. In the monistic theory, the main discussion is in the field of morals and politics, going on the "reduction of politics to moral or reduction of morality to politics" (Bobbio, 1992, p. 134). If we submit the policy to the moral excellence of the human person's attitude or the rule of law will be based on correct attitudes, honesty, justice, act of morality. If we reduce morality to politics, we run the risk of submission to the sovereign power of the owner, who judges what is fair and unfair. In another perspective we would not have the ability to distinguish between the prince and the tyrant, between the good and the bad government. The dual base theory is the existence of more than one regulatory system and the relationship between them. In the flexible monism vision *lex specialis derogat generali* (special laws supersede general) and *lex superior derogat inferiori* (higher laws supersede lower) within a hierarchical criterion of laws. So we are facing the dilemma: moral is superior to politics or politics is more than moral? In the first case it is necessary to understand that when we talk about policy we aim to use, transactions, rules, agreements. State and individual seeking to maintain their existence, making it difficult to separate moral policy. In the second case, just remember that the state is superior to the individual and moral imperatives can not be the only ones to be used in the form of action of the state. The real dualistic theory reminds positive and negative matters of judgment, based on which a decision can be arbitrated by aspects prior to the action, or the consequences that may arise.

The biggest learning we mean when we study the Game Theory is that it was created with the aim of solving conflicts of interest that occur in everyday life. So is being increasingly applied in the field of science, social psychology, in ethical and philosophy and journalism. Search in summary resolve impasses supposed to balance notions of cooperation, burden and bonuses, without forgetting the competition. And that is what we identify principles and values that we consider necessary for the discussion and formulation of public policy. Aspects that are also included, but in a hidden way, when we analyze the foundations of monistic and dualistic theory of Bobbio. Are they:

The balance. It is essential for there to be parity (or stability) between the actors involved, society, categories of interest, etc. A change of rule of law can interfere with benefit or cost to public data. In economics, an imbalance can affect the price of a product;

in chemistry or physics can result in an explosion with loss of life; and the rule of law in an internal or external conflict of greater or lesser extent.

The cooperation. According Houaiss (2004, p. 190) cooperate means "helping someone contributing work efforts; collaborate ". Latin *cooperatione* have the term, derived from the verb *cooperati*, which simply means operate. So "cum" + *cooperati* (= cooperation) would work together. So, you can relate to cooperation with the relationship between individuals and organizations in pursuit of common goals. In the management of processes and people, cooperate can mean the ideal management way, because almost always involves human and productivity relations. The legal standard to be elaborated understand that cooperation is the involvement of all (consensus). If you do not count on the participation of the majority, which has the idea of providing something better for the collective, rather than the pursuit of unilateral interests.

The burden and the bonus. The first means "weight, duty, obligation." The second means "extra payment allowance" (HOUAISS, 2004, p. 532 and 107, respectively). We believe that the popular saying "there is no burden without bonus" is what best illustrates a conflicting situation. The development of public policies we may have disadvantageous situations. In addition, part of a market rule of competition, there is no burden bonus. However, it may even patronizing look, but even a standard to be filed cause some discomfort at the beginning of its term, we believe that, as a public policy, a bonus must be viewed in the medium and long term, otherwise the rejection rate is very greater if it is not thought before its term.

The competition. Competing means "get in simultaneous competition" (HOUAISS, 2004, p. 173). For sportsmen compete means that only one will win and everyone will lose. To the knowledge holders it serves as a counterpoint to the profit for the release of new market ideas, products, new technologies. In our view, for the development of public policy, serves as antonym to the term cooperation, because even before compete in developing a standard should seek their consensus.

Thus, at the heart of this article, left the public legislator and the rule of law. In its surroundings, the challenge of finding the balance between the morality of the standard, the political objective to be achieved and the guiding principles. In concluding this discussion, our satisfaction in terms accomplished an academic study on the subject in question and relevant expression. We believe that the text can also help teachers, students and students in general in the understanding of aspects to be considered for public policy. Similarly, we believe that this content can help those who have functional responsibility for driving process improvement or development of any kind of living standard.

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