

Theory to Practice

Response to Commentators

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A Return to Spoils? Revisiting Radical Civil Service Reform in the United States

With human resource management (HRM) reform, it often appears that today's solutions become the problems of generations to follow. Civil service systems constructed seven or more decades ago still influence HRM practice throughout the United States. Most recently, these systems have come into direct conflict with government executives and managers attempting to influence, if not control, bureaucratic actions. We set out to study the promise versus the performance of one important variation of this phenomenon: radical civil service reform in Georgia.

Before responding to the commentaries on our article, we ask *PAR* readers to recall that the original intent of granting civil service protection to public employees was to begin to professionalize government (Van Riper 1958). In essence, this effort was designed to build a

competent workforce that could mitigate the political whim and mischief of elected officials. In many local governments, civil service implementation (what might be called "bottom-up professionalization") was preferred over replacing strong mayor systems with council-manager forms of government (what might be called "top-down professionalization") (Battaglio and Condrey 2006).

As we point out in our article, Hays and Sowa (2006) have clearly demonstrated that this tension between civil service systems and executive influence and discretion is alive and well in state governments in the United States. Over 50 percent of state governments have now undertaken some form of at-will civil service reform. As we also suggest in our article, the convergent factors driving at-will employment proposals in the states are multiple and likely to be enduring.

These include the existence of broad public support for such systems, as well as an increasing reliance on government contracting. The latter diminishes the influence of individual-level electoral politics and produces a new type of spoils system in which large political contributions by corporations may translate to future favorable treatment by those in political control of government bureaucracies. Another factor driving radical civil service trends includes generational shifts in public employees, with younger employees less concerned about career consistency and longevity than were previous generations. The blurring of public and private sector employment differences is yet another factor driving the push toward radical civil service reform.

With this as context for our remarks, we appreciate the thoughtful reactions to our article by the four distinguished commentators. While they join us in offering important lessons for practitioners and research agendas for scholars, we wish to focus on three general sets of insights they afford. These include being careful about what you focus on, being prepared for unintended consequences, and not forgetting the politics.

Be Careful About What You Focus On

Frank Thompson's commentary aptly notes that many recent efforts to modernize civil service systems "were not invariably radical." Incremental approaches such as those espoused by the Winter Commission, for example, advocated the *modernization*, not the dissolution, of civil service systems. Thompson goes on to provide a clear path for future research. Of particular interest to us is his call for a "summative deregulation

score." Radical reform efforts could be measured and compared on a state-by-state, or perhaps organization-to-organization, basis.

We are also appreciative and mindful of Thompson's caution not to take the absence of overt patronage in Texas and Georgia too seriously. If we are in the beginning stages of a return to at-will employment across the country, one might well expect many consequences, including what Thompson terms "hackocracy." Furthermore, Thompson usefully cites Hugh Hecl's *A Government of Strangers* (1977) to remind us of the need for a neutrally competent bureaucracy to temper the whims of transient political executives. Nor could we agree more with Thompson that scholars and practitioners need a steady stream of research using various methodologies (and not just surveys) to illuminate more fully the implications of these reforms for administrative accountability and performance.

In her commentary, Norma Riccucci extends our focus on civil service reform in the states to the federal government. She deftly points to efforts to spread at-will employment practices to the U.S. Department of Homeland Security and Department of Defense. She then alerts readers that these specific instances are "an antecedent to (President George W. Bush's) ultimate goal of revamping the entire civil service system in the federal government."

Riccucci also affords an excellent critique of radical and not-so-radical civil service reform efforts aimed at strengthening executive control over bureaucratic actors. She then poses the following questions: "Could these trends to-

ward eroding public employee protections be halted or even reversed? Is there some tool or mechanism that could counteract the efforts of radical civil service reform with regard to employee rights?"

Beware of Unintended Consequences

Underpinning and animating Riccucci's questions is the unrelenting 30-year assault on the federal bureaucracy begun by President Jimmy Carter (Civil Service Reform Act of 1978) and continued by President Bill Clinton (National Performance Review) and President Bush. Riccucci sees unions and the federal court system as ameliorating or preventing wholesale radical reform. As she points out, and as we discuss further below, it remains to be seen in future research if this will also be the case for state and local government.

Frank Ferris, executive vice president of the National Treasury Employees Union, also provides an interesting and provocative commentary on our article. He does so not only by agreeing with several of our points, but by disagreeing with others (including some of our arguments regarding trends pushing radical civil service reform). Ferris is correct that the "beauty" of radical civil service reform is in the eye of the beholder. He goes on to provide a useful critique of at-will reform from four perspectives: politicians, employees, managers, and the public. As such, he implicitly suggests a research agenda that systematically compares and contrasts the aims and implementation perceptions of these disparate actors. In this regard, he joins us in noting that politicians embrace at-will employment because it is easily explained and "sug-

gests a certain frontier toughness by the candidate." The reforms sound good and are appealing to the public.

We also agree with two other points that Ferris makes. First, given the focus of our article, we obviously agree that more research needs to be conducted on managerial reactions to at-will system implementation. Research on the perceptions of frontline managers would certainly be useful. In this vein, it remains to be seen if the perceptions of HRM managers in Georgia translate to other units of government and other areas of management.

Second, Ferris is also correct when he argues that the general public often views public managers as costs and not assets. In warning against the dangers of this, he joins Frank Thompson in citing the potential "opportunity costs" of at-will employment. As Thompson puts it, we can lose the value of a neutrally competent civil service and its role as a "check-and-balance mechanism on the executive's right to be wrong, wasteful or even unethical."

Ferris also goes beyond our article and Norma Riccucci's commentary by showing how diminished employee protections may be mitigated by sympathetic courts. He writes that a perverse irony for President Bush lies at the heart of his efforts at radical civil service reform. In the process, the rhetorical question that he offers suggests yet another avenue of future research: "Does an at-will approach merely replace an internal civil service or negotiated appeals process with far more formal and costly litigation?"

We agree with him in part on this point, but believe it must be modified as a generalization at the state government level. We believe the mitigating effects he anticipates will only be great in agencies and states with strong and deep-pocketed unions. The highway worker in a non-union state is extremely unlikely to have the wherewithal to mount a defense of his or her dismissal without civil service protection.

Ferris also provides a provocative conclusion, suggesting that those seeking radical civil service reforms should partner with unions to devise collaborative and mutually beneficial reforms (e.g., New York). Again, this may be an alternative for federal bureaucracies or those in states with strong and effective union representation. However, we are less convinced that such is an alternative where union representation is not effective or simply non-existent (e.g., Georgia).

Also begging further research is a paradoxical result of radical civil service reforms that Ferris posits. Extrapolating his federal government-based lessons to the states, researchers would hypothesize that the more governors and state legislatures pursue radical reforms to control the bureaucracy, the more control would shift from them and to the courts. At this point, however, Ferris's argument remains a hypothesis worthy of testing at the state level.

We hasten to add, however, that Ferris is factually wrong in attributing radical civil service prescriptions to public administration faculty. Public administration scholars have been among the least receptive of any group to these ideas. He also errs egregiously by stating that the

National Academy of Public Administration is comprised of "no-longer-active-in-government stakeholders." A large proportion of Academy members are still active leaders in government. These rather gratuitous and factually inaccurate allusions are unfortunate, as they take away from an otherwise useful commentary.

Don't Forget the Politics

We began our article by noting that research on the promise versus the performance of radical civil service reforms awaits the availability of valid performance measures. In his commentary, Lloyd Nigro usefully and candidly reveals not only the technical difficulties involved in heeding our call, but also the political realities of doing so. Researchers will benefit as he recounts the experience that he (and Ed Kellough) had in Georgia.

Nigro's research on Georgia civil service reform is well known and frequently cited. Moreover, his understanding of the state's HRM system, dynamics, and reforms is deep. In this vein, Nigro is correct that the 1996 legislation decentralized much of Georgia's HRM functions. As one top aide to then-Georgia Governor Zell Miller gleefully remarked to one of us, implementing the law meant that the merit system in Georgia had been "blown up." Nor was sympathy for this perspective limited to this individual: key legislative and bureaucratic actors viewed the Georgia State Merit System as a hindrance to good management and supported its dismemberment.

All of which helps put into perspective Nigro's lament that the Georgia legislature did not provide funds for systematic evaluation of the law and that his (and

Kellough's) evaluative efforts were hindered by bureaucratic actors. This, in turn, provokes cynicism that reform proponents are not really interested in knowing the answer to the "so what" question: Does radical reform make government more responsive, effective, and efficient? Certainly, Nigro and Kellough's experience as contractors in Georgia suggests not.

If similar sins of omission and commission exist in other states as radical civil service reforms spread, what Nigro sees as a critical link in our understanding remains unaddressed: "[A]ny effort to evaluate civil service reforms, in the final analysis, must connect their efforts, conceptually and empirically, to what is happening on other levels of organization activity." Still, Nigro's other research and familiarity with the Georgia system leads him to a significant conclusion: 10 years after the inception of at-will employment in Georgia, "the demise of the classified civil service and the regulatory merit system has not signaled the end of professional human resource management." We concur in this judgment. We also agree with Nigro's observation, however, that the next decade should be "interesting" for practitioners and researchers.

Final Thoughts

Radical civil service reforms continue to diffuse as of this writing, as do efforts by researchers to answer the "so what" question. The four commentators on our article have joined us in laying out a path for a rich research agenda to probe the effects of at-will employment in the functions and functioning of democratic government. We are grateful to them for

doing so and for noting the obstacles that researchers may expect in carrying out that research agenda.

Many of these suggestions might run directly into the resistance and obstacles highlighted by Lloyd Nigro in his commentary. In any event, we join several of the commentators in their views that at-will reform is best studied at the state and local levels of government from both academic and practitioner-based perspectives. Cooperation and joint efforts will be critical.

At the beginning of our response to these commentaries, we noted the tension between civil service systems and executive control of the bureaucracy. We wish to conclude by revisiting this issue. Perhaps the answer is not a clear either/or choice. It seems to the commentators that a measure of each is required: a professional workforce responsive to legitimate executive expectations and demands.

The problem, of course, is how to bring about this creative tension. For Thompson, attaining this balance most effectively means change at the margins, not radical civil service reform. He argues that:

[r]eforming personnel systems on the margins is a lot less exciting than throwing out current systems and fashioning new ones. It can be quotidian and even tedious. But I believe that incremental change of this kind will ultimately serve government better than radical (reforms). Public administration scholars and practitioners should partner in this effort.

We join Thompson in his stress on collaboration, and hope that these partnerships will develop and fruitfully advance both practice and theory building on civil service reform in the future.

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