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NEW PUBLIC MANAGEMENT AND POLITICAL CULTURE IN PERU: A CASE STUDY OF A PUBLIC AGENCY

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I.   INTRODUCTION

1.1   Research problem and objectives

> *"It used to be a 100% technical public institution"*
> (An employee describing with nostalgia the public institution where he works)

In Peru, the idea of a good state is that which acts technically. This corresponds with a central principle of New Public Management (NPM), that is the separation between the political process of policy making and its technical implementation. Through a case study of the national records office of Peru, we will analyse to what extent these policy ideas explain the actual functioning of public institutions.

Over the last two decades, NPM and its technical model of a public agency has informed Public Sector Reforms around the world. New Public Management is a normative approach to public administration that makes universal claims about how the state should function[1]. However, there is a lack of evidence of how NPM principles function in concrete practice to support these claims. This is most evident in developing countries with different political, social and cultural contexts than those of the Anglosaxon countries that created and first implemented this model.

This study analyzes how the NPM model has been applied in developing countries through a case study of the *Superintendencia Nacional de los Registros Publicos* – SUNARP (National Superintendence Office of Public Records), the agency in Peru in charge of the public records (mainly property rights titles). In Peru, SUNARP is recognized as a successful experience of public sector reform. This agency presents a useful case to analyze how NPM

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[1] *"These models represent ideal types: in other words they are abstractions of reality that should never be confused with reality"* (Giauque, 2003: 574)

works out in countries with a different political culture than the Anglo-Saxon world.

SUNARP was created and structured in formal terms following the principles of NPM. In this study, we look at how several principles of NPM work out in practice, especially the principles of i) the separation between policy making and implementation; and ii) Agencification, i.e. the process by which the state creates semi-autonomous bodies in charge of specific targets.

As a way to gain legitimacy, the Peruvian State tried to redefine itself as efficient, technical and not political. According to NPM politicians are in charge of developing strategic policy, and implementation of these are left to other 'technical' instances. Perú, like other Latin American countries, experienced a severe economical and political crisis in the 80s. As a result, public sector reforms were undertaken together with structural economical adjustment. The main objectives of these reforms were the reduction of the state (in cost, size and employees), a roll back of many of its functions (specially regarding economic intervention), privatization of public enterprises, and the introduction of business organizations models in the state (like New Public Management), especially in several agencies (agencification).

These government agencies (among them SUNARP) were first portrayed and (soon after) recognized as successful examples of technical (rather than political) public institutions. In Peruvian political culture, it is a common opinion that the state does not work well because it is too political, hence the positive notion of a 'technical' institution. When someone is against some public policy the government dismisses those criticisms alleging that they are based on political and not technical arguments. This kind of thinking is very much spread in the Peruvian society. For this reason, public institutions strive (and SUNARP is not the exception) to be recognized as technical and as private enterprise.

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However, there seems to be evidence that no agency is purely technical. Through the case of SUNARP this study intends to demystify the purely technical image of the agencies in Perú and show that in reality they have not detached completely from some difficulties and political characteristics of other public organizations.

1.2 Research questions

In order to see what really is going on in a public institution that in formal terms follows the principles of NPM, the main question is:

How has the Peruvian political culture and the social and economical context affected the implementation of NPM (agencification) in SUNARP?

Sub questions:

- To what extent have New Public Management principles and specifically the process of agencification been implemented in SUNARP?

- Which socio political factors and aspects of the Peruvian political culture influence the process of agencification in SUNARP ?

1.3 Methodology, Limitations and Organization of this study

In order to do the analysis, this study:

A) Uses as a framework literature of New Public Management, Agencification (a specific form of implementation of NPM in state agencies) and political culture theory, in order to see to what extent this literature is useful to explain the specific characteristics and functioning of this agency.

B) Includes interviews of different actors related with SUNARP: a former Minister of Justice, a member of the board of directors of SUNARP, two managers of SUNARP, two former registers, one employee of the area of the management office for budgeting and development of SUNARP (area in charge of planning) and one employee of the register management. The interviews were made by e-mail between September and October 2005. [2] While the statements in the interviews cannot be generalized, this methodology is still valid because it shows some significant trends of how the agency is perceived by these relevant actors.

C) Uses other sources of information such as laws, official documents and strategic plans, as well as articles in the daily news.

D) Uses researcher's own relevant experience and knowledge as a former member of the institution.

Limitations and Potential

The fact that this study is based on the researcher's experience as an employee (member) of the legal management of SUNARP constitutes both a limitation and an advantage. The closeness of the researcher to the agency can affect the objectivity and impartiality of the study because of personal bias and the difficulty to take distance from the object of study. On the other hand, and because it has not been possible to do fieldwork, the position of the researcher constitutes an advantage since it allows to access 'privileged' information (in formal and informal ways) and to know what is going on in the agency from inside.

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[2] The number of actors interviewed is short also because several questions touch upon very sensitive issues regarding SUNARP, especially for people that are former or current employees of that institution. Confidential responses have only been possible thanks to trustful relations between the interviewer and interviewees. Still, interviews have tried to cover key actors in different positions related with SUNARP to know their different perspectives.

Overall, this study can be of value because public institutions are often difficult to 'penetrate' by actors 'outside' of it and it is not always easy nor possible to see what goes on inside.

Organization

This investigation is organized as follows: chapter 2 develops the theoretical/conceptual framework. Section 2.1 describes New Public Management, more specifically the process of Agencification; section 2.2 describes the concept of, and relevant ideas related to political culture; section 2.3 establishes the connections between NPM, political culture and the Peruvian context. Chapter 3 describes the main characteristics of SUNARP: how it is organized, its labour and financial regulations, and how the services are provided. Chapter 4 analyzes the case of SUNARP in order to see to what extent the model of organization of SUNARP corresponds with New Public Management particularly in its Agencification branch. Chapter 5 analyzes the case focusing on the ways the Peruvian political culture and socio economic context play out in the functioning of SUNARP. Finally, chapter 6 summarizes the results of the analysis and makes final reflections.

II. THEORETICAL FRAMEWORK

2.1 New Public Management (NPM)

As I explained in the introduction, SUNARP formally appears to follow[3] the model of Agencification that is part of the New Public Management model. The following sections present the main principles and characteristics of this model.

New Public Management is a model that proposes the introduction of organizational principles from the private sector into the public sector. NPM

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[3] The description of SUNARP in chapter 3 will support this assumption.

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principles and tools are based on a neo-liberal rationale. There is the belief that market mechanisms, together with competition and the pursue of individual interest, are the best forms to motivate public employees. This logic comes from the business and commercial sector. NPM is inspired by an economic analysis supported by three schools: Public Choice, the Agency Relations School and the Transaction Costs School. These theories critique the functioning of public administrators who are seen as egoistic, calculating and opportunistic actors. Civil servants are considered as obstacles to the implementation of policies, in particular those that have to deal with economic policy because they are considered to act in their own benefit. (Giauque, 2003: 574) In this logic, to provide economical incentives to civil servants is a way to satisfy their individualistic interest and at the same time to motivate their work.

These theories aim at reducing costs of the organization and producing more using fewer resources (one of the mains objectives of NPM). This can be achieved by introducing competition, promoting entrepreneurship and manager behavior among civil servants, as if they were private sector workers, and the introduction of incentives; will make it possible to (Giauque, 2003: 574)

More specifically, this model assumes that: i) the public interest state has led to extensive government failure and inefficiency and market mechanisms should be introduced in it, ii) there is a separation of policy and execution, iii) managerial incentives will provide better performance; iv) and accountability between manager and customers is preferable to legal an political forms of accountability. (Minogue 2002: 6-7)

Arguments in favor of this model are: i) the market is a more efficient model for the state, ii) efficiency is gained with this model, iii) public managers have more autonomy and better incentives, iv) consumers have more choices and managers are directly accountable for their service delivery, v) there is more

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control of public spending and lower tax regimes and; vi) it constitutes a positive change from a bureaucratic into a entrepreneurial culture (Minogue, 2002: 9).

Thus this model tries to introduce competition, flexible contractual labor regulations, output and customer orientation in the public sector. In this view the state is a supplier of products and services for the citizens—who are considered consumers.[4] *"In an extreme version of New Public Management the state would become a 'supermarket state', meaning that the state would primarily be a service provider"* (Aberbach and Christensen, 2005: 238). For New Public Management, imitating the market in being responsive to consumers, public organizations will produce better and more desirable outputs (2005: 226). Related with this the use of fees is consider a way to increase allocative efficiency in the use of resources and increase accountability to the clients, (Batley 1999: 764-765) What matters from this perspective is not so much to follow rules and procedures but to "produce." As a consequence, the action of the state becomes more result and output oriented.

Separation between policy making from policy implementation

A central idea of the New Public Management model is the relevance of managerial practices in the administration. In fact, because the concern is in outcomes rather than procedures, managers receive more responsibility and flexibility to manage their personnel and resources. However, this level of discretion granted to managers have to be controlled through the establishment of clear targets, outputs and indicators to measure their performance. (Minogue, 1998:27) This is why for the New Public Management model it is very important to separate policy making from policy implementation. In fact, there is the necessity that some (politicians) establish the targets and some (managers) implement them through a kind of contractual agreement where the targets are

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[4] There is the perception that the citizens behave as consumers demanding quality services. They are active consumers of government services and not active recipients. In this sense, comparisons with the private sector are made. (Minogue, 1998:19).

set. As a consequence, this model entails the fragmentation of the state into semi autonomous bodies in charge of specific targets. In line with its market orientation, the implementation of policies are transferred to private bodies in order to incentive competition (Van Donge 2002: 315).

However, not all services and policies that the state provides can be transferred to the private sector. There are areas where the state wants to be the only provider because the service is a core function of the state and represents a public good. In those cases, there is a process of Agencification. [5] (Van Donge 2002: 315).

Agencification

Agencification is the process of conversion of ministry departments in semi autonomous contracting units to deliver services which are seen as natural monopolies for the government. (Van Donge 2002: 315). The purpose of agencification is to keep the public character of the benefit produced while implementing mechanisms of efficiency associated with the private sector. (Van Donge 2002: 316).

Civil servants in an agency are oriented to obtaining results within a regulatory framework. The managers are preferably contracted for short periods of time and the renewal of the contract depends of his or her performance in attaining the standards laid down in the contract. For that reason there is no security of tenure in the job. On the other hand, agencification is supposed to offer protection against political interference since the criteria for evaluation are based on outputs and merit. The agency is also financially autonomous. The money saved by eliminating waste or serving more customers remains within the agency (Van Donge 2002: 317).

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[5] For example, in the United Kingdom over three quarters of all state employees work in agencies (James, 2004; 75).

In addition, agencification is often based on the assumption that policy making and the execution of policies can be separated. This assumption, together with the extensive use of private regulations (Van Donge 2002: 318). result in the supposition that the managers of the agencies do not have any political responsibility, that they only have a contractual responsibility.

According to Talbot (2004:6) the following are main characteristics of agencies

(i) Structural disaggregation and/or the creation of 'task specific' organizations. This concept means the division of a larger body into a 'parent' body and various subordinate 'agencies'. The most common cases are the division of ministries into a core central body and several agencies carrying out specific tasks. (Talbot 2004: 7)

(ii) **Performance 'contracting,'** some form of performance target setting, monitoring and reporting. This implies a system of performance measurement with performance indicators that include the opinion of the costumers (Minogue, 1998:27).

(iii) Deregulation (or more properly re regulation) of controls over personnel, finance and other management matters. The creation of agencies is supposed to brake down previous unnecessary regulation, and provide more liberty for managers to improving performance (Talbot 2004: 12-13).

New Public Management and Information technology

It is relevant to mention that New Public Management is linked with the implementation of information technology (as we will see in the case of SUNARP) in the production and distribution of public services (Hood, 1991: 3). In fact, information technology is regarded as a tool of the public sector to try to provide a level of service comparable to the private sector (Asgarkhani, 2005: 466). According to Asgarkhani, the implementation of digital government reduces

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the monopolies of information and hierarchies within the public sector (2005: 466) In Asgarkhani's view, the implementation of information technology in the public sector *"promotes and motivates a more operationally efficient and cost-effective government: facilitates more convenient government services to citizens and businesses; enhances economic development; reshapes and redefines community and government processes: allows greater public access to information; and makes government more accountable to their citizens"*. (Asgarkhani, 2005: 468)

2.2 Political Culture

There is a broad literature that discusses the notion of political culture.[6] Although acknowledging the validity of the theoretical refinements, I take a pragmatic approach to political culture defining this concept as *"a people's predominant beliefs, attitudes, values, ideals, sentiments, and evaluations about the political system of its country, and the role of the self in that system"* (Almond & Verba, quoted in Demmers, 1999; 47). Additionally, Pansters includes agency and practice in the study of political culture (Pansters referenced by Demmers, 1999; 50)

The inclusion of agency and practice in political culture implies two aspects; i) the circular process of political culture: political discourses and practices with the time consolidate into a political system and then the latter influence the production and reproduction of political cultural discourses and practices, ii) since agency is an important element the role and interaction of different actors becomes meaningful. Therefore, it is possible that different, competing political cultures co-exist in one society. (Pansters referenced by Demmers, 1999; 50-51)

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[6] One problem of political culture studies lays in the plurality of definitions of that term. Definitions fall in different categories such as psychological, comprehensive sociological, objective definitions, heuristic definitions, linguistic. (Gibbins, 1989; 3). Wilson also points to the existence of different approaches to political culture(Wilson, 2000, 248).

Given the limits of space and time for this study, we will not discuss the diversity and complexity of political cultures within each society, and in this case, within Peruvian society. We will draw upon main ideas on political culture theory that are relevant and useful to highlight and explain the more salient features of the social and political context analyzed here.

According to Guy Peters, the adoption of traditional bureaucratic models in developing countries is only done in its formal aspects. In his discussion of the use of bureaucratic methods in underdeveloped countries, Riggs proposes the "sala" model of administration: one that having the form of western bureaucracy is actually filled with individuals operating according to more traditional norms of family and communal loyalty (Riggs, quoted in Peters, 1978: 42). We acknowledge that this is not fundamentally different from what occurs in western countries. At the same time we do think that this feature prevails to different extents in the different contexts, and that in the case of Latin America this feature is prevalent and has important implications.

On the basis of Pye's work, Peters distinguishes four dimensions in political culture: i) Hierarchy and equality, ii) Liberty and coercion, iii) Loyalty and commitment, and; iv) Trust and distrust.

The first dimension is refers to how cultural values concerning authority and impersonality of rules affect hierarchical structuring of personnel and authority in a formal organization. Here, it is important to consider what are the means of recruitment into administrative positions. Drawing on Parsons, Peters points out two different criteria for recruiting people into positions: ascription and achievement. In an achievement-oriented culture, an individual's place in society is determined by ability and not by who he is. On the other hand, ascriptive cultures recruit individuals by class, status, race, language, caste or other personal characteristics (1978: 47-54).

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Another important issue is how authority is accepted. Several studies in developing societies point out that orders from a superior may be obeyed for personal characteristics rather than from an acceptance of the authority position. (1978: 49)

With regard to the dimension of liberty and coercion Peters points out that the stability of a democratic society may depend upon the degree of consensus among values enforced by bureaucracy decisions and the majority of the citizenry (1978: 50) A way to impose the bureaucracy's will on citizens without the opposition of the citizens is to claim efficiency and to appeal to technological criteria in decision-making. It becomes very difficult for common citizens to dispute decisions made by a technologically competent and well-insulated bureaucracy (1978:50).

The third dimension, loyalty and commitment, means *"the terminal community to which the individual gives his ultimate loyalty"*. Political decision-making in legislative or executive instances in situations of extreme cleavage is a difficult if not impossible process. In these cases, the public bureaucracy may be the only effective decision making body in the nation especially if there is the idea inculcated into the population that bureaucracy is above politics as a rational and independent organization (1978: 52).

The fourth and final dimension of political culture is the level of trust and distrust among the population[7]. Peters argues that *"differences in the rate of growth of administrative decision-making powers in modern countries are not due entirely to random or irrational forces, but instead are at least in part related to patterns of political cultures in these societies. The patterning of trust in the political cultures may play an important part in this explanation"*. (1978: 53-54).

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[7] Since 1993 with the work of Putman, trust has been included in the broader concept of social capital. Putman defines the latter as: "features of social organization, such as trust, norms, and networks that can improve the efficiency of society by facilitating coordinated actions" (Putman quoted in Field, 2003; 4). Still, the concept of trust utilized by Peters remains more useful and pertinent for the specific analysis and perspective developed here.

Peters separates political trust in two components: i) Trust in individuals or *"the degree to which individuals in the society believe that others outside their immediate family can be trusted, as well as having a generally benign view of human nature"* (1978: 54); and, ii) trust in government and political institutions: *"the degree to which individuals believe that the political structures and politicians, as opposed to administrative structures, are worthy of trust"* (1978:56).

In the case of the first component, the lack of social trust removes the possibility of informal or self-regulatory activities. On the contrary, *"in political systems such as United States, the United Kingdom, or Scandinavia where social trust is high, nongovernmental alternatives to public administration emerge quite readily. Individuals feel that they can safely form organizations and allow those organizations some control over the lives of the members"* (1978: 54).

For instance, Great Britain is used as an example of an entrepreneurial society, where the development and management of British enterprise has been an entrepreneurial action. One could add that entrepreneurial agency requires too an important degree of trust among individuals. In any case, the style of management tended to remain personal and the administration of public policy in that country appears to follow many of the entrepreneurial channels (Peters, 1978: 41) (This point is relevant and is better explained in the following section 2.3)

In the case of the second component, trust in government and political institutions, if the majority of the population does not trust that these institutions are fair, honest and impartial, then government will have many difficulties to rule the country (1978: 56).

With the combination of these two components Peters measures the power of the public administration (understood as the decision making power of the public bureaucracy relative to other decision making bodies such as the legislative). In this sense, he proposes that societies with high trust in individuals, governments and political institutions, require a low administrative power because civil society can assume some functions of the state and the government does not need a strong bureaucracy to enforce its decisions. In contrast, societies with low trust in the two components need a strong administrative power to enforce government decisions and to perform its functions (1978: 57-58).

In third world countries, in many cases there is no trust in the political system neither in the interpersonal relations, especially in nations with ethnic diversity that have been unable to build effective national institutions. In such societies there is a lack of nongovernmental institutions that could regulate some economic or social aspects. The interest groups are fragmented and act as defensive groups. Political systems in these countries are also weak. Politics are characterized by fragmentation, ideological argument and immobilism. The population is unwilling to accord legitimacy to the actions of government, preferring the family, or the local patron, as the source of authority. Yet the country has to be run somehow so the bureaucracy becomes the source of power to rule. This pattern tends to be self-reinforcing (1978:59)

> "As more power and decision making pass to the bureaucracy, the popular image of government as authoritarian and impersonal is reinforced. This further reduces the legitimacy of the political system in the eyes of population and further prevents the legislative and executive bodies from becoming effective rule making bodies. **Thus a cycle of bureaucratic domination tends to perpetuate itself, being broken mainly by "charismatic personalities" who are capable of producing effective political action either through or around normal political channels".** (Peters, 1978; 59-60 emphasis added).

According to Peters, in fragmented societies of some third worlds countries each segment of the society protects even more, their interests against each other; and this makes it harder for an alternative means of social decision-making to develop. The long history of colonial rule and the lack of a social and economic

infrastructure usually associated with democratic government has made the bureaucracy and the army the two main sources of power in many of these societies (Peters, 1978; 60).[8]

2.3 New Public Management and political culture in Peru

It is not surprising that NPM appeared and developed initially in Great Britain and other countries with similar characteristics in the 1980s. As we saw, Great Britain by then already had an entrepreneurial culture and it was a society with high trust among individuals and high trust in political institutions, so its government did not need a powerful administration to rule the country. In the case of high trust among individuals and social groups/institutions, many activities of the government could be done by civil society organizations (people trusted them). Regarding trust in political institutions, the policy-making decisions are more likely to be accepted by the citizens so a strong bureaucracy is not necessary in order to rule the country. This context is compatible with the new public management model that proposes a downsizing of public administration, contracting out and transfer of public functions to the private sector, as well as the implementation of market oriented and managerial forms of organization in the public administration.

But what happens when the NPM model is tried out in a Latin American country like Peru?

Since the colonial period, Latin American countries constituted the periphery (vis a vis Spain-the center) where strong regulations were imposed as a form to control local power and threats to the central power. But in reality this system was unpractical and the local colonial administration 'obeyed but did not apply/

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[8] Peters' claims are not immune to criticism: a) developing countries realities are, on the one hand, even more diverse and more complex than the way Peter portrays them, and b) developing countries realities – at least Latin American countries realities—have changed in significant ways in the last 20 years (when Peters wrote his book). However, I have found that overall his ideas are still relevant and useful as framework for analyzing the Latin America and more specifically, the Peruvian context.

implement'[9] (Mendez, 1999; 14). Although on the one hand the state allowed for the 'disobedience,' on the other, it kept over regulating in case it decided to exercise its power. As Mendez notes, Latin America has been a region with many strict rules that are applied very flexibly (1999:14). This is related to the dimension of practice in political culture of Pansters (the existence of competing political cultures in one society) and close to Riggs's concept of the 'sala' model (section 2.2) according to which bureaucracy is only formal because in reality it operates through processes of negotiation according to the local cultures and social context.

Mendez also argues that the colony brought severe social conflicts that caused deep distrust among social groups. This situation together with the situation of distrust in politics fits Peters' classification of low trust societies where bureaucracies become a powerful actor, together with the army, in many countries of Latin America. The lack of trust in Latin American societies has caused social relations to be based in informal personal links. In the arena of formal rules these informal relations are the basis for negotiation. The personification of power favors the development of patronage and clientelistic relations. Latin American states were not founded upon an open and abstract system of rules, but upon military force and central government (Mendez, 1999: 14). This also explains the fact that many Latin American countries have a weak separation/independence of powers.

States have been principal actors in Latin American societies due the colonial heritage, the fragmented society, underdevelopment, and the lack of trust. At the same time, those states are also weak because i) they are dependent of foreign/external powers and organizations, ii) they lack legitimacy, and iii) their

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[9] A similar argument can be made about the Catholic Church—another cultural icon in Latin America-- and Catholic religion and practice in the region. The Catholic Church has imposed many 'moral rules' in society and the latter 'seems' to follow them strictly, but there is much hypocrisy being practiced. Eloquent enough is the following saying: *"Dios no castiga el pecado pero si el escandalo"* (God does not punish sin but scandal).

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huge presence and scope of action renders it inefficient and disorganized (Mendez, 1999; 17-18) and iv) the division of powers is weak.

The weak division of powers has enforced the figure of the president in many Latin American countries. The political struggles are transferred to the bureaucracy and this causes that the elimination or reduction of public offices could affect the political support of the government. For this reason, the governments hire new personnel or create new public offices to place supporters or members of the ruling party and assure political support. In this process of the creation of new public offices it is common to find certain 'islands of efficiency' related, in the majority of cases, with economic development areas (1999:19-20).

Peru's modern history-- like other Latin American countries- *"[...] has been characterized by political and social confrontation, crisis of governability, interruptions of the constitutional order due to military intervention, and different varieties of authoritarian projects. The country is marked by a lack of institutional differentiation and by the political realm's lack of autonomy, both traceable to the social, ethnic, and regional fragmentation of Peruvian society and the oligarchic patrimonial order"* (Cotler, 1995: 323). Political parties in Peru represent fragmented social interests, have highly personalized leadership and have populist and clientelistic practices (1995: 323-324). "Party politics in Peru has always tended to be 'moviementista' (political movement) characterized by totalizing, all embracing, antagonistic, and exclusionary approaches and practices" (1995; 323). In Mendez's view, this causes each new government to try to monopolize the power because the following/next government is very likely to replace –entirely – the former government's state project and government plan. In short, politics in Latin America (including Peru) was and is a zero sum or a take everything game where the political and administrative evolution has been characterized by vicious circles and repetitive cycles of chaos and authoritarianism (Mendez, 1999; 15).

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A case in point is Mexico, where each time a new president is elected thousands of officers of the former government and appointed public positions are turned over. This precarious environment in high and middle level officials legitimates a culture of patron-client relations (Sloan, 1984; 138-139):

> *"Such relationships are based upon enduring personal bonds of reciprocity and personal loyalty between individuals in superior and subordinate positions[(...] If your patron advances and you maintain his confidence, you advance as well. If your patron loses the trust of his superior or you lose his confidence, then you may be fired.* (Sloan, 1984; 139).

In Peters's terms (section 2.2), this criteria for recruitment is by ascription and not by achievement.

Having these characteristics in mind, how can the NPM model be applied in a fragmented society where there is low trust between individuals and in political institutions, and with no entrepreneurial tradition? How to downsize the state when there is no trust in nongovernmental institutions to deal with public functions? How to organize the state according to market and managerial orientation when the public administration is a field of clientilistic and patronage negotiations between different political factions? How to separate politics from the public administration when the system is highly politicized?

Peters explained how charismatic personalities can break cycles of bureaucratic domination and are capable of producing effective political power. Along similar lines, Gamarra sustains that in Latin America periods of crisis have successfully transcended thanks to leaders who exerted uncommon capacity to govern (Gamarra, 1994: 7). In the 90s, one of these personalities or leaders appears in Peru. Alberto Fujimori was elected president in 1990 after two disastrous governments of traditional Peruvian parties. Fujimori was an outsider of the traditional political scene, of the traditional elite (being of Japanese descent), and he presented himself as a technocrat and not as a politician. Indeed, Fujimori gained support from population because of these characteristics. In Cotler's

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words: *"[a]rmed with a critique of existing political parties and with a slogan that offered 'work, technology, and honesty', Fujimori managed to win the support of both the rural and urban masses and the lower-middle classes"* (1995: 348). In power, Fujimori created a team of technocrats from diverse parties in order to apply neo liberal policies, he gave broad support to the armed forces and professed his respect for and dedication to the catholic faith. This strategy resulted in general approval of the new government. Fujimori obtained extraordinary powers from Congress and then decreed a drastic structural adjustment with the aim of reducing inflation and regaining the confidence of the multilateral lending organizations. These policies received the support of the members of the Frente Democratico party (that lost in second place that elections) because these were similar with its own government plan (Cotler, 1995: 348-349).

However the continuity of attacks from Fujimori to traditional parties, the attacks to the inefficiency of political institutions and a pacification policy that provided unlimited powers to the military to combat terrorists groups (Shining Path and Tupac Amaru insurgent groups) brought a growing opposition from the Congress. On April 1992, Fujimori suspended the constitution and closed the Congress with the support of the majority of Peruvians[10] (1995: 349).

The *coup de etat* of Fujimori *"[...] reveals that restructuring sources of patronage can have unsettling effects. In many ways, the neoliberal process involves a redistribution of patronage networks; thus, some groups are cut off, a few retain access, and new groups sometimes emerge."* (Gamarra, 1994: 7). After the *coup de etat "Fujimori went on to purge the public administration, the courts, and the military commands, and to install personnel who unconditionally supported him"* (Cotler, 1995: 349). Related with this, Fujimori created public offices that were

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[10] Fujimori's close down of the parliament was approved by 71% of the population and 89% approved Fujimori;s intervention in the Judicial Power. Source: Apoyo, Opinion y Mercado. April 7, 1992. See also the 2003 Final Report of the Peruvian Truth and Reconciliation Commission. Available at: www.cverdad.org.pe

identified as 'islands of efficiency' related in the majority of cases with economic development areas (as Mendez described).

Because Peruvians trusted him and supported him (for being no 'politician' but a 'honest, hard working technocrat') Fujimori was able to implement harsh economic measures that affected the majority of the population without major 'complaints.' This can be related to what Peters had noted with regards to a political culture where ascription is a stronger criteria than achievement. One can argue that Fujimori not only was elected, but was also supported and 'obeyed' because of what he represented at many levels. He was not considered a traditional corrupt politician and he 'sold' an image of 'honesty, technology and work' to the public. Even his physical characteristics (Japanese) contributed to this image, since in Peru, Japanese culture is seen as an example of precisely *technology, honesty and hard work.*' Thus an important factor for Fujimori's popularity and support was that his government was identified as a technocratic government. As Peters has explained, a way to impose decisions on citizens is to claim efficiency and to appeal to technological criteria in decision-making because this makes it harder for the common citizens to dispute those measures. In this regard, technocrats and democratic systems have a difficult relationship (Centeno and Silva, 1998: 6). Indeed, technocratic ideology has not usually flourished in high intensity democracies, because by *"[...] privileging objective reason, such scientific politics deny the very essence of politics: the representation of particularistic interest and their resolution in some institutional arena"* (1998; 5). Fujimori in fact was an authoritarian government that made the economic and public sector reform supported by technocrats.

This context and background explain how Fujimori was able to implement public sector reforms inspired by new public management principles. The following altogether enabled Fujimori to have effective political power to downsize the public administration[11] and to apply new public management principles in certain

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[11] Fujimori reduced the number of public employees from 700,000 to 300,000. (Mendez, 1999, 36)

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public offices that were considered 'islands of efficiency': a) The popular support he was able to gather, b) the technocratic discourse and image he was able to develop, and c) the authoritarian character of his government.

After ten years in power, and after growing corruption scandals involving his main political advisor-- Vladimiro Montesinos-- Fujimori left the country, fled to Japan and from there sent his resignation letter to Peru, by fax.[12]

However, the new democratic government of Alejandro Toledo is unpopular, the government party (Peru Posible) is divided among internal factions, and is not identified as technocratic (nor honest, not 'hard worker') at all. This means that Peru may be--following Peters and Mendez -- beginning a new period of weak capacity of political action and a chaotic government where the public administration is affected by political struggles.

In sum we can say that in Peru:
- The social and political context is different from the Anglo-Saxon one, which was the one where NPM originated and developed.
- The models of bureaucratic organization are only formal because in reality they operate through processes of negotiation (that include patronage and clientelistic practices) between different actors (competing political cultures)
- Public institutions provide political support for the governments.
- There is a political culture of low trust in interpersonal relation and towards public institutions. As a consequence there is a weak division of power that enforces the presidential figure, bureaucracies and the army.

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[12] Recently, on November of this year (2005), Fujimori was arrested in Chile in his way to Peru. He was (is) determined to participate in the presidential elections coming in 2006. Currently, Fujimori has 20% (second place so far) acceptance among the Peruvian electors, despite the fact that – formally, legally—he is not able to run as candidate (Portal Terra. Avalaible at: http://www.terra.com/noticias/articulo/html/act275434.htm, source: Apoyo. (Survey realized in November 2005)

- Political parties represent fragmented social interests, have highly personalized leadership and have populist and clientelistic practices.
- Politics are characterized by a zero sum or a take everything game where the political and administrative evolution has been characterized by vicious circles and repetitive cycles of chaos and authoritarianism.
- There is an attraction for authoritarian governments with an important leadership because they bring stability.
- Technical discourse is a useful tool to provide legitimacy for government.
- Public sector reforms inspired by NPM were possible to implement, to a large extent, thanks to the authoritarian and technocratic character of Fujimori's government.

One of the objectives of this paper (chapter 5) is to investigate how the Peruvian political culture and social and economic context has affected a supposedly good example of a New Public Management public office: SUNARP. The following two chapters (3 and 4) describe this organization and the formal elements of NPM applied there.

III. THE CASE: SUNARP

Context and Background

The process of neoliberal economic and public sector reforms applied in the 90s by Fujimori implied important changes in the role of the state. The extent of the privatization of public enterprises, the subsidiary role of the state and the promotion of private investment brought about the importance of the regulatory aspect of the state, the establishment of clear rules for the market and protection of property rights.[13] For this purpose, several agencies were created to:

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[13] Economic and public sector reforms were influenced by the Washington Consensus on economic policy, inspired mainly by international financial institutions. Ten key reforms were proposed as a way end the crisis of third world countries: Fiscal discipline, public expenditure priorities, tax reform, financial liberalization, unified exchange rates, trade liberalization, foreign direct investment, privatization, deregulation and respect for property rights (Gamarra, 1994; 8)

a) regulate the privatized utility companies and natural monopolies in the area of electricity, potable water, telephones, rails, roads;

b) prevent abuses of monopolies in the market and to protect consumers;

c) collect taxes (before the reform this role was part of a line office of the Ministry of Finance), and;

d) register property rights (SUNARP was created for this function. Before the reform, the registries depended upon different ministries).[14]

All these new agencies or institutions developed key functions in the context of the economic reform in Perú. For this reason, these agencies received a lot of support from the government. They were semi autonomous, with economic and political independency. The employees of these agencies worked under the private labour regulations. This situation allowed for the possibility to negotiate high salaries which explains, in part, the fact that many high profile professionals joined as employees in these institutions. These agencies were considered islands of modernity within the Peruvian state because they provided a "good service" and the professionals were high skilled and trained (Guerra García, 1999: 37). The rest of the public institutions suffered from a high rotation of managers and chief executives, lack of high level professionals, lack of continuity in the policies, poor control of agendas, incapacity to set priorities, political interference and excessive administrative procedures that affect results. (Guerra García, 1999: 37)

It is not surprising then that new managerial models sponsored by international organizations such as the IMF, like New Public Management, were introduced and applied only in the above-mentioned new agencies/organizations.

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[14] According to a former minister of economy of Fujimori's government, the reform of the property rights system was a key element for the success of the economic policy (Bolona, 1996, 209).

From the general public's view, SUNARP is considered one of the best institutions in Perú[15]. It is also considered by the public as one of the most efficient institutions in the country[16]. SUNARP has won several prizes as a creative enterprise in its use of technology, it has also been awarded a prize for good governmental practices in the category "simplified procedures'[17].

So far, it is important to note that:

a) SUNARP was created in the context of the neo liberal public reforms
b) SUNARP is an agency supposedly applying several NPM principles
c) SUNARP is considered to perform very well not only in comparison to other public institutions but also in comparison to private institutions in Perú.

Creation of SUNARP

The office in charge of the public registries was a department of the Ministry of Justice. In 1994 the law 26366 gave autonomy to the public registries with the creation SUNARP, This institution became an independent decentralized organism of the Ministry of Justice in charge of governing the National System of the Public Registries. Among its main functions and attributions SUNARP has to dictate the policies and technical norms of the public registries, to plan and to

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[15] Given the focus of this study, as well as the limits of space, I acknowledge --but do not discuss-- the problematic around the concept of 'success,' and more specifically, around the use of 'success cases' as tools for expanding certain policies, political agendas, and even ideologies. For an interesting discussion of 'the production and promotion' of success, see Rap, Edwin (Forthcoming), 'The Success of a Policy Model: Irrigation Management Transfer in Mexico' in *Journal of Development Studies*, London Routledge,

[16] A survey for enterprise leaders made by the University of Lima places SUNARP as the third most trusted public institution with 75.4% of approval by the general public. A survey of San Marcos University made in 2004, shows that 73.92% of the users feel satisfied with the register service received by SUNARP. A study of the World Bank "Doing Business 2005" shows that in Latin America, Perú and Chile are the faster countries to register a property.

[17] SUNARP has received this year a prize for "Good Government Practices 2005" in the category of simplification of procedures through its service of Registry publicity in line. This contest is organized by a prestigious NGO called "CAD Ciudadanos al Dia". See its web page: www.ciudadanosaldia.org

organize, to regulate, to direct, to coordinate and to supervise the inscription and publicity of acts and contracts in the Public Registries that conform the System[18].

The public registries are conformed mainly by the Natural People Registry (this registry deals principally with testaments), the Legal People registry (this registry deals principally with corporations), the Immovable Property Registry (this registry deals principally with land property) and the Movable Property Registry (this registry deals principally with vehicular property rights).

According to the law, SUNARP has legal personality of public law, with own patrimony and functional, legal-registry, technical, economic, financial and administrative autonomy[19].

In 1995, the urgent decree D.U. 019-95 established a period of reorganization of the public registries. This process meant a collective dismissal of many employees (trough a process of general evaluation) and the conversion of the labor regime from public to a private one.

Structure and organization of SUNARP

SUNARP's high hierarchy is conformed by the Superintendent and the board of directors. The maximum authority of SUNARP is the Superintendent who is designated by the President of Perú by recommendation of the Minister of Justice. After this authority is designated, the post is for 4 years and he only can be fired for immorality, negligence or incapacity[20]. To be designated as Superintendent the candidate has to: be a lawyer with more than 10 years of professional experience, have moral and professional capacity for the position and not be related with enterprises that have contracts with SUNARP.[21]

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[18] See article 10 of the law 26366: Law of creation of SUNARP.
[19] Ibid.
[20] See article 13 of law 26366 – Law of creation of SUNARP.
[21] See article 14 of law 26366.

The maximum political authority of SUNARP is the board of directors[22]. There are four directors: The Superintendent who is the president of the board, one representative of the Council of Ministries, one representative of the Ministry of Economy and one representative of the Ministry of Justice[23]. The decisions of this board need to be approved with the majority of votes. In case of a tie, the Superintendent decides[24].

There is also a consultative board conformed by representatives of the Ministries of Transport and Housing, Energy and Mining and Agriculture. The Peruvian bar of Lawyers and Engineers also participate[25].

Additionally, there is an internal auditing body.[26] This body is part of the national audit system that is lead by the national audit office (Contraloria General de la republica) that is an autonomous agency created by the Constitution of Perú.[27]

Then SUNARP has a General Manager, and managers for specific areas: legal manager, register manager, development and budgeting, cadastre, administration and finance and informatics systems.[28] Then there is an office for institutional image and another for training. [29]

It is relevant to point out that within SUNARP the register services are offered trough 13 decentralized offices that cover all the territory of Perú. These offices are also semiautonomous of SUNARP. They have economical and administrative autonomy but their chief has been designated by appointment by the

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[22] See article 17 of law 26366.
[23] See article 17 of law 26366.
[24] See article 10 of the statute of SUNARP approved by the supreme decree of the Ministry of Justice: Decreto Supremo N135-2002-JUS
[25] See article 20 of law 26366.
[26] See article 18 of the statute: Decreto Supremo N.135-2002-JUS
[27] See article 13 of the law of the national audit office. Law No.27785 and article 81 of the Constitution of Peru.
[28] See articles 14, 19, 21, 23, 24 and 25, of the Statute of SUNARP: Decreto Supremo N.135-2002-JUS
[29] See articles 26 and 27 of the statute of SUNARP.

Superintendent[30]. Thus SUNARP has an internal delegation of responsibilities to the managers of the local offices. However, SUNARP, by law, receives a percentage of money from all the offices to be distributed among the offices that have a deficit and to make possible future investments[31].

In these offices the second authority is a register manager that coordinates the work of the employees that are in charge of the registering procedures[32]. In these offices there is also an audit office.[33]

Finally, there is a register court that decides the appeals against decisions of the registers (the civil servant in charge of the register procedure).[34]

Planning in SUNARP

If one visits the web page of SUNARP one can find a strategic plan including SUNARP's mission, vision, and analysis of Strength, Weaknesses, Opportunities and Threats (SWOT analysis) and indicators of performance that include indicators of consumer satisfaction such as: indicators related with the scope of the population that can access to the register, indicators with the number of people served and the satisfaction of users with the register service.

Economical aspects

As we saw before, SUNARP according to the law is a semi autonomous public organization. This organization does not depend upon the national treasure. In fact it is a public entity that is treated as a private firm/enterprise[35]. This means

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[30] See article 4 of law 26366.
[31] See article 21 of the law 26366. According to this article, 1% of all the national income coming from the fees is to create a compensation fond.
[32] See article 33 of the statute of SUNARP
[33] See article 33 of the statute of SUNARP
[34] See article 28 of the statute of SUNARP
[35] See Directive No 014-2004-EF/76.01 Directive for programming and formulating the budget of the public entities treated as private enterprises

that the institution has to generate its own income and the revenues do not return to the national treasure. Therefore, the budget of SUNARP comes from the fees that are collected for the register services[36]. On the other hand, with the surpluses of revenue the agency finances its own short and long run investments, assumes debt compromises, and reduces fees.

It is important to point out that the budget of SUNARP represents more than three times the budget of the Ministry of Justice. (The budget of the Ministry of justice is S./ 36 841 828`(9 219 667 Euros) and the budget of SUNARP is S./ 155 000 000 (38 750 000 Euros)[37].

The Register Service

The procedure that follows the inscription of an act or contract in the public registries begins with the title or contract that is processed and authenticated by a Notary. This is the only form in which an act or contract can be registered. The work of the register (the employee in charge of the registry procedure) is to verify that these titles were done according to the norms that are applied to them and, if this is the case, to register them in the public registries. Some times, the Titles are observed by the register because there are some deficiencies in the titles generated in the notary or by the lack of relevant documentation. If the deficiency is very serious or the applicant does not correct the deficiencies, the title is rejected. If the applicant disagrees with the decision of the register, she can appeal to the register manager as a first instance, and as a final instance, to the SUNARP's register court.

When a property title is accepted and it is ready for its registration, the user has to pay a fee that in the case of the transfer of land properties represents a percentage of the value of the transaction (3/1000 of the value).

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[36] See article 21 of the law 26366.
[37] Source: Law No. 28427: Law of the budget of the public sector for the year 2005.

The registration of a property title is very important, because according to the Peruvian Civil Code, the information of a title that is registered has priority over the information of other titles that are not registered.

If we analyze the technical aspect of the register procedure we can see an improvement in the technology applied. In fact, in the past the information of the registries was copied hand by hand and kept in books and now all the information is saved in digital files (Baltazar, 2002; 13).

The extensive use of technology in SUNARP began in 1995 financed by the United Nations Development Program. Now, the public (the users) can check the information of the registers from internet. The process of digitalization has allowed to dramatically reduce the time of the procedures. For instance, the amount of time required for the registration of a property title was sixty days in 1995. In 1996, ten days, and in 1997 only seven days. The same happened with the service of registered publicity (the service of providing information that is registered). (Baltazar, 2002; 13) In addition to reducing time costs, the security of the system improved because the only way to modify a title registered is by the register who registered the title (the access of the computer and the title is only possible with the digital print of the register's finger and all changes are registered in the system).

Labor regulations

According to the law that created SUNARP, its employees belong to the private labor regulation.[38] This means that employees have a contractual relation with SUNARP, which has its own wage structure. This implies that SUNARP, as other agencies, pays higher salaries than the rest of the public sector and even private sector (Ministry of Labour, 2001 and BoletinCad, 2003).

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[38] See article 22 of the law 26366.

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The private labor regulation in Perú implies a more flexible management of the Human resources because it is based in a contract that allows the determination of the salary, the job responsibilities, the supervision of the performance and the determination of sanctions in case there is noncompliance. Employees have a permanent job but can suffer an unfair dismissal if the institution pays compensation.[39]

It is important to point out that there is a policy for training employees (Cardenas, 2004; 5) for allowances[40], and for bonds for productivity[41].

There is also the use of contracting out services that do not belong to the core functions of SUNARP, like security, cleaning services, catering, prosecutors for specific cases, advisors for specific cases, and the installation of information technology systems.[42]

SUNARP's advisors and top managers are appointed by the Superintendent, and it is up to him/her to decide how long they should stay (the managers are confidence workers). On the other hand, the rest of employees and lower managers have relative stability in their jobs because to dismiss them it is required a justified reason and to follow a process[43]. According to law, the recruitment of the employees that do the actual registering and the members of the register court (that are in charge of resolving the appeals) are elected through a merit public contest.[44]

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[39] See Law for the Promotion of Employment. Legislative Decree No.728
[40] See Resolution N° 531-2003-SUNARP/SN
[41] See the Agreement for result oriented administration subscribed by SUNARP and the Ministry of Finance and Economy.
[42] In the web page of SUNARP (www.SUNARP.gob.pe) there is a link called transparency where it is possible to see all the contracts.
[43] See article 6 and 7 of the law 26366.
[44] See article 6 and 7 of the law 26366.

IV. NEW PUBLIC MANAGEMENT AND AGENCIFICATION IN SUNARP

SUNARP appears to have been designed according to the model of New Public Management, specifically through the process of Agencification. This is important because SUNARP's image of a successful technical public institution rests upon that theory. This chapter analyzes to what extent NPM model has been applied in SUNARP from formal elements that can suggest that SUNARP follows the NPM and agencification model.

First, this section contrasts the characteristics of SUNARP (described in chapter III) with the characteristics of agencification proposed by Talbot (described in chapter II). Then this section describes other elements of NPM that are applied in SUNARP: the introduction of competition, incentives and training, less taxes and collection of fees and the extensive use of information technology.

Agencification of SUNARP according to the classification proposed by Talbot.

If we contrast the theory of agencification with the analysis of the case we find that this organization has applied several aspects of this theory. In fact, the three characteristics of agencies proposed by Talbot (that were mentioned in chapter II), these are: i) Structural disaggregation and/or the creation of 'task specific' organization; ii) Performance 'contracting' some form of performance target setting, monitoring and reporting; and, iii) deregulation of controls over personnel, finance and other management matters, apparently is applied in SUNARP.

In this sense, SUNARP fits in the first characteristic of the agencies referring to the structural disaggregation and/or the creation of 'task specific' organization. In fact, SUNARP is the product of the desegregation of a larger body (the Ministry of Justice (It is important to remember that before the creation of SUNARP the public registries were part of a department of the Ministry of Justice). we can see

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that SUNARP is a separate organization of the Ministry of Justice, with its own structure and name. The institution is in charge of the specific task of the public registries and the principal function is the provision of register services (supposedly no policy making). It is considered a public entity treated as private enterprise. SUNARP has a clear constitution (it was created by a law that establish its purpose, powers and governance arrangements), has a chief executive that have the representation of SUNARP (the Superintendent), its staff is different from mainstream civil servants because they belong to the private labour regulation and finally SUNARP has its own separate account body (the audit office).

Regarding the second characteristic of Talbot, "Performance 'contracting', some form of performance target setting, monitoring and reporting" also SUNARP appears to follow this characteristic. In fact, as we saw in chapter III SUNARP has in its strategic plan indicators of performance that include indicators of consumer satisfaction.

The evaluation of the achievement of the targets of the strategic and operative plan are done every 6 months by the Ministry of Finance and Economy[45].

Finally, the third characteristic referring to the "deregulation of controls over personnel, finance and other management matters" also appears to be implemented to a certain extent in SUNARP. In fact, according to its law of creation, it has administrative, economical and normative autonomy. As we said before, its labor regulation belongs to the private sector and thus implies a more flexible management of the Human resources. A manifestation of this flexibility is also the use of contracting out services in SUNARP.

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[45] Directoral Resolution No. 001-2005-EF/68.09. Rules for monitoring and evaluation of strategic plans 2004-2006.

Within SUNARP there is also an internal deregulation trough its decentralized offices that have economical and administrative autonomy.

Other elements of new public management applied in SUNARP

Competition:

The organization of SUNARP promotes the competition between departmental (regional) offices and employees. In fact, the autonomy of the departmental offices makes it possible to compare and evaluate their performance. On the basis of this evaluation and comparison the chief of an office could be fired if her performance is lower than the rest. Also, all the registering procedures are connected in an informatics net (computer system) so it is possible to compare the performance of each register.

Incentives and training:

Basically, the only explicit policy of incentives is the bonds of productivity. As I mentioned before, the bonds for productivity are a prize for achieving the outputs established in the strategic plan of SUNARP.

With regards training, as we mentioned in chapter III, there is a policy for training employees in SUNARP. Moreover, there is a specific office called School of Training (Escuela de Capacitación) that is in charge of proposing, leading, coordinating and executing training policies for SUNARP's employees[46].

Peruvian policy of taxes and collection of fees

New public management aims to reduce costs and not to increment taxes. As we have also stated already, NPM see fees as a way of increasing allocative

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[46] See article number 26 of the statute of SUNARP: Decreto Supremo N135-2002-JUS.

efficiency in the use of resources and increase accountability to the clients. In this sense, Perú appears to follow this model. In fact Perú is among the countries in the region that collects the least of taxes (Boletin CAD, 2004). This low collection of taxes produces a continual struggle between public institutions to get a bigger part of the budget. As a solution to reduce this pressure over the national budget the state has found that it results less costly to offer public services through agencies that have economical autonomy because they collect fees directly from the users. SUNARP is among these agencies. [47]

This situation makes the agencies very active in collecting and protecting their fees. In fact, if we look at the institutional strategic plan of SUNARP, we find that one of the agency's explicit priorities is to have more consumers. In addition, as part of its SWOT analysis, one important opportunity for SUNARP is the increase of the demand for register services through the improvement of the economy and the approval of laws that impulse the process of formalization of property rights. With regards to the threats that SUNARP recognizes are those related with the capacity of the agency to collect fees and at the same time to have external institutions that would be allowed to take the surplus gained by SUNARP. Seen as a threat is also the possibility of external political intervention to determine the value (costs) of the fees and to determine transfers of SUNARP's revenues to regional governments[48] (in the context of the decentralization and regionalization process being undertaken in Perú).

In any case, it appears that SUNARP is doing well in its task to collect fees. If we look at the statistics of people served by SUNARP there is an important increment over the years (in 2002, 3 715, 288 people were served, in 2003, 3 972500, in 2004, 4 131516). The amount of fees collected by SUNARP was S/.

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[47] See Directive No 014-2004-EF/76.01.
[48] See Institutional Strategic Plan of SUNARP in its web page: www.sunarp.gob.pe

135 000 000 in 2003 and S/. 151 000 000 in 2004 (this amounts to approximately 40 million Euros).[49]

Extensive use of information technology.

As we pointed out in the theoretical framework NPM is linked to the implementation of information technology in the production and distribution of public services. We saw in chapter III also that SUNARP has an extensive use information technology that has allow for more secure, efficiency and access to the service. Additionally, information technology in SUNARP makes it possible to know the amount of work of each register (the person in charge of registering a title) and therefore to be able to allocate, in a more efficient way, the load of work of the employees. The flow of information and communication is facilitated by the extensive implementation of electronic mail systems.

In addition of the use of information technology in the provision of the service, the system allows for more transparency and accountability. In fact, the salaries and wages of SUNARP employees are published in the agency's web page, including those of the superintendent. The general public has also access to monetary information on the acquisitions, the contracts, strategic and operative plans and the budgeting and other relevant information of SUNARP.

Consumer oriented

As we saw in the theoretical framework, for NPM a consumer oriented organization is considered an effective way for improving public services and increasing organizational effectiveness and mission accomplishment. (Aberbach and Christensen, 2005: 226). It can be argued that SUNARP has a consumer orientation because in its indicators of performance it includes variables related

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[49] See page 5 of the report of the management of SUNARP by the Superintendent Ronald Cardenas Krenz from July 23, 2004 to April 6 of 2005.

with the satisfaction of the users. Also the fact that SUNARP collects fees, creates incentives to attract more users and expand the services, and introduces informatics technology, helps to deliver a better service.

V. EFFECTS OF THE PERUVIAN POLITICAL CULTURE AND SOCIO ECONOMIC CONTEXT IN SUNARP.

This chapter analyzes how three main principles of NPM work in practice. These principles are: i) The separation between policy-making and implementation, ii) performance assessment and iii) incentives. Secondly, this chapter discusses to what extent SUNARP functions as an NPM agency. All in the light of the Peruvian political culture and socio economic context.

5.1 Separation between policymaking and implementation

Agencies become policymaking actors

Supposedly, the process of agencification implies a separation between policy making and policy execution. So it is supposed that the Minister of Justice or other authority has to establish the terms of the contract, the outcomes and indicators of performance for SUNARP. However, what happens in reality is that SUNARP establishes its own outcomes and agenda[50]. The Ministry is a highly political institution and the rotation of personnel in ministries is very high. As a result, the ministers do not have the knowledge about the functioning and values of SUNARP and are not able to provide a clear policy for it[51].

Therefore SUNARP is the main stakeholder in determining its own objectives and values, and tries to influence the different stakeholders to achieve those

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[50] According to the Directive No 014-2004-EF/76.01 SUNARP is in charge of approving its strategic and operative plan.
[51] The reforms in Perú only strengthened few public entities (agencies). Ministries remained lacking of qualified professionals and enough information to formulate middle and long run strategies and policies. (Guerra Garcia; 1999: 28).

objectives. For example, SUNARP proposes laws to be discussed in the parliament, and the parliamentarians ask SUNARP for advise in themes related with land property land registering[52].

Another example of how SUNARP acts politically is when it decided to create cross subsides in the benefit of the poor (this is a distortion of the function of the state because distributive policies like processes of formalization of land property for the poor have to be financed by taxes and not by fees – it is a way to reduce taxes but charging the costs through fees)[53]

Hence, SUNARP and other agencies have become so politically independent that seem to constitute another power different from the legislative, judicial and executive. In fact, there are projects of law in the Peruvian parliament that intends to transform agencies in organizations with constitutional autonomy[54].

How is it possible that agencies have become so politically active? One reason is the fact that the agencies in Perú are surrounded by weak institutions, so they do not have the support of other institutions and therefore they have to set their own agendas and alliances.

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[52] Important examples of the intervention of SUNARP as a political agent are that it achieved to approve two laws that are supposed to be related with technical register issues. However these laws included the modification of general laws in favor of SUNARP. For example, the law No. 28160 was approved to regulate certain register publications that have to be done by SUNARP. However an article was included that did not allow exonerations of fees between public organizations. This article modified a General administrative Law and thus all public institutions in Perú. As a result, SUNARP can collect fees from public institutions. Another example is the law No. 28294 that constrains the possibility of exonerations of SUNARP's fees not only for public institutions but also for other institutions and persons.

[53] The capacity of SUNARP to manage resources is a temptation for the government to transfer pro poor policies to this agency. One example is the transfer of the Registro Predial Urbano (RPU) to SUNARP. The RPU was in charge of the registration of the land property rights of poor people in Perú and was financed by the World Bank (according to the Institutional Report of the RPU in the year 1999. See in: www.rpu.gob.pe/paginas/memoria_1999.htm). However, in 2002 the RPU was transferred to SUNARP without the financial support of the World Bank or the national budget (According to the Law 27755). So SUNARP had to apply differentiated fees or cross subsidies (See resolution that decided on the fees: D.S.N017-2003-JUS) to allow citizens of low income to register their properties. This situation caused an administrative procedure against SUNARP because according to the Peruvian legislation it is not allowed to create cross subsidies. As a defense strategy SUNARP presented a project of Law to the parliament that would allow agencies to implement cross subsidies (Case No. 000046-2004/CAM. INDECOPI versus SUNARP).

[54] See for example the project of law number 3975 that proposes to give constitutional autonomy to INDECOPI (the agency in charge regulating free competition in the markets).

As already explained, the structural adjustment and public sector reforms began in Fujimori's government. Because Fujimori did not belong to a party he did not have a government plan nor a strong institutional support. So the first thing he did was to take the World Bank's and FMI's plans as his Government Plan (Guerra Garcia, 1999; 28). In this way, he began the process of structural adjustment and public sector reforms according to the directives of these international organizations. Fujimori went deeply into these reforms after the coup de etat and the Constitution of 1993.

It is in this context that Fujimori created the agencies as key institutions to make possible the structural adjustment and public sector reforms. For that reason these agencies received an important support from the government. At the same time Fujimori began to concentrate power while weakening other public institutions. For example, he changed the distribution of budgeting in favor of district mayors (small and powerless areas) bypassing the provincial mayors (authorities that could affect the power of the president),[55] he reformed the judicial power by controlling and contracting provisional judges (as a way to control the judicial power),[56] Fujimori controlled the parliament because he had the majority and the executive power was almost controlled by him because the executive managed a big part of the national budget.[57]

At the same time, there was not a coherent and integral strategy of development. The most explicit objectives were only related with the fight against terrorism, the reintegration to the international financial system and the control of inflation. The ministries became completely dependent of the president and therefore it was not possible to establish an institutional strategic plan. However, the agencies

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[55] Decreto Legilativo 776.

[56] In the coup de Etat by Fujimori in 1992, he not only closed the parliament he intervened the Judicial power and laid off an important group of Judges. They were replaced by provisional Judges. The latter represented more the 80% of all the Judges during Fujimoris government. See Dargent, 2005.

[57] The president controlled 25% of the budgeting through the Ministry of the Presidency. 18 % was managed by the Ministry of Economy and Finance (Guerra Garcia, 1999:112).

were institutions with clear objectives because of their importance in maintaining the macroeconomic equilibrium and the promotion of private investment (Guerra Garcia, 1999:120-121).

The following are considered to be the most important outcomes of the public reform made by Fujimori's government: the reduction of the number of public employees, the privatization of public enterprises and the creation and strengthening of several key institutions (principally the agencies) for a new strategy related with a market economy and the new role of the state (1999:124).

In this context, the agencies appeared to be the most autonomous and efficient institutions of the "new" state and began to gain legitimacy.

In the year 2000 such a huge net of corruption was discovered in Fujimori's government that he had to resign and run away from Perú (he fled to Japan). The parliament chose a transitional president. In 2001 there were new presidential elections and a new party (of another independent candidate) without an organized presence in society won the election (current president Alejandro Toledo) (Crabtree, 2005: 5)

The task of Toledo was very important because ha had to reconstruct the institutionality of Perú. As explained before, Fujimori made public institutions weaker and controlled almost all of them. At the same time, Fujimori was a strong president with enough power to take important government decisions. In the case of Toledo, he did not have the support of the real party and had to make consensus between different forces to rule the country[58]. This makes him weaker and appears to Peruvians as a person without authority and without a strong agenda[59].

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[58] The government has an alliance with the party " Frente Moralizador"
[59] President Toledo does not have clear goals and has difficulties to respond to changes in his government. The continuous change of ministers is motivated by internal conflicts between the members of the government party. See Azpur, 2004: 14.

In this sense, the government of Toledo is characterized by weak state institutions and a weak president (and therefore a weak executive power). In general, politics and the democratic system do not have support from the people: the president only has 10% of approval, the parliament 10% and the Judicial power 11%[60].

The only achievement of Toledo's government is a macroeconomic equilibrium (Azpur, 2004: 13) that depends on the performance of strong agencies.

In this context, the agencies are more relevant than ever because they are the only strong institutions with capacity, autonomy and legitimacy.[61] Agencies do not have strong institutions to deal with and therefore they have to create their own alliances and leadership to survive.

Against this political backdrop, to characterize someone or an institution as political implies a loss of legitimacy vis a vis the Peruvian people. Therefore agencies maintain their legitimacy as long as they manage to portray the image that they are technical institutions.

In this context, the idea of a differentiated power of the agencies from the traditional powers of the state has developed very strongly.

For example, to have a glance of the power of SUNARP, let us look at the relation with its parent ministry. SUNARP's budget is three times the budget of its parent ministry – Ministry of Justice. This situation puts SUNARP in a position of power. A former Ministry of Justice interviewed says in this regard:

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[60] Source: Apoyo Opinion y Mercado: The survery was applied on the 15th and 16th of April 2004 and published on April the 18th in the newspaper El Comercio: www.elcomercioPerú.com.pe
[61] A survey for enterprise leaders made by the University of Lima shows that nine state agencies are among the first ten most trusted public institutions.

"This bigger economical power makes it an important institution in the sector, and for that reason in more than one occasion it has helped the Ministry in little issues like the use of auditoriums in provinces for presentations and things like that"

This former minister also mentioned that during the beginning of the current government (President Toledo) there was little political intervention in SUNARP because this institution was efficient and technical.[62] When I asked the former Minister about his relationship with the Superintendent he said that in formal terms there was a certain kind of subordination. However:

"In reality, the personality counted but also if the institution is efficient or not. The superintendent is a man with his own power and he can exercise it. In this sense, the subordination is objective (formal) but there is also something personal and political (or ideological) in some cases. In my experience there has been fluid coordination, but that situation was due, I believe, due to the fact that each one knew which was his place".

Political intervention in SUNARP

In theory agencies have and executive role. They have to implement the strategic policies established by politicians. The agencies receive autonomy and a flexible framework to achieve the targets established. As we mentioned before, agencification is supposed to offer protection against political interference since the criteria for evaluation is based on outputs and merit. (Van Donge, 2002; 317).

We saw that SUNARP is an important actor. However, we notice at the same time that SUNARP is vulnerable to political intervention. This fact threatens the autonomy of the institution.

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[62] "The relation between the Ministry of Justice with SUNARP is formal, in the sense that is a body of the justice sector. Although, SUNARP is autonomous (it has its own board of directors, etc.), it is evident that if the Minister has the power and desire to make changes, he can do it in the high levels and also influence certain institutional policies. [...] During the Toledo regime [...] the 'intervention' has been minimal, with the exception, may be, in the first months with Olivera in the charge [of minister of Justice] (but I am not sure, although Gamarra [a former Superintendent] belongs to FIM [political party of Olivera]). One of the reasons of the 'no intervention' was because SUNARP was an efficient and technical institution."

The Superintendent is the most important authority of SUNARP who is designated by the President of Perú by recommendation of the Minister of Justice. After this authority is designated, the post is for 4 years and he only can be fired for immorality, negligence or incapacity. So it means that the Superintedent has a certain degree of stability. However, in some cases when a new Minister of Justice is elected the Superintedent and the board of directors put their post in consideration of the new authority and it is up to him or her (the new minister) to decide if the Superintendent continues or not working in SUNARP. A former minister of justice said that when he assumed the position of minister:

> "... the superintendent and the board of directors put their positions (resignation) in my consideration. I did not accept them, so they continued in their posts. The information I had got (about them) was favorable"

The criteria that the minister has to ratify a Superintendent is subjective and informal. For example, the same former Minister of Justice said that he decided to ratify the Superintedent and the board of directors because he received favorable information about them. This information according to him:

> "...came from friends and professionals that were users of the service. And also, because I knew the members from years before"

The same happens internally in SUNARP. When a new Superintedent is elected in the institution all the managers are invited to put their post in consideration of the new chief. An employee of the budgeting and development management (E1) expressed the following:

> "I feel that I have stability in my job, however the managers do not have that stability because in every moment they can be invited to leave their position, but I think it is normal in the management level. Some of them are designated by merit and others, like the new ones, for their membership to the government party, issue that could not be bad if they were capable people and had the abilities for the position, but when they are incompetent and arrogant it is very bad for the institution because it damages its image and work environment. In this moment the employees are going to create a trade union at the national level. (E1)

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It is also interesting to read the opinion of a former manager of SUNARP (M1) in this regard:

> " In SUNARP each time a new authority arrives, all the managers and advisors have to put their position in his consideration. I think that this policy is not good, because normally all the progress comes to a standstill and everything has to begin again. The effort and resources invested were in vain, the state does not advance so much because of these constant advances and drawbacks [...] In Peru to be a manager in a public institution means that you do not have stability. My stability in my job depended on my efficiency, but at the same time depended on a good relationship with my bosses, that means that I cannot contradict them. As you can understand this situation was complicated, because many times my duty was to recommend not to take political decisions that can be questioned and bring problems. This type of recommendations were understood as an obstacle to their decisions and therefore my stability was in danger (M1)

When I asked this person to answer the question about if there is something that would have to change in SUNARP, this ex manager answered: *"Guarantee that it (SUNARP) has the lowest political interference…. (M1)"*

Nowadays, the political intervention appears to be worse with the current Superintendent that belongs to the political party in government (the name of the party is Perú Posible). This new authority of SUNARP is considered to be a very controversial person. In fact a recent editorial of the most important Newspaper in Perú (El Comercio) reads:

> "Wrong designation in the Public Registries
>
> The recent designation of Pilar Freitas as chief of The National Superintendence of Public Registries (SUNARP) confirms what we already had advanced: an ominous tendency in the Government to incredibly damage the independence of the national institutions and to embarrass them with the people that it puts in front of them, persists. There is no other way to understand how the legal representative of Perú Posible, involved in an investigation in the congress for falsifications of signatures of Perú Posible, is unnecessarily put in a position that produces an ethical conflict of great proportions.
>
> It is not a surprise that again, the government shot its feet when it designated in front of SUNARP, one of the few public entities that remains institutionalized, a character that, without considering her professional conditions, does not have in this moment the conditions and the experience

that the visible head of the first registry and notary institution of the country demands." [63]

In this regard, the opinion of an employee of the Budgeting and Development Management of SUNARP (E1) about this new administration is quite straightforward:

> "Until the arrival of the new administration, SUNARP used to be 100% technical, its main aim was to improve the public registries at the national level, but now the institution suffers political intervention because characters that participated in the falsifications of signatures of Perú Possible or in the strike of the Four Suyos[64] (all the people that participated in that strike show it in their CV as an asset) have become members of SUNARP [...] The vulnerability of SUNARP in this moment is very high because of the political intervention. People from Perú Posible see SUNARP as an institution with resources. For this reason they are going to utilize SUNARP's resources to finance the political campaign for the next year. In this sense, they have designated a new finance manager and one advisor with the exclusive function to find how and where they can obtain funds for that purpose" (E1)

What has happened in SUNARP is not far from the Mexican culture of patron-client relations that we explained in the theoretical framework.

In the case of SUNARP we can identify two important actors. On the one hand, there is the meritocracy and employees of SUNARP. They accept as normal the informal rules to designate and dismiss the managers and chief executives. However, they believe that they are the core of SUNARP and of its image as a technical – non political institution. For this reason, they do not tolerate intervention in their sphere. An expression of this stance is that employees are creating a union to resist (in their view) arbitrary actions of the current management. On the other hand, there is the group of managers and top authorities (who were appointed to their positions as employees of confidence) that know that their stability of tenure depends on the political power relations. However, within this group there are people that also do not agree with these

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[63] Editorial of the news paper 'El Comercio' April 8, 2005.
[64] The strike of the 4 Suyos was a massive social mobilization in the streets of Lima that demanded the resignation of Fujimori's authoritarian regime after a huge net of corruption was discovered.

rules. This is the case, for example, of employees that have entered the institution through public contest (by merit) and that eventually have been promoted to higher managerial positions. These managers believe that it is unfair, in their case, to be fired because of political reasons because they consider themselves part of the meritocracy. For example, one these managers (M2) said that they are in a situation *'...of more stability than those (managers) promoted by connections because the former were promoted through a contest and have a public career "*.

After looking at these testimonies, it is valid to ask how SUNARP -- with this political intervention – can be considered a 'technical' autonomous institution.

I can find several explanations of how SUNARP keep certain level of autonomy. The first one is related with what I explained in the last section. SUNARP has a political legitimacy that comes from being considered as one of the few efficient and technical institutions in Perú. This legitimacy gives SUNARP power because every measure that the government takes against it could negatively affect the government's image. An example of this is how the press reacted when the government designated as a superintendent a controversial person (see the editorial of the news paper El Comercio that have included above). This legitimacy together with the surrounding weak institutional environment gives SUNARP power against other interests-- as we saw in the previous section.

The second explanation is related with the economical autonomy of SUNARP. This institution does not depend upon the national treasure and manages three times more budget than that of its parent ministry (Ministry of Justice). It is a self-financed institution that obtains its resources from the collection of fees and does not have to return the revenues to the national treasury. These aspects situate SUNARP in a privileged position vis a vis other public institutions.

The third explanation is that SUNARP has received a constant support from the government since the time of its creation. Hence SUNARP has enjoyed a high grade of political autonomy. In fact, as I mentioned before SUNARP was a strategic agency created by a strong government (Fujimori's authoritarian regime). Fujimori's government provided plenty of support to several agencies that are important for the development of a neo liberal economic model. Then the next government was very short (a transitional government) with ministers with high reputation that did not intervene in the agencies. After this government, the current president Toledo was elected. Because he did not obtain a majority in the congress, he made an alliance with another party called "Moral Independent Front" (Frente Independiente Moralizador - FIM). The leader of that party was Fernando Olivera. This party can be described as a personal party of Olivera because it depends almost exclusively on the popularity of him and for that reason he has a big control of his party.[65] As consequence of the alliance with the government party, Fernando Olivera became Minister of Justice. Olivera decided, with the authorization of the President, to put a member of his party as Superintedent of SUNARP. This could be called a political intervention in SUNARP. However because this alliance lasted several years and Olivera is a strong political actor that controls his party, SUNARP enjoyed a relative stability. In sum, SUNARP enjoyed (from 1994 to 2005) a certain level of political protection because it was supported by strong political parties.

However, at present, this autonomy is being affected because there are new presidential elections coming next year and the alliance between president Toledo's and Olivera's party has been broken. The party of Olivera (FIM) does not control the Ministry of Justice anymore. [66] So the current Superintendent

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[65] He gained popularity as prosecutor of corruption cases. His most important achievement was the discovery of the net of corruption of Fujimori's government. He got and showed the videos in TV where the principal advisor of the president Fujimori (Vladimiro Montesinos) gave money to congress candidates. These videos produced the resignation of Fujimori as president and the fall of his government.

[66] The current Minister of Justice, Alejandro Tudela Chopitea is connected with the party Peru Posible (he was a legal advisor of Peru Posible), the current government party.

belongs to the government party that is very weak[67] and appears to want to affect the political autonomy of SUNARP.

A forth factor that explains why SUNARP has been enjoying a certain level of autonomy is because many employees have been hired by merit and they enjoy certain level of autonomy. The registers and the register court are selected through a public contest and the labor contract is permanent. These employees are the core of SUNARP. They are in charge of the process of the registration of the titles and represent the majority of workers. Their salaries are higher than the average salary of other public employees. It is very difficult to dismiss these people because it is necessary to follow a special process for that purpose. Additionally, the norms of flexibilization in the labor relations created by Fujimori as part of the structural adjustment, were declared unconstitutional by the Constitutional court. So now if there is an unfair dismissal the employee can choose between a compensation or to return to the job (Before, it was only allowed to ask for a compensation). Many of these employees reach important positions as managers.

The registers have autonomy and big responsibility because they decide which titles can be registered or not. Their productivity is constantly measured (the information technology applied in SUNARP allows for this). This group of people are not invited to resign each time a new authority enters. Only managers and top authorities are affected by that. So the registers are the core of the institutionality of SUNARP and they can represent a balance against the political intervention that the Superintendent and managers suffer. It is worth noting that currently (given the recent events described above) the employees are creating a trade union to protect themselves from the blunt political intervention taking place.[68]

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[67] As we mentioned, the current government has very low rates of popularity and the president does not have the power to control his party

[68] E1: ... *another group of interest are the employees. They very soon are going to create a trade union to pressure the new superintedent and her group to do things correctly.*

One last explanation is the extensive use of technology in SUNARP, which has a positive effect regarding the organization, security, transparency, access to the services and information, accountability, communication, and which makes it very difficult for an authority to be arbitrary and make modifications in the organization.

5.2 Performance assessment

The theory of agencification establishes that policy makers have to establish the targets for the agencies. In this way it is possible to measure the performance of the agencies. However, in Perú these systems do not work.

The first thing that we can say is that in the 90s the government of Perú dissolved the institution in charge of the national planification (The National Institute for Planification). Several of its functions were transferred to the Ministry of Economy and Finance. This ministry is in charge of establishing the rules to develop strategic plans of all the public institutions. The rules created by this ministry consist only in forms that all the institutions have to fill according to what they establish as strategic plans[69]. The final national strategic plan is only a compilation of all these forms filled in independently by the different public institutions of Perú.[70] For that reason, we can say that there is no serious system of performance assessment because the institutions by themselves establish their own targets. As such, it is most probable that many institutions will establish conservative targets that they are sure they can achieve.

In the case of SUNARP it is interesting to learn how the budgeting and development management area prepares the strategic plan:

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[69] See 'Directive for the formulation of institutional strategic plans 2002-2006'. Available in the web of the Ministry of Economy and Finance in www.mef.gob.pe.
[70] See 'Basic lineaments of the national strategic plan 2002-2006'. Available in the web of the Ministry of Economy and Finance in www.mef.gob.pe.

> *"...the Managers of the institution meet under the conduction of the budgeting and development management, to establish the lineaments, mission, visions, objectives and strategic targets. The budgeting and development management consolidates and elaboratse a final strategic plan document. The document is approved by the responsible of the institution, that is the Superintendent [...] A legal base for the development of the operative plan does not exist, as it should. There is no directive. The operative plan is elaborated taking into account the strategic plan, because the former is for the short run. A meeting for the managers is called for, but it is very short, only for establishing the objectives and operative targets"* (E1)

If we analyze the system of evaluation and assessment of the strategic and operative plans there is a directive established by the ministry of finance and economy in this regard. However, it appears that this regulation is only a formality:

> *"The operative plan is evaluated every six months and if the targets of the plan have not been met, nothing happens, the same happens with the strategic plan, so far there is no investigator, what we do is to send a copy to the Ministry of Finance and Economy, but it says nothing with regards to what has been accomplished or not".* (E1)

As we can see there is no effective performance assessment of SUNARP. First because it is the public institution itself who decides its targets and secondly because nobody evaluates those targets.

If we see furthermore, the fact that there is not an institution for National planning it is not possible to assess the impact of the work of each agency. In fact, each agency shows its own achievements according to their own targets established them. There is also no coordination and therefore no possibility to join efforts between different public institutions to achieve better results for development.

For example, one of SUNARP's main objectives is the formalization of the land property rights for the development of the country. However, the formalization of the property is not the only key factor to the economic development of the poor. In fact, *"...evidence suggests that a formal title may be necessary, but not*

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sufficient, guarantee for granting private sector loans. Stability and level of income are also important determinants. Settlement residents were prepared to use their property as collateral but many found they were not able to take out a private sector loan to improve their business" (Wilkinson; 2004: 47).

There is no doubt that formalization is an important factor for development,[71] but it is not the only one. Therefore the coordination of efforts of other areas to produce synergies and greater results for development is important.

5.3 Incentives

Although it appears that there is a policy of incentives and training in SUNARP, when we asked employees of this institution, they stated they do not believe in such a policy:

> *"there are no incentives for the achievement of targets [..] ilt is true that a bond for results exists but the ministry of economy and finance change the rules of the game every time and therefore it is not an incentive anymore [...] Furthermore, the new management does what it likes with the qualification of the bond, so as a consequence, the bond in stead of being an incentive to work, has the contrary effect and therefore the work environment is each time worse [...] The only motive I have to do my work is my professional responsibility".(E1)*

Along the same lines, a former register says:

> *"My main motivation is personal, in this sense I fulfill my duties regardless of my salary; however, my wage is important when I compare it with other public institutions."*

Another register said:

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[71] Wilkinson,s study shows that formalization provides access to services and facilities due to the greater consciousness and concern on the part of residents after receiving titles, to improve their living conditions and the increase of coverage that private providers are obliged by law. Also, formalization provides more taxes for local governments .The author concludes that formalization of property in urban settlements does "generate individual and collective endogenous local economic development processes, and changes the relations between local actors in such a way that a space is created for future cooperation" (2004: 47).

"My motivation was to know the register function through the post of register, participate in the process of registration that has important effects not only for the user but also for the economic investment in the society. Additionally, the job provides me with the possibility to be in charge of a section with two assistants. Additionally, this post provides me with better opportunities for training".

In conclusion, according to the interviewees the main motivation for work is not based on a system of incentives but on personal and professional reasons.

5.4 Contrasting facts and norms. Has NPM worked in SUNARP?

After the previous analysis, in normative terms, it appears that SUNARP follows the agencification model. But if we see what really happens, we can argue that there are fundamental principles of that concept that suddenly "disappear" in practice. So if we agree that policy making and implementation are not separated in the case of SUNARP we need to conclude that this institution does not work as an agency given the premise that a pillar of agencification is precisely that separation between policy making and execution/implementation.

In addition, there is no real performance assessment because SUNARP establishes its own targets, and also because there is no real separate instance to take action if those targets are not achieved. Moreover, we have seen that employees' motivation is not based on monetary or material incentives (rent seeking perspective) but on other types of motives.

Thus, the functioning of SUNARP is determined principally by political relations of power and the political agency of actors involved, rather than by New Public Management and Agencification principles. Only those elements can explain the performance of this institution and explain the differences with other public institutions.

Although it is true that some aspects of New Public Management and agencification have been applied in SUNARP (such as the intensive use of

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information technology, a more flexible labor regulation and the collection of fees), these elements alone cannot define the institution as a new public management agency because the core element that is the separation between policy making and execution is not there.

Another point to consider is that NPM presents limitations with regards to public services, especially those granted with quasi judicial powers, as is the case of the public registries. In fact, because the administration actually decides about the recognition of a property right, the procedures -- and not only the amount of properties registered -- are very important matters. The procedures have to guarantee the rights of the citizens to property. Accordingly, the procedures have to be simple and based on clear, predictable and fixed rules. Furthermore, the unification (standarization) of the criteria for the process of registering properties is also important and it depends upon regulation and decisions of the second administrative chamber of SUNARP. Therefore hierarchical relations are very important to establish for the control of criteria and decisions regarding registering property. In this sense, flexibility (discretional power) needs to be constrained. For that reason, it is possible to identify two different groups in SUNARP: The employees that are in charge of the registering, that work in rigid conditions as a traditional bureaucracy because they are rule oriented; and the group of managers and administrative staff that are in charge of the organization of the provision of services to the public through the intense use of technology and the implementation of ways to facilitate the access and provision of the register services. The latter (not the former) work more in accordance with the NPM model.

Taking into account these different characteristics within public institutions, an alternative model to NPM has emerged. The Neo-Weberian state model recognizes the importance of the administrative law to preserve the relation state – citizen and the idea of the public service with distinct status, culture, and terms and conditions; but at the same time recognizes the necessity to create

bureaucratic rules toward meeting citizens needs and wishes not by market mechanisms but by the creation of a professional culture of quality and service. (Wolfgang, 2005)

In chapter 2, as part of the theoretical framework, we saw how a government like Fujimori possessed effective political power to implement economical and public sector reforms, create several agencies that work as if they followed the principles of new public management. However, as we explained before, the neoliberal reforms implemented by Fujimori did not escape from relations of patronage. SUNARP and other 'successful' agencies represent strong support and legitimation for Fujimori's 'technocratic' government, especially considering that he did not have the structure of a traditional political party. The difference with the current government of Toledo is that the latter does not have the leadership and the effective political power to control the fragmented interests within its own political party, let alone to control the fragmented interests of Peruvian society. So this negatively affects institutions like SUNARP. The difficulties of the current government confirm that Peru suffers from the cycles of authoritarian governments and periods of chaos or lack of political effective power as described by Peters and Mendez.

VI. CONCLUSIONS

1.- Formally, SUNARP follows NPM theory. SUNARP was part of a new paradigm of public organization in Perú inspired by new public management theory. It provides a rather successful case of agencification. In formal terms, SUNARP has the characteristics of public agencies according to the theory of NPM. In fact SUNARP is supposedly an executive and not a policy-making organization because it has a structure designed to perform a specific task; that is, to provide register services. Related to this there is a system of performance assessment between the Ministry of Economy and SUNARP to measure the achievements of the strategic plan. Additionally, SUNARP has a certain level of

autonomy by law to organize itself to provide the service. Other elements of new public management such as competition, incentives and training for workers, collection of fees, extensive use of information technology, and a consumer oriented organization and management, are also present in SUNARP.

2.- However, if we look at SUNARP from a more empirical point of view we discover that the formal aspects do not have a correspondence with the practice. The evidence presented in this study shows that one fundamental principle of NPM, that is the separation of policy-making and execution, together with other principles such as performance assessment and incentives, do not work in SUNARP, as proposed by NPM theory. Therefore, strictly speaking SUNARP does not follow the model of agencification. In addition, SUNARP is a highly politicized institution. It acts as a political actor, but is also vulnerable to political intervention. SUNARP is not exempt from a culture of patron-client relations. This was not too obvious when the institution had strong political support from the government. Currently, party politics is entering the agency: increasingly, membership of a party and the loyalty to the superior authorities are determining/affecting the internal dynamics and functioning of SUNARP.

3.- What really explains the functioning of SUNARP and the difference from NPM principles is the political culture and the socio economic context of Peru. In principle, the more prevalent political culture in Peru does not have the characteristics or preconditions for the implementation of the new public management model that exists in Anglo-Saxon countries. Peru does not have an entrepreneurial culture, there is no trust between individuals (and therefore it is difficult for people to self regulate on the basis of trust, and through nongovernmental organizations – like the private sector- to deal with public functions), and there is no trust in political institutions (so a strong bureaucracy to enforce the decisions is necessary). The relations in many cases are established by ascription-- where patronage relations are important for the recruitment of officials-- and not by achievement or merit.

In this context the implementation of new public management institutions was possible because of the strong leadership of Fujimori. This president had popular support, developed a credible technocratic discourse, established a new net of patronage to facilitate his reforms, and was authoritarian. All these factors enabled Fujimori to take effective political action to downsize the public administration and to apply some principles of new public management in certain public offices that were later considered to be islands of efficiency. These islands of efficiency, including SUNARP, represented an important support for a president who did not have the support of conventional party structure, and who presented himself as a technocrat rather than as a politician. That is why, atypically, political parties did not intervene in SUNARP.

The difference with the current government of Toledo is that the latter does not have the leadership and the effective political power to control his fragmented party, let alone to control the fragmented interests of the Peruvian society. This situation negatively affects institutions like SUNARP. The difficulties of the current government confirm that Peru suffers the cycles of authoritarian governments and periods of chaos or of a lack of political effective power described by Peters and Mendez.

4.- On the basis of the analysis in this study, it is no longer possible to hold that SUNARP follows (in practice) the NPM model. One could argue that new public management agencies are possible in Peru but with some particular features: their autonomy depends on a strong government, they have to act as political actors to defend their interest and their privileged financial position, their authorities are elected not necessarily by criteria of efficiency but by patronage and their institutional support depends on employees that have stability in their jobs and work in a hierarchical and regulated environment.

These special features of SUNARP differ in important ways to NPM theory, to the extent that it is no longer possible to claim that this agency follows, in practice, that model. Of course, for SUNARP (and other similar agencies) it is important to project the image of an institution that follows the NPM and therefore the image of a technical institution. All this, in order to gain legitimacy in a context where political parties and party politics have become discredited. But the name or label of an institution does not make or guarantee the nature of its practice.

5.- This study shows that public institutions, even the most 'successful,' are affected by the political culture and the social and political context of a country. Therefore, it is difficult to copy models of organization and management of public institutions that come from different political cultures. In the case of the new public management model, it has its origins in a different political culture from that of Peru. For this reason the implementation of the NPM model in Peru implies that the model 'adapts' to certain 'special features' of the context. However, these special features contradict so much the essence of new public management that what is implemented is 'something else.'

6. This study shows that one important weakness of NPM theory is that it does not consider or take into account the political culture, nor the social and political contexts where it is (to be) implemented. This explains why the practice (in this case of SUNARP) differs significantly from 'the model' it is based upon.

7. Another weakness of NPM is that it does not respond to the fact that public services include the delivery of certain services closely linked to basic rights. The provision of certain services (such as the registry of property) cannot be managed entirely according to market mechanisms.

8. Public institutions will always remain –to one extent or another—'political' because they all make (political *and* technical) decisions regarding the services they provide to citizens.

9. The perspective in political culture developed through this case study has broader relevance for analyzing public sector reforms in other places.

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APPENDIX: Sample of questionnaire

1. When you were a manager in the institution, did you consider SUNARP gave you flexibility and autonomy to do your job? How were the tasks you were to perform determined/established?

2. Did you consider you had stability regarding your post? What did the continuity of you in your post depended upon? Are employees in SUNARP (including management and authorities) elected by merit or on different grounds/considerations? Is there a policy in place for developing a professional career in SUNARP?

3. What is your opinion on the (practice) policy that each time a new authority is appointed, employees are 'invited' to put their posts in 'disposition' (present their resignation)?

4. With regards to the employees under your direction, how was the work organized? For example: team work, work by results, provision of incentives?

5. Is there a policy for capacity building of employees in SUNARP?

6. Is there a difference between the labour conditions of the registers compared to those of the other employees in SUNARP? For instance, in terms of autonomy, and flexibility in the job?

7. How would you qualify the work that SUNARP does? Why?

8. Is it a political or a technical institution? Why?

9. In terms of how solid/robust the institution is or is not, to what extent is SUNARP vulnerable to political, economic and other interests? To whom is SUNARP accountable? What interest groups, organizations or persons have an influence in SUNARP's work?

10. What are the similarities and differences between SUNARP and the private sector? What about SUNARP in comparison to other public institutions? What model of organization do you think SUNARP is based upon?

11. Would there be something(s) to change in SUNARP? Please Explain.