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Strained or Broken? The Future(s) of the Public Service Bargain

Over 60 years ago the first political science professor at Wellington's Victoria University, Leslie Lipson, noted in his 1948 *The Politics of Equality* that:

With the political parties the modern [New Zealand] civil service has struck a mutually beneficial bargain. By guaranteeing to public servants a life's career and a pension, parties have foresworn the use of patronage and have guaranteed to the state's employees their tenure of their jobs. In return the parties expect, and the public servants owe, equal loyalty to any government which the people have placed in office. (Lipson, 1948, p.479)

A quarter of a century later, Bernard Schaffer defined the 'Public Service Bargain' that applied to Whitehall civil servants in broadly similar terms. For Schaffer, in return for agreeing to 'anonymity, some sacrifice of political rights and proficient performance', British civil servants were assured 'prominent careers, honours and a six-hour working day when the middle classes wanted just that, and neutrality was possible, credible and inexpensive'. Schaffer suggested how the Whitehall model of a competent, neutral and serially loyal civil service was underpinned by 'some quite peculiar conditions and, as it were, a highly complicated bargain'. Given the nature of the 'highly complicated bargain', Schaffer also noted the incentive of the various parties to 'shuffle out' of their (usually implicit) obligations under the Bargain (Schaffer, 1973, p.252).

In the late noughties of the 21st century, there is little to suggest that the Bargain is still regarded as 'mutually beneficial'. While Lipson and Schaffer would still recognise the idea of serial loyalty in both the New Zealand and UK systems, the reward side of the Bargain has changed considerably, in particular in New Zealand. Drawing on experiences across different national systems, one can point to at least three dimensions under which the Bargain seems to be under strain across different jurisdictions and different state traditions:

- On the reward side, public servants criticise the fact that they were asked to turn away from the tenured life of material security with the promise of adequate material compensation for the heightened risk premium. They note how they have been left behind in an ever-increasing pay differential in comparison with the top of the private sector. This cheating on the material side of the Bargain was made official with the move, in both New Zealand and the UK, to make material reward no longer market-facing, but wider public service-facing. At the same time, critical voices point to unclear assessment and promotion criteria and low guarantees of reward for outstanding performance. On the other side of the Bargain, politicians moan about the risk-averse nature of public servants and the lack of performance management systems to make public servants responsive.
- On the competency side, public servants across countries complain about being shouldered aside by new generations of political advisers, especially at the centre of government. Gone are the days in which public servants could claim monopoly status as sages and policy wonks in government. Instead, life at the top of the civil service has increasingly meant attention to organisational detail and 'delivery', somewhat disheartening if the main attraction of a civil service career was being at the heart of decision making. On the other side, politicians, faced by laptop and USB memory stick losses, failures in

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social security payments or procurement of information technologies, or the publication of embarrassing details on government websites, suggest that competence in the context of bureaucracy is, at best, a misnomer. They point to the lack of bureaucratic responsiveness to the political demands of a 24/7 media landscape and the need to govern through well-targeted leaking. Critical of the advisory and delivery skills of their civil servants or the particularly ‘econocratic’ nature of policy advice, they ask for more ‘delivery’ skills of their administrative machine, while looking for expertise on substance and presentation elsewhere.

- On the loyalty side the bargain is under pressure too. Whereas in the past, public servants would assume that ministers would take the flack for decisions, in the contemporary world civil servants are outed and publicly criticised, without public servants having the formal right to respond. On the other side of the bargain, politicians are openly dismissive not just of the idea of ‘serial loyalty’, and suspect ‘disloyalty’ on the side of their public servants.

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Such views are particularly prominent among politicians who have spent considerable time on opposition benches, as was observed in New Zealand post-1999 or Germany after the election of the Social Democrat–Green coalition in 1998. In Canada, too, the government of John Harper was seen as openly questioning the loyalty of the civil servants, with headlines suggesting that ‘Harper sees a liberal under every federal bed’ (*Globe and Mail*, 19 January 2006, p.A18).¹ But the scepticism regarding the loyalty of civil servants goes much further. For example, David Blunkett in his diaries of his time as a Cabinet minister during the Blair administration noted that ‘we have a situation in my department where virtually anything of any importance is leaked ... The civil service are very lucky that we can’t sack them, that no one can sack them’ (*Guardian*, 13 October 2006, diary entry for February 2002). Even more publicly, Gordon Brown, just before his move to 10 Downing Street, was condemned by a former Cabinet Secretary as having ‘Stalinist ruthlessness’ and a ‘Macavity quality. He is nowhere when there is dirty work to be done’ (*Financial Times*, 20 March 2007).

After over two decades of administrative reform, the ‘mutually beneficial bargain’ has not only changed, but also appears to be in considerable trouble, way beyond the usual boundary-policing issues about what are partisan political or government activities. Something more significant seems

to have happened to Schaffer’s ‘peculiar conditions’ that made the operation of traditional Public Service Bargains possible. Public Service Bargains set out the terms of the relationship between public servants and the wider political system, especially with politicians. As with all relationships, the rules of engagement are only to some extent written down, but are also based on implicit assumptions and conventions. Consequently, where to draw the line between the ‘appropriate’ and the ‘inappropriate’ often remains unknown, unless one has overstepped that boundary. Furthermore, these boundary lines are subject to changing interpretations (see Hood and Lodge, 2006). Much has been written about how we got here, but what is the future direction of travel?

What future for the Public Service Bargain(s)?

New Zealand is widely regarded as a prominent case of administrative reform, having moved to a system in which the public servant’s ‘life’s career and pension’ are no longer guaranteed, but where the ‘serial loyalty’ understanding of enthusiastic work for the government of the day has remained. Furthermore, the wider rules of the game have changed, in particular with the introduction of MMP in 1996. So what is the future of the Public Service Bargain? How can the Public Service Bargain be made ‘fit for purpose for the 21st century’, a phrase so commonly used by those involved in UK civil service reform debates?

One option, the ‘back to the future’ option of returning to ‘constitutional principles’ and regarding the last decade of increased boundary testing by politicians as a deviation that requires correction, seems problematic. On the one hand, in particular in the case of New Zealand, this raises the question of which ‘back to the future’ states of the world these critics aspire to: first, whether this applies to the world of pre-MMP or not; and, second, whether their prescription applies to the world of the 1912 Public Service Act that was at the heart of Lipson’s account, or the ‘pure’ world of the 1988 reforms that maintained serial loyalty, but radically changed the reward side of the Bargain. Politics (especially post-MMP) and society have arguably moved on, thereby changing the ‘quite peculiar conditions’ that allowed for the endurance of traditional Bargains. For example, in the UK, devolution has changed the context in which a unified civil service for all the territories of Great Britain operates, even though contemporary debates do their best to ignore this issue.

Another option would be to do nothing. Bargains might have sufficient self-healing capacities. Should one party to the Bargain stray too far from the explicit and implicit understandings, the other party will respond. For example, attacks on the competency and loyalty of civil servants will be answered by a range of responses, ranging from increasingly risk-averse policy advice and implementation to the discrete

dissemination of inconvenient details regarding ministerial decisions. Arguably, both parties, when faced by the abyss of a complete breakdown in their relationship, will come to their senses and return to 'working relationships'. Such processes can even be observed in the case of former ministers. For example, when the former UK trade minister Lord (Digby) Jones reflected about his 'dehumanising' experience as junior minister, he suggested that half of the civil service should be sacked. He later retracted this statement (following audible civil service disgruntlement), calling for a 'more rigorous analysis' of civil service numbers and suggesting that he had not meant to attack the civil servants working directly under him in his portfolio, but those operating elsewhere in the Department for Business, Enterprise and Regulatory Reform (causing further offence) (*Financial Times*, 28 January 2009).

The 'do nothing' option will also appeal to those who believe that the benefits of any change will be outweighed by the costs of unintended side-effects. Nevertheless, a 'do nothing' alternative is unappealing to those who are looking for ways to improve the workings of the Public Service Bargain and who argue that the balance of power between blame-avoiding politicians and powerless civil servants does not allow for equilibrating tendencies.

So if 'back to the future' is hardly an option as society and political systems have moved on, and the 'do nothing' option is arguably not viable, what other options are left? The rest of this short paper presents three dominant reform scenarios. Each has implications for understandings that relate to three dimensions of any Public Service Bargain, namely rewards, competencies and loyalty. This selection of scenarios is not meant to provide a fully exhaustive or mutually exclusive account, but it does cover three main branches of contemporary public management debates. Each scenario seeks to draw out differences rather than commonalities to animate discussion. If each of the three scenarios has some currency and relevance for the future of the Bargain, then this suggests that there will hardly be 'one' Bargain for the future as there is no one single 'modern' form of bureaucracy of the future. Instead, there will be ongoing complexification and diversification, with all the scope for 'misunderstandings' that these cause. Indeed, each one of these three scenarios generates its own opportunities for the different parties to 'shuffle out' of their assumed obligations under the Bargain.

The 'managerialist state' Public Service Bargain

This narrative diagnoses the key problems in contemporary arrangements as a lack of 'managerial' thinking that permeates both political and bureaucratic worlds and produces inefficiency. Consequently, incentives need to be high-powered and well-designed, the autonomy space well demarcated and emphasis placed on 'managerialist' skills and capabilities to run organisations.

This is to some extent a 'back to the future' to the ambitions of the State Sector Act of 1988 and the Public Finance Act

of 1989. That is, the bargain provides for a greater scope of managerial autonomy for public managers to deliver against mutually agreed benchmarks (i.e. outputs and, possibly, outcomes). High material rewards await those who achieve these targets. Far less reward, if not unemployment, awaits those who fail to deliver. It is a world where stable career expectations are replaced by an explicit 'up or out' management system. To achieve those performance targets, skills and capabilities to 'deliver' are required with clear differences between those bureaucratic activities that are concentrated more on the policy and those on the more managerial side (for example, human resource, project or financial management side). Against those who argue that 'policy wonks' and 'sages' within government are unlikely to enthusiastically endorse 'delivery', this account suggests that 'one more heaven' at designing better incentive systems will deal with these problems. Similarly, incentives are seen

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to encourage collaboration among government departments rather than merely specialisation and fragmentation.

In terms of loyalty understandings, the managerialist bargain requires 'obedience' rather than loyalty. In other words, public servants are instructed to deliver (unquestioningly) and are visible to the outside world in terms of being responsible for delivery. Thus, loyalty is understood as 'requirement to deliver' and being 'free to manage' to do so.

The 'regulatory state' Public Service Bargain

According to this narrative, the key problem affecting politics is discretion. Public servants 'bureau-shape', 'budget-maximise' and filter out those activities they dislike. Politicians similarly are accused of pork-barrelling and of responding to incidents in the style of Pavlov's dogs in order to receive short-term applause from their constituencies. These instincts are further accentuated by performance-oriented civil servants who seek to please their political masters.

The cure therefore is to juridify the relationship between public servants and politicians in the way in which central banks or regulatory agencies have been made 'independent' over the past two decades to take the political 'time inconsistency' problem out of particular policy domains, while the risk of 'administrative expropriation' is reduced through legal procedural devices and focused rather than general oversight. Accordingly, this would produce a vision of ever more contractualisation within government, accompanied by an army of watchdogs, waste-watchers and other oversight bodies, thereby extending previous

attempts at writing down relationships across various parts of the state to ever more aspects. One example of such an initiative was the announcement, in late January 2009, by the UK shadow chancellor of the exchequer, George Osborne, that, if elected, a Conservative government would seek to turn the 'Whitehall supertanker' by imposing on senior civil servants a 'fiduciary duty' towards taxpayers to ensure value for money.

If this scenario were to be realised, Public Service Bargains would resemble those that apply to central bankers and regulators. In other words, reward would be defined in strict terms and not be related to the political preferences and priorities of the government of the day, but would be

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determined in ways that were not sensitive to political feelings and opinion poll standings. In terms of competency, too, the bargain would look very distinct, namely with a very strong emphasis on 'policy wonk' characteristics, as expert judgement is brought to bear on different policy problems and constellations. Finally, in terms of loyalty understandings, this Bargain would move away from traditional 'serial loyalty' (or monogamy) understandings that have been common in Whitehall and Wellington and towards a more 'trustee'-type role in which loyalty is paid to specific constitutional values and obligations. For example, in competition law it is widely the case that those judging cases are to be solely directed by the law rather than by the political context of their decision. Such regulatory Bargains would also require an institution to judge the decisions by civil servants, as well as an appeal system.

The 'governance state' Public Service Bargain

While governance has come to mean many things, the term is used here to highlight the intermeshing of private and public spheres of influence. In other words, authority is shared across different actors. Core aspects of the 'governance state' are the sharing of authority and the importance of participation, co-governing and negotiation. Delivery of outcomes is not achieved through hierarchy alone but is dependent on third parties: i.e. delivery occurs through 'networks'. The governance state, defined in these terms, is about increasing complexity and disputed hierarchy.

In the case of New Zealand, realisation of such a 'governance state' would require a full endorsement of the underlying ideas of MMP rather than begrudging acceptance by major party politicians, eager to present themselves in presidential or chief executive terms, and by civil servants, discontent with having to see their 'pure' policy ideas filtered by negotiation between coalition party committees.

Such a world of a 'governance state' raises considerable problems for a performance-oriented reward system as outcomes, if not outputs as well, are largely a matter of third party delivery and co-governing. For competency, the key aspects here are those that have been termed 'boundary-spanning' skills, namely not the skill to be 'best in the world' in terms of in-house expertise or in terms of providing political tactical advice to ministers, but the ability to bridge and access differentiated social systems, to 'translate' their different demands and to bring these systems together through negotiated settlements. Such settlements also raise distinct issues for loyalty understandings, as the demands of long-term problem solving within policy domains conflict with traditional ideas of 'serial loyalty' to ministerial hierarchy, a problem that also applies, for example, to national diplomats dealing in international negotiations.

'Shuffling out' of the Bargain

If the Public Service Bargains look remarkably different under the three different 'states', then there are also very different ways in which the three Bargains can become unstuck by either party seeking to shuffle out. In other words, none of the three scenarios is likely to provide any stability as the diverse parties have different incentives to cheat.

Under the 'managerialist state' scenario, the terms of the Bargain are that of a 'thermostat'. Politicians choose the desired outcomes and outputs and bureaucrats are free to choose the interventions required to achieve these agreed targets. However, such a 'thermostat' vision of a Bargain is vulnerable on several counts. For one, it is vulnerable to the question of whether performance is really being assessed on the agreed targets (regardless of whether they are meaningful indicators of 'quality' or not), or whether managers are 'free to manage' or must suffer considerable political background intervention in their activities. Furthermore, it requires rather heroic assumptions as to behavioural implications for the manager of the fear of non-achievement. For example, likely responses to such a regime range from 'creative compliance' responses ('hitting the target, but missing the point') to open manipulation of information.

Under the 'regulatory state' scenario, ideas about juridifying relationships seek to reduce 'cheating' on the bargain, or to make the consequences more explicit. However, it is unlikely that this Bargain variant is without its opportunities for 'shuffling out' behaviours. On the political side, politicians are tempted to dispute jurisdiction (branding a 'decision' as 'advice', for example), to launch political whispering campaigns doubting the intellectual or mental capabilities of their civil servants, or simply to bypass public servants through direct negotiations with constituencies. On the public servant side of the Bargain, shuffling out would be characterised by creative interpretation of objectives through activist decision making or in terms of non-expert decision

making (for example, due to 'capture'). Such Bargains will become strained when ministers are told to purchase military hardware for half the price from elsewhere at the expense of domestic industry.²

In the world of the 'governance state', problems of shuffling out are also likely to occur. On the political side this links to the acceptance of co-sharing and negotiated power instead of asserting hierarchy, as well as showing little interest in including key societal actors in negotiations. On the bureaucratic side of the 'governance bargain', shuffling out is characterised by showing little interest in comprehensive boundary-spanning and by lacking competence in negotiating and compromising within networks.

What next?

The discussion of the different scenarios for a future Public Service Bargain was meant to point to discussions regarding the nature of governing in the contemporary state and to derive some implications for discussions regarding the evolution of the Public Service Bargain. The intention was neither to condemn the past decades of 'New Public Management', nor to diagnose any particular problems in the case of New Zealand and offer solutions. Instead, the intention was to build on cross-national observations to encourage debate regarding the future direction of Public Service Bargains. One of the advantages of looking at administrative reform ideas through the lens of the Public Service Bargain is that it strengthens awareness that any intended action leads to reactive behaviours on both sides of the Bargain (i.e. 'it takes two to tango'), thereby highlighting the importance of strategic adjustments to demands and challenges.

The various scenarios or narratives point to diverse, partly reinforcing, partly countervailing dynamics that are at the heart of contemporary governing. The three scenarios suggest different relationships between politicians and public servants. There are also significant differences in the understanding of reward, competency and loyalty. Therefore, it is unlikely that the future will be characterised by any one 'mutually beneficial bargain'. The future of the Public Service Bargain may therefore lie in the multiplication of Bargains rather than a convergence into any one particular 'paradigm'. Accordingly, different Public Service Bargains would explicitly operate side by side, with considerable overlap, also especially with those Bargains that apply to political advisers (who have not been considered here).

Multiplication and diversification should not, however, be confused with a reduced centrality of Public Service Bargains within executive government. Although ideas regarding national stereotypes of one single 'Public Service Bargain' may require reconsideration, the underlying analytical ideas are arguably more critical than ever in order to understand the relationship between public servants and the wider political system. That is, expectations regarding rewards, competency and loyalty remain central in executive government, although how these expectations are constituted will increasingly depend on individual location within the executive. The value of the Public Service Bargain idea is that it is able to offer a fine-grained perspective on individual Public Service Bargains as an exchange relationship with the wider political system, and puts the emphasis in the study of reform in executive government on the effect on relationships rather than on announcements.

In sum, the future of the Public Service Bargain is unlikely to be uniform, and it is also unlikely to be stable. Multiplication makes sense if it is accepted that varied demands on the state require a varied response by the state. Such multiplication, however, also brings with it considerable scope for confusion and misunderstandings, along with the inherent tendencies within individual Public Service Bargains for one or more parties to shuffle out. Rules and constitutions are unlikely to deal with such shuffling out; instead, such behaviour can only be somewhat contained through shared understandings and conventions. However, such shared agreements require highly peculiar conditions, and it is questionable how feasible or durable such conditions can be in a world of an increasingly heterogeneous public service, and blame-avoiding politics in which politicians are said to feel permanently under siege.

1 Two years later, the *Ottawa Citizen* headlined a story: 'Hostility between politicians and PS hits new high, adviser says' (23 February 2008).

2 One example of such strain emerged in late January 2009 in the UK. The cost of a new national computer system for the National Health Service had increased sevenfold to £1.3bn. It was alleged that civil servants chose not to follow appropriate cost-benefit procedures at the outset of the scheme in order not to embarrass a prime-ministerial flagship announcement by indicating that costs were likely to outweigh benefits (*Financial Times*, 28 January 2009).

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