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A CRITICAL ANALYSIS OF THE NEW PUBLIC MANAGEMENT

ABSTRACT: This essay critically examines the New Public Management (NPM) as a comprehensive administrative reform. For public sector reform to be successful it must reconcile several fundamental tensions that strongly influence public management practice. The first tension is that between legal and political traditions and the universalistic principles of management. The second is between models of governance resting upon the premise that self-interest motivates citizens and their representatives and models based upon the assumption that people manifest their preferences through trust and cooperation. NPM does not and perhaps cannot reconcile these tensions; indeed its proponents more often than not tend to sweep them under the table.

QUESTIONS TO CONSIDER REGARDING THE NEW PUBLIC MANAGEMENT

- What are the merits of the arguments (a) that contemporary (i.e., Weberian) bureaucracy and the rule of law are resultants of modernity, and, in particular, of democratic, free-market, secular nationalism, and (b) that the spread of democracy heightens, not diminishes, the need for public-law control of civic administration, implying stronger, more competent, more vigilant bureaucracy?
- What conceptual framework(s) are appropriate for conducting comparative evaluation of administrative reforms across nations? That is, how are we to identify and compare the character, extent, and consequences of administrative reforms in different countries?

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- What evidence (where the term is used in the ordinary scholarly sense) is convincing that a fundamental (paradigmatic), as opposed to a continuously incremental, transformation of administration has now become a worldwide phenomenon?
- Is it the case that a convergence of the structural forms of administrative states is occurring, as the new public management (NPM) implies? If so, is such convergence mimetic or, alternatively, is it caused by identifiable, similarly convergent forces that mediate the relationship between national politics and administration?
- Does a post-bureaucratic paradigm, or The New Public Management, imply and/or require a fundamental transformation in the role of law in assuring democratic accountability? Does it imply and/or require acceptance by citizens and elected officials of a new level of dependence on market-driven social resource allocation and a redistribution of property rights from the public to the private sector? Does it require any new conceptual or technical achievements with respect to providing satisfactory accounts of administrative performance useable in post-audits?

In the field of public administration, the talk throughout the world is of change, of the transformation of governments: new forms of governance, new relationships between citizens and their governments and between the public, private, and non-governmental sectors, new processes of policy making.

It is now widely believed that the 1980s represented a watershed in administrative reform around the world. According to Gerald Caiden, "...inherited administrative systems were proving to be sluggish, inflexible and insensitive to changing human needs and novel circumstances" (1991:1).¹ These inherited systems included those of the East Bloc, which had embraced statism, bureaucratic centralism, central planning, and scientific or technocratic management. The West in the meantime had developed the apparatus of the welfare state, the idea of representative bureaucracy, command and control regulation, and, in many countries, state enterprise. The Third World was saddled with what Caiden calls "law and order administrations" which lacked the experience, resources, and trained personnel to perform competently, much less to switch directions suddenly; rule was autocratic and personal, backed by force.

In this view, administrative states of every type were visibly falling short of adapting to the changes in politics, markets, and public attitudes clearly gaining momentum everywhere. Today, the Organization for Economic Co-operation and Development (OECD) calls reform "a burning issue," based on official member country reports, and, even if there is no crisis, there are insistent, strong pressures for further change (OECD, 1996).

OECD cites as sources of these pressures factors such as the development of a global market place, national perceptions that member country public sectors are not performing well yet are growing steadily larger and, in the process, creating mounting budget deficits and public debt burdens; citizen dissatisfaction with services and with political administrations that are seemingly impotent to improve

matters; and restive public employees who are becoming increasingly insecure, beleaguered, and defiant of criticism (OECD, 1996:19). Even in Japan, whose bureaucrats are perhaps the most secure, competent, and powerful in the developed world, and where the best and brightest university students aspire to careers in the bureaucracy, “the national trust in the bureaucracy has collapsed,” according to recent press accounts. A series of missteps and cover-ups has aroused public concern that the Japanese bureaucracy is unable to respond to the wishes of the people, and the language of change is transforming politics there, too. Mexico and other Latin American nations have been facing similar pressures from an increasingly critical public to improve the quality and responsiveness of public administration.

Moreover, there is a strong suggestion of convergence. In a recent paper, Patricia Ingraham insists that, despite obvious differences in national experiences, “the commonalities are more important than the differences” (1996:4). In their best-selling *Reinventing Government*, David Osborne and Ted Gaebler say of change in American government that “the reforms represent a paradigm shift.” (1992:19) The OECD, along with many other students of government such as Peter Aucoin (1990) and Michael Barzelay (1992), among others, concur. If these students of administration are right, we are moving inexorably into a world of post-bureaucratic, post-modern, post-industrial government.

What is being celebrated—and that is the right way to characterize this literature—is expressed in various ways in various places: a withering away of “direct bureaucracy” in favor of a “hollow state,” “virtual organizations,” and networked organizations, a shift of power from bureaucrats to citizens, a rebirth of community and of democratic accountability, the realization that incentives and competition are the guarantors of growth and efficiency when public resources are scarce. In his National Performance Review conducted for the newly-elected Clinton Administration, U.S. Vice-President Al Gore urges that Americans view themselves as customers of government rather than as citizens (Gore, 1993). The role of citizen, says Gore, is inherently weak—the individual voter cannot determine the outcome of an election—whereas customers can compel response to their wishes by insisting on receiving value for what they pay or shopping elsewhere. Firms survive in markets. Bureaucrats should similarly endure the discipline of competition.

The new paradigm itself has been variously denominated. In addition to the popular “post-bureaucratic” label, other terms include “managerialism,” “The New Public Management,” “market-based public administration,” and “entrepreneurial government.” According to OECD, the key reform thrusts are: a greater focus on results and increased value for money, devolution of authority and enhanced flexibility, strengthened accountability and control, a client- and service-orientation, strengthened capacity for developing strategy and policy, introducing competition and other market elements, and changed relationships with other levels of government. As Andrew Dunsire depicts it for the United Kingdom (1995),

Britain, for example, Bernard Silberman (1993) identifies two contributors to the dynamics and resulting structures of state building: the level of uncertainty concerning political succession, and the nature of political leadership structure, and, in particular, whether leadership is a question of social or party identification. This leads to four cases: (1) high uncertainty combined with a social basis for leadership produces high levels of bureaucratic autonomy; (2) high uncertainty coupled with party-oriented political leadership produces single-party dominated, organizationally-oriented bureaucracies; (3) low uncertainty and social-network organized leadership produces a party-dominated professional bureaucracy; (4) low uncertainty and a party system produces an American-style professional bureaucracy accountable to party-dominated politics (82-83).

As a historical matter, political strategies, then, reflect choices of ways of resolving tensions and problems existing between the state and civil society, solutions to problems of conflicting values. Silberman concludes:

[T]he rationalization of the administrative role—the creation of the norms of bureaucratic role in modern society—was the consequence of political struggles. These were struggles to redefine the structures of power and the criteria for access to them by groups of putative leaders who sought to reduce the uncertainty over their status and power and, as a consequence, their material well-being (1993:425).

Ferrel Heady puts the matter succinctly: “what has become more and more obvious is the extreme importance of variation among political regimes as a major explanatory factor for variation among public bureaucracies” (Heady, 1995:472).

A related proposition is evident in the recent work of Robert Putnam (1993). Putnam’s logic suggests that state building and the performance of administrative structures are a reflection of underlying, historically-determined civic culture; a strong civic culture produces effective administrative performance. But, argues Sidney Tarrow (1996), the causal arrow may go the other way: from politics as the mobilization of bias to civic culture and association based on trust as a premise for the conduct of civic affairs. If civic capacity is the by-product of politics, as Tarrow argues, then one must understand the historical bases of these politics in order to understand the character and performance of modern states, and, as Putnam’s work illustrates, regions within states. The dynamics of state building are complex and differentiated. Struggles for political power are mediated by national institutions.³

If one accepts the foregoing logic, then the proposition that we are witnessing a fundamental transformation in modern bureaucracies, as opposed to incremental modifications, must be based on a belief that we are witnessing a fundamental transformation in the historic role of the nation state and of the force of nationalism, in the generative forces of public administration, socio-political and economic transformation of a character that “predicts” the new paradigm as a resultant. If the bureaucratic paradigm is rational/legal in the Weberian sense, then a post-bureaucratic paradigm must be founded on a different basis of legitimacy: perhaps differ-

perspectives produce opposite predictions concerning administrative transformations.

Global capitalism requires the dismantling or substantial weakening of command and control bureaucracy and statist enterprise, of all distortions in prices and interference in capital and labor mobility. If nationalism required a strong bureaucratic state, internationalism requires the unrestricted movement of factors of production within and across borders. One would expect to see, as we indeed appear to be seeing, a considerable weakening of political support for redistributive policies. Bureaucracy should dissolve into a series of successor institutions whose shape we may not yet fully grasp but which yield property rights and control of scarcity rents to private entities.

Nationalism and democracy, however, require the rule of law, legally-sanctioned regulation of markets, and competent bureaucracies subject to control by statute and by judicial institutions. Carl J. Friedrich argued that democracy would have no chance to survive without bureaucracy because it would not be able to carry out the programmatic promises of its elected leaders (Friedrich, 1940). Weber viewed a system of bureaucratic rule in the modern state as inescapable; he could discover no known example of a bureaucracy being destroyed except in the course of a general cultural decline (Bendix, 1960:458). Bureaucratic power, says B. Guy Peters, “may simply be a prerequisite of effective government in contemporary society” (Peters, 1992).

Weber precisely identified what the rule of law means for bureaucracy (Bendix, 1962): official business is conducted on a continuous basis in accordance with stipulated rules by an administrative agency in which personnel have defined duties, authority to carry them out, strictly defined powers, and appropriate supervision. They have no property rights in the resources at their disposal or in their offices. Official business is conducted in writing. Without these features, “there cannot be a system of legal domination in which the exercise of authority consists in the implementation of enacted norms” (424). I repeat this familiar list of criteria not because they define bureaucracy—the usual function of such a listing—but because they define the rule of law and the means for assuring the constraint of authority by enacted norms.

Belief in the equivalence of bureaucracy and the rule of law explains why many public administration theorists have reacted to claims that “traditional” bureaucracy is being overthrown by reasserting neglected principles of public and administrative law.

If it is spread of democracy, and not of capitalism, that is the story of the late twentieth century, then we should not expect to see bureaucracy shrivel and weaken so much as we should expect to see it come into its own as an indispensable adjunct to competitive nationalism. Fred Riggs characterizes the current period not as post-modernism but as “para-modernism,” i.e., a necessary confront-

ing of the negative consequences of modernization and of bureaucracy as its instrument (Riggs, 1996).

In the modern (or para-modern) state, bureaucracy has turned out to be both solution and problem, an apparatus that provides structure and continuity to modern states but, at the same time, poses a threat to democratic and party control. Our age is characterized, according to Henry Jacoby, by “the forceful transformation of rational administration into the irrational exercise of power, the lack of clearly defined limits to coercion [or corruption], and the increasing competence of a state which arrogates independence to itself.” (1973:2) The self-aggrandizing tendencies of bureaucratic elites have, according to Heady, heightened the issue of political control of public administration around the world. It is this suspicion of bureaucratic power that began to intensify in the 1980s, producing the changes documented by public administration scholars and inspiring discoveries of “new paradigms.” This intensification is occurring, however, in the context of heightened concern for national identities, the legitimacy of authority, and long-term political viability of governments, and it is this linkage that is of significance.

THE NEW PUBLIC MANAGEMENT DECONSTRUCTED

We can see the primacy of national political requirements if we begin with the meta-problem that appears to be inspiring administrative reform: political control of public administration, or the responsiveness of bureaucracy to citizens and their representatives. This is, of course, a generic, structural problem of modern democratic government. If we consider more specific kinds of solutions being pursued by different national governments, we will discover the great variety of forms that administrative restructuring is taking.

In Australia and the United Kingdom, for example, the favored term for reform appears to be “managerialism,” a term that has distinctly pejorative implications in the United States. A recent Australian textbook (Hughes, 1994), replete with bows toward Osborne and Gaebler, says that the managerialist agenda is, in essence, quite simple. Governments would like to know that public ends are being served in an efficient and effective manner. Corporate planning techniques can specify what departments are to do; programme budgeting means that scarce funds can be better targeted; performance indicators allow some measure of how well targets are being achieved; and the personnel changes increase flexibility so that the most able are rewarded and the inadequate can be removed. To an American, such an agenda summarizes largely discredited American administrative reforms of the 1960s and 1970s. Even the language, featuring cost-effectiveness and program budgeting, is the same as that of Planning-Programming-Budgeting (PPB).

A decade of administrative reform in New Zealand has a distinctly different cast. “The reform of the system of government,” says one experienced observer, has these elements:

of behavioral and social science as to be unhelpful as a source of guidance) and without accepted methods of application (not within a single country's public administration community and not across national communities) be said to possess paradigms?⁴

Indeed, the foregoing argument calls into question not only the notion of a "post-bureaucratic" paradigm but of a "bureaucratic" paradigm as well. Though one can artfully create a tale of convergence around model problems and bureaucratic solutions from America's administrative history, such tales are not entirely persuasive. "Solutions" from the time of the Progressive era, the New Deal, the Great Society, and the Reagan era to the present have been sharply contested among citizens, practitioners, and scholars. Is public management unique or generic? Can the logic of business enterprise be adapted to the needs of government's core functions? Does bureau-based "managerialism" threaten liberty? Is legislative oversight of administration essential or inimical to effective management?⁵

The features that these formulations have in common are, first, the extent to which they reflect the political preoccupations of individual national governments rather than implementation of model solutions, and, second, the extent to which the promises of the reforms remain almost wholly unfulfilled, as if the symbolism of adoption was the point, not results. There is little evidence of convergence on anything remotely approaching a new paradigm.

Dunleavy and Hood explicitly reject Osborne and Gaebler's assertion of the inevitability of a new paradigm. They describe alternative, multiple futures for public management based on constitutional issues arrayed on two dimensions: the degree to which there are general, system-wide rules of procedure, and the degree to which the public sector is separated from the private sector (1994:13-14). The future, they suggest, may hold gridlock and "headless chicken" administration, "virtual proximity systems," conventional bureaucracy, or any of a wide variety of administrative states that represent political solutions to problems of national politics.

JUST THE FACTS

Champions of a post-bureaucratic paradigm, of managerialism, or of The New Public Management might reasonably respond by insisting that facts should be brought forward to quiet the skeptics and reassure the doubtful. The facts strongly suggest, many seem to insist, that we are witnessing in the acts of governments and their emerging consequences not just "outlier" developments of only random interest (and not just heterodoxy expressed in a meta-language) but significant, convergent movement toward a successor to bureaucracy. At the very least, proponents might argue, we are witnessing "structuration of the international administrative field," as sociologists might put it, under the spreading influence of public choice doctrines or of a revived business-based managerialism. Even if such a world-wide

transformation is, to at least some degree, mimetic, it is nonetheless consequential for administrative practice.

Will “the facts” vindicate The New Public Management? I want to make five points in response.

Though those concerned with administrative reforms are increasingly conversing in a common meta-language,⁶ I am not convinced that we have an agreed-upon body of facts concerning the nature, extent, and consequences of change worldwide. For one thing, we lack the conceptual foundations for designing appropriate measurements. “There are no general theoretical frameworks,” Page argues, “which allow one to distinguish between salient and marginal differences of bureaucracies,” differences which must include “differences in institutional structures and relationships” that constitute the environment of administration. (Heady’s *Public Administration: A Comparative Perspective*, 1996, may be an exception.) For another, many of the most acclaimed features of The New Public Management—an emphasis on quality and continuous improvement, devolution and expansion of managerial autonomy, a commitment to customer satisfaction—are virtually unmeasurable. Further, and a consequence of the first two, evaluative claims are plagued by selection bias, *ex post* rationalizations, irrefutable or unverifiable arguments, and the absence of either empirical or conceptual context. A typical sentence from obviously sympathetic evaluations includes expressions such as “widely-held impressions are,” “informed observers believe,” “there has been substantial impact,” a “there is a real difference.”⁷

Scholarly “customers” of such vague, subjective, and unproven claims are justified in expressing dissatisfaction with the product. A “new public manager” would never accept them.

The evidence suggests that the extent of change is modest at best and that many documentable changes may be transitory, awaiting the verdict of political succession. Of the impact of managerialism so far, one Australian scholar observes that “in most senses, the new approach is simply untested.” Evidence to demonstrate the gains from the New Zealand reforms is said to be “somewhat limited.” The OECD reports that “the rate of take-up of reforms is uneven and the pace of implementation is slow.”

Reform may be slow, but is it nonetheless inevitable? A skeptic might wonder if New Zealanders, discussed with their pre-fiscal crisis regime, have really repealed the principles of political economy and public choice (well explicated, for example, in Murray Horn’s recent book, 1995). Are New Zealand’s public choices no longer tainted by self-interest or idiosyncrasy? Or is it, rather, that the governing party has such a powerful majority (or the opposition is so fragmented) that issues and controversies, conceptual and political, have for the time being been suppressed? I don’t believe for a minute that theorists, technocrats, and accountants have taken over New Zealand’s public sector.

tion is occurring in the United States, where many of the boldest claims of change originated. The United States has had relatively little state-owned enterprise, and the sell-off, devolution, and deregulation have been gradual for some time, so privatization has limited impact on U.S. government operations.

Osborne and Gaebler argue that education is the public system in America “that has moved farthest toward a paradigm shift” (1992:325). Yet just in recent weeks, stories have appeared in the American popular press reporting documented failure of one of the principle hopes of the reformers: using private management companies to direct the affairs of schools and school systems toward greater efficiency and accountability. Earlier hopes for the rapid emergence of a national chain of private, proprietary schools delivering results for a reasonable price, in sharp contrast to American public schools, have only a handful of experimental sites to show for it.

Much of the evidence suggesting widespread rapid change in the United States is unreliable and often self-serving. If one resorts to dispassionate sources, such as General Accounting Office assessments and some academic evaluations, one cannot find evidence to support a claim of widespread transformation, much less a claim that a new paradigm has emerged.

THE NEW PUBLIC LAW DEMOCRACY?

For public administration, then, a more appropriate focus of inquiry might be the nature of transformations taking place around the world in democratic institutions and practices and in their indispensable concomitant, the rule of law and the approaches to and practices of lawmaking by legislative bodies. These are, after all, the independent variables in the study of bureaucracy. Walter Kickert and Richard Stillman put the question correctly in their recent symposium on public administration in Europe in *PAR*: “At the close of the 20th century, will the redefinition and redirection of basic tasks, responsibilities, and purposes of the nation-state once again influence a fundamental reform of European administrative systems and administrative sciences?” (1996:66) What is of interest is the changes in tasks, in the primary work, or core technologies, of government as they are viewed in appropriately specified national contexts.

This should produce a rich picture of lawmaking and administration in international perspective. In a recent paper, Stillman observes, for example, that:

The European positive law tradition, unlike the American common law tradition, decisively influences the content, logic, and the institutional autonomy of its public administration, particularly on the European Continent. If the Anglo-American common law tradition ‘builds-up’ precedents based upon an accumulation of discrete cases, the positive law tradition works in reverse: i.e., deducing from general ‘state’ legal principles to decide rulings in discrete cases. The former looks to cases for finding precedents; the latter, to higher legal principles to impose on specific cases. That of course gives courts, lawyers and the law in Europe critical influence and autonomy in defining the study of public administration (1996:11-12).

Extending and enriching these kinds of insights across a wider spectrum of national experiences justifies a high priority for public administration scholars.

This is not an argument for a return to earlier notions of public administration as a derivative of public law or for a normative view of public administration as jurisprudentially legitimated. It is, instead, an argument for viewing public administration in a democratic context of law-creating and law enforcing. Inspired by nationalism, an historic number of peoples around the world are selecting their governments by ballot. There are growing, albeit controversial, pressures for genuine party competition, for more transparent administration, and for a freer press. Citizens have their most direct recourse to public administration through law creation and law enforcement, however imperfectly they may constrain administration.

To the extent that the problem of modern public administration is democratic accountability (and not all scholars agree that it is), then we must once again focus attention on politics and the role of public law. For it is through public law that the citizens of democratic states collectively express their specific wishes for the role government is to fulfill. "The most fundamental distinction between public and private organizations is the rule of law," argue James Fesler and Donald Kettl. "Public organizations exist to administer the law, and every element of their being—their structure, staffing, budget, and purpose—is the product of legal authority" (1996:9).

The meaning of "rule of law" is spelled out by Martin Shapiro. "In most English-speaking nations administrative decisions are subject to judicial review for abuse of discretion, which is commonly measured by whether officials have (1) considered something they should not have considered, (2) not considered something they should have considered, (3) given improper weight to something they should have considered, or (4) decided without sufficient evidence." (Shapiro, 1996:503) Abuse of discretion is an appropriate term to use in summarizing widespread public dissatisfaction with bureaucracy and politics.

Perhaps the most important aspect of regimes built on the rule of law for purposes of assessing the prospects for a new public management is that there is a general tendency, as governance institutions mature, for legislative bodies and courts to narrow the boundaries of discretion over time, partly by substituting rules for discretion and partly by introducing various devices that permit at least postauditing of the prudence of the decisions reached. A participant in the OECD Ministerial Symposium on the Future of Public Services insisted that "Whatever the textbooks might say about decentralization, about taking risks, and better public management, the fact was that most of the pressures on politicians worked in the opposite direction—pushing towards centralization of decision-making and risk aversion" (Waterford, 1996).

Many administrative reformers, including those that inspired the Clinton Administration's National Performance Review, fail to notice that what they pejoratively deride as bureaucracy run amok is in fact the institutional manifestation of

