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Auditing Government-nonprofit Relations in the Brazilian Post-reformist Context

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Abstract

Recent decades have been marked by a rising interaction between the State and nonprofits in order to address increasingly complex public issues. Government-nonprofit relations were guided by a complex and diverse legal framework, that transformed not only the implementation of public policies, but also the auditing practices and control of such relations. Previous studies have shown the influence of NPM reforms in auditing practices and institutions, of particular interest to this research is the Theory of the Audit Explosion (TEA). This paper analyzes the control of government-nonprofits relations, under the perspective of the TEA, specifically trying to comprehend if there is a causal relationship between the growth of government-nonprofit relations and the audit explosion in the Brazilian context, as predicted by the theory. A field research, based on documentary data and interviews, was undertaken in three Brazilian SAIs. The conclusions highlight the limitations of the explanatory capacity of TEA in Brazil. Although a formal **audit explosion** was observed, as predicted by TEA, there are substantive barriers to the audit **explosion**. This is mainly due to the organizational and institutional aspects related to governmental fund transfer entities. Such problems reflect the poor quality of the partnerships themselves and might be a consequence of political variables such as the spurious relationships of some parliamentary members or public employees with partner NGOs.

Key words: control; theory of audit explosion; reform; superior audit institutions (SAIs).

Introduction

Collaborative relationships among government, business and civil society addressing social issues and delivering public services have been a growing trend worldwide. As a matter of fact, reforms inspired in the New Public Management (NPM) recommended the transference of public funds and delegation authority for implementing public policies to a set of possible agents besides bureaucracy, such as nonprofits or private firms. Such a phenomenon is not just exclusive to advanced economies, but is also found in developing ones (Brinkerhoff & Brinkerhoff, 2002; Oliveira & Tandon, 1994; Selsky & Parker, 2005).

Brazil is not an exception. Recent decades have been marked by a rising interaction between the State, nonprofits and the private sector in order to address increasingly complex public issues. Government-nonprofit relations were promoted by a sophisticated, although complex and diverse, legal framework, that has been associated with the impact of NPM (Paes de Paula, 2005), or, at least, officially inspired by the Anglo-Saxon Third Way (Bresser-Pereira & Cunill, 1999).

On the other hand, such substantive change raised the awareness about the auditing of government-nonprofit relationships.

Studies have shown the influence of NPM inspired reforms in the role of Superior Audit Institutions (SAIs) or in the way auditing and control are exercised (Kelly, 2003; Pollitt & Summa, 1997). In the Anglo-Saxon context, the Theory of the Audit Explosion (TEA) identifies an explosion of audit and control activities over recent years. TEA relates such a quantitative explosion and changes in the quality of control to the transformations unleashed by reforms inspired by NPM (Pollitt & Summa, 1997; Power, 1994, 2005).

This paper presents the results of a field research aimed at analyzing the auditing of government-nonprofits relations under the perspective of TEA. This article specifically seeks to answer the following question: Is there a causal relationship between the growth of government-nonprofit relations and the audit explosion in the Brazilian context?

In order to answer this question, interviews were conducted with members of the Brazilian Court of Audit (*Tribunal de Contas da União* [TCU]), the Court of Audit of the State of São Paulo (*Tribunal de Contas do Estado de São Paulo* [TCE-SP]) and the Court of Audit of the State of Rio de Janeiro (*Tribunal de Contas do Estado do Rio de Janeiro* [TCE-RJ]). In addition we analyzed decisions from two of these supreme audit institutions (TCU and TCE-RJ) and recent changes in the Brazilian legislation that regulates the nonprofit sector. Therefore, the sample comprises the courts of auditors responsible for the Brazilian Federal government and the two most populous Brazilian states (São Paulo and Rio de Janeiro).

The conclusions of the study highlight the limitations of the explanatory capacity of TEA in the Brazilian case. Although a formal **audit explosion** was observed, as predicted by TEA, there are few substantive changes in auditing practices. The barriers to the audit **explosion** include organizational and institutional aspects related to governmental fund transfer entities, particularly the lack of human and material conditions required for the proper performance of the control function, as well as the lack of criteria in selecting NGO partners and procedures for evaluating their technical skills. Such problems reflect the poor quality of the partnerships themselves; a consequence of political variables such as the spurious relationships some parliamentary members and public employees have with partner NGOs.

New Public Management and the Theory of the Audit Explosion

Reforms inspired in NPM have not just influenced public management dynamics, but also the role of supreme audit institutions (SAIs) and how control and audit are exercised (Kelly, 2003). Specifically, the theory of the audit explosion, hereinafter referred to as TEA, relates to the increase in the auditing and monitoring practices associated with public management reform processes adopted in countries such as the United Kingdom in the 1980's, and other jurisdictions that were involved in reforms inspired by NPM.

The TEA has both an explanatory and a critical perspective. The former seeks to document and explain the urgency of new standards and intensities of audit and surveillance; while the latter focuses on the unintended impact of such control practices on audited organizations and public services (Power, 1994, 2005).

Michael Power, the main proponent of TEA, defends a critical approach to auditing and accounting practices, arguing that the sociological context is important for comprehending such phenomena (Power, 1995). TEA's explanatory perspective – the focus of this paper – is one of his recent contributions.

The TEA explanatory perspective relates the explosion of auditing and other forms of control with emphasis on cost control and efficiency with NPM reforms. According to Power (2005), the increase in the audit practices sought to exchange traditional control, which was focused on the regularity and legality of transactions, for a control guided by the principles of efficiency and value for money. This is a direct consequence of three factors underlying NPM reforms: (a) the political demand for greater accountability of public service providers aligned with a neoliberal preference for economic control at a distance; (b) fiscal constraints that influenced a political determination to reduce public borrowing; and; (c) concern with the efficiency and quality of public sector services, expressed in terms of performance accountability and customer focus.

Especially in countries such as the United Kingdom, New Zealand and Australia, NPM resulted in changes to the traditional and legalistic approach of the audit and its urgency as an instrument of economic modernization. Auditing is no longer a mere formal control device, and has instead become a powerful instrument for public policy, by which the ideals of efficiency and effectiveness are disseminated. In such jurisdictions, SAIs became explicit instruments for public sector reform, with a crucial role in monitoring the activities of the regulatory state (Power, 2005). Some authors such as Hood (2002) assert that, in practice, this **control** bureaucracy continues to be of a legalistic and formalistic nature with little progress in the performance perspective. In other words, TEA applied to the Anglo-Saxon experience constitutes a paradox: the increase of control-oriented bureaucratic structures as a result of reforms inspired by the NPM, contradicting the logical conclusion that NPM precepts would lead to a position in which the role of SAIs had no distinctive *raison d'être* (Pollitt & Summa, 1997).

Other research also relates NPM with SAIs in the UK (Pollitt & Summa, 1997), or with new modes of control in public service (Hoggett, 1996). Kelly (2003), for example, shows that the role of the Audit Commission has expanded considerably, going beyond its regulatory role, and acts as an independent expert and opinion former as well as a mediator. However, studies also indicate limitations on the scope and impact of British SAIs to engage in a wide-ranging evaluation (Broadbent & Laughlin, 1997; Roberts & Pollitt, 1994). As a consequence, NPM reforms influence the new modes of control and the role of SAIs in contradictory ways.

Particularly in a comparative perspective, the explanatory nature of TEA loses some of its strength, mainly because of the different directions of NPM reforms. In fact, when the United States of America is considered, it is clear that the auditing and monitoring functions are not part of the NPM prescriptions adopted there, because of an institutional system based on strong checks and balances. According to Power (2003), these differences can be understood in the light of the institutional

variables that differentiate the various national contexts. Unlike the United Kingdom, where NPM reforms were an answer to a serious institutional crisis against the **club of government**, in the United States the neoliberal prescription responded to a crisis of technocratic and organizational nature. This crisis did not question the existing devices of regulation and control, guided by processualistic tradition dating to the 1930's (Peci, 2007), but it kept much of the existing governance arrangements. In addition, Hood, James, and Scott (2004) assert that in institutional contexts such as the UK, characterized by the weakness of the control and authority sources coming from legislative and judicial powers in comparison to the executive, the audit explosion can be seen as a compensation for weakness in control exercised by other branches.

However, Pollitt and Summa (1997) highlight that, despite substantial differences of constitution and culture, SAIs have not been able to ignore national and international forces propelling managerialism. A new discourse based on performance, effectiveness and productivity is becoming dominant in auditing practices, and different SAIs apply, in at least part of their work, managerial criteria to audits.

Therefore, does the TEA maintain its explanatory power in the Brazilian context? This paper specifically associates the growth in government-nonprofit relationships to the current auditing practices. In fact, over the past few years, as a consequence of NPM inspired reforms, Brazil has experienced a substantial change in government relations with the non-profit sector, represented by the emergence of different institutional designs of partnerships, such as Social Organizations (SO) and Civil Society Organizations of Public Interest (CSOPI), as well as the transfer of substantial funds to a large number of nongovernmental organizations (NGO) (Table 1). In addition, the Brazilian institutional context is also historically characterized by a long tradition of formal legalistic approach to control. Currently, at least in terms of legal framework, there is an attempt to adapt auditing practices to the new forms of government partnerships with nonprofits. In this context, it would be important to check if the **explosion** of government-nonprofit partnerships is followed by the explosion of auditing practices, as well as by substantial changes in how auditing is exercised, going beyond the legalistic and bureaucratic control, to a performance control approach.

This study seeks to go further, trying to also identify some barriers that obstruct the adaptation of auditing practices to the changes in government-nonprofit relationships in Brazil. As a matter of fact, studies in other national contexts also point out that there are limitations in performing wide-ranging evaluations due to government resistance (Broadbent & Laughlin, 1997) and in adopting performance auditing practices (Bouckaert & Halligan, 2008; Nicoll, 2005).

The 'Explosion' of Government-nonprofit Relations in the Brazilian Context

Generally, in Latin American countries, and specifically in Brazil, the growth of NGOs and the nonprofit sector after the 1980s and their growing relationships with government is seen from two different perspectives. The first one, highly normative, advocates partnerships as a means to strengthen democratization processes and to overcome state crises by improving the efficiency and effectiveness of public service delivery (Bresser-Pereira & Cunill, 1999). Secondly, the expansion of the nonprofit sector is seen as a managerial solution related to the state crisis and the neoliberal strategies used to overcome it, but it is also criticized for implying depoliticization – a blurring of boundaries between civil society and the third sector. The fracture of NGO autonomy and their distance from social movements is considered as an indicator of such depoliticization (Dagnino, 2002; Lavalle, 2003; Nogueira, 2003; Teodósio, 2008).

The consolidation of government-nonprofit relations in Brazil can be associated with the State Apparatus Reform Plan (hereafter, the Plan), elaborated in 1995 to diagnose the crisis of the state and to propose strategies to overcome it. Up to this point, the only certifications granted to nonprofit organizations were the *Título de Utilidade Pública Federal* (Federal Public Utility Certificate) and

Certificado de Entidade Beneficente de Assistência Social (Beneficent Social Assistance Entity Certification), created between the 1930's and 1960's. The Plan illustrated the new view of the government regarding the relationships with civil society, specifically, the nonprofit sector, supporting the creation of a **public non-state sector** (*Ministério da Administração Federal e Reforma do Estado* [MARE], 1995). That document classified strategies according to the form of ownership (state, nonprofit, private) and its form of administration (bureaucratic, managerial).

The main strategies consisted of relegating state activities to private organizations, through delegation (to the nonprofit sector) or privatization (to the market). The first strategy was defined as **publicization**. Social organizations (SO) were foreseen as the institutional design intended to deliver the publicization strategy, transforming former state organizations into nonprofit ones (MARE, 1995). SO are a model of non-state public organization aimed at the absorption of publicizable activities focused on education, scientific research, technological development, protection and preservation of the environment, culture and health.

The Plan shares the dominant governance paradigm on government-nonprofit relationships that supports market forces as the main solution of societal problems (Brinkerhoff & Brinkerhoff, 2002; Salomon, 1998; Selsky & Parker, 2005). Nonprofits, as part of the private sector, are considered a more efficient and effective service deliver, because, when compared to state authorities, NGOs usually: (a) present more flexible, participative and innovative management models; (b) are closer to social groups under-represented in the design of public policies; (c) are more likely to improve the efficiency of public social programs; and (d) allow the introduction of competition elements among providers (Navarro, 1999).

Conceptually, the Plan was explicitly inspired by the Anglo-Saxon Third Way (Giddens, 1998, 2000), recognizing the limits of government in the social sphere, and promoting partnerships with civil society organizations engaged in the provision of public services. SO would promote the growth of a **public non-state sector** – a redefinition of civil society as a stage of organizations that are **public** because they deal with general interests, but are also **non-state** because they are not related to state apparatuses (Bresser-Pereira & Cunill, 1999; MARE, 1995; Nogueira, 2003).

The Brazilian federal experience with SO was not successful, in part due to resistance from public servants (Peci, 2007; Rezende, 2008). The new CSOPI institutional design was an attempt to promote the consolidation of **spontaneous** partnerships with civil society organizations, where nonprofits act as the initiators of the relationship (Ferrarezi, 2001). In 1999, a federal law n. 9.790 (1999) established the criteria for qualification of legal entities as a CSOPI and created the Partnership Agreement (PA). CSOPI qualification is awarded by the Ministry of Justice to nonprofits that operate in activities such as education and health, environmental protection, social welfare, and preservation of national heritage (*Ministério do Planejamento, Orçamento e Gestão Secretaria de Gestão* [MPOG], 2002). PA is the instrument provided to establish the relationship between the government and entities qualified as CSOPI in fostering and performing projects. It was conceived within a managerial approach and aims at a greater autonomy and accountability from the public manager, specifying rights, responsibilities and obligations established by mutual agreement between parties. In addition to the results to be achieved and their respective deadlines, PA establishes criteria and estimates parameters to assess performance (usually based on income and expenditures) for the period covered by the project implementation. Therefore, the PA was designed as a performance management instrument, giving more flexibility to the project implementation (MPOG, 2002).

Besides the new CSOPI institutional design, the substantial growth in government-nonprofit partnerships becomes more evident when the **NGOs relevance** to the Brazilian Federal Budget is taken into consideration. In fact, according to Carvalho (2007), about R\$12.5 billion were transferred to NGOs during the period between 2001 and 2006, an annual average of R\$2 billion. This amount represents 16% of all voluntary transfers, which also includes the funds transferred by the Federal Government to states and local governments in that period. In terms of quantity, there was an increase of 39% in the number of beneficiary institutions, between the years 2003 and 2005, reaching a total of 4,508 entities benefiting from such arrangements in 2005.

The transfers of funds to NGOs continued to grow steadily through different formal agreements. In the period 2004–2011, more than R\$27.7 billion were handed over to nonprofit entities, as presented in Table 1.

Table 1

Funds Transferred from the Federal Government, Per Year

Year	Transfer to Nonprofit (*)	Total transfers (*)	Percentage	Number of beneficiaries (Nonprofit entities)
2011	4,394.47	261,912.47	1.7%	99,941
2010	5,390.87	232,525.32	2.3%	100,194
2009	3,844.95	209,364.79	1.8%	92,305
2008	3,452.96	203,766.06	1.7%	78,780
2007	3,338.96	165,034.76	2.0%	79,416
2006	2,885.40	144,827.55	2.0%	79,344
2005	2,483.89	120,460.27	2.1%	75,488
2004	1,923.78	105,818.25	1.8%	71,815

Note. Source: Controladoria-Geral da União. (n.d.). *Transferências de recursos por favorecido (Entidades sem fins lucrativos)*. Portal da Transparência do Governo Federal. Retrieved from <http://www.portaltransparencia.gov.br/PortalTransparenciaPesquisaFavorecido.asp?hidIdTipoFavorecido=2&hidNumCodigoTipoNaturezaJuridica=3&Exercicio=2011> and <http://www.portaltransparencia.gov.br/PortalTransparenciaPesquisaFavorecido.asp?hidIdTipoFavorecido=2&hidNumCodigoTipoNaturezaJuridica=3&Exercicio=2010>

(*) Amounts in R\$1,000,000, nominal value.

Based on this scenario and influenced by the TEA we investigated: has the growth in government-nonprofit relationships been followed by the quantitative explosion of audit and control practices? Were the auditing practices substantially transformed? If not, what are the obstacles hindering the causal relationship defended by the TEA?

Methodology

To answer these questions, a field research was performed within a qualitative approach that has a primarily exploratory and comprehensive nature. The study was developed in two steps.

First, based on documental (legal framework) and bibliographical study, we verified whether the growth of government-nonprofit relations has been followed by an increase in control and auditing practices, as well as by a substantial change in auditing practices, as defended by the Theory of Audit Explosion. During this phase, it was observed that the legal framework supports a formal growth in the form and number of auditing practices, as predicted by TEA. However, such growth was not identified in practice, as shown in the following sections of this paper.

The second step was based on documentary sources and interviews with representatives of the Brazilian Court of Audit (TCU) and the Court of Audit of the State of Rio de Janeiro (TCE-RJ), and interviews with representatives of the Court of Audit of the State of São Paulo (TCE-SP), supreme audit institutions responsible for applying the new legal framework and instruments related to auditing practices. The TCU representatives interviewed will be hereinafter referred to as **Interviewee A**; the set of people interviewed in the TCE-RJ will be **Interviewee B**; and TCE-SP as **Interviewee C**. All interviewees were high-level managers within SAIs, directly working with the issue of government-

nonprofit partnerships, in different levels: federal, state (RJ and SP) and municipalities (all local governments of RJ and SP, except for the cities of Rio de Janeiro and São Paulo). Another important source that was used to validate and support our findings was Valentin (2011), a study that used data mining in *Sistema de Convênios do Governo Federal (SICONV)* and other TCU information systems to evaluate government-nonprofit agreements. During this phase, we tried to identify the main obstacles influencing the actual adjustment of auditing practices to the growth in government-nonprofit relationships.

Notice that Brazil has one TCU, 26 TCEs (one for each State) and two local government courts of audit (one for the city of Rio de Janeiro – TCM-RJ, and another for the city of São Paulo – TCM-SP). Our sample comprises the courts of audit responsible for the Federal government and the two biggest Brazilian states (São Paulo and Rio de Janeiro). Therefore, we expect that auditing practices adopted by the other 24 TCEs are not advanced in comparison with those identified in our field study. We do not know what to expect from TCM-RJ and TCM-SP.

In addition to the interviews, several audit reports, decisions and judgments published by the TCU and TCE-RJ were analyzed. At the federal level (TCU), the main information related to the control of NGOs derives from an auditing system named Centralized Guidance Surveillance (CGS), on the relationships between civil society organizations and the Federal Government. Table 2 presents the main documents reviewed:

Table 2

Summary of Documentary Study Performed at the Federal Level

TCU DECISION	BRIEF DESCRIPTION OF THE CASE	PERIOD COVERED
n. 1.777 (2005a)	Assessment of the application of funds transferred through Partnership Agreement from the Ministry of Planning, Budget and Management to Rede Brasileira de Promoção de Investimentos – Investe Brasil, a CSOPI engaged in promoting investments in Brazil.	2001-2005
n. 2.261 (2005b)	Assessment of deviation of R\$ 42.7 million, and weaknesses in the control procedures related to a centralized guidance surveillance of 109 arrangements between the Federal Government and five entities engaged in agricultural activities and reform - AGRÁRIA (Associação Nacional de Cooperação Agrícola, Confederação das Cooperativas de Reforma Agrária, Instituto Técnico de Capacitação e Pesquisa da Reforma Agrária, Organização das Cooperativas Brasileiras e Sociedade Rural Brasileira).	1998-2004
n. 788 (2006a)	Assessment of weaknesses identified in the control systems of federal funds allocated under voluntary transfers. Results identified that accounts were approved in spite of the proper scrutiny process,	2002
n. 2066 (2006b)	Assessment of irregularity in the application of R\$150.7 million allocated by the Federal Government or Indirect Administration entities to 11 NGOs.	1999-2005

At the state level (TCE-RJ), we selected 14 cases containing the conclusions on the audits performed in more than 27 contracts with NGOs in state and in local governments (municipalities) of Rio de Janeiro, between 2004 and 2007. Table 3 presents the main documents analyzed:

Table 3

Problems in Cases Involving NGOs

YEAR	PROCESS	SOURCE	No. of NGOs
2004	201.402-3/04	Levy Gasparian Local Government	1
2004	201.689-3/04	Três Rios Local Government	1
2005	211.360-3/05	São José de Ubá Local Government	1
2005	213.928-5/05	Italva Local Government	1
2005	223.845-9/05	Santa Maria Madalena Local Government	6
2005	229.602-7/05	Resende Local Government	1
2005	230.162-6/05	Quissamã Local Government	N/D
2006	102.391-6/06	FESP - Fundação Escola de Serviço Público RJ	11
2006	209.342-7/06	Itaperuna Local Government	N/D
2006	211.612-6/06	Piraí Local Government	1
2006	218.441-4/06	Angra dos Reis Local Government	2
2006	234.399-1/06	Itaperuna Local Government	N/D
2007	221.985-5/07	Campos Local Government	1

Note. Source: Prepared by the authors.

Results from the field survey are presented and discussed as follows.

Government-nonprofit Relations and the Ambiguities of the Brazilian Audit Explosion

When changes are analyzed from the legalistic perspective, considering the new legal framework introduced to deal with the auditing practices related to the growing government-nonprofit partnerships, the TEA still keeps its explanatory power in the Brazilian case. In fact, the multiplication of partnerships with the nonprofit sector was followed by a series of legal modifications in terms of internal and external auditing practices. The current Brazilian legislation foresees a number of actors responsible for auditing government-nonprofits relations. It also created new auditing instruments and substantively changed the forms of auditing nonprofits.

A growing number of actors shares responsibilities for monitoring and auditing nonprofits. The Public Prosecutor's Office, in accordance with the Brazilian Federal Constitution – from 1988, is responsible for auditing NGOs characterized as of social interest. However, the accounting, financial, budget, operational, and property auditing, regarding legality, legitimacy, cost-effectiveness, and use of public funds transferred to NGOs (including grants and income waiver) issues, is under Congress's responsibility, and is exercised with the aid of SAIs (TCU at the federal level, and TCEs at state and municipality levels), as well as through the internal control system of each respective power.

As a general rule, the NGOs should be accountable for the public funds they receive. They are responsible for proving the correct use of public funds and the achievement of the expected performance to the governmental entity that sponsors them, as well as to the internal control system central body. Should any irregularity be found, these bodies must inform the relevant external control body, under penalty of co-responsibility. In any event, nothing prevents the external control from acting on its own initiative, together with (or independent of) the internal control, as it deems necessary. Only when the entities are classified as SO, their annual accounts will be submitted

systematically to TCU's examination, according to Acórdão n. 592 (TCU, 1998). By analogy, the same concept applies to state and local governments.

In other cases, the auditing of government-nonprofit relations is carried out based on two procedures: Rendering of Special Accounts (*Tomadas de Contas Especiais*) and oversight:

- . The rendering of special accounts can be established by the governmental partner, when a nonprofit failure to comply with the obligations is observed, as well as by recommendation of control bodies (internal or external).
- . Oversight is part of the constitutional powers of the SAIs, performed by means of inspections and audits, both to verify the legality, legitimacy and cost-effectiveness of administrative acts and facts, practiced by any accountable person subject to the jurisdiction of the audit institutions.

Both procedures mentioned above can also be originated by grassroots initiatives, in the case of representations and complaints.

- . There are also legal modifications regarding the auditing practices applicable to CSOPI. New legal auditing requirements were established by TCU (1999) and are valid for the State and local levels.
 - . Accountability concerning PA: TCU analyzes the regularity of the execution and performance of the agreement based on the Audit and Management Reports prepared by the Internal Control, which must report on any faults or irregularities found, as well as the remedial measures taken.
 - . Rendering of Special Accounts: must be established whenever an irregularity in the application of federal funds allocated is found.
- . TCU at the federal level (and TCE at state and municipality levels) maintains the power to directly inspect PAs.

The most relevant changes in the legal framework are related to *Decreto* n. 6.170 (2007), and *Portaria Interministerial* n. 507 (2011), which establish different mechanism of *ex-ante* control, introduce competition in selection of the nonprofit partners, and improve transparency and accountability measures through the SICONV database and *Portal dos Convênios*, a website where all information regarding nonprofits partnerships is detailed. SICONV is an important innovation, considering that all the procedures related to formalization, execution and control of nonprofit agreements will be operationalized through such a system and will be fully open to public consultation, aiming at full transparency in government-nonprofit relations.

In regard to the state of São Paulo, an act issued by the General Director Secretary of TCE-SP (TCE, 2012), simplified the formalism of some auditing practices and require improvements to auditing productivity, efficacy, efficiency and effectiveness.

The new Brazilian legal framework related to government-nonprofit relations is intended to be very rigorous, and to at least multiply control and auditing practices. Simultaneously, there was also an attempt to substantively change the way auditing and control are exercised, trying to develop sound criteria for the assessment of government-nonprofit partnerships, by substituting bureaucratic and legalistic control for a performance oriented control approach. Table 4 illustrates the intended changes in the control approach adopted by Brazilian SAIs.

Table 4

Intended Evolution of the Control Approach by Brazilian SAIs

Auditing approach	Compliance-oriented	Performance-oriented
Focus	Legal aspects	Results
Time orientation	Retrospective	Concurrent
Main goal	Identify and document irregularities subject to punishment	Provide useful recommendations for improvement

The major question is whether the Brazilian SAI's are able to adapt to the new control approach, as oriented towards performance auditing, rather than the old, which was characterized by operational auditing for decades (Ribeiro, 2002). Rezende (2004) observed a mismatch in the Brazilian case between the reforms in the public sector and the necessary adjustments to the institutional framework, including its devices for the exercise of control.

On the other hand, the research also revealed a perception of a **lack** of control that dominates in Brazilian society regarding government-nonprofit partnerships. The recurring scandals reported in the media on the misuse of public funds by nonprofits led to the establishment of several Parliamentary Commissions of Inquiry and generated a widespread suspicion of these organizations. In 2001, the first parliamentary commissions of inquiry drew attention to flaws in energy sector regulation and in NGO auditing practices, especially regarding the use of public funds. In 2006-2007, the **Ambulances** Parliamentary Commission of Inquiry evidenced the little progress made in solving the auditing problems that had already been diagnosed. Finally, during 2007-2010 the Federal Senate established the **NGO** Parliamentary Commission that highlighted the patrimonialistic and clientelistic interaction between state members and NGOs managers. The growing perception that the government-nonprofit partnerships were not accompanied by improvement of the auditing and controlling practices is also confirmed by TCU reports, which indicated a lack of effective control, whether internal or external (Carvalho, 2007; Valentin, 2011). As an example, TCU issued Decision n. 1.777 (2005a), which emphasized that the CSOPI control was inserted in a larger context of NGOs, which, in many cases,

receive government funds without returning them to the society as public interest-oriented actions. Some of them, as we know, end up living on the State, exploiting its limited resources.... Out of all NGOs, 55% are maintained exclusively with public funds (TCU, 2005a, p. 164).

Therefore, the legalistic **explosion** of auditing practices in Brazil has been followed by an overall perception of government-nonprofit lack of control. Such ambiguity can be explained by a great distance observed between the legal changes concerning the auditing practices and control, aiming to follow up the growing government-nonprofit relations, and the reality of such associations (effective practices put in place). As a matter of fact, the changes in governance relationships with the nonprofit sector, although triggering a legal quantitative **explosion** of the audit practices, were not, in practice, followed by substantial changes to how auditing and control are exercised. Such distance becomes a problem, since the study also identified the prevalence of a negative perception regarding the control of government-nonprofit partnerships. It seems to be another case of Brazilian formalism, a well known cultural trend, characterized by the distance between legal prescription and reality (Riggs, 1968). That said, another question arises: What would be the barriers preventing the qualitative **explosion** of audit practices, focused on a performance control approach of government-nonprofit partnerships?

Barriers to the Qualitative Explosion of Audit Practices

The second research question aims to identify some constraints hindering the causal relationship defended by the TEA, between the growth of government-nonprofit partnerships, and the quantitative and qualitative increases of auditing practices.

The limited institutional, organizational, and technological capacity observed within the government partners (fund transfer bodies) are identified as the main barrier to TEA causal relationship.

One of the major obstacles lies in the human and physical deficiencies faced by government partners transferring funds to nonprofits. In fact, the **lack of human, material and technological resources within the fund transfer bodies** (*i.e.*, the governmental entity that hires the nonprofit entity) is a basic problem, since several other problems arise from it.

The **Ambulances** Parliamentary Commission of Inquiry report, covering the period 2006-2007, lists the main shortcomings in this respect, such as the control process (in the execution and monitoring) of the agreements is slow and not highly computerized, there are flaws in the technical specifications resulting in the instability of the analysis of proposals, in addition to a quantitative and qualitative deficiency of human resources available in the funds transfer bodies.

The TCU Decision n. 2066 (2006b), based on oversights, identified the same diagnosis on the execution of government-nonprofit partnership:

3.3.1 The audit ratifies the opinion of the other audits already performed in the scope of this Court: the Federal Government bodies and entities are unstructured and unprepared to control the use of funds transferred by them (TCU, 2006b, p. 8).

According to Interviewee C:

“small-sized municipalities (local government) are not able to hire and maintain highly qualified staff to perform relevant activities related to Public Administration and Governmental Accounting. Salary is not competitive and there are not enough qualified people (*i.e.*, with a good background in these areas) in the majority of the Brazilian Municipalities. As a consequence, the quality of information provided by them that is needed to perform auditing activities is very poor”.

Although Interviewee C does not define **small-sized municipality** and there are many criteria to classify municipalities by size, the Brazilian Institute of Geography and Statistics (IBGE - *Instituto Brasileiro de Geografia e Estatística*) classifies municipalities by size in accordance with the number of inhabitants (IBGE, 2002). Table 5 presents the number of Brazilian municipalities in each class, and the respective number of municipalities specifically from the State of São Paulo (where Interviewee C works), based on the inhabitant count made by IBGE in 2007.

Table 5

Municipalities Classified Per Size

	Brazil		State of São Paulo	
	Number of Municipalities	%	Number of Municipalities	%
Total	5,564	100.0%	645	100.0%
P ≤ 5,000	1,336	24.0%	166	25.7%
5,000 < P ≤ 20,000	2,668	48.0%	241	37.4%

Continues

Table 5 (continued)

	Brazil		State of São Paulo	
	Number of Municipalities	%	Number of Municipalities	%
20,000 < P ≤ 100,000	1,307	23.5%	168	26.0%
100,000 < P ≤ 500,000	217	3.9%	61	9.5%
P > 500,000	36	0.6%	9	1.4%

Note. Source: Instituto Brasileiro de Geografia e Estatística. (n.d.). *Banco de dados agregados - Censo demográfico e contagem da população*. Retriev from <http://www.sidra.ibge.gov.br/bda/tabela/protabl.asp?c=793&z=cd&o=26&i=P>

^aWhere: P is the population of the municipality, measured by the number of inhabitants.

Table 5 shows that 72% of Brazilian municipalities (63.1% of the municipalities from the state of São Paulo) have 20,000 inhabitants or less (*i.e.*, small or very small). Hence, attracting and retaining highly skilled staff might be a pervasive challenge (*e.g.*, more than 4,000 Brazilian municipalities have 20,000 inhabitants or less).

New technological resources as SICONV and *Portal dos Convênios* are not fully used to publicize and give transparency to partnerships, partly because of their precarious interface with potential users. According to Valentin (2011), the Ministry of Tourism operated 243 transfers to nonprofits during the first semester of 2011, followed by the Ministry of National Integration. However, no publicity was found on their respective webpages. An unfriendly interface with the available websites such as *Portal dos Convênios* that use a technical vocabulary (Program and Entity code are necessary to search for information) is also highlighted as an obstacle to control of the partnerships. Additionally, R\$26, 5 billion transferred to NGOs from September 2008 to June 2011 are still not available on the SICONV database.

Another barrier identified is related to the **lack of transparency, criteria and justifications in the selection of which nonprofits** to establish a partnership with.

According to Interviewee A:

“the lack of objective criteria and justification in the selection of the nonprofits supported has been the target of several orders from TCU.... Little progress has been made since then [1990’s], either in the selection of the nonprofits supported by budgetary funds, or in the rules concerning the disclosure of information and devices to promote social control of actions”.

This analysis agrees with the TCU Decision n. 2066 (2006b), highlighting “the lack of transparent criteria in selecting NGOs to receive funds by means of agreements and similar instruments” (TCU, 2006b, p. 6).

According to Interviewee B, this same problem is found in the State of Rio de Janeiro, but with an aggravating factor, characterized by the recurring fact of hiring nonprofits to perform outsourcing activities, violating the constitutional provision, which requires the government recruitment process to be made by bidding process.

Interviewee C agrees with interviewee B, and added:

“the Constitution and the fiscal law (Act 101/2000) provide incentives for such violations. The transfer of funds to a nonprofit (even for the payment of outsourcing activities; *e.g.*, providing health services) are not accounted for as ‘wages, salaries, employee benefits’ but as payments for ‘service providers’. Therefore, by hiring a nonprofit, the municipality avoids breaking a fiscal threshold that constrains the maximum amount spent with ‘wages, salaries, employee benefits’. However, such transfer can be accounted for as an expense related to ‘providing health activities’, hence the municipality is able to meet the constitutional threshold that requires expending at least a minimum amount with ‘health’. In addition, the law that regulates the bidding process in Act n. 8.666 (1993) is so complex for smaller municipalities, that the law, by itself, is an incentive to violate such constitutional provision”.

The **lack of adequate procedures for evaluating the technical and operational skills of nonprofits and their projects** was another result of the study. The data mining research of Valentin (2011) points out almost 300 agreements with NGOs that have a maximum of two employees, demonstrating the lack of technical competence to justify the selection of such partnership. When questioned about the role of external control bodies, Interviewee A stated, “none of the recent audits by the TCU verified the nonprofit’s technical and operational skills (administrative, managerial etc.), although there are legal provisions establishing several constraints”. Interviewee B reported on this matter that, at the state level, there are many contractors exempted from bidding without having to prove “unquestionable ethical and professional reputations”. Interviewee C reported that “many municipalities do not know what ‘technical and operational skills’ mean; hence, they do not provide evidence of such skills. In some cases, municipalities only state that ‘this is the single entity that is keen to provide these services in our region’”.

Therefore, the research evidences the lack of proper procedures for assessing the nonprofit technical and operational skills in order to establish a partnership with the government, since: (a) the nonprofit projects and technical qualification analyses are superficial, not including any critical analysis or assessment as to the relevance of the agreement. The procedures focus, basically, on the verification of tax compliance certificates, and, (b) in general, “no assessment is performed as to the local need, opportunity, convenience, and the technical feasibility and the enforceability of the purpose proposed” (Interviewee A). There are just a few cases in which “the costs of the project proposed were analyzed and documented” (Interviewee B).

Other result emphasized during the study refers to the **lack of auditing and control during the implementation phase of the project**. Valentin (2011) highlights that only 3.51% of Federal level agreements for the fiscal year December 31, 2010, finalized their auditing process, with approval or rejection, following 2.74% in December 31, 2009 and 2.10% in 2008. According to Interviewee A:

“although our legislation provides that the granting body or entity should monitor and inspect compliance on-site, as to the purpose of the contract and the legality of the acts performed, this is not the reality. The negligence of the initial procedures for recruitment and assessment of the technical capacity of the entity, together with the lack of effective monitoring to performance creates a situation of disarray, allowing the occurrence of many different crimes related to the deviation and appropriation of public funds”.

According to Interviewee B, there are no data on control failure by the governmental partners (granting bodies) in executing the contracts with the NGOs in the state of Rio de Janeiro. Even though they consider the RJ state situation as critical as the federal level, the TCE-RJ is still focusing on the investigation of the illegal contracting of nonprofits.

Interviewee C said that TCE-SP has an information system, the *Sistema de Repasses ao Terceiro Setor* (SisRTS), quite similar to the SICONV that is dedicated to partnerships made by the Federal government. However, SisRTS is restricted to partnerships made by the municipalities from the state of São Paulo, it does not have any information about partnerships made by the state of São Paulo itself. Indeed, SisRTS does not have information about the partners of nonprofit entities; hence it is not feasible to conduct an investigation into TCE-SP similar to that conducted by Valentin (2011).

Such diagnosis influences **issues of accountability and performance measurement**, also identified during the field research. According to the legal framework, the nonprofit partners must be accountable for the correct use of public funds transferred to them; while the governmental partner must assess the performance of the contract. The TCU Decision n. 2066 (2006b) evidences accountability failures. Reports delivered by nonprofits are superficial and focused basically on compliance with legal and bureaucratic procedures. In addition, the report also stresses the lack of assessments of the results achieved in partnership with nonprofits.

The quality of information, representing the quality of partnerships itself, is a serious obstacle to the performance-oriented control that, ideally, must be performed by SAIs. Interviewee C highlights the time spent by auditors in order to collect information needed to perform auditing. If fund transfer bodies hired and maintained highly qualified staff, the quality of information would be much better

and TCE-SP would be better able to allocate its resources and perform more auditing, deeper investigations and conclude its analyses faster.

Another worrying aspect is the number of reports not even analyzed, due to the noncompliance with such legal requirement by the nonprofit partners or because the governmental partners fail to carry out the analysis of such reports. On the other hand, the performance measurement (or the lack of it) is not relevant to the TCE-RJ, since they still face serious misuse of public funds. Out of the 14 cases examined in this study, five of them had problems related to illegal transfers of funds to nonprofits. So, the very nature of the partnerships influences a legal-oriented control.

The scenario in TCE-SP is very similar to that disclosed above. Aiming to mitigate that, in May 2012, the maximum authority of the TCE-SP responsible for issuing auditing standards – the General Director Secretary – issued an act (*Ordem de Serviço* 01) requiring that “auditing practices become more efficacious, efficient, and effective”. In order to achieve this goal, established monitoring guidelines based upon objective criteria. The criteria take into account historical aspects, the size of operations, the quality of control systems, management models, costs, and other sampling criteria deemed adequate.

Finally, **there are a number of political issues that influence the very nature of the government-nonprofit partnerships and the insufficiency of control.** To begin with, there is the political nature of the budgetary process, often characterized by a promiscuous relationship between parliamentary members and NGOs, as highlighted by Valentin (2011), Carvalho (2007) and our interviewees. According to SICONV data, almost 12% of agreements in 2010 originated from parliamentary amendments (*emenda parlamentar*), with approximately 4% assigned to NGOs (almost R\$185 million). Distortions begin with the inclusion of parliamentary amendments to the Federal budget, without observing technical criteria, local necessity, priority of intervention, costs, etc. On the contrary, the amendments aim to fulfill parliamentary members’ political and electoral interests. The role of this political factor is aggravated when one considers that all legal framework regarding public nonprofit partnerships have no influence at all in the budgetary process. The data mining research by Valentin (2011) discovered 40 agreements with NGOs that have a politician among their founding members.

Interviewees also pointed out the ambiguous relationships between public employees and NGOs, supporting Valentin’s (2011) findings that discovered almost 600 agreements with NGOs that have a public employee as a founding partner.

Interviewee C also stressed that the boundaries of SAI’s authority, lack of systematic communication among SAIs and between a SAI and other agencies with control and monitoring authorities is responsible for the actual scenario of pervasive compliance-auditing practices, instead of the intended scenario of performance-auditing practices. To illustrate this point, Interviewee C said:

“Imagine situation (1): when TCE-SP analyzed the accounts of municipality A we identified that it transferred funds to NGO α , which presented a suspicious invoice (*e.g.*, invoice was issued in the current period, but the entity that issued it, firm β , went bankrupt many years ago). TCE-SP has no authority to visit (or audit) firm β . TCE-SP can, at most, ask the Treasury Secretariat for some information in regard to the invoice issued by firm β . Considering that TCE-SP does not have a formal agreement with the São Paulo Treasury Secretariat, the answer used to have a significant time delay (more than three months), if we received any at all.

Imagine situation (2): firm β is (or was) located in a different state, not São Paulo (*e.g.*, Rio de Janeiro). We do not expect to receive any information from the Rio de Janeiro Treasury Secretariat, or the delay would be much longer.

Imagine situation (3): we are convinced that NGO α practiced many material irregularities and it collected funds not only from municipality A, but from another state (*e.g.*, Rio de Janeiro) and from the Federal Government. TCE-SP has no authority to investigate the use of funds NGO α collected from any government partner other than the state of São Paulo and municipalities from the state of São Paulo.

Therefore, what we can do, at most, is to notify TCU and TCE-RJ that NGO α was involved in these irregularities.

Definitely, this lack of cooperation among SAIs and other control bodies is also responsible for some inefficiency”.

To conclude, this study indicates that **the new legal framework regarding government-nonprofit Partnership Agreements has not delivered the changes expected in respect to auditing practices.**

Final Considerations

This study applied the Theory of the Audit Explosion (TEA) to analyze the transformations in auditing and control mechanisms applied by Brazilian SAIs to oversight of government-nonprofit relations implemented as a consequence of reforms and legal framework inspired by New Public Management (NPM) trends that started in the 1990's. TEA predicts a quantitative and qualitative change in auditing practices, from a legalistic traditional approach to a performance-oriented one.

Results indicate a quantitative and formal explosion of auditing practices. However, results do not confirm a strong qualitative shift toward new forms of auditing and control of government-nonprofits partnerships, confirming the formalism of the Brazilian institutional framework (Riggs, 1968). The overall public perception that there are deviations and misuse of public funds by NGOs reinforces the feeling that control is lacking or is precarious. The new legal framework established in the 1990s, inspired by the NPM, attempted to modernize such relationships and their control, but its actual impact is very limited, and traditional auditing practices (compliance-oriented) prevail.

In Brazil, as well as in other jurisdictions (such as the USA), the causal relationship predicted by TEA seems to find resistances. According to this study, the barriers to the audit **explosion** include organizational and institutional aspects related to government partners (funds transfer entities); in particular the lack of human and material conditions required for the proper performance of the control function. The lack of criteria in selecting NGO partners, the lack of procedures for evaluating NGOs' technical or operational skills, and the lack of auditing and control in the implementation phase of the partnership indicate the presence of aggravating problems in the very nature of the government-nonprofit partnerships, and have serious implications for control and auditing practices. Political problems, such as the promiscuous relations of parliamentarians or public employees with NGOs probably have a direct influence in the nature of partnerships.

However, the lack of substantial transformations in the management of the relationships with the nonprofit sector, aggravated by the presence of the above-mentioned problems, is one of the most relevant barriers in transforming the control and auditing practices. In fact, control can be seen as an integral part of the management as a whole. If there is not performance oriented management, there will be serious difficulties in adopting performance oriented control. If there are a lot of legal and procedural problems with the partnership, the control will still be legalistic and formally oriented. The results of this research show the limitations in adopting a performance orientation, since the elaboration of the partnership projects, specially, from the governmental partners. If the quality of information the government partners (fund transfer entities) deliver is poor, probably reflecting the very quality of the partnerships, how can the control function be expected to **explode** and renew, by itself, to focus on performance? This study demonstrated that, despite auditing practices intensification, they are still based on traditional legalistic procedures and face a huge difficulty in adopting a performance-oriented approach as suggested by the NPM. Investments need to be done in capacity building, particularly in governmental transfer entities, and the existent legal framework and resources, such as SINCOV, have to be fully operational, also including parliamentary amendments, in order to increase the transparency and accountability they aim to promote.

It is also worth strengthening the contribution of a comparative perspective in order to refine TEA, analyzing other institutional conditions under which the increase and change in auditing practices may or may not take place. The Brazilian case indicates that even apparently similar governance reforms, such as those triggered by the multiplication of government-nonprofits relationships in Anglo-Saxon context (which in the Brazilian case seems to be more stemming from the multiplication of transfer of public funds to nonprofits), can hide under a traditional management orientation.

Finally, we highlight some of the paper's potential to stimulate future research and contribute to knowledge and research in managerial sciences.

In 2008, the Brazilian government decided to converge the Brazilian public sector financial accounting standards with the International Public Sector Accounting Standards (IPSAS) issued by the International Public Sector Accounting Standards Board (IPSASB), a division of the International Federation of Accountants (IFAC). During the period 2009-2011, the National Secretary of the Treasury (*Secretaria do Tesouro Nacional* [STN]) and the Brazilian Accounting Council (*Conselho Federal de Contabilidade* [CFC]) issued accounting standards aligned with IPSAS, requiring, for instance, the recognition of property, plant and equipment depreciation, impairment of assets, and the recognition of revenue under the accrual basis of accounting. Financial reporting for the year ending December 31, 2012, prepared by the Federal Government and its 27 Federal States, will be the first set of accounting statements prepared by the public sector entities in compliance with IPSAS (and December 31, 2013, for Municipalities). Considering that IPSAS are very much similar to the International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB) for the private sector, the adoption of IPSAS in the Brazilian public sector is another example of reforms inspired by NPM. Hence, investigating the auditing process that TCU and TCEs might adopt in 2013 (and after) to audit financial statements prepared in compliance with IPSAS is a promising research field.

In section Barriers to the Qualitative Explosion of Audit Practices (barrier: **lack of human, material and technological resources within the fund transfer bodies**), based on Interviewee C, we presented that the difficulty in managing people (attracting and retaining highly qualified staff) impairs the quality of information provided by small-sized municipalities. The quality of financial information provided by primary medical care organizations is a consequence of financial management maturity in the public sector (Elwyn *et al.*, 2004; Rhydderch *et al.*, 2006). Therefore, future research can investigate if difficulties in managing people are more pervasive among municipalities where financial management maturity is lower. Similarly, but relating to the barrier **lack of auditing and control during the implementation phase of the project**, future research could investigate the accounting maturity of the Courts of Audit.

In regard to the barriers **lack of transparency, criteria and justifications in the selection of nonprofits and issues of accountability and performance measurement**, future research could investigate which attributes distinguish municipalities that generally comply with the Constitution, fiscal law and bidding law from those that generally do not comply with such regulation; such investigation could be enhanced if creative accounting or earnings management were considered as one of these attributes (Benito, Montesinos, & Bastida, 2008; Pina, Arcas, & Martí, 2012; Vinnari & Näsi, 2008).

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