

Public-private partnership and its normative genesis in Minas Gerais-Brazil and education¹

Parceria público-privada e sua gênese normativa em Minas Gerais-Brasil e a educação

La asociación público-privada y su génesis normativa en Minas Gerais-Brasil y la educación

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Abstract: This article aims to narrate the legislative process in the State of Minas Gerais, which approved, for the first time in the country, a Bill of Law that regulates the Public-private partnership (PPP), the State Law n° 14,868/2003. In a globalization and New Public Management scenario, we use an excerpt from a doctoral thesis as our documentary analysis. For that reason, we used Pierre Muller and Surel's theory on the cognitive approach to public policies as a theoretical-methodological contribution, emphasizing the “agenda insertion” stage. Our research demonstrated that the PPP goes beyond defining privatization. More than that, it refers to the incorporation of ideas from the private world into the State apparatus. Our study, based on the narratives presented in the political arena, points to the creation of other possibilities for privatization of and/or in education and that will shed light on new research in the educational area.

Keywords: Education; Public-private partnership; Public policy; NGP.

Resumo: O objetivo deste artigo é narrar o processo legislativo acontecido no Estado de Minas Gerais, o qual aprovou, pela primeira vez no país, uma lei que regulamenta a parceria público-privada (PPP), a Lei Estadual n° 14.868/2003. Num cenário de globalização e da Nova Gestão Pública, apresentamos uma análise documental, a qual é um recorte de tese de Doutorado. Para tanto, utilizamos como aporte teórico-metodológico, a teoria de Pierre Muller e Surel sobre abordagem cognitiva das políticas, dando ênfase na fase de “inscrição da agenda”. Nossa pesquisa demonstrou que a PPP ultrapassa a definição de privatização. Mais que isso, refere-se à incorporação de ideias do mundo do privado para o seio do aparelho de

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estado. Nosso estudo, a partir das narrativas apresentadas na arena política, indicou a criação de outras possibilidades de privatização da/na educação, indicando, assim, uma seara fértil para novas pesquisas no campo educacional.

Palavras-chave: Educação; Parceria público-privada; Política Pública; NGP.

Resumen: El objetivo de este artículo es narrar el proceso legislativo ocurrido en el Estado de Minas Gerais, que aprobó, por la primera vez en el país, una ley que regula la asociación público-privada (PPP), Ley Estadual n° 14.868/ 2003. En tiempos de globalización y Nueva Gestión Pública, presentamos un análisis documental, que presenta un recorte de una tesis doctoral. Para tal, utilizamos como aporte teórico-metodológico la teoría de Pierre Muller y Surel sobre la teoría cognitiva de las políticas, con énfasis en la fase de “inscripción de agenda”. Nuestra investigación demostró que el PPP va más allá de la definición de privatización. Además, refiérase a la incorporación de ideas del mundo privado al aparato estatal. Nuestro estudio, basado en las narrativas presentadas en la arena política, indicó la creación de otras posibilidades para la privatización de/en la educación y, por lo tanto, apunta para un campo productivo de nuevas investigaciones en el área educativa.

Palabras clave: Educación; Asociación público-privada; Política Pública; NGP.

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Introduction

In Brazil, the dispute between public and private sectors, especially regarding the educational department, is an integrative part of our history, from Colonization to the present day. According to Saviani (2007), it is true that, in the Capitalist system, the public institution tends to be at the service of private interests. Generally, private institution interests are favored with little attention to the Republican spirit which guides public policies in Brazil. But there is a dichotomy within and, historically, the growth of private underneath public is justified by the interest of people, which blurs the lines of private boundaries, making it a market issue (Severino, 2005).

As stated by Severino (2005), the public-private relationship can be presented in three distinct historic moments and, in the educational area, might be regarded as: in the first moment, the public-private relationship is present from the Colonization to the Brazilian revolution of 1930, when the “public” category is pervaded by emptiness of culture with a strong presence of the Church. In the following period, there is the advancement of Capitalism as a consequence of Industrialization and urbanization of the country. Starting in 1950, the State was responsible for economic planning, aiming

to offer structural conditions for the development of the country with the goal of Capitalist development. For the third moment, the author highlights an emptiness of the dimension of what is public via the minimal State enforcement towards political conduction, answering to the market laws.

Studies from Dornellas (2020) show a fourth historic moment, in which Globalization is consolidated and its main characteristic is to also consolidate the legal framework as a great tool for sedimenting privatizing ideals, subsidized by the idea that the State must undergo a reform and its nature must gravitate towards governorship, in the molds of the New Public Management (NPM).

The setting of the legal framework partners public to a proposition with private. According to Di Pietro (2005, p. 4), “[...] the partnership serves to reduce the structure of the State, while delegating to the private sector some activities now performed by the Administration [...]”⁵ (our translation).

Based on disputes for the public fund, the Public-private partnership (PPP) is the main actor in this article, which adopts a theoretical-critical approach in the context of Neoliberal globalization. This text is part of a Doctoral dissertation defended in 2020, in the field of educational politics, developed by documentary analysis, and is part of a bigger research (Moreira; Caleffe, 2008).

Dale (2010) stated that, over the course of historic processes in each country, the privatization of different services became part of society and it takes different spaces and shapes, namely the Public-private partnership. The application of the term PPP became widely known, suggesting diverse understandings of its meaning, especially regarding the appropriation of foreign reference on the topic (Adrião, 2018).

In the worldwide context by the end of the 20th century and beginning of the 21st, the private sector started merging with the public sphere, changing the organization of public policies, Canada, Argentina and Uruguay being clear examples (Moschetti; Gottau, 2016; Bordoli; Conde, 2016; Kuehn; Mathison; Ross, 2018). The same process occurred in Brazil as well, albeit with different specificities (Adrião, 2018; Dornellas, 2020).

Our starting point in this article is that the PPP is a normative instrument, created to discipline existing contracts between State and private sectors, aiming to strengthen private interests. In Minas Gerais, the definition of what comprises a PPP was conceived and refined throughout the proceeding of Bill of Law (PL) n° 889/2003 and the consequent approval of State Law n° 14.868/2003.

⁵ Original text: “[...] a parceria serve ao objetivo de diminuição do tamanho do aparelhamento do Estado, na medida que delega ao setor privado algumas atividades que hoje são desempenhadas pela Administração [...]”.

For the development of the research, we assume a global movement towards privatization, which influences and reflects locally, operating according to local specificities. The theoretical and methodological approach is cognitive analytics, which is based on the public action sociology of Muller and Surel (2002).

The cognitive theoretical perspective of public policies tends to understand the formulation and implementation of public policies based on the relation between politics and construction of social order and not only as a problem-solving mechanism. In order to do so, we use concepts like reference (global and sectorial), action logistics (of power and meaning), genesis and cognitive matrix. Muller and Surel (2002) has, as a standing stone in their theory, the concept of reference. For them, reference is the construction of a representation of reality, of a worldview, of diverse ways of thinking in a given social reality.

In other words, to understand public policy, it is necessary to clarify which cognitive aspects for the construction of a representation of reality. The authors stated there is a global and a sectorial reference. The latter, more strict, is made of world concepts of a specific sector. In the specific case of our inquiry, the study focus is the educational sector.

Following the cognitive analytics perspective of the aforementioned authors, a political genesis does not reside in pointing to the start of a proposition. For its comprehension, we must retrace the path taken by the ones involved in its cognitive matrix. Thus, Muller and Surel (2002) claim that this political genesis is comprised by three ideal phases, namely: problematization of social phenomena, agenda insertion and the political window.

During the first stage, the problematization of social phenomena, it can be affirmed that the Public-private dispute has been historically present in Brazilian society, becoming an important point for investigation in the 21st century, considering the complexity of such dispute under the view of the NPM. The reforms in the public administration raised a new social contract, that is, there were not only changes in the legal framework by new diplomas, but a new Public-private relation (Adrião; Bezerra, 2013). The Constitutional Amendment n° 19/1998 presented a management character, in which new institutional models previously referenced came to compose the scenario of non-State services (social services). In this framework, more recently, due to the Regulatory Mark of Civil Society Organizations, instituted by Law n° 13.019, from July 31st 2014, resulting in an increase in positions in children education, through partnerships between State and OSCIPS (Civil Society Organization for Public Interest). The Mark presented new forms of regulation and inspection, but it still is a tool of privatization (Adrião; Bezerra, 2013).

In 2003, the State of Minas Gerais took a further step towards the inclusion of an agenda biased towards privatization, when it sent a Bill of Law of the PPP to the Legislative Assembly of Minas Gerais. This action translates to the second phase of the birth of public policy. With this, the political windows could be open for use, by the State, by management-based policies and/or resources in the private sector, meaning the third phase of the public policy genesis. Documents studied here reveal narratives from different perspectives in the national and local political game.

This article focuses on the inscription of the agenda which, according to Muller and Surel (2002), refers to the process of transference of a systemic agenda to an institutional one, through the proposition of a Bill of Law studied here. At this point in politics, the identified problem, which is the need to create a diploma for the PPP in Minas Gerais, enabled the “public transformation of the problem”, and consequently inscribed in the political agenda of the State (Muller; Surel, 2002, p. 67).

The text is organized in three sections, besides introduction and final remarks. By publishing this study, we aim to contribute with the field of educational politics, specially with investigations aiming to understand the institutional dynamic which favors growth of different forms of privatization in the Brazilian public sphere. Based on the assumption that the State of Minas Gerais is the pioneer in regulating PPP, this paper aims at narrating the legislative process in this State of the Federation, which approved, for the first time in the country’s history, a PPP-regulating law.

Methodological development

For the description and analysis of the legislative process of the legal framework for public-private partnerships in Minas Gerais, Bill of Law N° 889/2003, and consequently, Law N° 14.868/2003, the research was based on the concepts of document analysis (Moreira; Caleffe, 2008), with the categorization of the collected documents. Laville and Dionne (1999, p. 168) understand that the collected documents “[...] [are] not outdated archives, but living vehicles of information⁶” (Laville; Dionne, 1999, p. 168 – our translation).

For the general composition of the document corpus, we researched the websites for the Assembleia Legislativa de Minas Gerais (ALMG) and the Governo de Estado Mineiro. The collection and selection of documents happened between March and May 2018, through descriptors “PPP” and “Public-private partnership. And more specifically, a research on Diários do Legislativo (DL) in May 2019.

⁶ Original text: “[...] não [são] arquivos ultrapassados, mas, veículos vivos de informação”.

As the study aimed at analyzing the PPP genesis and its relation with the education of Minas Gerais, we have created an operational framework (Laville; Dionne, 1999) from selected documentos. In order to do so, the research documentary *corpus* was comprised of the following sources: Message from Governor Aécio Neves-86/2003, Bill of Law n°889/2003, Commission Minutes (Constitution and Justice; Transportation, Communication and Public Works; Public Management, Financial, Budgetary and Writing Oversight), 22 Representative Testimonies, Legislative Journals-33 (digital) issues and State Law n° 14868/2003.

The current article outlines the research through Message n° 86/2003 from the Chief of Executive of Minas Gerais, from the Bill of Law n° 889/2003 and 33 published issues of the Minas Gerais Legislative Council (ALMG) Journals (*online* version), between 25th May and 24th December 2005; with the testimonies of State Representatives involved and Law: n° 14.868/2003.

From the reading of documents, analysis categories emerged and those provided aid to construct characteristics of the researched concept, namely: partnership, public-private partnership and privatization (Laville; Dionne, 1999).

Equipped with documentary sources, the theoretical-methodological approach described as cognitive analytics, as by Muller and Surel (2002), was the chosen approach, leaning on the Sociology of Public Action, it attempts to identify the cognitive matrix constructed during the normative genesis of the legal act on public-private partnership. The ideal phases of the genesis of a specific public policy are: problematization of social phenomena, agenda insertion and political windows. The sample of the current research focuses on agenda insertion, which means the transference from systemic to institutional agenda.

In this way, we could identify cognitive matrices that permeate the discussion and consolidation of public-private partnership ideology in Minas Gerais.

The reference of public-private partnership as a support to new public management

Partnership became a strategy to make politics in the economic plan, favoring the capital through investment in the public fund (Martins, 2009). The objective switched to the consolidation of a model of Management State, opening the economy through mobilizing social organizations in the partaking of social public policies, especially education, starting in the 1990s. According to the analysis of Vizzotto, Corsetti and Pierozan (2017, p. 545), the structure of the New Public Management, the backdrop of economic rationalization, “[...] would not be feasible without a legal apparatus”.

This experience was found to be stronger in Minas Gerais, when the State presented a worldwide followed legal and administrative modeling, through the construction of a reference of public-private partnership.

In this time, Brazil was influenced by a wave of worldwide globalization, a movement in which relations between economical, political and cultural dimensions come to follow an external agenda (Peroni, 2015).

According to Pinheiro (1999), for the 21st century, the future of privatization would rely on the definition and application of new regulatory forms. “It is mainly the success in assembling a regulator State that will dictate the future of the Entrepreneurial State”⁷ (Pinheiro, 1999, p. 170 – our translation). And in this process of normative matrices implementation, the privatization movement would gain strength, making Minas Gerais the first State to receive such proceeding in the country.

Thus, the search for particular entities to work alongside the State, in the sphere of implementation, work development and management made space for the private to include new (normative) tools for the management of aforementioned State (Tripodi; Sousa, 2016).

During the process of Bill of Law n° 889/2003, the State of Minas Gerais was ruled by Aécio Neves (2003-2010) and there was a great movement towards implementing the Program “Choque de Gestão” (Management Shock) (2002-2005), with the use of the new tools from NPM. This program was “[...] constituted by process rationalization and system modernization actions, restructuring of the State apparatus” (our translation)⁸, aiming at, “as stated, improving the quality and reducing the cost of public services”⁹ (Augusto, 2013, p. 1272 – our translation). Which means the political project of Minas Gerais was to adjust the State based on principles performed in the business world.

Particularly in educational politics, joining some studies (Oliveira; Duarte, 1997; Santos; Vieira, 2006; Augusto, 2012), Minas Gerais has a tradition of implementing pioneer political “solutions”, besides having relevant political agents in the national arena, from the House of Representatives to the Presidency (Garcia, 2019). In the Aécio Neves years (2003-2010), partnership between public and private were intensified and deepened (Augusto, 2012; Tripodi; Sousa, 2016; Silva; Richter, 2018).

The vanguard of the state, by the time of the proposition of the Bill on the PPP, affected other political arenas, even taking part in discussions of a nationwide context. As

⁷ Original text: “É o sucesso na montagem do Estado regulador, que, principalmente, vai ditar o futuro do Estado- empresário”.

⁸ Original text: “[...] constituído por ações de racionalização de processos e modernização de sistemas, reestruturação do aparelho do Estado”.

⁹ Original text: “conforme declarado, melhorar a qualidade e reduzir os custos dos serviços públicos”.

stated in documents analyzed in our research, the PPP theme was also moving political forces in the Federal perspective, during the Luiz Inácio Lula da Silva government (2003-2010). As a corroboration to this statement, less than a year after the Bill passed in Minas Gerais, the Federal Law n° 11.079, from 30th December 2004, was enacted. It instituted “general norms for the procurement and hiring of public-private partnership in the public administration” ¹⁰(Brasil, 2004 – our translation).

It is understood that the creation of a reference image of public policies in PPP in Minas Gerais has been stimulated by the action of business entities from the 1990s, by creating a “partnering system” (Silva; Richter, 2018)¹¹, via a discourse of social cohesion between business people and community. Such discourse impacted on education in the State.

In a national context, there were also changes to the public education policies influenced by the private as in, for example, the creation of the Group of Institutes, Foundations and Enterprises (GIFE, in Portuguese), in 1989, and the Ethos Institute for Companies and Social Responsibility (Martins, 2009). Both contributed for the sedimentation of entrepreneurs in the national aspect, reflecting on the local sphere.

The commitment of the privatization movement nationally has influenced changes in the *modus operandi* of States in different scales, many times revealed through media, like the program “O jovem do futuro” (loosely translates to “The young person of the future”), from Instituto Unibanco, which in 2010 composes the Guide for Educational Technology of the Ministry of Education (MEC) (Caetano; Peroni, 2015). The State of Minas Gerais intended to improve partnership possibilities and, in order to do so, sent a Bill to the Legislative Assembly of Minas Gerais, which proposed the creation of a PPP program in which the private sector would be an associate and partner in State enterprises, especially in education.

In the context of Minas Gerais, the City Hall of Belo Horizonte opened, in 2013 the first school in Brazil based on the PPP model: the Belmonte Municipal Unit of Child Education. This PPP comprised “school infrastructure and also the operation of non-pedagogical services, bringing benefit to children education schools and early years of primary school, in a twenty-years term”¹² (Fernandez *et al.*, 2019 – our translation).

In 2015, another example in the same State was the producing of an Expression of Interest Procedure (EIP, or PMI in Portuguese) 01/2015 during the government of

¹⁰ Original text: “normas gerais para licitação e contratação de parceria público-privada no âmbito da administração pública”.

¹¹ The research of Silva and Richter (2018) shows signs that the State has articulated with the private sector since 1994. According to the authors, the Federation of Industries in the State of Minas Gerais (FIEMG) was the catalyst and mediator of actions through partnership with the Department of Education of Minas Gerais (SEE-MG).

¹² Original text: “infraestrutura escolar, além da operação de serviços não pedagógicos, beneficiando escolas de educação infantil e de anos iniciais do ensino fundamental, com vigência de vinte anos”.

Fernando Pimentel (PT - 2015-2019) for the raising of studies, interests and the proposition of action in the area of education (equipment, furnishing and non-pedagogical services), implying at the creation of PPPs in the state school system.

In another context, Ribeiro (2020) showed in his research that the existence of a PPP project through an EIP in Mato Grosso has directly changed the professionalization of local state school system staff, which leads us to believe that experiences can be enlarged and induce new forms of privatizing the Brazilian education.

In order to understand the creation process of the legal benchmark on PPP, the next section will highlight the political narrative outlined in Minas Gerais regarding the presentation, conduction and approval of the premise of PPP since its legal inception.

The Bill of Law nº 889/2003 and its logics of power and meaning

Bill nº 889/2003 of Minas Gerais was processed from 10th July to 16th December 2003. It initially comprised 17 articles, underwent three substitutions and 55 amendments and went through 3 commissions: Constitution and Justice Committee (CCJ), Committee on Transport, Communication and Public Works (CTCO), Committee on Administration and Justice (CAP) and Committee of Financial and Budgetary Oversight (CFFO). It is important to stress that the Bill did not go through the Committee of Education.

Intending to present Bill nº 889/2003, the proponent (who was the Governor of the State) forwarded to ALMG the Message nº 86/2003, discussing the urge of creating partnership with private initiative in the “administration of State affairs” (MINAS GERAIS, 2003). Other than presenting the concept of PPP, its instrument, objectives and novelties, such as the creation of a Management Council of Public-Private Partnerships (CGPPP) and the alienation of projects to State Plans for Public-Private Partnership, this Bill was presented attached to the message of Governor Aécio Neves at the time.

According to the Governor, the Bill of Law pursued:

[...] ...to regulate and promote collaboration between private initiatives and the state government in carrying out public interest projects. The private partner, in various forms of partnerships, will act as the manager of services, activities, infrastructure, establishments, or enterprises of public interest. (Neves, 2003 – our translation).¹³

¹³ Original text: “[...] disciplinar e fomentar a colaboração da iniciativa privada com o poder público estadual na realização de cometimentos de interesse público. O parceiro privado, nas diversas formas de parcerias, atuará na condição de encarregado de serviços, atividades, infra-estruturas, estabelecimentos ou empreendimentos de interesse público.”

Aécio Neves (2003) also highlighted the need for the State to operate with innovative ideas to solve tax issues. As the Governor claimed, the “[...] innovations brought by the project regard the rewarding of the employee, its credit provision and contract timeframes” (Minas Gerais, 2003).

Innovation in the early 21st century is an important narrative which foments support, because the global context increasingly values modernizing and managerial governance, which makes the State a complex arena of private interests, it must promote the decentralization of public spending under the banner of efficiency. Thus, inspired by the principles of NPM and grounded in the discourse of innovation, then-Governor Aécio Neves proposed Bill No. 889/2003 and stated that “[...] **public-private partnerships have become a modern pathway**”¹⁴ (Neves, 2003a, emphasis added – our translation). Aspects of NPM were reflected in Bill No. 889/2003 through the following guidelines, as outlined in the proposed law:

Article 1 [...]

Sole Paragraph - The program will adhere to the following guidelines:

- I - Efficiency in fulfilling the missions of the State and in the use of society's resources, with encouragement of competitiveness in service delivery and the economic sustainability of each enterprise;
- II - Respect for the interests and rights of the service recipients and the private agents responsible for their execution;
- III - The unavailability of the State's regulatory and controlling functions;
- IV - Fiscal responsibility in the establishment and execution of contracts;
- V - Universal access to essential goods and services; and
- VI - Transparency of procedures and decisions, with broad public participation (Minas Gerais, 2003^a – our translation).¹⁵

According to the documents, Aécio Neves' government assigns the private actor the role of collaborator, supporter, manager, supervisor, and/or partner of public administration. More than that, for the Governor, the PPP would mean implementing public policies based on the following rhetoric: "The aforementioned bill aims to regulate and promote the collaboration of private initiatives with the State public administration in carrying out public interest projects" ¹⁶(Minas Gerais, 2003 – our translation).

¹⁴ Original text: “[...] as parcerias público-privadas tornaram-se uma via moderna”

¹⁵ Original text: “Art. 1º [...]

Parágrafo único - O programa observará as seguintes diretrizes:

- I - eficiência no cumprimento das missões de Estado e no emprego dos recursos da sociedade, com estímulo à competitividade na prestação de serviços e à sustentabilidade econômica de cada empreendimento;
- II - respeito aos interesses e direitos dos destinatários dos serviços e dos agentes privados incumbidos de sua execução;
- III - indisponibilidade das funções reguladora e controladora do Estado;
- IV - responsabilidade fiscal na celebração e execução dos contratos;
- V - universalização do acesso a bens e serviços essenciais; e
- VI - transparência dos procedimentos e decisões, com ampla participação popular.”

¹⁶ Original text: “O mencionado projeto de lei visa a disciplinar e fomentar a colaboração da iniciativa privada com o Poder Público estadual na realização de cometimentos de interesse público”.

To achieve success in legitimizing the local framework based on a globalized cognitive matrix, the then Governor of Minas Gerais employed logics of thought (of power and meaning) in his political discourse, grounded in two categories: pioneering spirit and public-private partnership. These two logics of power emerged from the meanings that these ideas produced in the political environment, which managed to gain leadership in the Legislative Assembly of Minas Gerais (ALMG), then feuding for hegemony. It is the logic of meaning and power, as discussed by Muller and Surel (2002), that constructs the process of the desirable and hegemonic cognitive matrix.

Hence, the production of a cognitive matrix is not merely a discursive process, but a dynamic which is intrinsically connected to interactions and relations of force that crystallize gradually in a given sector and/or subsystem. Concurrently, it feeds a process of taking the floor (production of meaning) and a process of taking power (structuring a field of forces) (Muller; Surel, 2002, p. 49).

Based on our documentary research, we could reveal which power logics were employed by the State and the opposing parties in the legitimate contest of ideas in the political arena during the proceedings of the Bill. The head of the executive adhered to the sense of pioneering in Brazil, making legitimate use of a regulatory instrument on PPP, justifying their implementation in order to achieve greater efficiency in the State of Minas Gerais.

Although the government holds support from most of the Legislative Assembly, this does not mean that Bill n° 889/2003 was approved without tension (Silva Júnior; Faria; Gomide; 2018). According to these authors, during this legislature there was the longest delay in providing the approval for the budget-related matters when compared to the 13th and 14th Legislatures in Minas Gerais. The distribution of State Deputies totaled 77 parliamentarians and it was quite diverse, with the participation of 11 political parties, being the Brazilian Social Democracy Party (PSDB), the Governor's party, the most prominent at the caucus, with 19 Deputies. The largest opposition party, the Workers' Party (PT), had 16 Deputies.

In the analysis of the documents, it was possible to observe the presence of statements from 22 Deputies during the processing of Bill No. 889/2003, comprising 16 Deputies from the Workers' Party (PT), 2 from the Brazilian Social Democracy Party (PSDB), and 1 Deputy from each of the following parties: Progressive Party (PP), Humanist Solidarity Party (PHS), Communist Party of Brazil (PCdoB), and Brazilian Democratic Movement Party (PMDB). In the testimonies, it was also noted that, even though PT represented 20.77% of the Deputies, that is, the second largest party in number of parliamentarians elected by the people, it did not have enough strength in the party agenda dispute. However, it was the most vocal party during the proceedings of the Bill, with

amendment propositions and statements that were not always opposing the PPP regulation. We could observe that, generally, one-fourth of the elected state deputies were entrepreneurs, and only one worker was chosen for the office (Ziegmann, 2011).

However, the civil society mobilization surrounding the proceeding of this Bill of Law leads us to believe there were other logics of meaning in the dispute for hegemony. For instance, the Fórum Mineiro Popular had a strong presence in the public hearings held throughout 2003. The Popular Participation Commission (CPP), created in 2003, organized a public hearing to consider two Legislative Action Proposals (PLE) regarding the PPP. The proposals presented were: i) that every PPP should be preceded by a public hearing; and ii) that the State's counterpart in the proposed partnership should be published in the State official press diary. Both action proposals were rejected; still, the mobilization revealed that there was no direct rejection to the idea of PPP, but rather a tension from parts of society about the meaning of power and its scope.

In the political sphere, regarding the Bill, the government opposition (PT and PCdoB) employed the logic that the project was an offense to *res pública* (public affair), indicating there was a privatization process underway. Meanwhile, the government caucus followed the executive branch's reasoning on the need to innovate and modernize the State to address the budget *deficit* through the legal instrument of PPP, as, up until that moment, there was no general law regulating public-private partnerships in the country.

Through analyzing the Representatives' statements, we identified indications of an intellectual convergence on the Bill, mainly from the speeches of District Deputy Rogério Correia (PT), leader of the minority, and Deputy Miguel Martini (PHS), leader of the majority in the Legislative Assembly of Minas Gerais. Deputy Rogério Correia (PT) reported that he compared Bill No. 889/2003 with a document produced during the FHC government (1995-2002). "[...] when I went to Brasília, I was surprised by the news that Governor Aécio Neves's Bill is a copy, comma by comma, letter by letter, of the draft that is in the Ministry of Planning, [...] [during] the government of Fernando Henrique Cardoso [...]"¹⁷ (Correia, 2003 – our translation).

Therefore, the content of the Bill of Law would not be pioneer. On the contrary, this power logic had been present and strong in Brazil during the 1990s. However, it was the first time that this proposition was going for a parliamentary debate. In this process, some changes were likely to occur.

For instance, this is what happened with the concept of PPP itself, which underwent new characterizations as the discussion progressed in plenaries and

¹⁷ Original text: “[...] ao ir a Brasília, surpreendo-me com a notícia de que o projeto de lei do Governador Aécio Neves é cópia, vírgula por vírgula, letra por letra, da minuta que se encontra no Ministério do Planejamento, [...] [à época do] Governo Fernando Henrique Cardoso [...]”.

evaluating committees. We highlight ahead some examples of how meanings took shape in the concepts of PPP: new standard of relationship, collaboration contract, new era of relationship and financial engineering.

Over the course of the legislative debate, the meanings attributed to PPP by the opposition party have also evolved. However, it is important to highlight that what was at risk was the contest for a narrative; the contest for the protagonism of a project aimed at establishing legal frameworks to improve/facilitate public-private partnerships, regardless of a political party program. This is because the global and sectoral reference points at that historical juncture advocated in favor of the values of NPM.

The Bill No. 889/2003 followed the legislative process for a period of five months and three days not going through the Education, Science, and Technology Committee. Strictly speaking, education appears only once in the document, in Article 6, which addresses the object of the public-private partnership, specifying in paragraph “c) facilities and equipment necessary for the expansion of social services, such as education, health, and social assistance”¹⁸ (Minas Gerais, 2003^a – our translation). It is noteworthy that education is not part of the government's message, despite being a guaranteed social right. In the next section, we aim to elucidate what the absence of this area would mean for the construction of the legal instrument or which cognitive matrix was being utilized.

Bill of Law n° 14.868/2003, regulatory instrument and education

The Bill of Law n° 889/2003 was converted into Law n° 14.868, on 16th December 2003, comprising 23 articles and three chapters. By comparing Bill n° 889/2003 and Law n° 14.868/2003, we observed some significant changes.

The Law brings a broader definition of PPP, encompassing different action that go through the partnership, as stated in the sole paragraph of Article 1: “the private entity participates in the implementation and development of public work, service, or enterprise, as well as in the exploitation and management of the resulting activities [...]”¹⁹(Minas Gerais, 2003b – our translation). According to the first article of the Law:

Article 1 – This Law establishes the **State Program of Public-Private Partnerships**, intended to regulate and promote the implementation of public-private partnerships within the scope of State Public Administration.

¹⁸ Original text: “c) instalações e equipamentos necessários à ampliação dos serviços de natureza social, como educação, saúde e assistência social”.

¹⁹ Original text: “o ente privado participa da implantação e do desenvolvimento de obra, serviço ou empreendimento público, bem como da exploração e da gestão das atividades deles decorrentes [...]”

Sole Paragraph. The public-private partnerships addressed by this Law constitute **collaboration contracts between the State and the private entity**, through which, as established in each case, **the private entity participates in the implementation and development of public works, services, or enterprises**, as well as in **the exploitation and management of the resulting activities**, responsible for contributing financial, material, and human resources and is paid according to its performance in executing the contracted activities (Minas Gerais, 2003b, emphasis added – our translation).²⁰

Documentary research revealed that the changes in the text of Bill No. 889/2003, with the approval of Law No. 14.868/2003, go beyond reorganizing articles and including others. We then highlight an important change in Item VIII of Article 2 of the Law, which deals with PPP guidelines. In the Bill, Item III included the "non-delegable regulatory and controlling functions of the State"²¹ (Minas Gerais, 2003^a – our translation). In the Law, Item VIII also added the State's non-delegable oversight function (Minas Gerais, 2003b). There was also a significant change in terms of public participation. In the Bill, Item VI of Article 1 placed greater emphasis on this by stating "transparency of procedures and decisions, with broad public participation"²² (Minas Gerais, 2003^a – our translation). In the Law, this prerogative is contained in Item XI of Article 2 and is more limited: "public participation, through public consultation"²³ (Minas Gerais, 2003b – our translation).

Regarding the Public-Private Partnership Management Council, there is a substantial change between the Bill and the Law. In the former, the Council was responsible for approval; in the latter, the same Council will be responsible for drafting the Plan. This means the Executive branch will determine when a project is created and also the object that will use the PPP mechanism "for the benefit of the people of Minas Gerais."

Article 14 of Law No. 14.868/2003 refers to Article 9 of the restructured Bill, indicating that the forms of state regulation became more restrictive compared to the Bill. However, in the Law approved by the legislature, Article 12, § 1, maintains the Minas Gerais Integrated Development Plan (PMDI) and the Multi-Year Government Action Plan

²⁰ Original text: "Art. 1º – Esta Lei institui o **Programa Estadual de Parcerias Público-Privadas**, destinado a disciplinar e promover a realização de parcerias público-privadas no âmbito da Administração Pública Estadual. Parágrafo único. As parcerias público-privadas de que trata esta Lei constituem **contratos de colaboração entre o Estado e o particular** por meio dos quais, nos termos estabelecidos em cada caso, **o ente privado participa da implantação e do desenvolvimento de obra, serviço ou empreendimento público**, bem como **da exploração e da gestão das atividades deles decorrentes**, cabendo-lhe contribuir com recursos financeiros, materiais e humanos e sendo remunerado segundo o seu desempenho na execução das atividades contratadas".

²¹ Original text: "indisponibilidade das funções reguladora e controladora do Estado".

²² Original text: "transparência dos procedimentos e decisões, com ampla participação popular".

²³ Original text: "participação popular, mediante consulta pública".

(PPAG) as commitments for short- and medium-term government action, and the PPP projects must be included in them.

Law No. 14.868/2003, when compared to the Bill sent by Governor Aécio Nerves to the Legislative Assembly, ensured that the normative instrument developed by the government was expanded in the scope of PPP objects and also provided more clarity to the instructions. Thus, it maintained better control over the partnership activities between the public and private sectors in the State of Minas Gerais.

Education is mentioned in Articles 5 and 6. The former assigns PPP to consider education, health, and social assistance as contract objects, leaving many possibilities open.

Art. 5 – Public-private partnerships may include:

- I – the provision of public services;
- II – the construction, expansion, maintenance, renovation, and management of public use facilities in general, as well as state terminals and public roads, including those received in delegation from the Union;
- III – the installation, maintenance, and management of assets and equipment that are part of infrastructure intended for public use;
- IV – the implementation and management of public projects, including the administration of human, material, and financial resources;
- V – the exploitation of public assets;
- VI – the exploitation of intangible rights owned by the State, including trademarks, patents and databases, management and administration methods and techniques.

§ 1 – The activities described in the sections of this article may be developed in the following areas:

- I – **education, health, and social assistance** [...] (Minas Gerais, 2003b, emphasis added – our translation).²⁴

It is possible to infer that, in the time frame between the Governor's Message and the final presentation of the Law, cognitive matrices were activated and the educational issue emerged. Article 6 refers to the veto of PPP for teaching activities, limiting structural and administrative actions. However, this would not prevent the insertion of private logic into

²⁴ “Art. 5º – **Podem ser objeto de parceria público-privada:**

- I – a prestação de serviços públicos;
- II – a construção, a ampliação, a manutenção, a reforma e a gestão de instalações de uso público em geral, bem como de terminais estaduais e de vias públicas, incluídas as recebidas em delegação da União;
- III – a instalação, a manutenção e a gestão de bens e equipamentos integrantes de infra-estrutura destinada a utilização pública;
- IV – a implantação e a gestão de empreendimento público, incluída a administração de recursos humanos, materiais e financeiros;
- V – a exploração de bem público;
- VI – a exploração de direitos de natureza imaterial de titularidade do Estado, incluídos os de marcas, patentes e bancos de dados, métodos e técnicas de gerenciamento e gestão.

§ 1º – As atividades descritas nos incisos do caput deste artigo **poderão ser desenvolvidas nas seguintes áreas:**
I – **educação, saúde e assistência social** [...]”.

the public sphere. Therefore, it is akin to saying that it would favor the movement of privatization in education.

However, this was not an obstacle for the further creation of a project for the expansion and establishment of State Schools in the State Public-Private Partnership Plan (2016-2017), shifting to the private sector an alleged urgency to produce an efficient public education policy.

In this context, the Aécio Neves government (2003-2010) envisioned, in the creation of the PPP legal framework, a political restructuring of the State, with the support of the private sector in the "affairs of the State."

In the last quarter of the year, projects such as Trilhas de Futuro²⁵Monitoring of Integral Education coordinated by the Instituto Sonho Grande, and the Projeto Somar are part of the programs and (priority)actions of the Minas Gerais Secretary of Education. The evidence of the narrowing of private alongside public sectors is becoming more apparent each day, and the creation of regulatory acts helps in managing actions within the state apparatus.

This movement became frequent both nation and worldwide, as the valorization of the private sector and the business logic in the modeling of NPM constitute a foundation and consolidate the new national neoliberal policy. This *modus operandi* of the state of Minas Gerais to legitimize public-private partnerships based on legal grounds is subsequently replicated by the Union and other states of the Brazilian federation.

Final remarks

We have observed the normative and cognitive narrative in the construction of the PPP Law in Minas Gerais, based on a global framework that was imposed within the composition of NPM tools, dominant since the 1990s, considering the presence of different actors in the political arena.

Our documentary research has shown that PPP, as a collaborative tool between the private sector and the State, goes beyond the definition of privatization (Di Pietro, 2005). More than that, it refers to incorporating ideas from the private sector into the bosom of the State apparatus. PPP in Minas Gerais is not a "simple" public-private relationship. It is instead a State policy implemented during the Aécio Neves administration (2003-2010), aiming to solidify the ideals of business management, particularly with potential implications for the privatization of education in the near future. This idea could imply new research directions in the field of education.

²⁵ Further reading in : <https://www.trilhasdefuturo.mg.gov.br/>.

Based on Muller and Surel's cognitive analysis theory (2002), our effort to understand the normative creation process went beyond "the letter" of the State Law on public-private partnerships. It allowed identification of the actors involved in the political arena, as well as the formulation of the cognitive framework used in constructing the global and sectoral references.

In summary, this article has shown that PPP is part of governing mechanisms in the state of Minas Gerais, regardless of political party, being this action solidified through strengthened cognitive matrices during the construction of the PPP Law, reflecting aspects of New Public Management.

References

ADRIÃO, Theresa; BEZERRA, Egle Pessoa. O setor não lucrativo na Gestão da Educação Pública: corresponsabilidade ou debilidade. *Currículo sem Fronteiras*, v. 13, n. 2, p. 256-268, maio/ago. 2013. Disponível em: <https://www.curriculosemfronteiras.org/vol13iss2articles/adriao-bezerra.pdf>. Acesso em: 5 fev. 2021.

ADRIÃO, Theresa. Dimensões e formas da privatização da educação no Brasil: caracterização a partir de mapeamento de produções nacionais e internacionais. *Currículo sem Fronteiras*, v. 18, n. 1, p. 8-28, jan./abr. 2018. Disponível em: <http://www.curriculosemfronteiras.org/vol18iss1articles/adriao.html>. Acesso em: 5 fev. 2021.

AUGUSTO, Maria Helena. Regulação educativa e trabalho docente em Minas Gerais: a obrigação de resultados. *Educação e Pesquisa*, São Paulo, v. 38, n. 3, p. 695-709, jul./set. 2012. DOI: <https://doi.org/10.1590/S1517-97022012000300011>.

AUGUSTO, Maria Helena. Os últimos dez anos de governo em Minas Gerais: a política de resultados e o trabalho docente. *Educação e Sociedade*, Campinas, v. 34, n. 125, p. 1269-1285, dez. 2013. DOI: <https://doi.org/10.1590/S0101-73302013000400013>.

BORDOLI, Eloísa; CONDE, Stefania. El progresivo encanto por la gestión privada: análisis de los modelos de la gestión pública-privada en enseñanza media en Uruguay (2002-2013). *Educação e Sociedade*, Campinas, v. 37, n. 134, p. 73-90, jan./mar. 2016. DOI: <https://doi.org/10.1590/ES0101-73302016157845>.

BRASIL. Lei nº 11.079, de 30 de dezembro de 2004. Institui normas gerais para licitação e contratação de parceria público-privada no âmbito da administração pública. *Diário Oficial da União*, Brasília, DF, 31 dez. 2004.

CAETANO, Maria Raquel; PERONI, Vera Maria Vidal. Ensino Médio no Brasil e a proposta educacional do Instituto Unibanco: considerações sobre a mercantilização da educação pública. In: PERONI, Vera Maria Vidal (Org.). *Diálogos sobre as redefinições no papel do Estado e nas fronteiras entre o público na educação*. São Leopoldo: Oikos, 2015. p. 89-107.

CORREIA, Rogério (Dep.). Pronunciamento. In: REUNIÃO ORDINÁRIA DA 1ª SESSÃO LEGISLATIVA ORDINÁRIA DA 15ª LEGISLATURA, 63., 2003. *Ata da...* Belo Horizonte: UFMG, 2003. Disponível em: <https://www.almg.gov.br/consulte/pronunciamentos/detalhe.html?id=15764#texto>. Acesso em: 16 jul. 2020.

DALE, Roger. A sociologia da educação e o Estado após a globalização. *Educação e Sociedade*, Campinas, v. 31, n. 113, p. 1099-1120, out./dez. 2010. DOI: <http://dx.doi.org/10.1590/S0101-73302010000400003>.

DI PIETRO, Maria Sylvia Zanella. *Parcerias na administração pública: concessão, permissão, franquia, terceirização, parceria público-privada e outras formas*. São Paulo: Atlas, 2005.

DORNELLAS, Liege Coutinho Goulart. *A parceria público-privada na/da educação de Minas Gerais: um estudo sobre sua gênese normativa*. Tese de Doutorado em Educação. Centro de Educação. Universidade Federal do Espírito Santo. 2020. 209 páginas.

FERNANDEZ, Rodrigo Nobre et al. Parcerias público-privadas: uma alternativa para a educação brasileira. *Planejamento e Políticas Públicas*, Brasília, n. 52, p. 389-408, jan./jun. 2019. Disponível em: <https://www.ipea.gov.br/ppp/index.php/PPP/article/view/885>. Acesso em: 3 fev. 2021.

GARCIA, Teise de Oliveira Guaranha. Contratualização de resultados na gestão educacional escolar em redes estaduais de ensino. *RBPPE*, Goiânia, v. 35, n. 1, p. 77-98, jan./abr. 2019. DOI: <https://doi.org/10.21573/vol1n12019.89873>.

KUEHN, Larry; MATHISON, Sandra; ROSS, E. Wayne. *The Many Faces of Privatization*. IPE/BC Occasional Paper No. 1 Vancouver, BC, June 5, 2018.

LAVILLE, C.; DIONNE, J. *A construção do saber*. Manual de metodologia da pesquisa em ciências humanas. Porto Alegre: Artmed; Belo Horizonte: Editora UFMG, 1999.

MARTINS, André Silva. *A direita para o social: a educação da sociabilidade no Brasil contemporâneo*. Juiz de Fora: Editora UFJF, 2009.

MINAS GERAIS. Mensagem nº 86/2003, de 09 de julho de 2003. *Diário do Legislativo*. Belo Horizonte, 12 jul. 2003.

MINAS GERAIS. Projeto de Lei nº 889/2003, de 09 de julho de 2003. Dispõe sobre as parcerias público-privadas e dá outras providências. *Diário do Legislativo*. Minas Gerais, 12 jul. 2003a.

MINAS GERAIS. Lei nº 14.868, de 16 de dezembro de 2003. Dispõe sobre o Programa Estadual de Parcerias Público-Privadas. *Diário do Executivo*. Minas Gerais, 17 dez. 2003b.

MOREIRA, Herivelto; CALEFFE, Luiz Gonzaga. *Metodologia da pesquisa para o professor pesquisador*. Rio de Janeiro: Lamparina, 2008.

MOSCHETTI, Mauro Carlos; GOTTA, Verónica. De las rocallosas a los Andes: el experimento de escuelas chárter en el contexto político argentino. *Educação e Sociedade*, Campinas, v. 37, n. 134, p. 55-72, jan./mar. 2016. DOI: <https://doi.org/10.1590/ES0101-73302016156075>.

MULLER, Pierre; SUREL, Yves. *A análise das políticas públicas*. Tradução de Agemir Bavaresco e Alceu R. Ferraro. Pelotas: EDUCAT, 2002.

NEVES, A. *Mensagem nº 86/2003*. Disponível em: [https://www.almg.gov.br/atividade-parlamentar/projetos-de-lei/documento/?tipo=PL&num=889&ano=2003&expr=\(PL.20030088900\[codi\]\)\[txmt\]](https://www.almg.gov.br/atividade-parlamentar/projetos-de-lei/documento/?tipo=PL&num=889&ano=2003&expr=(PL.20030088900[codi])[txmt]). Acesso em 30 junho 2024

NEVES, A. *Diário do Legislativo*. Minas Gerais, 02 out. 2003b. p. 3.

OLIVEIRA, Dalila Andrade; DUARTE, Marisa Ribeiro Teixeira. Política e administração da educação: um estudo de algumas reformas recentes implementadas no estado de Minas Gerais. *Educação e Sociedade*, Campinas, v. 18, n. 58, p. 123-141, jul. 1997. DOI: <https://doi.org/10.1590/S0101-73301997000100005>.

PERONI, Vera Maria Vidal (Org.). *Diálogos sobre as redefinições no papel do Estado e nas fronteiras entre o público na educação*. São Leopoldo: Oikos, 2015.

PINHEIRO, Armando Castelar. Privatização no Brasil: Por quê? Até onde? Até quando? In: GIAMBIAGI, Fábio; MOREIRA, Maurício Mesquita (Orgs.). *A economia brasileira nos anos 90*. 1. ed. Rio de Janeiro: BNDES, 1999. p. 147-182.

SANTOS, Lucíola Licínio de Castro Paixão; VIEIRA, Livia Maria Fraga. “Agora seu filho entra mais cedo na escola”: a criança de seis anos no ensino fundamental de nove anos em Minas Gerais. *Educação e Sociedade*, Campinas, v. 27, n. 96 - Especial, p. 775-796, out. 2006. DOI: <https://doi.org/10.1590/S0101-73302006000300008>.

SAVIANI, Dermeval. *História das ideias pedagógicas no Brasil*. Campinas: Autores Associados, 2007.

SEVERINO, Antonio Joaquim. O público e o privado como categoria de análise em educação. In: LOMBARDI, José Claudinei; JACOMELI, Mara Regina Martins; SILVA, Tânia Mara Tavares da (Orgs.). *O público e o privado na história da educação brasileira: Concepções e práticas educativas*. 1. ed. Campinas: Autores Associados, 2005. p. 31-40.

SILVA JUNIOR, Geraldo Edmundo; FARIA, Mercio Botelho; GOMIDE, Uyara de Salles. A dinâmica das coalizões na Assembleia Legislativa de Minas Gerais. *Planejamento e Políticas Públicas*, Brasília, n. 50, p. 351-377, jan./jun. 2018. Disponível em: <https://www.ipea.gov.br/ppp/index.php/PPP/article/view/749>. Acesso em: 3 fev. 2021.

SILVA, Maria Vieira; RICHTER, Leonice Matilde. A adoção da nova gestão pública nas agendas governamentais em diferentes países: influências nas reformas educacionais e no ensino médio mineiro. *Revista on-line de Política e Gestão Educacional*, Araraquara, v. 22, n. esp. 3, p. 1276-1296, dez. 2018. Disponível em: <https://periodicos.fclar.unesp.br/rpge/article/view/12012>. Acesso em: 3 fev. 2021.

RIBEIRO, Josete Maria Cangussú. Luta pela profissionalização dos funcionários de escola pública em Mato Grosso: o histórico dos últimos vinte anos. In: RIBEIRO, Josete Maria Cangussú (Org.). *Profissionalização e valorização dos profissionais da educação: um estudo de caso do Estado de Mato Grosso*. Tangará da Serra, MT: Editora UNEMAT, 2020. v. 3, p. 110-130.

TRIPODI, Zara Figueiredo; SOUSA, Sandra Zákia. A governança em rede na regulação da educação básica mineira: quem governa o quê? *Educação em Revista*, Belo Horizonte. v. 32, n. 4, p. 297-321, dez. 2016. DOI: <https://doi.org/10.1590/0102-4698152412>.

VIZZOTTO, Liane; CORSETTI, Berenice; PIEROZAN, Sandra Simone Höpner. O público e o privado para os serviços sociais. *Retratos da Escola*, Brasília, v. 11, n. 21, p. 543-556, jul./dez. 2017. DOI: <https://doi.org/10.22420/rde.v11i21.794>.

ZIEGMANN, André Barsch. *Perfil sociopolítico e decisões legislativas na 15ª Legislatura das Assembleias legislativas do Paraná, São Paulo e Minas Gerais (2003-2007)*. 2011. 178f. Dissertação (Mestrado em Ciência Política) - Instituto de Filosofia e Ciências Humanas. Universidade Estadual de Campinas, Campinas, 2011.