



Regulatory mechanisms in intergovernmental relations and citizenship in risk governance in Portugal

Abstract

This article discusses two specific types of risks and catastrophes, forest fires and earthquakes, highlighting their similarities and their differences, regarding risk governance processes. About forest fires, it should be noted that the events of June and October 2017 have become a significant moment in the history of catastrophes in Portugal. Apart from the disastrous consequences of the high number of human victims, destroyed assets and burnt-out hectares, their effects have also spread in the political, social and economic dimensions that seem to reconfigure the existing risk governance processes, particularly about the exercise of an inclusive citizenship. In the same way, and assuming a significant weight around the mechanisms of risk governance, has been the debate centered on the seismic risk, due to the recovery and rehabilitation processes of part of the buildings in Lisbon, resulting, among other factors, from the current tourism development processes. Highlighting also intergovernmental relationship processes, namely in terms of production and legislative application, this situation has amassed a wide discussion on the part of professional groups and the population in general, in a communication process mainly centered in the domain of specialized protagonists, not always decoded for lay populations.

Keywords: Risk governance, intergovernmental relations, citizenship

1. Introduction

As social rupture processes, disasters derived from the articulation between society and the built environment. This assertion conducts the research of these phenomena for territories where various areas of approach are interfacing in their observation. One of these areas resides in the political and institutional relations between central and local administration, being a critical area of civil protection policies and actions. In this context, it is discussed the assignments, competences and responsibilities which are to be taken on disasters, namely on the whole cycle of catastrophes.

Another domain, also with significant representativeness in the analytical framework of civil protection, concerns the type of involvement of the populations in the activities of this system. The discussion of what kind of participation citizens should have in the policies and actions of civil protection is a recurring issue in disasters, taking relevance in the periods of relief and emergency, and immediately after them. The narratives and practices confronted here, not always, or even rarely, are consensual between institutional actors, stakeholders, experts, and lay people.

It will be reflected in this article on the implications arising from two types of risks and disasters which, while presenting distinct readings, and even different interpretations in the perceptions and representations of the population, have a fundamental importance in safety public policies in Portugal, either by action or by omission.

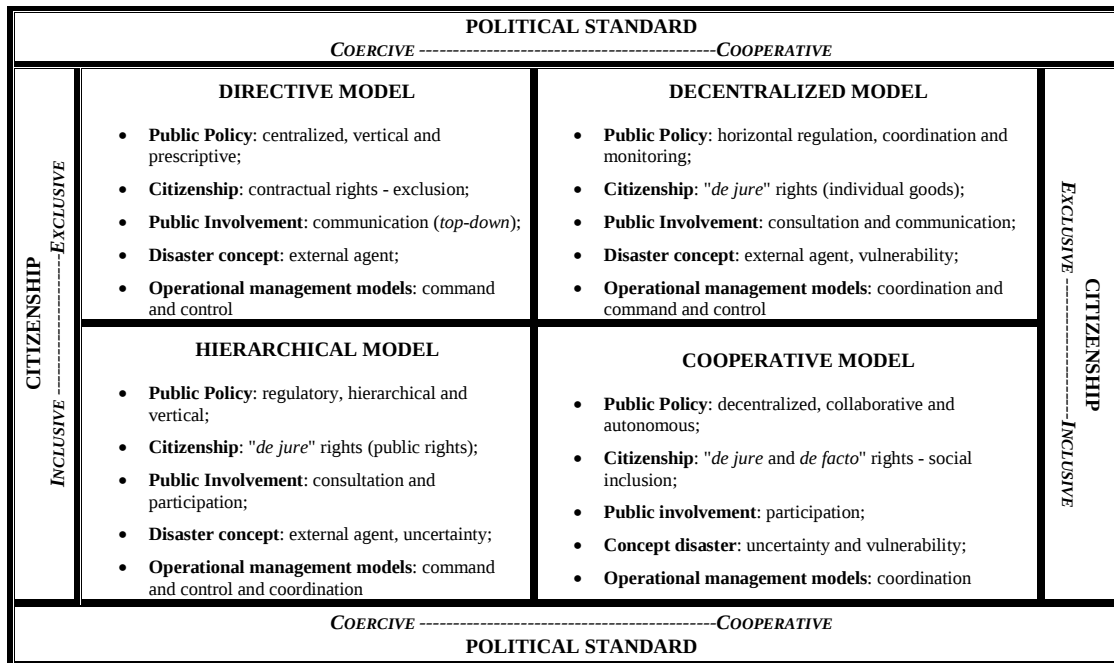
These are the situations associated with forest fires and earthquakes which, and above all in the former, record high levels of concern and discussion in Portuguese society. It will be discussed, both the social causalities and the practical and symbolic consequences, that have been behind the emergence of new attitudes and behaviours. On the one hand, have reformulated intergovernmental relations between central and local administration and, on the other hand, have concurred for the change and (re) construction of the relationship processes between the State and the populations, until then virtually non-existent or merely residual.

2. A hierarchical model of risk governance

The assertion that Portugal can be characterized by a hierarchical model of risk governance must necessarily be supported explanatorily, identifying which the domains that lead to this confirmation.

Synthetically, stand out five operational dimensions - politics, citizenship, public engagement, disaster concept and operational management models - where, after were analysed in its most individual components, promote its integrative articulation in an explanatory reading. It is in the result of this integration that the four ideal typical models of risk governance are obtained, namely, directive, hierarchical, decentralized and cooperative, which is shown in Figure 1.

Figure 1 - Risk governance models (Ribeiro, 2018)



The Portuguese system characterized, generically, by a hierarchical typological model, with the following particularities:

- A vertical political standard, in which the central administration determines and prescribes the policies and guidelines of civil protection, seeing local authorities as regulatory agents;
- The citizenship rights are considered constitutionally as public goods, but presented as *de jure*, and not as *de facto*;
- The public involvement is based on communication flows of consultation, although exist examples of participation, notably in some participatory budgeting processes;
- The disasters still have a prevalence as external agents, although they are emerging, mainly by specialists, the shifting of this conceptualization to vulnerability and uncertainty processes;
- In operational management models prevail a Command and Control logical, which by the entry of new protagonists, has been accentuating. In any case, there are also processes of Coordination, mainly located in the field of decision and strategic management, albeit with less reflection in tactical actions and operational manoeuvring.

This interpretation of the risk governance that characterizes the Portuguese system will be operationalized, based on the analysis of the situation of forest fires and the seismic risk, which will be addressed following.

3. Forest fires of 2017 as reconfigured processes of risk governance in Portugal

The forest fires of June and October 2017 are associated with some of the worst disasters ever recorded in Portugal. The consequences from these events resonated in various areas of national life, leading to strong media reactions and pressure from public opinion.

The high number of fatalities, destruction of goods and of rural and forest heritage, has caused a political and symbolic earthquake in the state's governance structures. The shockwaves propagated to political, social and economic dimensions that even overflowed the national scope by taking international contours.

The State is confronted with its failures (constitutionally, the State must ensuring the safety of the populations), being forced to focus its interventions reactive and casuistically, to the taste of pressures, in the purpose to minimize and reduce the impacts of their institutional vulnerabilities. As Mendes (2017) highlights

"The resumption of the initiative by the State has materialized in a series of legislative initiatives, the constitution of commissions and mission units, (...) that emphasize the ad-hoc and unstructured character of the presence of the State, always in logic its perpetuation and its regulatory role".

Two of those initiatives were the creation of the Independent Technical Commission (CTI) and the Council for the Compensation of the Victims of Fire (CIVI). The former with competences to promoting an assessment of the fires, and also proposing recommendations for change and improvement in the systems of defence of the forest against fire and civil protection, and the latter with the aim of defining the minimum values to be paid to the victims, and their relatives, as compensations. The consequences also were felt in intergovernmental relations, which contribute to explain some of main vulnerabilities of the national system of civil protection.

Portugal characterized by presenting high regional asymmetries which are reflected in an unbalanced development of the country. An analysis centred on the genealogy of fires cannot neglect these processes and their consequences. It is in this context that we can interpret the public policies of risk governance, identifying actions and omissions which contribute for not bet or implement projects of development in certain regions, which translate into failures in territorial planning, with the consequences of abandonment and, therefore, the increase in the risk of forest and rural fires.

Despite the diagnoses, strategies and plans that, reactively, always arise to cut the problems identified, the reality is that this set of intentions seldom finds correspondence with the realization of the measures advocated.

For example, it should be noted, after the 2003 forest fires, where burned about 426 000 hectares, and registered up to 20 fatalities, the Ministry of Internal Administration (MAI) produces a *White Paper of Forest Fires* (MAI, 2003). In this document is mentioned the importance of not be repeat similar situations, for which the government should be develop a set of actions to avoid them. The results achieved were not the intended ones. Similar events occurred two years later, in 2005, having caused 17 fatalities, and destroyed about 340,000 hectares. Once again, these events have come to be the source of new legislative reforms, operated both in the systems of civil protection and defence of the forest fire.

It is approved in 2016, by the Resolution 65/2006, the National Forest Fire Defence Plan (PNDFCI). This diploma defined the strategy and guidance of public policies for forestry territory. In the same year, the Decree-Law (DL) 124/2006 of 28 June defined the roles, both in relation to structural prevention and to the competences and responsibilities of acting.

This legislative sequence will promote a first amendment to DL 124/2006, with the publication of DL 17/2009, of 14 January, where it is referred

"The obligation for the municipalities to have a Municipal Forest Fire Defense Plan (PMDFCI), defining (...) their criteria, and reinforcing the importance of the constitution of the Municipal Forest Defense Commissions against Fires (CMDFCI), in all the municipalities of the country" (Ribeiro, 2018, p. 273).

It shall be added in article 10 (4) of the same diploma, which *"The elaboration, implementation and updating of the PMDFCI is mandatory, and the municipal council should devote its implementation in the context of the annual activity report"*, and in paragraph 7 of the same article, *"(...) only have the right to grant or benefit granted by the state the municipalities that have PMDFCI approved"*.

The directive and hierarchy logic is evidence in intergovernmental relations. The DL 124/2006 confirms that assignments, competencies and responsibilities are located at the level of the entities and services of the central administration. One example is the impositions of the methodologies to be followed in the elaboration of these instruments, not distinguishing rural for urban municipalities, with results that, naturally, distort the reality. The change produced with the DL 17/2009, is also mandatory to local administrations. They should have PMDFCI and CMDFCI, with the caveat that, without these instruments, there will be no subsidies or benefits from the State.

In short, emerge here two problems: some municipalities don't comply, simply, the central determinations; others, despite to comply, they do that as a formal obligation and not a preventive practice of risk management. Because of that, they don't produce any kind of effect or the results were very short of what was expected.

Analytically, a double-dimensional problem arises in intergovernmental relations, as one of the explanatory factors of the social and institutional causes of forest fires.

On the one hand, inside central administration, a prescriptive attitude, strongly hierarchical and vertically regulating, of the guidelines and measures to be implemented by the local levels, to which there is imposition of penalties, in case of non-compliance. In centralist logic, two readings should be had: one, the assumption manifest that their obligations and responsibilities were resolved with the legislation; other, the latent confirmation that civil protection is not a fundamental area of government activity.

On the other hand, and from local authorities' side, there are also several implications, which help to explain these behaviours:

a. Firstly, a lack of political culture that feature some local leaders. Responsible for management of their territories in emergency situations, they would have a structure to deal with these disasters. The local level is the first answer to emergency situations. However, some perceptions still consider forest fires with low probabilities, not justify organize the local system of safety and, in some cases, they don't have any dispositive;

b. Secondly, the consideration that invest in the prevention and emergency response, seems to divert resources that would be more useful in other types of interventions, that have a more emblematic and visible nature to municipality;

c. A third explanation can be found in the deficit of pressure that the populations and communities themselves exert face the institutional powers, in relation to safety issues. These pressures, as studied, only emerge when the citizens are, directly or indirectly, affects in their safety;

d. Finally, a principle that is strongly rooted in social perceptions and representations, in which it is considered, as defined constitutionally, that the citizens safety is a competence of the State, bridging the shortcomings of the other governmental levels.

The analyses of the intergovernmental relations, in political and institutional domains is, thus, an important contribute to the explanation of social causalities of forest fires. The main discussion here concerns about the role of the two levels of administration, central e local. In Portugal, is hierarchical model of risk governance accentuates the presence of a prescriptive regulation, where local levels are considered as regulatory agents and not as regulatory administrators.

Centred on the involvement and participation of the populations, the fires of 2017 also demonstrate the change of existing paradigm in the relationship between civil society and the State.

As Mendes (2017) refer in an opinion article, in an allusion to what it defines as "*institutional accountability and standardization of deviation*",

"Extreme situations reveal how the institutions work and should be analysed as indicators of the type of state, of social contract and existing civil society, and the ability to mobilize people, social groups and communities".

The response of civil society is, here, unequivocal, assuming an active role in much of the subsequent post-catastrophe processes. Concerning the disaster of June 2017, was created the Association of the Victims of the Fire of Pedrogão Grande (AVIPG), whom was constituted as stakeholder in the negotiation with the State about the subsequent policies for the affected victims and burned areas. This assumption, close to the right to have rights principle, is understood as a requirement of an inclusive citizenship exercised by the populations of the affected areas.

In any case, the State continues, in a hierarchical logic, to exercise its institutional prerogatives. Thus, and despite the inclusion of an element of AVIPG in the aforementioned CIVI, the responsibility of fixing the final value of compensation it was been only of the Ombudsman, not including the AVIPG. According to Mendes (2017) *putting the final decision on distant entities of the victims (...) and their families*, got lost an opportunity from *"the State and civil society to constitute, outside of a logic of acting Ad hoc and cases, conventional and institutional mechanisms to meet the victims of extreme events or disasters"*.

The unequivocal translation into risk governance processes, in its political and citizenship assertions, finds explanatory translation in Mendes (2017), when it states that,

"The biggest consequence of the great fires of June and October in Portugal was confirmation by all of their vulnerability to extreme events, in a country based on logics of planning and civil protection bureaucratic, and totally based on the projections of the experts and without direct participation of interested parts".

4. Seismic risk: perceptions and social representations in the governance of the risk

The interpretations around the seismic risk, characterized by their alienation to metaphysical, natural or unknown territories, which generally reflect an exemption of responsibilities in implementing public policies of prevention and social organization. Understood as unavoidable and uncontrollable fatalities, they also explain the few attitudes and behaviours claiming by civil society to the State. However, these processes have recorded significant changes, and there are new references that indict the transformation in these perceptions and representations, on the part of certain social protagonists, namely technicians and researchers from various scientific areas.

In this respect, one of the discussions that has been most felt is related to the rehabilitation processes of the building in Lisbon, and in other Portuguese cities, emphasizing the risks associated with these operations, by the circumstance of the law does not oblige the structural reinforcement of seismic resistance in the existing buildings. Inextricably linked to one of the most striking disasters in universal history, the 1755 Earthquake, Lisbon is in a region of moderate seismic risk, being expected to be affected sooner or later by the consequences of an analogous event. Thus, the importance in the consideration and reduction of the seismic vulnerability of the buildings is an area of paramount attention, making the difference between the eventual decrease, or increase, of the number of victims by the occurrence of an earthquake.

The city of Lisbon, as well as Portugal, has been a very sought-after tourism destination in recent years. A significant number of tourists have been acquiring residence in the city to their habitation. Therefore, a huge increase in the rehabilitation works were registered, namely in degraded buildings, without seismic resistance.

To address this increase in rehabilitative interventions, the state legislated exceptionally on the subject, having published DL 53/2014 on 8 April, with the aim of facilitating and simplifying the constructive processes. This diploma regulates the urban rehabilitation sector. In article 9 points out that *"interventions in existing buildings may not diminish the safety and health conditions of the building or the structural and seismic security of the construction"*.

However, although it is said that not allowed diminishing the safety conditions, many of the intervention is in ancient buildings, which in their original construction never contemplate seismic resistance measures. A lot of buildings are from years 30, 40 and 50 of XX century, feature by the absence of mandatory anti seismic legislation. Because of that, and with the contribution of other factors, namely the introduction of dissonant elements and the bastardization of the buildings themselves, all contribute to the increase on the physical vulnerabilities of the built park.

This problem manifests itself in risk governance processes. In intergovernmental relations, is verified a divided attribution of responsibilities, with a more weight in central administration given its national responsibility legislative. The municipality critic governs but, at the same time, takes advantage of this legislation to don't inspect, in loco, the rehabilitation works. Thus, it allows recovering many degraded buildings, although this recovery is mainly at the level of the facades, not considering the essence of its seismic resistance, with the subsequent problems of safety.

This lack of harmony, like the mentioned with forest fires, has a reading in the type of existing governance model. Once again, the hierarchical and vertical modelling of the regulating mechanisms is present and, while recognizing in its official narratives, the importance of its change, the situation is dragging without any modification.

In a notice published in the *"Diário de Notícias"* of 5 January 2017, it was attributed to the Secretary of State of the Environment that *"The Government wants to review the legislation of urban rehabilitation to compel the rehabilitation of buildings to be preceded by evaluations to the seismic resistance of the building (...) "*. As it turns out, after more than a year, the situation remain the same, without any evolution, accentuating the existing risks, by the effect of interventions carried out only in facade works, without structural consistency. How do know, the earthquakes are not foreseeable.

In the field of an active citizenship, there are two types of consequences and effects. On the one hand, and reflecting a more participatory attitude, it is, above all, in the field of technical and scientific stakeholders,

empowered as specialists to take a position about risk and safety, but not always or rarely, having the indispensable capacity to pressure the State to reformulate its action. Once again, the constitutional principle, that is a State responsibility to ensure the safety of the population, must be present.

On the other hand, the parameters defined by Somers (2008) related to the concept of market fundamentalism are found in a more passive manner. In the absence of control and monitoring by the State, both at local and central levels, it remains for the citizens to acquire their security and pay it in terms of market.].

5. Final remark

The analytical evidence of the models of risk governance constitutes an important aid for the explanation of the mechanisms of the regulatory factors between the state and civil society, both in the field of intergovernmental relations, between the administration central and local, and in the processes of involvement and public participation of citizenship.

The confrontation with public policies finds relevance during the extreme disasters that affect the territories and populations. This evidence is demonstrated by the comparative exposure between the processes arising from forest fires and those resulting from representations and perceptions of seismic risk. In relation to the former, there is a reaction by the state in the resumption of its regulatory logic but including concessions by the effect of public and media pressures. In the case of the seismic risk, both by the effect of depersonalization of this hazard, and for its impersonal symbology, can be found to be non-integrated due to its non-problematic status in the immediate risk governance options.

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