

ECPR General Conference 2020

**P457 – Whose Game are We Playing? Institutions and Local Service
Delivery Choices**

**Section – Local Government and Politics: Mapping Challenges and
Prospects**

Lucca, Paulo Vitor¹; Costa, Cláudia S.²; Guimarães, Inácio Andruski³

1 lucca.paulo@gmail.com, UTFPR - Federal Technological University of
Paraná, Instituto Politécnico de Bragança

2 claudia@ipb.pt, Instituto Politécnico de Bragança, Centre for Tourism
Research, Development and Innovation (CiTUR)

3 andruski@utfpr.edu.br, UTFPR - Federal Technological University of Paraná

The Role of Transaction Costs in the Delivering of Urban Infrastructure Services: An Overview of Brazilian and Portuguese Municipalities

Abstract

The present paper explores the different options for delivering public services by Portuguese and Brazilian municipalities. With reduction of human and financial resources and increase in demand, large municipalities need efficient arrangements to deliver public services. In fact, the conditions for providing these services influence the quality of life, the economic development and are directly related to the capacity of institutions to find the most appropriate governance mechanisms. In this context, the use of Transaction Costs Theory (TCT), specifically economic and political costs, reveals an appropriated tool to understand the ways how public services can be delivered. Existing research and theory point out several studies around the world that analyze how different governance mechanism's choice (hierarchy, market and network) can be explained based on TCT. This paper contributes to expand this topic to Brazilian's municipalities context, due to the lack of studies in this country. Contrariwise, there are more studies about Portuguese's municipalities, but as a dynamic process, it's becomes interesting update such studies in order to expand the existing database. In this sense we addressed a preliminary step whose objective is to identify the different options for public service delivery, finding similarities and differences in these two countries, following a qualitative approach. As results, we find that governance mechanisms adopted by two countries are very similar. The differences result from regional level in Brazil that allows recourse to state's business sector, as opposed to Portugal. In turn, Portuguese municipalities have several options that result from municipal associations, options that are more limited in Brazilian case.

Keywords: Transaction costs theory; governance mechanisms; municipal service delivery.

Introduction

Ways of providing different types of public services have been studied by different authors in different countries, including Italy (Casula, 2019; Giacomini; Sancino; Simonetto, 2018), Spain (Campos-Alba, Higuera-Molina, Pérez-López, & Zafra-Gómez, 2017; López-Hernández, Zafra-Gómez, Plata-Díaz, & Higuera-Molina, 2018), Portugal (Cruz & Marques, 2011; Ribeiro, 2017; Rodrigues, 2009; Rodrigues, Tavares, & Araújo, 2012; Tavares, 2017; Tavares & Camões, 2010), England (Andrews, Ferry, Skelcher, & Wegorowski, 2019; Dempsey, Burton, & Selin, 2016; Eckersley & Ferry, 2020; Ferry, Andrews, Skelcher, & Wegorowski, 2018), United States (Hawkins, 2017; Hefetz & Warner, 2012; Hefetz, Warner, & Vigoda-Gadot, 2015; Kim, 2018; Kim & Warner, 2016), Australia (Drew, McQuestin, & Dollery, 2019; Oosthuizen, Willett, Wilmshurst, & Williams, 2019) and Brazil (Silvestre, Marques, Dollery, & Correia, 2019).

The delivering of services by local governments can be carried out through internal bureaucracies (hierarchy), private companies (markets) and partnerships (networks) with other governments or the non-profit sector (Rodrigues et al., 2012). The TCT is based on three pillars: specificity, frequency with which transactions occur and difficulty in measuring services (Williamson, 1981, 1999). This theory is quite often used to understand the several options that is possible to adopt in public service delivery. However, other factors can be added to identify these options, for example, political cycles, party ideology, duration of contracts and degree of municipalities indebtedness, thus encompassing, in addition to economic transaction costs, political transaction costs (Arias Yurisch & Garrido-Vergara, 2019; Bel & Sebó, 2019; Blaeschke & Haug, 2018; Brown & Potoski, 2003; Casula, 2019; Dagdeviren & Robertson, 2016; Hawkins, 2017; Hefetz & Warner, 2012; Horn, 1995; Ribeiro, 2017; Rodrigues et al., 2012; Wang, Liu, Xiong, & Zhu, 2019).

This paper is an integral part of investigation whose main objective is to assess the influence of economic and political transaction costs in delivering of urban infrastructure services in Portugal and Brazil municipalities (for this reason TCT is addressed in the next topic). This investigation is under development and therefore will be presented here the concepts that will support surveys applied to 70 large municipalities distributed in both countries. The aforementioned concepts refer to the definition of which governance mechanisms are available in each country to delivery public services. For that purpose, we will use the legal basis in both Portugal and Brazil, in addition to the theoretical framework produced by other authors. We assume that, although with significantly different dimensions, the delivering mechanisms of two countries are very similar, allowing them to be compared, related and grouped within the three classic strands already mentioned in the delivering of services: hierarchy, markets and networks.

The paper proceeds as follows. The next section analyses transaction cost theory and public services delivery. The second section introduces public services delivery by Brazilian and Portuguese Municipalities. Section three describes the data and methods conducted in section four. Lastly, we present the main results. We identify and compare the different options for delivering public services by Portuguese and Brazilian municipalities.

1. Transaction Costs Theory and Public Services Delivery

Public management must be promote the achievement of greater efficiency and effectiveness in quality of public services delivery, aiming social inclusion and the strengthening the capacity to formulate and implement public policies (Matias-Pereira, 2016). The emphasis on New Public Management (NPM) due to the fact that such movement begins the discussions about New Economic Institutionalism and consequently TCT, the theoretical framework that support this investigation. The article *The Nature of the Firm* by Ronald Coase, published in 1937, marks the beginning of this theoretical current and the expression Transaction Costs is defined later by Oliver Williamson (Coase, 1998). The Coase's study can be considered the basis of governance theme that was imported from business world to describe different coordination arrangements from the markets and would later be applied to the world of power and local organizations (Matias-Pereira, 2016). Coase (1937) pointed out that if only price mechanisms are sufficient to regulate production, it would not need any organization, however, as this does not occur, the allocation of resources would not be carried out exclusively based on production costs, but rather, in transaction costs that involve more than resources, for example, uncertainty, duration of contracts and risks in outsourcing some activities.

Defenders of New Economic Institutionalism believes that organizations have a fundamental role in society and such existence is an attempt to reduce costs associated with transactions that take place in the market, thus originating TCT, which is a decision support methodology, whose unit of analysis is the transaction (Silvestre, 2010). According to Williamson (1981) a transaction occurs when a good or service is transferred from an internal structure of organization to another(s). Some transactions are simple and easy to mediate, and others are difficult and require more attention. Transaction costs are intended to assist in identifying which factors allow transactions to be assessed as one type or another, identifying which alternative governance mechanism within which transactions can be organized and whether it is possible to combine governance mechanism with transactions in a discriminatory manner (saving on transaction costs).

Transactions are described based on three attributes: asset specificity, uncertainty and frequency (Williamson, 1981). Asset specificity refers to the degree of an asset used to support a transaction can be redeployed for alternative uses and users without loss of productive value. Highly specific investments give rise to a condition of bilateral dependence. Uncertainty presents the need for adaptation and faced with bilateral dependence and incomplete contracting, represents the risk

of poor adaptation. Frequency is also a relevant dimension, as recurring transactions can support specialized financing configurations and have better computational and perfect properties (Williamson, 1999). North (1990) states that transaction costs are the costs of measuring and enforcing agreements.

Additionally, limited rationality and opportunism are two behavioral assumptions that add realism to transaction costs, unlike the neoclassical economic approach (Williamson, 1981). Limited rationality is characterized by the lack of knowledge of all alternatives, uncertainty about exogenous and relevant events and an inability to measure consequences (Simon, 1979). Furthermore, limited rationality would not be a problem in a scenario where all agents are reliable, however, as this does not occur in the real world, organizations are predisposed to opportunism that some agents can exercise (Williamson, 1981, 1999). Opportunism is defined by Williamson (1985) as a condition of self-interest where there is an intention of fraud. This intention can manifest itself *ex ante* (adverse selection) or *ex post* (moral hazard) of signing contracts. According to Silvestre (2010) opportunism can also be intrinsic or extrinsic. While the first occurs within the organization and is guided by the individual interest of employees, the second arises from conflicts between organizations (contractor and contracted) and is guided by group interest where the dispute of interests brings together the individuals of each organization in an attempt to win supremacy over others.

Besides economic transaction costs, there are political transaction costs, which are important for understanding decision-making in the public sector. While economic transaction costs are linked to measure goods and services with attributes of value or performance of agents, that is, measurement can be assessed by physical dimensions (with objective characteristics) and property rights (in legal terms), political transaction costs are built on the basis of costly information, subjective models to explain environments and the imperfect application of agreements, where choices involve high transaction costs and make political markets imperfect and prone to inefficiency (North, 1990). Political transaction costs see economic policy making as a political process limited by asymmetric information and reduced possibilities for compromise (Dixit, 2003). Political transaction costs arose as a consequence of several criticisms in relation to economic transaction costs, since only these would be insufficient to evaluate the public services delivery, as they would not consider the population's interest in services such as water, sanitation, health and education (Dagcdeviren & Robertson, 2016).

At local level, for instance, the organization model may not only be guided by economic rationality, but rather by politics, to a greater, equal or lesser extent. That is, the ideal model in this case is one that is able to minimize costs of political transactions and maximizing the political efficiency of the policy maker by capturing electoral support for a re-election (Ribeiro, 2017). According to Horn (1995) electoral competition encourages lawmakers to make decisions that will increase their political support and protect their preferred policies from administrators and future legislators.

In fact, in recent decades, central, federal and local governments have adopted different mechanism to reorganize the delivering of public services (Bel, Fageda, & Mur, 2013). One of the reasons for such reorganization is financial pressures (Silvestre et al., 2019) and the consequent increase in per capita spending on these services (Baba & Asami, 2019). Service delivery can take place basically through three governance mechanisms: hierarchy, markets and networks. The choice of one of these structures, or a mixture of them, has been focus of discussion in several studies and TCT is an important tool to evaluate the decision related to public services delivery, including the local public services (Aldag & Warner, 2018; Hefetz & Warner, 2012; Ribeiro, 2017; Rodrigues, 2011; Rodrigues et al., 2012), since the form of service delivery (internalized or externalized) is an important issue for the various public entities, in particular municipal entities (Higuera-Molina, Plata-Díaz, López-Hernández, & Zafra-Gómez, 2019). It should be noted that there is no a priori governance mechanism superior to the others. The

concept of efficiency is based on adapting the governance mechanism to the characteristics of transaction (Peres, 2007).

2. Public Services Delivery by Brazilian and Portuguese Municipalities

Portugal currently has 308 municipalities. After the period of dictatorship, the country enacted its Constitution, in 1976, giving powers to local authorities. In the last 40 years these local authorities have been positively consolidated and have shown concrete and expressive results in terms of several attributions, such as rural and urban equipment, energy, transport, communications, heritage, culture, sports, health, housing, civil protection, environment, basic sanitation, spatial planning, urbanism, etc. (Souza, 2017).

The organization level of Portuguese municipal services has gone through several stages. With the increase of municipal attributions, new alternatives of public service delivery were incorporated, for instance, institutional arrangements more defined and oriented to planned solutions. Initially emerge the municipalised services, which advanced for municipal companies, the contracting and concession of services as market alternatives, the association of municipalities, the non-profit organizations and the public and private partnerships. That is, all of these arrangements are identified as alternatives for delivering public services (Rodrigues et al., 2009). However, if at a given moment the solution adopted was to outsource municipal services, recently it started to question the efficiency proclaimed with this practice and to evaluate the possibility of remunicipalising some services (Ribeiro, 2017).

Brazil is a country with considerably larger territorial dimensions than Portugal, and currently has 5,570 municipalities divided into 26 states (regional political-organizational level does not exist in Portugal). Similarly to Portugal, the Brazilian Constitution of 1988 was promulgated with the purpose of restructuring the State on democratic, federative and redistributive bases, opposing the previous period marked by authoritarian centralism and concentration of income resulting from the military dictatorship. In this sense, the municipalities were favored by territorial decentralization that allowed them to rise to the status of third federative entity. In addition, with the resumption of political autonomy, states and municipalities were able to establish their own governments (Soares & Melo, 2016; Souza, 2012). The 1988 Constitution is the first to give municipalities, article 29, the possibility of creating their own "Constitution", called the Organic Law (Souza, 2012).

Citing Brazilian's Constitution is important because in the current regime there are competences that are common to the Union (Central Government), the states and the Federal District (intermediate level between the Union and the municipalities that not exist in Portugal) and the municipalities. In this way, the municipalities must act together with other entities of the Federation on topics such as: guarding the Constitution, laws and democratic institutions; conservation of public assets; public health and assistance for people with disabilities; historical, artistic and cultural heritage; culture; education; science; environment; housing; sanitation; social assistance and combating the causes of poverty; research and exploration of water and mineral resources in their territories; traffic safety education; public security; incentive to micro and small businesses; tourism; and health in general, with municipality's revenues linked to this area (Souza, 2012). That is, the public services under the exclusive responsibility of municipalities are not directly appointed.

In this context, article 30 of Brazilian's Constitution establishes that are among municipalities competences "legislate on matters of local interest" and "organize and provide, directly or under a concession or permission regime, public services of local interest, including public transport, which is essential", but without giving an example of what these services could be. It's important to note that such term "local interest" was introduced in 1988 Constitution to replace the term

“peculiar interest” that was in force until the previous Constitutions. For Ferreira (2018), despite the difficulty in conceiving a legal concept to the expression “local interest”, it can be considered as most appropriated understanding that as a term that express “the interest that directly and immediately meets the needs of municipality, even if it proves to be also as a need for other entities”. It’s understood in this way that urban infrastructure services can be considered as “local interest”.

Based on Constitution, the Master Plan for the Reform of the State (PDRAE, 1995) transferred from the Union to the states and municipalities the actions of a local nature and only in cases of emergency would direct action by the Union be applicable. In addition, the Fiscal Responsibility Law (FRL), enacted in 2000, aimed to control public spending and transparency in tax management. Thus, it also aimed to avoid opportunistic behaviors at the end of the term (Araújo, Santos Filho, & Gomes, 2015; Santolin, Jayme Junior, & Reis, 2009). Santolin et al. (2009) assess that FRL was important to reduce municipal deficits, however, the imposition of rules may lead to limitation of effective government participation in countercyclical fiscal policy. Araújo et al. (2015) also found that municipalities with greatest dependence on transfers are the ones that have suffered the greatest impact on investment capacity, such as carrying out public works and delivering services to their citizens.

In Brazil, the delivery of public services under municipal responsibility occurs in a similar way to Portugal. That is, they can be provided by the Direct, Indirect Local Administration (public or mixed companies), private companies and consortiums. Due to Brazilian political characteristics, local services can still be provided by state companies, usually for water, sewage and energy services (Rossoni, 2015).

Silvestre et al. (2019) identified in Brazil that most common forms of cooperation are, in this order, intermunicipal cooperation, public-public partnerships with state governments, and finally, with the federal government. Cooperation arrangements are concentrated on social services, health, culture and housing. It appears that small and medium-sized local governments are more likely to benefit from cooperation. This seems to come from economies of scale and improvement of administrative and technical capacity through cooperation. In addition, the population and its composition (considering the age group) are the main factors responsible for the decrease in local spending.

In short Table 1 presents a comparison between Brazil and Portugal in terms of political division, dimensions, population, income and main public services attributed to municipalities.

Table 1. General comparison between Brazil and Portugal.

Country	Portugal	Brazil
Title - Division	Portuguese Republic – Centralized Unitary State	Federative Republic of Brazil - Federal State
Political division	<ul style="list-style-type: none"> • Central Government • Autonomous regions • Local Authorities (municipalities and parishes) 	<ul style="list-style-type: none"> • Union • States and Federal District • Municipalities
Number of municipalities (quantity)	308	5570
Nomenclatures of municipal bodies	City councils (executive)	municipal prefectures (executive)
	Municipal assemblies (deliberative)	City councils (deliberative)
	Parish Councils and Parish Assemblies	-
Population (inhabitants)	10.27 million - 2017	210.15 million - 2017
Annual GDP per capita (euros / inhabitant)	€ 22,987.00 (2017)	€ 6,912.81 (2017)
Area (km ²)	92,225.61	8,510,820.62
Demographic density (inhab / km ²)	111.40	22.43
Local public services under responsibility of municipalities	Rural and urban equipment; energy; communications and transport; education; heritage, science and culture; sport and leisure; health; social action; housing; civil protection; sanitation and environment; consumer defense; promoting development; spatial planning and urbanism; municipal police and external cooperation.	All of "local interest", including health and education

Source: Own elaboration based on data from Brazilian Institute of Geography and Statistics (IBGE), National Institute of Statistics of Portugal (INE) and Ribeiro (2017). Note: 1.00 euro = 4.60 Brazilian Real

3. Data and Methods

This paper based on qualitative analysis to collecting and analyze all relevant documentary material to achieve our goal: explores the different options for delivering public services by Portuguese and Brazilian municipalities, identifying possible similarities and differences between two countries. Initially, and for each country, we consulted the most significant legislation that guides the delivery of local public services. The surveys were carried out on the website of District Attorney General of Lisbon (Portugal), who have a specific section for legislation applicable to local authorities, and on Legislation Portal (Brazil). Also consulted and integrated investigation already published on this topic.

4. Findings

4.1. Portugal

Portugal presents laws that are essential in organization of services provided by local authorities. Following, the main aspects of these laws will be commented.

Decree-Law no. 305/2009, of 23th October, amendment by Law no. 71/2018, of 31th December, establishes the regime for the organization of local authority services. This Decree-Law was published with background of Public Administration modernization and establishes the internal organization of municipal services must be adequate to hierarchical, matrix or mixed structure model. The hierarchical structure consists of nuclear organic units (made up of municipal

departments or directions) and flexible units (made up of flexible organic units, headed by municipal division head) that can be created, altered or extinguished in order to ensure the permanent adequacy of the service. The matrix structure is adopted whenever the operational areas of services can be essentially developed by projects. The Decree-law also establishes the competences of city councils (equivalent to municipal prefectures in Brazil), municipal assemblies (equivalent to city councils in Brazil) and parish councils and parish assemblies (structures without direct correlation with the Brazilian system).

Law no. 75/2013, of 12th September, establishes the legal regime for local authorities, approves the statute for intermunicipal entities, establishes the legal regime for the transfer of competences from State to local and intermunicipal entities and approves the legal regime for municipal associations. This law its quite important because it contains the attributions of city councils, municipal assemblies, parish councils and parish assemblies. Define also the concepts and objectives of decentralization as well as the delegation of competences into parishes.

Another important law is the Law no. 50/2012, of 31th August, which approves the legal regime of local business activity and local participation. This Law also list some public services that are considered essential, such as water supply and wastewater collection and treatment; collection and treatment of solid urban waste; maintenance of public roads, with a view to ensuring the safety of people and goods; and urgent intervention in situations that pose a danger to the health or safety of people.

Based on these diplomas and others references (Ribeiro, 2017; Rodrigues, Araújo, & Tavares, 2009), it is possible to list five governance mechanisms for local service delivery's in Portuguese municipalities: own services (municipal services and municipalised services), local business sector (municipal, intermunicipal and metropolitan companies), municipal associations (general and specific purpose associations), private sector (privatizations, concessions, outsourcing) and non-profit sector (third sector), as shown in Figure 1 (Ribeiro, 2017; Rodrigues et al. 2009).

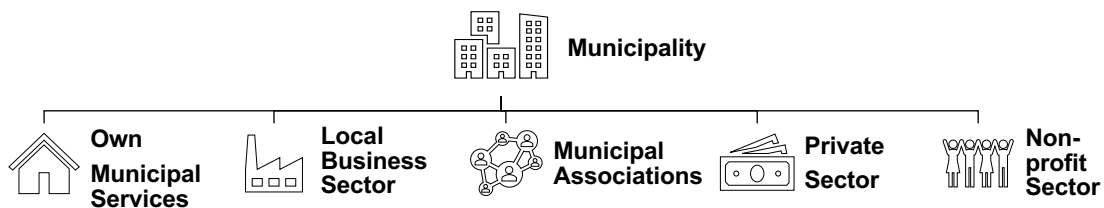


Figure 1. Municipal Service Delivery, Portuguese Municipalities

Source: Ribeiro (2017)

Municipal services and municipalised services, configured as their own municipal services, are similar in non-existence of competition and inter-organizational cooperation, however, municipalised services have a degree of indirect control, unlike municipal services (Rodrigues et al., 2009).

Municipalised services are also part of local business activity, ruled by aforementioned Law no. 50/2012, of 31th August, that establishes activities carried out by municipalities, municipalities associations, regardless of their type, and metropolitan areas through municipalised or intermunicipalized services and local enterprises, which might have municipal, intermunicipal or metropolitan feature.

Local enterprises can also be classified as managing services of general interest, which ensure the provision of continued services, or promoting local and regional development, which aim to promote economic growth, eliminate asymmetries and strengthen social and economic cohesion. In addition, the law allows municipalities, municipalities associations and metropolitan areas to hold participations in other institutions. These participations are governed by commercial law and do not assume the nature of local enterprises. Participated commercial companies are considered.

Municipal associations are also an alternative way of delivering local public services. Law no. 73/2013, of 3th September, provides typology, feature and constitution of municipalities associations, which can be of two types, namely, associations with specific purposes and associations with multiple purposes. Specific purpose associations are voluntary and can be freely created by municipalities. Multi-purpose associations are imposed by the aforementioned law and may take the form of intermunicipal communities or metropolitan areas.

The private sector can be used to replace the municipality, to carry out certain activities, in this case, concessions and privatization of public services are considered. Although similar, the first is characterized by giving a private power to occupy, use and exploit a portion of public domain, for their own benefit, through the performance of commercial activity, limiting or excluding its use by third parties. In fact, the concession means granting the right to exploit a public good or service to an external agent, who is willing to assume the responsibility of exploiting it, in the manner permitted by the municipality. Through privatization, governments divest themselves the responsibility for producing public services by transferring them to third parties Ribeiro (2017).

To finalize the list, non-profit organizations are identified. These operate outside public sector (state) and private sector. This sector comprises private, non-profit-distributing, self-governing and voluntary organizations. The main examples are mutual associations, cooperatives, foundations, private social solidarity institutions, local development organizations, non-governmental development cooperation organizations, federations, unions and confederations Ribeiro (2017).

4.2. Brazil

The political organization of Brazil foresees, in addition to Federal Government and Municipalities, the States, which constitute the units of higher hierarchy within political-administrative organization of country. In general, the Union (Federal Government) create laws, but States and municipalities can make their own laws, as long as they are more restrictive than federal ones. In contrast to Portugal, studies that relate forms of public services delivering by Brazilian's municipalities are not easily found, so this analysis was carried out based on legislation in force. We make an exploratory analysis trying to identify if forms of public services delivering listed by Ribeiro (2017) can be found in Brazil. Despite some similarities it is expected peculiarities of Brazilian's municipalities context.

Thus, considering their own services, naturally in Brazilian context, municipalities also deliver public services through their own internal structure, that is, control is performed directly by municipal administration. On the other hand, in Brazilian context the figure of municipalised services, foreseen in Portugal, is not existed.

In addition to municipal services, municipalities can deliver public services through other organizations related to public sector. These organizations are in article 37 of Brazilian Constitution enacted in 1988. In order to compare with Portugal, we divide the organizations into local business sector, when they are part of municipal administration and public business sector, when they are part of states and Union administrations.

The Brazilian local business sector is made up of autarchies, foundations, municipal and metropolitan enterprises and municipal mixed-economy societies. Autarchies are legal entities under private law, which have their own autonomy, assets and revenues, with the purpose of carrying out typical activities of local Administration. Foundations, on the other hand, are legal institutions governed by public law that municipalities can use to deliver specific public services, created through explicit laws. The accountability of these entities is given directly to Court of Auditors and as it is a public right, its assets are inalienable (Júnior, 2010). Both autarchies and foundations are not found in Portuguese scenario. Municipal and metropolitan enterprises and municipal mixed-economy societies are legal entities governed by private law, governed by Law 13.303/2016, of 30th June, which have in common the following characteristics: (i) being controlled by Legislative power, with assistance of Court of Auditors; (ii) be included in Public Budget; (iii) must comply with principles of Public Administration and, (iv) must comply with Law 8.666/1993. The difference between the two forms is in source of capital. While municipal and metropolitan companies have entirely municipal capital, capital municipal mixed-economy societies are formed by public and private shareholders (Júnior, 2010).

The public business sector, also governed by Law 13.303/2016, of 30th June, is formed by institutions linked to States and Union, and following the same definitions established to local business sector, with the difference that they are in other spheres of Brazilian public administration. In this case the capital is not municipal but of these entities (States and Union). The public business sector can be an extra alternative to deliver public services of Brazilian municipalities, which can use these institutions through public service concessions, as is the case of state sanitation companies that deliver services of this nature to municipalities. Public service concession is not verified in the Portuguese context.

The Municipal Associations in Brazil were regulated by Bill 486/2017. However, this project does not allow associated management of public services, since this prerogative is conferred to municipal consortia, governed by Law 11.107/2005, of 6th of April. The Municipal Consortia are made up of public association or private legal entity with a voluntary character defined in 241 Article of Brazilian Federal Constitution. According to Avezedo (2004) Municipal Consortia are cooperation agreements for organization and delivery of public services, while Municipal Associations towards administrative matters, such as technical training of civil servants, sharing of equipment and personnel to reduce costs, or technical advice for various subjects. In this way, the associations of municipalities verified in Portugal are directly related to Brazilian Municipal Consortia.

In Brazilian municipal associations context, it is important to highlight the existence of Brazilian metropolitan regions, which are the regional units regulated by Law 13.683/2018, of 19th June, instituted by States and constituted by bordering Municipalities to integrate the organization, planning and performance of public functions of common interest. But, contrary to Portuguese context, the association of municipalities in metropolitan regions does not constitute a form of public service delivery, but rather a geographic organization of neighboring municipalities which, when they wish, may resort to other forms to deliver services. It seems, therefore, that existence of states, a political level above municipalities, in the case of Brazil, does not require the creation of Intermunicipal Communities and Metropolitan Areas as we have in Portugal. In summary, the Brazilian municipal associativism as a way of delivering services is limited to institution of municipal consortia.

The private sector is also another way that municipalities can use to deliver public services. The hiring of private agents is part of the list of options, the private concession of services for a certain period, both governed by Law 8.666/93, of 21th June, and privatizations, which represent the permanent transfer of public services execution for private initiative. There are no differences between these options adopted by Portugal and Brazil.

Finally, there are also Civil Society Organizations of Public Interest, similar to Non-Profit Organizations of Portugal, governed by Law 9.790/1990, of 23th March. Non-profitable organizations are private legal institutions that do not distribute, among their partners or associates, directors, officers, employees or donors, any operating surpluses, gross or net, dividends, bonuses, interests or portions of their assets, earned through the exercise of its activities, and which fully applies them to the achievement of the respective corporate purpose. In general, non-profit organizations are dedicated to services that promote social development, health, education and culture.

Presented forms of public service delivery in Brazilian municipalities, and based on the forms found in Portugal, it is possible to identify that the same forms are present in both countries, although with particular characteristics, as is the case of public business sector that in Brazilian case covers other administrative spheres, namely, states and Union. However, for classification purposes, when municipalities choose to deliver services by these entities, it is understood that a public concession of services occurs, that is, a form of delivery is added particular to Brazilian case, as shown in figure 2.

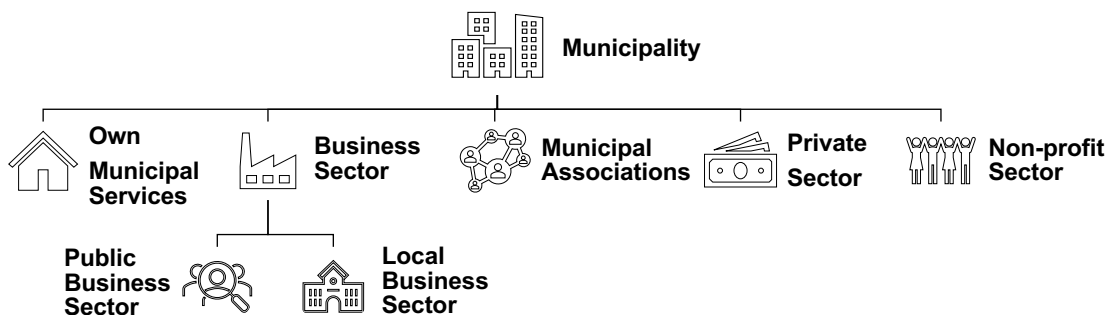


Figure 2. Municipal Service Delivery, Brazilian Municipalities

Source: Own elaboration

4.3. Comparison between Brazil and Portugal

Based on forms of public service delivery found in Portugal and Brazil, it is possible to establish a comparison between two countries regarding the options available for this purpose and to identify hierarchical, market and network structures. In general, the five forms of delivery identified in Portugal can be related to other five Brazilian forms (figures 1 and 2). In both countries, services can be delivered by internal structure through municipal services, however, there is no municipalised services in Brazil. Like Portuguese local business sector, Brazilian municipalities are endowed with similar alternatives for public services delivery. However, public business sector is added to Brazil context, where there is the possibility to municipalities use other governmental spheres, usually in areas of sanitation. This option is not available for Portuguese municipalities. The municipal associations are another option adopted in both countries. However, while Intermunicipal Communities and metropolitan areas in Portugal is mandatory, these are not verified in Brazil as they can be replaced using the public business sector. The municipalities Associations in Portugal and the creation of Municipal Consortia, in Brazil, are forms of voluntary association that share the same characteristics. It is noteworthy that in Brazil the formation of metropolitan regions is imposed on certain municipalities, however, the form of service delivery is not an obligation, unless there is a common agreement among members for the adoption of a certain option, including in this case, the formation of metropolitan consortia or companies. The private sector can also be a way of delivering services in both countries, whether by hiring private agents, by private concession of services or by privatization. Finally, partnerships with non-profit organizations can be considered as another form of service delivery both in Portugal and Brazil.

Table 2 summarizes the forms of public service delivery identified in Portugal and Brazil and their relationship with governance mechanism: hierarchy, market and networks.

Table 2. Municipal Service Delivery and Governance Mechanism.

Municipal Service Delivery	Governance Mechanism	Portugal	Brazil
Own Municipal services	Hierarchy	Municipal services	Municipal services
		Municipalised services	—
Local business sector	Market	Local enterprises (municipal, intermunicipal or metropolitan)	Municipal and metropolitan enterprises
		—	Autarchies and Foundations (municipal level)
		Mixed-economy societies	Municipal mixed-economy societies
Public business sector	Market	—	Public enterprises, mixed-economy societies, autarchies and foundations (state and federal level)
Municipal Associations	Networks	Intermunicipal Communities or Metropolitan Areas	—
		Municipal Associations	Municipal Consortia
Private Setor	Market	Private service concessions	Private service concessions
		Privatization	Privatization
Non-profit setor	Networks	Non-profit organizations	Civil Society Organizations of Public Interest

Source: Own elaboration

Conclusion

The public services delivery by Portuguese and Brazilian municipalities is based on several laws. However, Portuguese municipalities have more specific definitions of what forms are available to deliver such services while in Brazil the federal legislation is more generic. The dimensions of two countries seem to be a point to be explored to explain the difficulty of, for example, in Brazil there is less uniformity and information availability. Even with social, economic and geographic differences, it is possible to establish a relationship between the forms of public service delivery and governance mechanism existent in Brazil and Portugal, although with some particularities. In both countries, public services can be delivered through municipal services, local business sector, municipal associations, private sector and non-profit sector. Further analyzes reveals that Portugal have forms of public service delivery inexistent in Brazil: municipalised services, intermunicipal enterprises, Intermunicipal Communities and Metropolitan Areas. In Brazil, given the administrative political division, we add public business sector, which includes, for example, state enterprises, generally in the sanitation area, which deliver public services to several municipalities within the same state under a public service concession regime. As in Portugal there is no territorial division by states, normally municipalities associated through cooperation arrangements to delivery such public services instead of public service concession regime. In short, this exploratory analyzes aims to explore the different options for delivering public services

by Portuguese and Brazilian municipalities, finding similarities and differences in these two countries.

References

- Aldag, A. M., & Warner, M. (2018). Cooperation, not cost savings: explaining duration of shared service agreements. *Local Government Studies*, 44(3), 350–370. <https://doi.org/10.1080/03003930.2017.1411810>
- Andrews, R., Ferry, L., Skelcher, C., & Wegorowski, P. (2019). Corporatization in the Public Sector: Explaining the Growth of Local Government Companies. *Public Administration Review*. <https://doi.org/10.1111/puar.13052>
- Araújo, A. H. dos S., Santos Filho, J. E. dos, & Gomes, F. G. (2015). Lei de Responsabilidade Fiscal: efeitos e consequências sobre os municípios alagoanos no período 2000-10. *Revista Administração Pública*, 49(3), 739–759. <https://doi.org/http://dx.doi.org/10.1590/0034-7612132652>
- Arias Yurisch, K., & Garrido-Vergara, L. (2019). What Propels Municipal Governments to Collaborate? The Case of Thematic Environmental Association in Chile. *Lex Localis - Journal of Local Self-Government*, 17(1), 139–157. [https://doi.org/10.4335/17.1.139-157\(2019\)](https://doi.org/10.4335/17.1.139-157(2019))
- Avezedo, D. A. de. (2004). A natureza jurídica das associações de municípios e dos consórcios intermunicipais. *Revista de Direito Administrativo*, 238, 375–384. <https://doi.org/10.12660/rda.v238.2004.44088>
- Baba, H., & Asami, Y. (2019). Municipal population size and the benefits of inter-municipal cooperation: panel data evidence from Japan. *Local Government Studies*. <https://doi.org/10.1080/03003930.2019.1624257>
- Bel, G., Fageda, X., & Mur, M. (2013). Why Do Municipalities Cooperate to Provide Local Public Services? An Empirical Analysis. *Local Government Studies*, 39(3), 435–454. <https://doi.org/10.1080/03003930.2013.781024>
- Bel, G., & Sebő, M. (2019). Does Inter-Municipal Cooperation Really Reduce Delivery Costs? An Empirical Evaluation of the Role of Scale Economies, Transaction Costs, and Governance Arrangements. *Urban Affairs Review*. <https://doi.org/10.1177/1078087419839492>
- Blaeschke, F., & Haug, P. (2018). Does intermunicipal cooperation increase efficiency? A conditional metafrontier approach for the Hessian wastewater sector. *Local Government Studies*, 44(1), 151–171. <https://doi.org/10.1080/03003930.2017.1395741>
- Brown, T. L., & Potoski, M. (2003). Managing contract performance: A transaction costs approach. *Journal of Policy Analysis and Management*, 22(2), 275–297. <https://doi.org/10.1002/pam.10117>
- Campos-Alba, C. M., Higuera-Molina, E. J. de la., Pérez-López, G., & Zafra-Gómez, J. L. (2017). Explanatory factors in the renewal of contracts for the privatisation of public services. *Journal of Strategic Contracting and Negotiation*, 3(1), 3–19. <https://doi.org/10.1177/2055563617718386>
- Casula, M. (2019). A contextual explanation of regional governance in Europe: insights from inter-municipal cooperation. *Public Management Review*.

<https://doi.org/10.1080/14719037.2019.1665700>

Coase, R. H. (1937). The Nature of the Firm. *Economica*, 4(16), 386–405. <https://doi.org/10.1111/j.1468-0335.1937.tb00002.x>

Coase, R. H. (1998). The New Institutional Economics. *AEA Papers and Proceedings*, 88(2), 72–74. Retrieved from <https://www.jstor.org/stable/116895?seq=1>

Cruz, N. F., & Marques, R. C. (2011). Viability of municipal companies in the provision of urban infrastructure services. *Local Government Studies*, 37(1), 93–110. <https://doi.org/10.1080/03003930.2010.548551>

Dagdeviren, H., & Robertson, S. A. (2016). A critical assessment of transaction cost theory and governance of public services with special reference to water and sanitation. *Cambridge Journal of Economics*, 40(6), 1707–1724. <https://doi.org/10.1093/cje/bev079>

Dempsey, N., Burton, M., & Selin, J. (2016). Contracting out parks and roads maintenance in England. *International Journal of Public Sector Management*, 29(5), 441–456. <https://doi.org/10.1108/IJPSM-02-2016-0029>

Dixit, A. (2003). Some Lessons from Transaction-Cost Politics for Less-Developed Countries. *Economics and Politics*, 15(2), 107–133. <https://doi.org/10.1111/1468-0343.00118>

Drew, J., McQuestin, D., & Dollery, B. E. (2019). Good to share? The pecuniary implications of moving to shared service production for local government services. *Public Administration*, 97(1), 132–146. <https://doi.org/10.1111/padm.12575>

Eckersley, P., & Ferry, L. (2020). Public service outsourcing: the implications of ‘known unknowns’ and ‘unknown unknowns’ for accountability and policy-making. *Public Money & Management*, 40(1), 72–80. <https://doi.org/10.1080/09540962.2019.1660096>

Ferreira, W. de C. S. (2018). *Competência municipal para legislar sobre o meio ambiente: o interesse local como parâmetro à competência legislativa dos municípios* (Escola Superior Dom Helder Câmara). Retrieved from http://domhelder.edu.br/mestrado/editor/assets/arquivos_dissertacoesdefendidas/52916c938e603d19e4e6b375dd33d68c.pdf

Ferry, L., Andrews, R., Skelcher, C., & Wegerowski, P. (2018). New development: Corporatization of local authorities in England in the wake of austerity 2010–2016. *Public Money and Management*, 38(6), 477–480. <https://doi.org/10.1080/09540962.2018.1486629>

Giacomini, D., Sancino, A., & Simonetto, A. (2018). The introduction of mandatory inter-municipal cooperation in small municipalities. *International Journal of Public Sector Management*, 31(3), 331–346. <https://doi.org/10.1108/IJPSM-03-2017-0071>

Hawkins, C. V. (2017). Political incentives and transaction costs of collaboration among US cities for economic development. *Local Government Studies*, 43(5), 752–775. <https://doi.org/10.1080/03003930.2017.1337568>

Hefetz, A., & Warner, M. (2012). Contracting or public delivery? the importance of service, market, and management characteristics. *Journal of Public Administration Research and Theory*, 22(2), 289–317. <https://doi.org/10.1093/jopart/mur006>

Hefetz, A., Warner, M., & Vigoda-Gadot, E. (2015). Professional Management and Local

Government Service Delivery: Strategic Decisions Across Alternative Markets. *Public Performance & Management Review*, 38(2), 261–283. <https://doi.org/10.1080/15309576.2015.983829>

Higuera-Molina, E. J. de la., Plata-Díaz, A. M., López-Hernández, A. M., & Zafra-Gómez, J. L. (2019). Dynamic-opportunistic behaviour in local government contracting-out decisions during the electoral cycle. *Local Government Studies*, 45(2), 175–195. <https://doi.org/10.1080/03003930.2018.1533819>

Horn, M. J. (1995). The Political Economy of Public Administration. In *The Political Economy of Public Administration*. <https://doi.org/10.1017/cbo9780511528163>

Júnior, A. Z. (2010). A ADMINISTRAÇÃO PÚBLICA E O SERVIÇO PÚBLICO. Retrieved August 1, 2020, from http://www.stf.jus.br/repositorio/cms/portaITvJustica/portaITvJusticaNoticia/anexo/ALOISI_O_ZIMMER_JR.doc

Kim, Y. (2018). Can alternative service delivery save cities after the Great Recession? Barriers to privatisation and cooperation. *Local Government Studies*, 44(1), 44–63. <https://doi.org/10.1080/03003930.2017.1395740>

Kim, Y., & Warner, M. (2016). Pragmatic municipalism: local government service delivery after the great recession. *Public Administration*, 94(3), 789–805. <https://doi.org/10.1111/padm.12267>

López-Hernández, A. M., Zafra-Gómez, J. L., Plata-Díaz, A. M., & Higuera-Molina, E. J. de la. (2018). Modeling Fiscal Stress and Contracting Out in Local Government: The Influence of Time, Financial Condition, and the Great Recession. *American Review of Public Administration*, 48(6), 565–583. <https://doi.org/10.1177/0275074017699276>

Matias-Pereira, J. (2016). *Manual de gestão pública contemporânea* (5ª). Retrieved from Disponibilizado pela Biblioteteca Virtual da UTFPR

North, D. C. (1990). A Transaction Cost Theory of Politics. *Journal of Theoretical Politics*, 2(4), 355–367. <https://doi.org/10.1177/0951692890002004001>

Oosthuizen, H., Willett, R., Wilmshurst, T., & Williams, B. (2019). The constraining effect of incomplete contracts on the public reporting of waste management data. *Australasian Journal of Environmental Management*. <https://doi.org/10.1080/14486563.2019.1645751>

PDRAE; (1995). Plano Diretor da Reforma do Aparelho do Estado. *Cadernos Mare*, 68. Retrieved from <http://www.bresserpereira.org.br/Documents/MARE/PlanoDiretor/planodiretor.pdf>

Peres, U. D. (2007). Custos de transação e estrutura de governança no setor publico. *Revista Brasileira de Gestao de Negocios*, 9(24), 15–30.

Ribeiro, S. A. (2017). *Os custos de transação na dinâmica da organização dos serviços municipais* (Universidade do Minho). Retrieved from <http://repositorium.sdum.uminho.pt/handle/1822/55847>

Rodrigues, C. (2011). *Governança de Organizações Públicas em Portugal: A emergência de modelos diferenciados* (1ª edição). Edições Pedagogo, Lda.

Rodrigues, M. A. V., Araújo, J. F., & Tavares, A. F. (2009). A prestação de serviços públicos nas

- Autarquias Locais. In *Municipalismo* (pp. 77–122). Retrieved from <http://hdl.handle.net/10198/6896>
- Rodrigues, M. A. V., Tavares, A. F., & Araújo, J. F. (2012). Municipal Service Delivery : The Role of Transaction Costs in the Choice between Alternative Governance Mechanisms. *Local Government Studies*, 38(October), 615–638. <https://doi.org/10.1080/03003930.2012.666211>
- Rossoni, H. A. V. (2015). *Fatores condicionantes da presença de diferentes modelos de prestação de serviços de abastecimento de água e esgotamento sanitário no brasil:* (Universidade Federal de Minas Gerais). Retrieved from <https://repositorio.ufmg.br/handle/1843/BUBD-9Y2HHT>
- Santolin, R., Jayme Junior, F. G., & Reis, J. C. dos. (2009). Lei de Responsabilidade Fiscal e Implicações na Despesa de Pessoal e de Investimento nos Municípios Mineiros. *Estudos Econômicos*, 39 (4), 895–923. <https://doi.org/http://dx.doi.org/10.1590/S0101-41612009000400008>
- Silvestre, H. C. (2010). *Silvestre, 2010 - Gestão Pública Modelos de Prestação no Serviço Público*. Lisboa: Escolar Editora.
- Silvestre, H. C., Marques, R. C., Dollery, B., & Correia, A. M. (2019). Is cooperation cost reducing? An analysis of public–public partnerships and inter-municipal cooperation in Brazilian local government. *Local Government Studies*. <https://doi.org/10.1080/03003930.2019.1615462>
- Simon, H. A. (1979). Rational decision making in business organizations. *American Economic Review*, 69(4), 493–513. <https://doi.org/10.2307/1808698>
- Soares, M. M., & Melo, B. G. De. (2016). Condicionantes políticos e técnicos das transferências voluntárias da União aos municípios brasileiros 1. *Revista Administração Pública*, 50(4), 539–561. <https://doi.org/http://dx.doi.org/10.1590/0034-7612138727>
- Souza, L. da R. de. (2012). Local interest versus special interest: increased activity of the municipalities on the Brazilian republican constitutions. *Revista de Direito Administrativo*, 261, 115–145. Retrieved from <http://bibliotecadigital.fgv.br/ojs/index.php/rda/article/viewFile/8853/7674>
- Souza, N. J. V. A. (2017). A autonomia do poder local 40 anos de democracia local. *Revista Da Faculdade de Direito e Ciência Política*, 9(Nova Série), 61–77. Retrieved from <https://revistas.ulusoфона.pt/index.php/rfdulp/article/view/5960>
- Tavares, A. F. (2017). Ten years after: revisiting the determinants of the adoption of municipal corporations for local service delivery. *Local Government Studies*, 43(5), 697–706. <https://doi.org/10.1080/03003930.2017.1356723>
- Tavares, A. F., & Camões, P. J. (2010). New Forms of Local Governance. *Public Management Review*, 12(5), 587–608. <https://doi.org/10.1080/14719031003633193>
- Wang, H., Liu, Y., Xiong, W., & Zhu, D. (2019). Government Support Programs and Private Investments in PPP Markets. *International Public Management Journal*, 22(3), 499–523. <https://doi.org/10.1080/10967494.2018.1538025>
- Williamson, O. E. (1981). The Economics of Organization: The Transaction Cost Approach. *American Journal of Sociology*, 87(3), 548–577. <https://doi.org/10.1086/227496>

Williamson, O. E. (1985). The Economic Institutions of Capitalism. Firms, Markets, Relational Contracting. *Das Summa Summarum Des Management*, 15–38.
https://doi.org/10.1007/978-3-8349-9320-5_6

Williamson, O. E. (1999). Public and private bureaucracies: a transaction cost economics perspectives. *Journal of Law, Economics, and Organization*, 15(1), 306–342.
<https://doi.org/10.1093/jleo/15.1.306>