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The Modern Administrative State: Why We Have 'Big Government' and How to Run and Reform Bureaucratic Organizations

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Claremont McKenna College

**The Modern Administrative State:
Why We Have 'Big Government' and
How to Run and Reform Bureaucratic Organizations**

**Submitted to
Professor George Thomas
and
Dean Peter Uvin**

**Written by
Sean Sakaguchi**

**For
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Abstract

This work asserts that bureaucratic organization is not only an inevitable part of the modern administrative state, but that a high quality bureaucracy within a strongly empowered executive branch is an ideal mechanism for running government in the modern era. Beginning with a philosophical inquiry into the purpose of American government as we understand it today, this paper responds to criticisms of the role of expanded government and develops a framework for evaluating the quality of differing government structures. Following an evaluation of the current debate surrounding bureaucracies (from both proponents and critics), this thesis outlines the lessons and principles for structuring and managing an efficient bureaucracy. Finally, this paper concludes with two case studies – Puerto Rican bureaucratic failures and Japanese/Chinese national development – to consider the effects of compliance and non-compliance to the lessons outlined in this work. The inquiry finds that principles such as specialization, political autonomy, effective information systems, higher accountability standards, and managerial emphasis on policy implementation are all critical to superior bureaucratic governance.

Introduction

“Organization cannot make a genius out of an incompetent; even less can it, of itself, make the decisions which are required to trigger necessary action. On the other hand, disorganization can scarcely fail to result in inefficiency and can easily lead to disaster”

– President Dwight D. Eisenhower

The modern administrative state is unquestionably the dominant governing system of our time. Looking around the world today, one will notice that developed nations of the modern era all share a particularly striking feature. Aside from a recent history of robust economic growth, declining mortality, rising health/education outcomes, and vast improvements in material wealth and quality of life relative to their less developed peers, these countries have in common a centralized, administrative bureaucracy.

Since the turn of the 20th century, rapid growth in population and technology has made the planet more globalized and connected than ever. The increase in data available to study and understand the world around us helped fuel the expansion of more intricately structured social organizations, allowing us track and process these new variables. From government to private corporations to local associations and non-profits, these organizations became an indispensable mechanism for coordinating the actions of large groups of people. As these organizations grew to the point where individual coordination between all of the participants became impossible, they eventually began relying on rules and structures that could be followed by anyone, independent of their personal connection to any of the other decision makers in the organization. This structure became what we know today as bureaucracy.

The purpose of this work is to simplify the basic purposes, structures, and tradeoffs inherent to bureaucracy and make the otherwise dense and seemingly impenetrable systems that surround us in daily life more accessible. Furthermore, for those who play an instrumental role in running bureaucratic organizations or even voters

who wish to improve their government, this work contains easily digestible lessons for how to improve bureaucratic efficiency, accountability, and management.

Why Should We Care?

While you as a reader may at times come to believe that this work is as cumbersome and sluggish as the stereotypical bureaucracy you imagine in your head (for that, I apologize), that does not diminish the importance of its content. Indeed, bureaucracy may be one of the most overlooked and underrated facets of modern life.

First, we ought to consider the existence of bureaucracy as a simple matter of fact. Given its prevalence and the need to organize so many aspects of our modern lives in a world of limited resources, bureaucracy is not only an integral but ultimately inevitable part of society today. Lacking a transition to a post-apocalyptic world or rapid declension into a failed state, for better or worse, bureaucracy is here to stay.

As a result, understanding how bureaucracy works and how to make it better is of personal importance to all of us. Most urgently, anyone looking to enter public service and work for (or manage) a public bureaucracy will find the lessons contained here useful in guiding their actions and improving their ability to accomplish their goals. However, even beyond government work, many of the issues addressed here also apply equally to private sector bureaucracies. For anyone aspiring to run a large organization in today's society who is unwilling to confront and understand the implications of these lessons risks intellectual negligence.

This framework is also important for understanding a variety of public policy issues. For example, these issues often affect foreign policy. As much as stable modern states rely on their bureaucracies as a touchstone of their consistency, failed states are often equally marked by their lack of a professional civil service. Certainly other factors such as race, geography, access to natural resources, religious strife, and cultural homogeneity are integral parts of these stories too. But for each of these variables, an equally compelling narrative could be told about how their impact on a country's bureaucracy (or lack thereof).

Even for those concerned more with the domestic impact of this work, you will not be disappointed. Particularly here in America, bureaucracy is something that we love to hate. Whether it is your favorite story about waiting in line at the DMV or spending three hours on hold with customer service,¹ it is not difficult for most people to find an anecdotal example highlighting the apparent failure of bureaucracy. However, without an equal understanding of the positive impacts these bureaucracies have or even recognition of why apparent bureaucratic sluggishness in the face of your impatience may² have actually served an important function can have a devastating effect on our domestic electorate.

This danger is exemplified when we see presidential candidates who are propelled by rash calls for *carte blanche*, random elimination of entire federal departments. This danger is shown by the vicious cycle generated when the very effectiveness of our government is undermined by the widespread belief that a government bureaucracy is

¹ Shout out to Bank of America and American Airlines!

² Admittedly, this is a big "may." Obviously, not all instances of slow bureaucracies are necessarily good.

incapable of accomplishing anything. This danger is the collective angst and anger that brings out the worst in ourselves when we believe that systemic problems are unapproachable and society is on the decline when most of the evidence points to the contrary.ⁱ

A good understanding of bureaucracy is important for people of all political persuasions. It is important for American liberals who require an applied theory of how exactly (and importantly, under what conditions) expanded government can work rather than a reliance on blind faith that ‘it just will’ – chances are, without dedication to proper implementation, it probably will not. Equally, critics of bureaucracy who still acknowledge the inevitability of bureaucratic structures and that an outright dismantling of the modern state is inconceivable should care deeply about ways that we can improve our present bureaucracies.

Even for a non-partisan, bureaucratic theory *matters*. The role of bureaucracy in our society has significant impacts for our democratic character. Americans spend most of their years in primary education studying civics, the importance of voting and self-governance, and the role of elected officials in crafting policy. Meanwhile, massive and notably unelected bureaucracies toil away at enforcing *and generating* policy decisions that affect our everyday lives. In spite of this central role, bureaucracies are criminally disregarded in these discussions about the very notion of government by the people and for the people.

Understanding bureaucratic operation is crucial in contextualizing how the daily operations of our civic institutions fit into the bigger picture of why our society is

structured the way it is, what our values are as a country, and what our civic identity is as Americans. It is essential for moving political debates beyond a simplistic and damaging debate about ‘big’ vs. ‘small’ government to a case-by-case analysis. We can have a society where facts are what drive a determination of whether a policy is likely to work or fail rather than relying on philosophies driven by anecdotes that cause us to throw the baby out with the ideological bathwater. It is my sincere hope that this work and other analyses like it will help force the American electorate back to a path of critical analysis in policy evaluation and a reduction in partisanship that is caused by the overreliance on simplified ideological premises. That is that standard to which our great nation ought to aspire.

Scope, Definitions, and the Path Forward

This paper covers two primary focuses – a philosophical contextualization of bureaucracy within our collective values and understanding of government, as well as an applied focus on the structure and management of bureaucracies.

Section I starts at the broadest of these levels. Beginning with a detailed breakdown of the nuanced debate between conservative libertarianism and modern liberalism, it asks the question, “why do we have government?” Looking at our moral intuitions about how we ought to make decisions, how do we balance values such as liberty, equality, and utility (among others)? Once we understand what we tend to want out of a society/government, what do these priorities suggest about the most important factors when considering governmental organization?

Section II begins to transition from the philosophical to the political. It begins by delving into the impact that bureaucracy has on our democratic character and specifically responds to the criticism that bureaucracies risk making our system less democratic. From there, the section moves on to acknowledge and respond to a variety of other arguments (both for and against) bureaucracy in the current debate. In particular, chapter 2.2 disabuses bureaucratic proponents of the notion that there is a clean division between administrative efficiency and political decision-making – an argument that has long intended to artificially avoid the aforementioned democracy criticism. Following that, chapter 2.3 responds to critics of bureaucracy, addressing a myriad of concerns from efficiency to executive overreach.

Sections III and IV finally address the application of bureaucracies in real life. Section III includes lessons about how to ideally structure bureaucracies in order to maximize their efficiency. These lessons are divided into the need for bureaucratic division and specialization, increased bureaucratic autonomy from political forces, and an emphasis on how to improve bureaucratic accountability (especially in light of calls for a marginally reduced role for ‘balance of powers’ due to increased political autonomy).

Section IV provides lessons for administering a bureaucratic organization. It begins with a discussion about how information flows throughout an organization, how that information is shaped by the incentives of individuals operating at various levels, and how a manager can maximize the quality of information they receive in order to make decisions. Having made a decision, the section moves on to highlight the most important variables that affect implementation of decisions including types of workers assigned to a

project and the impact of morale on various parts of the organization. Finally, the section culminates by combining all of the lessons in Sections III and IV to cover the ultimate goal for any executive: how to implement new policies or reforms and overcome inevitable resistance to their decision(s).

To conclude, Section V provides some useful case studies to demonstrate how these lessons are applied in the real world. In particular, the failure of Puerto Rico is highlighted to show what poorly organized bureaucracy looked like (in spite of a number of other advantages of modern, developed society), what they did wrong, and what could be fixed. Additionally, the co-development of Japan and China into the modern era (end of the 19th century through WWII) is examined to highlight the role of Japan's well-organized bureaucracy that permitted it to outpace the decentralized Chinese government despite beginning in similar points of economic development. Furthermore, this narrative reverses in modern times (1945-2007) as the quality of the Japanese bureaucracy declines and the Chinese administration improves.

Before getting to the substantive material, it is important to take this moment to discuss the operative definitions of some terms used throughout this paper. As many lessons about bureaucratic structure (particularly in Sections III and IV) are meant to be transferrable, words such as "manager," "executive," "CEO", and "President" are treated as basically synonymous (although "President" is exclusively used in government contexts or in relation to evidence relating to a government bureaucracy). These words are meant to represent leaders at the apex of an organization³ and are typically the central

³ Also presumably the ones attempting to make the decision.

unit of analysis throughout this work. Below them, “senior officials” are considered advisors and direct subordinators of the “manager” and everyone else such as “implementers,” “analysts,” or “agents” are the mass of middle men or workers on the ground at the lowest level of decision making in the organization.

It is also important to recognize that personality caricatures (such as those above or references to “career officials” vs. “in-and-outers”) are not meant to be definitive characterizations of how such people behave in all situations. Rather, they are useful generalizations that an intelligent manager can use to identify certain incentives or tendencies based on one’s background.

Finally, allow me to outline the scope of this paper. While it may appear almost laughable to discuss limits to a paper that arrogantly aims to summarize issues related to ‘all of bureaucracy,’ even the greatest egoist among us faces their limits. In particular, the focus of the paper is on bureaucracy and its *ideal* structure and management. Consequently, it discusses political and personal challenges with implementation insofar as they are relevant to a manager or another *internal* operator of a bureaucracy. This paper, however, does not accept the burden of discussing a path to political viability for instituting the structural changes recommended herein – that is a job I will happily leave to the politicians.

Section 1: The Morality of the Modern State

“The care of human life and happiness, and not their destruction, is the first and only object of good government.”

– Thomas Jefferson

Overview

In modern America, as it has been ever since the Enlightenment, citizens fiercely debate the role of government. Why do we have government and how well are our current institutions doing at achieving those goals? As the primary purpose of this work is to serve as a defense and recommendation for improving a particular form of government – the modern administrative state – it is important that we have a metric by which we can assess whether one form of government is better or worse than any other. This section is meant to do just that.

Starting with the Chapter 1.1 Libertarianism vs. Big Government, expanded bureaucratic power is defended against some of its most outspoken and compelling critics: libertarians. After generally demonstrating room for the legitimacy of a large and potentially expanded government, Chapter 1.2 answers the broader question about how we justify the role of government in society. As such, what do these answers suggest about the appropriate size of government and the standards by which we should measure whether a system of government will do a good or bad job?

1.1 Libertarianism vs. Big Government: The Myth of the Minimalist State

Before we begin, let us take a quick stock of where we are headed. The purpose of this chapter is to more closely analyze the validity of the claim that libertarian doctrine is morally superior to that of big-government, high liberals or utilitarian classical liberals. In particular, it is meant to respond to the most compelling⁴ counterargument to expanded bureaucratic government in contemporary American politics. This analysis will conduct two lines of questioning. First, does libertarian doctrine fulfill the claims it sets for itself in upholding liberty? Second, is the libertarian liberty framework the only one that can be used to maximize freedom and if not, can liberal doctrines also uphold liberty? These questions will serve to highlight that conventional libertarian political claims are often unjustified or at least, severely restricted, leaving significant room for an expanded bureaucratic government both on the simple basis of utility (discussed next chapter) or even on the basis of liberty itself.

Addressing the libertarianism critique is an important threshold for justifying a theory of expanded bureaucracy. It is perhaps the largest political movement with a *moral* claim opposing nearly any kind of government action expected of a modern administrative state. Given its political and rhetorical success in modern America, if libertarianism is true (as conventionally understood), it poses a threat to expanded bureaucracy.

In responding to this critique we will hopefully establish two things: first, legitimize the general notion of big government, both through demonstrating the

⁴ Based on its general prevalence/acceptance among the American public

incoherence of the libertarian argument *vis a vis* liberty and by highlighting a pro-government perspective on the basis of liberty. Second, in the process of refuting libertarians, consider alternative frameworks for the justification of government beyond liberty but also provide a framework to measure government/bureaucratic effectiveness. The latter is largely covered in Chapter 1.2 Why Government.

The Libertarian Case

Let us take a break to look at the logic that belies the libertarians' argument and why they so regularly appeal to the protection of negative rights rather than positive ones. As the name suggests (and we shall explore more deeply later) the libertarian values liberty. In this view, as freedom has inherent value, coercion is bad *per se* as it reduces freedom. From a libertarian perspective, negative interests are superior on the basis that they protect a greater degree of freedom/liberty (by using little to no coercion) and subsequently ought to be preferred to positive interests. As a historical matter, libertarians have long tied this notion of negative rights to certain 'personal' liberties such as speech, life, and property, which they believe are freer than guaranteeing other kinds of 'governmental' rights that may require more active state intervention to enforce. Clearly there is still some degree of state intervention/coercion, but it is sufficiently minimal to justify protecting the right.

Before we can discuss whether libertarianism truly upholds liberty and if so, the degree to which such liberty should be valued, let us first establish a more specific understanding of what exactly liberty is. According to Isaiah Berlin, (negative) liberty "is involved in the answer to the question, 'What is the area within which the subject – a

person or group of persons – is or should be left to do or be what he is able to do or be, without interference by other persons?”ⁱⁱ In other words, areas of negative liberty are concerned with the specific types of activities one can be free to do without being interfered with by other people.

But what exactly does that mean and how are we to measure the amount of freedom a certain state of affairs exhibits? Berlin goes on to define political liberty as “the area within which a man can act unobstructed by others.”ⁱⁱⁱ You are thus unfree only insofar as others prevent you from doing what you could otherwise do, and if this interference becomes particularly extreme, you “can be described as being coerced:” the functional opposite of being free.^{iv} There is an important caveat here. You cannot be said to be coerced just because you cannot achieve something you desire or that *someone else* might be able to achieve, “[y]ou lack political liberty or freedom only if you are prevented from attaining a goal by human beings.”^v This is because coercion implies deliberate interference by other humans. Berlin gives the examples of being unable to jump ten feet high, or being unable to run because you have a disabled leg. Although you may be unable to do these things, this inability would not be described as a lack of freedom. To reiterate, liberty is the range of things you can do on your own without being interfered with by other human beings.

Now that we understand what liberty is, let us return to the important line of argumentation that libertarians often use to great political success: their advocacy is for a political framework that protects negative, not positive, rights. To assess the validity of this argument we need to both understand the potential distinction(s) between positive

and negative interests and determine if negative rights are truly superior to (e.g. less coercive than) positive ones. The most common conceptions of the positive/negative rights division are viewing coercion or lack thereof as (1) inherent to actions taken by the government, or (2) inherent to actions taken by individuals.

One of the more simplistic distinctions between positive and negative rights is centered on the role of government. Indeed, many observe that the distinction “seems to track the politically [...] familiar contrast between small government and big government [...] Negative rights ban and exclude government; positive ones invite and demand government.”^{vi} The simplicity of this appeal clearly contributes to its prevalence. Furthermore, if true, this could be devastating for advocates of an extensive administrative state – *a priori* to any considerations of efficiency, utility, or potentially even democratic will, if the purpose of government is exclusively to protect negative rights, anything further is necessarily an infringement of the good life.

An alternative (and probably more compelling) line of reasoning for making a distinction between negative and positive rights, is not centered on the state (government or no government), but rather focuses on the action by individuals that is required to enforce the given right. For reasons we shall see shortly, this distinction might be made along the lines of performance vs. forbearance.^{vii} A positive right would be one that requires another person to actively behave in a certain manner. A negative right might only require that another person *not* perform a certain action. This understanding allows the libertarian to remain committed to a broader expanse of negative ‘personal’ rights. A negative, forbearance right may only require that another person *not* come onto your

property, or *not* come and kill you in your sleep. Conversely, a positive, performance right might actively force a debtor to repay a debt or a counterparty to perform to uphold their end of a bargain.^{viii}

These delineations of positive vs. negative rights certainly seems politically and rhetorically compelling based on its prevalence. After all, besides appearing intuitive, such a distinction is easy to understand *and apply*; one merely needs to classify action into one side of the binary to determine whether it is morally legitimate. Unfortunately for the libertarian, upon closer scrutiny, neither of these methods of viewing positive vs. negative rights is internally coherent with libertarian's avowedly preferred government policies.

The small/big government demarcation makes very little sense in application. Nearly every appeal to protect a right is an appeal *to the government* to act in a way to secure or legally protect it. A right to property is an appeal to the government to prosecute anyone who might trespass or try to take what you own. A right to life requires an active government police force to protect you from wandering marauders. As Cass Sunstein and Stephen Holmes point out, “[i]f rights were merely immunities from public interference, the highest virtue of government (so far as the exercise of rights was concerned) would be paralysis or disability. But a disabled state cannot protect personal liberties.”^{ix}

While Sunstein and Holmes go on to claim that even protections against the state itself require the state and therefore are ‘positive’ in this respect, libertarians might correctly identify this as a *non sequitur*. After all, if the government were never

empowered to use certain forces such as a large police force or a lengthy penal code, a government would not be required to control itself. However, even granting that there may be some rights (such as free speech) that may still be negative in this sense by virtue of the fact that it could still be achieved in the complete absence of government, such examples are few and far between. This clearly is not a distinction of rights that is comprehensive enough to be materially significant. The primary problem is that this government vs. no government framework counts almost all rights as positive. As identified earlier, the government is an instrumental part of securing almost every right we value today. In a sense, “all legally enforced rights are necessarily positive rights,” under this framework.^x In order to be internally consistent, the theory loses much of its intuitive appeal. Libertarians often like to claim ‘personal rights’ as a sub-section of negative rights; but through this lens, personal rights are very actively positive rights – they require the government to intervene to protect them. While this interpretation may actually be acceptable to a proponent of expanded government, it is apparent that the libertarian political advocacy cannot rely on a vision of positive/negative rights that corresponds to presence/absence of government action.

To engage the second positive/negative rights conception, let us for now grant that forbearing an action is meaningfully less coercive than forcing a performance. This breakdown still poses massive problems for the free market libertarian as it questions some of the ‘personal rights’ they claim to hold dear. In this view, some of the basic tenets of free market capitalism are undermined. As noted above, freedom to contract is only possible if one can count on the government forcing a reneging counterparty to perform the agreed action or pay for the costs of backing out. While we might still

consider this to be a socially beneficial action (see Chapter 1.2) that alone does not deny that such a right is enforced by positive means under this definition.

Additionally, it is not even clear where the forbearance vs. performance distinction lies. For example, imagine a law that prevents the discrimination in employment on the basis of race or sexual orientation. From the employee's perspective, they may view their right as negative: the employer only need *stop themselves* from considering race or sexual orientation when they make their hiring choice (implicit premise – the employer is going to hire someone no matter what). However, from the employer's perspective, they may view this law as affirming a positive right: they are *forced* to hire someone they would not otherwise employ. While this is not necessarily a fatal problem for the argument, certainly a court of law or a philosophy professor could sift through such issues; this framework requires more comprehensive analysis on what constitutes the *base case* of moral entitlement. If the base case is hiring no one, non-discrimination is a positive right; if the base case is hiring someone for sure and just a matter of choosing whom, non-discrimination is a negative right. In determining what base case one has a claim to, it may be more likely than not that the libertarian risks running into even more tricky questions about moral entitlement.

Moreover, with the forbearance/performance distinction, the libertarian is left with significantly reduced grounds to object to transfer payments and welfare institutions. The free market line of argumentation proceeds as such: “creating these institutions requires taxing *my* money which is a necessarily coercive act and forces me to *perform* by working and then paying the government.” This defense rests on the “widespread but

obviously mistaken premise” that the most important (negative) rights/interests are virtually costless.^{xi} As we identified earlier, all legally enforceable rights, including many deeply treasured by the libertarian, requires government action and consequently demands costs to maintain. In fact, the costs to maintain the world of law and order many of us take for granted requires an amount of resources so vast that it would put most individual transfer programs to shame.⁵ This alone requires a significant level of coordination and, if so, opens up legitimate room for arguments asserting that an efficiently structured bureaucracy is the most effective way to achieve that. But that is not all; if the libertarian feels that taxation is a manner of coercion sufficiently minimal to be legitimately used to protect personal rights, on what basis can he/she object to taxation for the purpose of maintaining rights that require transfer payments? He/she might be able to prove that certain programs cost more than the structures necessary to protect the ‘negative’ personal rights – but this is clearly a question of degree and not of kind.⁶

The libertarian is then perpetually engaged in a conversation about the superiority of the *mechanism* for securing rights, not about the moral content of the rights themselves. So long as this holds, the libertarian argument can no longer categorically defend that a minimal state protects negative rights which are necessarily morally superior to positive rights – whether such a claim is *factually* accurate is subject to a case-by-case inquiry and a matter of empirical analysis. Moreover, every dollar saved by using

⁵ “[D]escribing a political system that is genuinely capable of repressing force and fraud as “minimal” is to suggest, against all historical evidence, that such a system is easy to achieve and maintain. It is not. One piece of evidence to the contrary is the amount we spend, as a nation, to protect private property by punishing and deterring acquisitive crimes. In 1992, for instances, direct expenditures in the United States for police protection and criminal corrections ran to some \$73 billion – an amount that exceeds the entire GDP of more than half of the countries in the world.” – Holmes/Sunstein Pg. 63-64

⁶ The argument that the funds for ‘negative interests’ go to pay for themselves as opposed to others is morally unpersuasive.

a system that is more cost-efficient (for example, by utilizing economies of scale and reduced decision making time in a centralized bureaucracy) makes the argument for an expanded executive government even more compelling.

Below and in Chapter 1.2, this paper will analyze how the implicit claim about the supposed supremacy of liberty as a moral value is to be considered against other moral values. However, understanding that the root of the argument is founded on the assumption that negative interests are functionally less coercive than positive ones opens the door to a *factual* challenge to the libertarian's claim – if one can demonstrate that some other type of interest or action (maybe a large welfare transfer program) actually causes *less*, not more, coercion than some of the libertarian's valued personal rights, a big-government liberal may be able to demonstrate superiority of their policy on the basis of freedom itself. This is the reason why the negative vs. positive right distinction is so important to the libertarian – unless he/she can prove that there is a class of 'negative' interests that are consistently less coercive than some class of 'positive' rights, it is impossible to sustain the libertarian's desire to argue that negative rights *ipso facto* are consistently superior (in any single dimension) to positive rights as he or she must first prove that their preferred policies are *empirically* less coercive than the liberal's.

This is perhaps the most dangerous argument libertarianism could face. To the extent an advocate of big government could demonstrate that a large government bureaucracy could act with sufficient efficiency and restraint of their reach into individual personal lives, so long as the government pursued policies that improved freedom

(however that may be defined), a large administrative state remains plausibly justified within libertarian doctrine.

While this should be enough to critically hobble the libertarian's claim to moral superiority, let us assume that he/she manages to articulate a delineation of positive and negative interests that meaningfully, categorically, and consistently aligns along the parallel border of coercion and liberty that justifies protecting personal liberties against subsidies provided for others. The advocacy for our free market libertarian still has to demonstrate that these negative rights (interests) are the best for upholding liberty *and* that the difference in liberty is enough to outweigh competing moral considerations.

Robust Liberty and Government Interventions

Until this point, our discussion of (negative) liberty has been based on the assumption that the 'true' way of understanding freedom is the manner as portrayed by the libertarian. That is to say, liberty is a form of negative right/interest, presuming that some cogent distinction between negative and positive interests has been made, that shows liberty as a justification of rights that 'leaves one alone' in contrast to a positive scheme of rights that involved active duties or 'subsidies' owed to others. But what if (as much of the earlier argumentation suggests) this is not necessarily the case? The big-government liberal may be able to make the case that state intervention is still justified *on the basis of liberty itself*. I will hereafter refer to this conception of freedom as "robust liberty."

Let us remember quickly what exactly it means for one to be free: you are free insofar as you could naturally do something without the interference of other people. But how then are we to measure one's freedom? Surely all interferences are not created equal. If someone demands that you give them your bank account number but one robber will only slap you in the face if you do not comply and the second robber has a gun to your head, clearly that is not an equal amount of coercion. The second question this raises: what does it mean to have choices? Imagine again that the robber has the gun to your head and is threatening to kill you if you do not give up your bank account. You might be tempted to say that you are completely coerced: you have *no choice*. But strictly speaking that is not true; one always has a choice. You could still choose to not comply; you would just also happen to be dead.

This example indicates that there are a number of factors that compose the formula of how we calculate freedom. Berlin suggests that these factors include, (1) the number of options that are available, (2) how easy or difficult it is to exercise each choice, (3) how important is this choice relative to what you would like to do with your life, (4) to what degree the limitation on choices is caused by deliberate *human* acts, and (5) how much value the general sentiment of society places on the possibilities.^{xii} While there are unquestionably objections to this particular framing of the factors, nonetheless they can give us greater insight on how we are to think about liberty.

In thinking about robust liberty, let us consider the first two factors in securing freedom: the number of choices available and the ease with which the choice can be exercised. Some liberals, and indeed, some philosophers argue that liberty has little value

without the ability and resources to make it effective.^{xiii} The value of liberty is thus proportional to the resources available to utilize it. There may be an argument to be had that the *value* of liberty is distinct from the *amount* of liberty one has but if we are to consider, as Berlin suggests, ease of exercising each choice, ability to access choices is just as important as theoretically having the choices available. We can see that this begins to open up the liberal's claim to a form of robust liberty. People may be theoretically 'free' to buy bread, or water, or housing, but if those options are not an attainable goal because one does not have enough money, it may be the case that a costly state program that provides food and housing to the poor may be justified on the basis that it actually upholds liberty by opening up available, usable choices. In other words, an efficient, expanded government that provides basic capabilities to may be an essential component of preserving freedom.

However, to demonstrate this, the liberal still must show that this inability to access material things stems from human actions. Otherwise, the person without food or housing does not meet the conditions of factor four and cannot be described as being 'coerced' by others. The proper liberal response might be that although the effects may not be targeted at any individual, the entire economic system already represents human decisions to intervene in one's life. If left to their own, a given individual might be able to work to build their own house, hunt or grow food, and generally sustain themselves; however, it is the very institutions of the modern capitalist system that prevents self-sustainability. Property rights prevent people from finding and settling on land, patents prevent people profiting from an idea so long as someone has thought up or sold the idea previously, and licenses to businesses and corporations allow managers to design a

system that exclude certain people from participating in their only form of remaining recourse: working at a job so that they may buy the things they might otherwise supply for themselves on their own. Even the basic police force stops one from stealing the ripe apples from a neighbor's farm. Insofar as any human-made institution is preventing one from accomplishing something, one can be said to be coerced and deprived of freedom. Conversely, programs that provide one access to the choices they are otherwise denied might be considered a re-expansion of liberty.

This is the basis of the high liberal's appeal to liberty. As a matter of economic history and prolonged collusion, government and government protected businesses have designed a society that systematically deprives some individuals of freedom. On the whole, these government decisions (such as a clear, but unequal definition of property rights) has had a net positive impact for society and economic growth (it improved our utility). However, such a decision based on utility does not overcome fact that human society elected to infringe individual 'freedom' to improve general utility. For the basic arrangement of 'markets' that we have come to accept and use today, non-government systems and institutions have long designed and benefitted from using government power as an *extension* of their interests. Consequently, we ought to focus more about the nature and direction of government capabilities and policies than pretending that it could be eliminated while maintaining many parts of society that we know and love.

To give a few examples of government power being indispensable to 'free' markets, if you do not fulfill your end of a contract, businesses have a right to sue you and make the government (through the courts) enforce their private contract at the risk

of having the police cart you off for being in contempt of court. Similarly, the government can delegate the use of legitimate force to privately hired security companies which materially allows businesses (or individuals) to have access to use of force. This is not an unimportant observation – while a free market defender may claim that private security forces might only be delegated powers for ‘self-defense,’ this is a historically misleading claim. Private security forces have a long and bloody history of breaking up protests and strikes held by unions; an activity freely conducted by consenting individuals to try and gain bargaining power in the workplace that was nevertheless stopped or dis-incentivized by force. More generally, in creating an economic system, the government has clearly prioritized some economic goals at the expense of others. We may all agree that there are important reasons to establish private property and have the government protect property someone has acquired. However, we cannot lose sight that the government, a collection of *human* interests has collectively denied *your* ability to have access to that property.

These are the grounds on which a liberal might be able to claim that instituting programs that alleviate certain un-freedoms caused by the economic system actually help uphold the value of liberty in a way that might offset the libertarian’s claim of coercion with an argument that may be just as strong, if not stronger on the basis of a robust understanding of liberty. Active state intervention and even transfer programs may maximize liberty by shielding individuals from the lack of choices they face as the result of bearing the brunt of a socially constructed economic system. This alone at least gives liberals the tools necessary to reject libertarian doctrine on the basis that a strong, interventionist state may be necessary to reduce coercion and expand freedom.

However, like the libertarian argument above, this analysis is one of degree rather than kind and still assumes the centrality of liberty as a guiding principle. This brings us to a discussion of a framework of civic ethics that accounts for the range of values that Americans hold dear is likely a better interpretation about our collective intuition about the purpose of government. Under such a framework, the case for an expanded administrative state becomes even more pronounced.

Looking Forward and the Value of Liberty

Up to this point we have considered both the incoherence of libertarian notions of positive/negative rights in the context of liberty and a reinterpretation of robust liberty that itself may call for expanded government action. However, before we end, let us reconsider the validity of our operating premise that we have left unchallenged until now: liberty is the be-all, end-all of values and is the ultimate dimension on which civic morality can be based.

Continuing to use Berlin's conception as an operating definition for liberty and freedom, let us examine some of the issues that arise from the way that libertarians view freedom. In such a world, the basic conception of a person is someone left to their own devices, wandering around doing what they want until they are interfered with by other people. They can then freely work with those individuals, but they are cannot be coerced because they always have the right to walk away from something that they do not wish to do. On this basis, liberty and freedom is inherent to humans as core characteristics of their personhood. Additionally, a social organization that can force its will upon members who may disagree with a decision or who are unable to leave at will (e.g. government) is

necessarily coercive insofar as other humans have conspired to prevent you from doing as you like. Given an implicit correlation between the size of this government and its chance of interfering in a sphere you would rather be left alone by others, one ought to oppose any expansion of government or the concentration of its power.

As any moral ideal, such a vision is idyllic and utopian. However, upon scrutiny, this world not only faces practical inconveniences; we can see that it is constructed on faulty premises. To begin, this view entirely dismisses the statist preconceptions of laissez-faire systems. Sunstein and Holmes emphasize this by pointing to defense spending as a way of protecting one's property. They show that "ownership becomes quickly enmeshed with sovereignty"⁷ and highlight the point as it manifests in the Israeli-Palestine conflict.^{xiv} Ability to protect property is contingent on the state defending it. Finding methods of legal recourse to allow one to buy and sell property can only be done within the boundaries of a state (for example, you cannot just unilaterally secede and declare your house a sovereign nation, or sell your house in Seattle to a Canadian who would declare the land now part of Canada). They go on to show that the state is crucial both as the primary authority over land and also as an enforcer of certain rights (such as the right to be left alone).

In common law, only the sovereign is said to have an absolute interest in land: ordinary landowners "hold of the sovereign." This quaint legalism expresses a deep truth. An autonomous individual, in a liberal society, cannot create the conditions of his own autonomy autonomously, but only collectively.^{xv}

This speaks to a further issue which is that the notion of an individual person operating and responsible only to him/herself is likely empirically inaccurate. Human beings are

⁷ In 2011, the U.S. spent \$718 billion on defense

naturally a social species and thus, for far longer than we can remember, likely emerged from a ‘state of nature’ which was far more interdependent and socially reliant than the libertarian utopia would suggest. Subsequently, freedom likely never was nor ever will be absolute and held to the exclusion of competing pro-social considerations. As such, pure liberty cannot possibly be the purpose for which we have government and arguments against either centralizing its power in an administrative branch or generally expanding the size of the government (measured by the size of its bureaucracies) will have to be made of different grounds.

Another fallacy of this argument is the notion of baseline non-interference. Earlier we regarded freedom as *inherent* to people because in their natural state, they had the ability to freely walk away from any deal they did not find desirable and therefore the “base case” was to do nothing and have nothing happen to you. In the real world, the government actively protects this right/interest. “The individual’s freedom, his ‘right to be left alone’ by thugs and thieves, cannot be separated from his entitlement to state help.”^{xvi} Therefore, liberty cannot be thought of differently than other moral values as something *inherent* to people by a natural state of affairs,⁸ but rather should be considered to be a moral entitlement. It may certainly still be a worthy moral entitlement, but liberty requires enforcement and some degree of collective action to guarantee, similar to other moral values. This highlights that the libertarian’s liberty conception is not *per se* immune from being weighed as one of many moral interests.

⁸ There is no claim here about moral inherency. As we noted earlier, pre-political *moral* conceptions of the person are notwithstanding in this paper

In this chapter we have covered a variety of responses to the libertarian critique. First, the criticism of government action exclusively on the basis of a positive/negative rights delineation is incompatible with the preferred policy outcomes of many libertarians. As a consequence, libertarian doctrine either needs to be severely contracted (which seems to preclude many utility improving institutions that are functionally essential to running a modern government or market system), or it must be expanded to include a conception of robust liberty. This robust liberty leaves ground to invite more government action so long as such action is maximally efficient – sounds like a perfect place for a theory of bureaucratic efficiency! But before we get ahead of ourselves, let us move to Chapter 1.2 to discuss other values that play a role in our conceptions of government and efficiency in addition to the principle of liberty.

1.2 Why Do We Have Government?

In any work attempting to describe how we ought to organize a government, it would seem self-evident that one would also have to answer the question, why do we have government? This question is not meant in a historical, ‘how did government come to be’ sense, but rather in a philosophical one: as we understand it in our highest ideals, how ought government behave and what goals is it meant to accomplish? For obvious reasons, this is an incredibly difficult question to answer. Indeed, the very essence of politics, everything from war and revolution to diplomacy and debate, are inextricably intertwined with this pursuit.

It would be impossible and, in some ways, potentially irresponsible to claim to form and describe a definitive answer to this question. However, the purpose of this chapter is to describe how we (the American public in particular) tend to prioritize these civic values, identify which values can be inferred from our expectations about government, and outline a framework about how we think about observing and applying these values to the structures of our government (rather than a specific declaration about how we ought to apply values in a particular, manifest law).

Across our various political parties and among our political debates, consider the diverse variety of values Americans claim to hold dear. Americans care about liberty and the freedom of personal choice. Americans value justice and fairness and the notion that people are treated equally under the law but held responsible for personal choices that break such laws. Americans value democracy and equality that respects the humanity of every individual to be treated as any other and share an equal voice in their collective

governance. Americans value security and the protection of our ‘natural rights’ such as a right to life and the pursuit of happiness. These values are reflected in all forms of American political discourse. However, as the very existence of politics and invigorated political division suggests, we cannot fully achieve all of these important objectives all of the time.

Given this, many tradeoffs have to be made in deciding on a policy. We care deeply about the liberty of all citizens, and yet tend to agree that the government ought to provide public roads that require taxes on individuals, land that had to have come from somewhere (or someone), and the ability to restrict an individual’s right to action (you cannot walk across a highway or litter on the street or drive over the speed limit). We believe that the increased utility of having public roads equally accessible to everyone, having been supported by our majority democratic will, is sufficient to overrule the liberty that has been sacrificed. On the other side of our contemporary political spectrum, high liberals who care deeply about the equality of humans and citizens find their limits. We may want everyone to be well off, but if a transfer program that made all equally wealthy also dis-incentivized anyone from working and crashed the economy, the loss of utility or the significant loss of liberty would likely draw reluctant rebuke from even the most ardent socialist. Or what about a policy that uniquely discriminates against gays and lesbians or Muslims? Even if such laws are widely popular (democratically supported) and bring great value to the large majority (maximizing utility), such decrees deeply offend our sense of equality, justice, fairness, and claim to natural rights as individuals.

These questions about how to evaluate the relationships between these values brings us to a discussion about ‘value pluralism.’

Value Pluralism

It can be said without dispute that Americans hold many principled values in envisioning their ideal society. It can also be (regrettably) said that a key limitation on bringing these utopias to life is the tension and conflict between these simultaneously held beliefs. The questions then remain, how do we envision an ideal society that is responsive to this limitation and what is the role of government in helping us get there?

From political pundits angrily screaming from your TV screen to philosophy professors coolly writing from the ivory tower, many will suggest that divining the conception of our ‘good life’ and identifying the purpose of government is all about finding one or two magical principles that we should abide by. Ideological purity is the name of the game. Unfortunately for them, with a very little bit of scrutiny it becomes quickly apparent that viewing our civic morality in such stark terms does not stand up to the most basic tests of our moral intuition.

The resolution to these moral dilemmas rests in a concept known as “value pluralism.” Simply put, value pluralism is the notion that not all good values necessarily go together. Liberty and justice might both be morally valuable things, but sometimes may contradict each other. Perhaps a world where people have more freedoms may lead to seriously unjust outcomes; or a world that cares to enforce justice may need to curtail

some liberty. Berlin refers to this concept in contrast to value monism (the idea there is at least one moral principle/value that cannot be violated under any circumstance) thusly:

One belief, more than any other, is responsible for the slaughter of individuals on the altars of the great historical ideals – justice or progress or the happiness of future generations, [...] or even liberty itself, which demands the sacrifice of individuals for the freedom of society. This is the belief that somewhere, in the past or in the future, in divine revelation or in the mind of an individual thinker, in the pronouncements of history or science, or in the simple heart of an uncorrupted good man, there is a final solution. *This ancient faith rests of the conviction that all the positive values in which men have believed must, in the end, be compatible, and perhaps even entail one another.*^{xvii}

Isaiah Berlin perceptively observes that in philosophical thought, there is often a great tendency to try and artificially construct world views that allow all values to be simultaneously upheld in a manner that does not conflict and/or create a framework of universalized maxims or principles that can apply to any given situation in the same manner. While this observation does not prove that such potential does not exist, to date there have been no ideas that have accomplished this without great logical criticism and, perhaps more importantly, this is rarely the way general people think about these kinds of issues. Perhaps we agree that individual people should *never* resort to violence because violence is morally bad. But what if you had to act in self-defense? Surely the freedom to defend yourself has some weight in the question, even if you don't have the freedom to attack someone else. Moral questions like these are rarely as clear or black and white as one might like to make them seem.

For example, is “liberty” the magical principle around which our moral universe is centered? While in its simplest form the ideal may appear compelling, recall the entirety of the previous chapter which demonstrates the number of ways this breaks down

when we look at the details. If a world centered on liberty condemns children to a life of poverty for no reason other than they were born into an impoverished family, would we find that acceptable? Probably not. While the issue will not be re-litigated here, given the significant shortcomings that a pure-liberty ideology has, it seems that our society and the government responsible for organizing⁹ it is not meant to be an unlimited maximizer of liberty.

However, in the event a modern liberal is preparing to gloat, it must be noted that it would be equally erroneous to claim that government ought to be an equality maximizer. Certainly one need look no further than the failure of the communist project to see the serious practical limitations of such an endeavor. Even liberal critics may argue that the artificial treatment of everyone as equal merely hides institutionally prevalent discrimination and oppression that takes place on account of power differentials that exist no matter how hard we may try to correct for them.^{10, xviii} Indeed, for any of the other values that we will review here¹¹ including natural rights, justice/fairness, democracy, and security, it seems unlikely that choosing one of them to maximize to the exclusion of the others will yield morally compelling ‘utopia’ we desire.

Another important advantage of realizing this is that once we shed the bias of trying to make all good values work seamlessly together, we significantly reduce the

⁹ “Organizing” is used in its most basic sense. Even to the extent that we collectively agree not to have government or one solely responsible for limiting itself, the basic fundamentals of society and the ‘rules of the game’ have still been organized.

¹⁰ Indeed, this is a criticism often levied in a number of circumstances. “Separate but equal” schooling for black children in the U.S. certainly shows the role of equality rhetoric in hiding irreversible inequalities (particularly damaging ones deserving of ongoing criticism). Similar disapproval is expressed for the French approach to State secularism while Muslim minorities are treated as ‘less equal’ than other large Abrahamic religions.

¹¹ Albeit, in an admittedly simplistic manner

likelihood of constructing a moral philosophy riddled with logical inconsistencies tortured together for the sake of creating some universalizing framework. That being said, how can this apply to the question we have at hand? We can all agree that liberty and freedom may be important values and still think about how our actions fit into the whole schema of other values we also hold dear. While it could be the case that the liberal and libertarian fight over whether they are trading off different types of liberty itself, we can also consider the question if libertarian or liberal policies have other moral implications that we care about (including justice, equality, reciprocity, etc.). Most importantly, we do not have to get caught up with the fallacy that each of these values is absolute.

The notion of value pluralism significantly helps us reconcile values we care strongly about with our conventional use of rights-language. Speaking of rights in a way that suggests they are inviolable is logically facetious. Not only do people naturally think in terms of trade-offs, it is *okay* to think about such trade-offs. There are times the utility of saving 10,000 lives may be great enough to reduce one's right (liberty) to free speech. This is not to say either that utility is the only consideration at play or that liberty is worthless merely that, while they both have value, the strength of one may value, at times, be greater than the strength of the other.

The need to make trade-offs between these values brings us to a concept central to the notion of value pluralism: moral satisficing. While there is debate about the proper understanding of what satisficing means,^{xix} we will use the term as defined by its creator, economist and Nobel Laureate Herbert Simon. "Satisfice" is a combination of the words "satisfy" and "suffice" and means to "seek something that is 'good enough'"^{xx} within a

set of parameters. This is less extreme than optimization (maximization or minimization), which requires going all the way to the end of an objective or principle without compromise. This approach is highly helpful for understanding our moral intuitions and further suggests the strength of value pluralism. We no longer need to take a no-holds-barred approach to attaining ideologically pure morality and can instead view issues in the more fluid tradeoffs in which we actually find ourselves during day-to-day life.

None of these questions of how to balance values are easy to answer. Value pluralism may prevent us from achieving a philosophically ‘pure’ framework of our purpose for government, but it may also help us understand a better, more realistic picture of politics and the American character. While recognizing an infinitely large range of potential alternative arrangements, below is one proposal that hopes to describe the American character and how we think about balancing and upholding the various values we hold dear.

Thanksgiving Dinner and Utility Satisficing

As suggested above, we are still left with the question of what value are we primarily supposed to satisfy? Although the analysis that follows is, by design, decidedly simplistic, it seems that our moral intuitions point us towards being utility satisficers bounded by the parameters of all of the values mentioned previously, namely liberty, equality, natural rights, justice/fairness, democracy, and security. To boil this intuition down, let us not jump to the big picture questions of government, policy, and society – instead just think of yourself as a family member at Thanksgiving dinner.

Imagine you are hosting Thanksgiving, your husband or wife has spent all day slaving away to get everything ready for your guests, and you have invited over all of your family and friends. You have to figure out what social rules are going to govern how the evening goes. But first, let us meet our guests!

- Obviously, there is your spouse who has spent all day doing the hard labor to set things up for everyone – we will call them F (fairness)
- Your uncle who is perpetually hungry and always wants to be able to eat whatever he can get his hands on – we will call him L (liberty)
- Your sister who is tragically cursed with a variety of allergies including dairy, gluten, and poultry. Moreover, she is vegan! – we will call her J (justice)
- There are the collective children who are running around. They aren't able to help out much right now because they are so young but, for reasons only heaven knows, you keep them around anyway – we will collectively call them E (equality)
- Finally, there is a friend of your sister's that she wishes to bring along. You and the rest of the family do not really know him but he has no family to celebrate with and your sister feels he should take part in the Thanksgiving spirit – we will call him N (natural rights)

Now that everyone has shown up, the food is ready and it is time to eat. At this dinner, how would you determine how the meal should go? The important thing to realize is that while our resources are limited (the amount of food available/prepared is fixed), we will still try to accommodate everyone's needs and preferences. We

intuitively assume that everyone gathered has some kind of claim to the food; otherwise we would just let them go hungry. You would even be willing to give some food to your sister's friend, N, though you do not know him! The same is true of the children (E) who have not contributed in any way (and have probably been pretty annoying). While you might be able to justify this decision in terms of claims for natural rights, or equality for the food, it is important to consider that you think this is the arrangement that will make everyone the happiest with the least amount of cost. Even if giving them food means that everyone else goes away pretty full as opposed to unbelievably bloated, this is an acceptable tradeoff, if the alternative is that some people leave not having eaten anything and ravenously hungry.

On that note, you may be unwilling to make getting food a free-for-all if you know that your uncle L is going to take 90% of the food and leave only a little for everyone else. For him and other such individuals, you may have to put limits on what they are free to do even if the effects on everyone else are indirect.¹²

It is important that no value other than utility was treated in a maximizing context, just as a limiter for the worst case scenario. You probably will not maximize equality by giving everyone exactly equal portions of food – your spouse did all the work and may have deserved more, the children are smaller and do not need as much to be full so you may apportion them less, and you can never predict the preferences of your uncle L and so may give him the freedom to choose which food and how much he takes (within limits of course).

¹² Indirectness is determined by the lack of a bilateral relationship between L and another guest. The fact that the uncle took food and there was not enough left over is equivalent to situations considered a step once-removed in typical distributional conversations.

Consider how this applies to your allergic sister J. There are three ways you could respond to her allergies: you could redesign the whole meal around her but her allergies and vegan-ness would require eliminating a lot of dishes that everyone else wants; you could say, “tough luck!” and not make any accommodations such that she does not get to eat anything or you could make a couple of dishes just for her that no one else gets to eat (even if they may decide at the last minute that they like it better). It seems that most people would prefer this last course of action. It would simply be unjust to deny your sister any food, but equally you are unwilling to sacrifice everyone else’s meal satisfaction by redesigning the whole meal just around her. Instead, we choose the middle ground that makes the most amount of people *satisfactorily* happy.

Taking a look at the bigger picture, what lessons can this teach us?

- While we may consider any set of claims legitimate, we do not choose to maximize any of these values such that the other values are considered irrelevant
- At the core of each justification to allow or limit someone’s access to food is a consideration of how satisfied everyone will be at the end of the meal (maximized utility)
- However, even the effort to maximize utility is not unlimited. Even if it might make everyone collectively happier not to accommodate your sister J or feed the stranger N, the ‘peripheral values’ play an important role in limiting how

far we can take utility forcing us to be satisficers instead of maximizers of utility.

Let us consider a real world example that may intuitively demonstrate why this model is an accurate way of describing our worldview. In particular, let us consider an issue that was briefly touched on last chapter – contracts. Protection and enforcement of contracts is often a key example that libertarians use to highlight an example of a negative right that the government can only legitimately protect because it preserves liberty. However, it is clear that pure liberty to contract with each other is not the exclusive basis on which we protect them. For example, there are a number of limits on contracts that cannot be explained in terms of personal free choice or coercion alone. Ha-Joon Chang points out that we are not allowed to trade votes, government jobs, legal decisions, school admission, or human beings and organs.^{xxi} If bilateral consent were all that was required to make a morally acceptable contract, one should be able to trade any of those things (perhaps with the exception of humans) in a free market.

So we need another way to explain why we care about contracts. Consider another important pre-requisite for contracts – informed consent. Now, it is perfectly plausible to have a system where the government does not pass active legislation forcing people to abide by certain levels of disclosure. People are free to say what they want and counterparties, knowing that the person they are contracting with could be lying or misrepresenting, can choose to accept the risk of transacting with them – if the economists are right, the fact that the counterparty is still around must mean that they are trustworthy or else other people would have stopped dealing with them. To a pure

libertarian, the risk of being duped is merely the ‘price of freedom:’ if they really want to trade they will have to take the risk.

Obviously, without government enforcement of contracts, these ‘free’ markets collapse. Inability to trust counterparties or rely on a government to enforce contract are common characteristics among failed states. So why do we *reduce our liberty* in exchange for government supervised contracts? Because the market system it enables is the engine of economic growth that drives the prosperity of countries with modern economies. While there are certainly important liberty components that limit the extent to which freedom to contract can be violated, at the end of the day, the contract system that we know and rely on is ultimately justified on the basis of the utility it provides.

In summary, we generally permit contracts because of their utility maximizing characteristics. However, we readily recognize limits to contract as restraints on those very limits on the basis of other peripheral values such as democracy, fairness, equality, liberty, etc. One will find that this arrangement and relationship between utility and the limits of other values is common across many of our justifications for public policies.

The Framework

So what does this tell us about how we think we ought to organize society? So far we have established that utility is at the core of any set of decision making but must be considered satisfactorily compatible with all of the other peripheral values we find important (all of those mentioned so far and likely many others). But that just tells us

how we ought to think about issues in the abstract, who gets to determine what the right balance is?

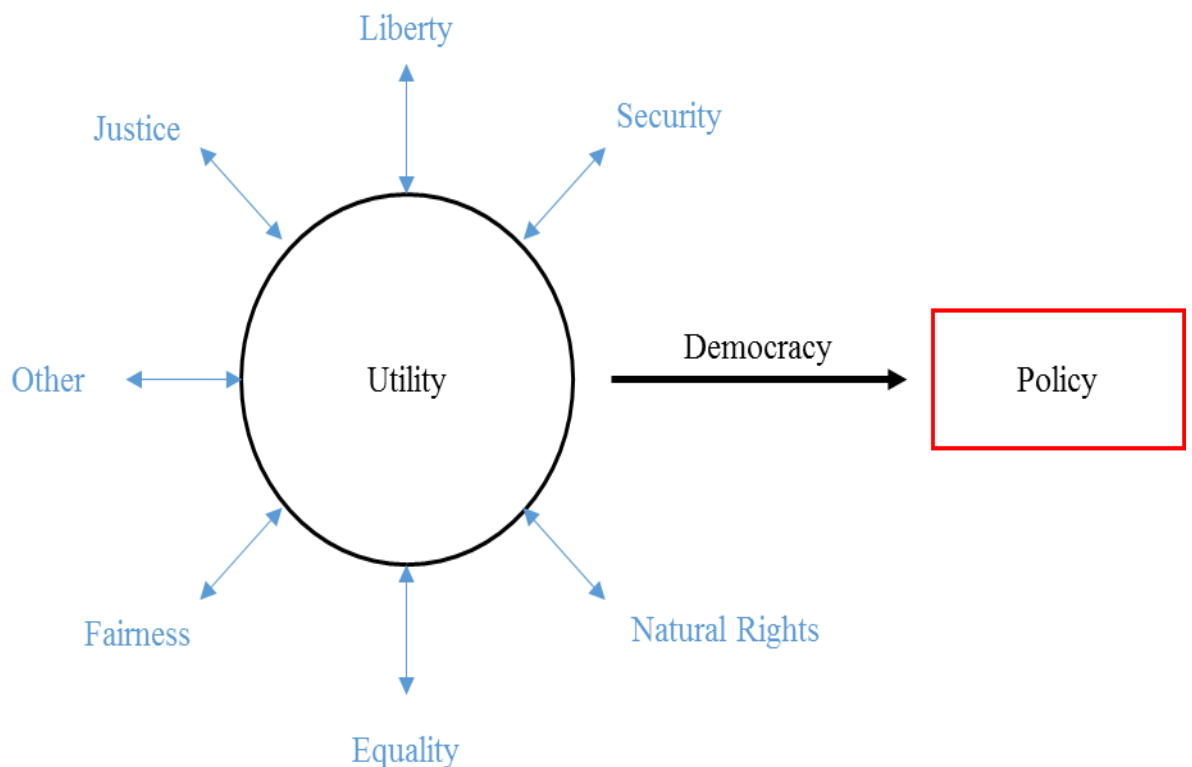
In the Thanksgiving example, you had entire executive fiat to make those decisions. We will call this the “I am king” model – it was your house and you had sole control over the decision. However, on a societal level this method becomes far more troublesome; no one has presumptive authority over all of society. Alternatively, we might think about this decision making in terms of a social contract. Everyone implicitly agrees to contribute something to the whole of society and someone is appointed to executively direct all of these resources without any input from anyone else. With regards to Thanksgiving dinner, we might call this the “Monica Geller potluck” model. There is any number of ways that we might describe the procedure for making these decisions on how to balance values. However, the method that Americans have settled on is democracy, everyone gets a voice.

There are two important aspects to recognize about the role of democratic procedure in this model. First, its ultimate purpose is as a mechanism for balancing values and translating them into policy – for moving us from the philosophical to the political. However, just as importantly, democracy is not merely a tool, nor is it just an expression of utility (we think everyone else will be happier if they make their own decisions). If that were true, Americans should be comfortable with any other form of government that instituted effective policies even without democracy. So why do we not see mass migration to Singapore? Because American commitment to democracy is also about a moral commitment to notions of self-government and personal responsibility that

we are unwilling to abandon.^{xxii} As such, democracy is both a procedure for balancing these values and another substantive limitation on considerations for utility (or any of the other values) in translating these preferences into policy.

A framework that encompasses this process can be illustrated by the diagram in Figure 1.2.1

Figure 1.2.1 – Utility Satisfaction Model of Government



So what does this tell us about how we should evaluate structures of government as better as or worse than others? Well, assuming that we meet the limiting conditions of

all of the other values (and it is impossible to improve one of the values in any dimension without trading off with another), governments ought to try and improve the utility of its citizens using the same or fewer resources that it currently uses. *Holding all else equal*, the purpose of government is fundamentally about utility maximization.

As we will discuss in Chapter 2.2 Efficiency vs. Politics, words like efficiency are often used meaninglessly and without context for what ‘more efficient’ really means. This framework provides a useful way of understanding that drive – a call for greater efficiency is fundamentally a call for greater utility outcomes with a given amount of resources.

This is the fundamental burden that this work will work to demonstrate. Insofar as it is compatible with democratic government, bureaucracies in the modern administrative state have the capacity to maximally test and implement high quality policies as quickly as possible. Bureaucracies are fundamentally adaptable to long run changes and can be best prepared to weather worst-case scenarios that the government may face (Chapter 2.3 Bureaucratic Efficiency & Centralization). While it would be impossible to claim that the worst version of a bureaucracy is better than the ideal version of an alternative system, a highly functioning bureaucracy has the capacity to outperform any (currently known) competing system of governance and, in the modern era, may in fact be an indispensable part of modern government. In order to best position bureaucracies to handle these challenges, Sections III and IV are dedicated to elucidating some of the principles of good bureaucracy and contain lessons about how they ought to be structured/run and what problems ought to be avoided.

Section 2: The Current Debate

"Sometimes it's the people that no one imagines anything of that do the things that no one can imagine."

- The Imitation Game

Section Overview

While the previous section's work helped us understand what values we hold as Americans, what we want out of an ideal society, and how those desires justify our need for a government, it actually tells us very little about how we are supposed to apply these principles in the real world. In particular, what do these objectives tell us about what we should look for in our governing institutions?

Recall from last chapter that we identified three core components of our framework for understanding the purpose of government: (1) a core of utility satisfaction, (2) a variety of surrounding moral values that determine the limits of pursuing utility maximizing policies, and (3) a procedure for determining how to balance these various values that is reliant on the notion democratic self-governance. We are now faced with the task of understanding how the modern administrative state fits into this framework. Over the next three chapters, this section will lay out the various academic arguments that are commonly made about bureaucracy and evaluate the extent to which each of them is accurate. In many cases, understanding the importance of these answers relies on the context provided by our civic moral intuitions.

To begin, there are people who would reasonably look at governments run predominantly by bureaucracies and think, "this system is totally undemocratic! All of the most important decisions are being by people who are never directly accountable to voters." This is certainly a reasonable intuition; alas, it is also overly simplistic. As Chapter 2.1 Democracy, Representation, & Bureaucracy will show, bureaucracies are actually highly responsive institutions, which are frequently more representative of

society as a whole than politicians elected to the legislature. This argument ultimately is crucial for understanding bureaucracy in the context of the philosophical framework outlined in Chapter 1.2 Why Government. As the key linkage from the world of philosophy to the world of policy, ensuring that the democratic process is upheld and protected is indispensable for any recommendation for a government structure meant to represent America's civic ethos.

While some people maintain that bureaucracy is damaging to a country's democratic character, other scholars who favor strong administrations take the exact opposite position. In their minds, elected politicians make all of the political decisions and bureaucratic administrations are only responsible for ensuring that policies are efficiently carried out. As a consequence, bureaucracies are literally incapable of having an impact on democratic representation. Unfortunately, this characterization is equally naïve. For one, bureaucrats clearly wield political power – every time they make a decision to enforce a law or decide that the cost of one approach outweighs the benefit of doing so, they are making a judgement about resource allocation that is fundamentally political.

Moreover, what “efficiency” means in the abstract is not clear. For example, what is the “efficiency” of a public park? Calls for efficiency are ultimately normative claims about how we ought to prioritize some costs or benefits over others. Fortunately, the philosophical framework has provided a barometer for this measurement: maximizing efficiency is no different than maximizing the core of utility – the ultimate purpose of government. That said, since utility is not the only value, we may accept some inefficient

policies insofar as the alternative is to violate other fundamental values that we might care for. However, the underlying governing structures ought to be graded on the extent to which they can maximize their ability to increase utility (e.g. efficiency). All of these issues and more are discussed in Chapter 2.2 Efficiency vs. Politics.

Finally, Chapter 2.3 Bureaucratic Efficiency & Centralization addresses one final set of criticisms of bureaucracy. Even if we accept that bureaucracies uphold our democratic values and that we should prefer governing structures that are efficient (e.g. improve our utility), why is the answer bureaucracy? These arguments posit that bureaucracies simply are not an efficient form of social organization; the chapter responds these claims. In doing so, it sets up an expanded bureaucratic state as the most effective way of achieving our philosophical goals, preferring a democratic method of improving our lives, while broadly upholding the variety of other moral commitments we hold as Americans.

2.1 Democracy, Representation, and Bureaucratic Capture

In America, as in most republics and democracies, citizens care deeply about ensuring that their voices are heard and their wills are enacted. The most conventional narratives that we teach in elementary civics center on the role of elected officials in representing the will of the citizenry in combination with Adam Smith inspired notions of self-interested incentive alignment: if politicians do not represent constituents as they would like, they are punished by being voted out of office. While this idyllic vision of politicians being controlled by the voters and punished for bad behavior through the democratic system appears to be a fictitious bedtime story we tell ourselves to help us sleep,¹³ even in the ideal world of theory, a strong conception of bureaucracy cannot assert any claim of direct accountability to voters. How then can advocacy for empowered administration amount to anything less than the functional abandonment of democratic representation? This chapter deals with issues relating to concerns about accountability and the relationship between citizens and a government operated by a large bureaucracy.

Bureaucracy vs. Democracy

As discussed in the previous two chapters, a core tenet of public administration is the ‘scientific efficiency’ that supposedly eliminates the inefficiencies of political decision making. However, the scholars who advocate this position also attempt to accept

¹³ It seems unfathomable to look at a Congress that barely scratches double digit approval ratings and yet maintains 80-90% re-election rates and credibly believe that politicians are actually punished for poor performance.

democracy as a guiding principle which seems particularly ironic given that from the ‘scientific’ perspective, democracy is “a notoriously *inefficient* basis of organization.”^{xxiii}

There are a number of reasons democratic decision making can be inefficient; to name a few:

1. Democracy requires a significant amount of time to deliberate, coordinate, and build consensus.
2. In instances in which consensus cannot be reached, gridlock may ensue ensuring that no action is taken to respond to a problem.
3. Representatives that have to worry about short-term timeframes until election may have a greater tendency to prefer policies with short-term benefits to long-term investments.
4. Representatives of particular geographical districts have incentives to create or continue federal projects that bring funding and jobs to their district, even if the overall value of the project itself is minimal and exceeded by its costs.
5. Outcomes are based on consensus, which may be detrimental in situations that require bimodal outcomes.

Obviously, these arguments suggest some of the reasons that, in some ways, democracy itself prevents government from being maximally efficient. That being said, there are certainly still many reasons to value democracy, intrinsically or procedurally. It may be a good thing that contentious decisions are decided more slowly and with greater thought. And in the modern world, it is generally accepted that a government that represents the interests of its citizens is a better, more legitimate form of rule. This does

not mean that questions of efficiency are irrelevant, but if we assume that a representative government is better than a non-representative one, how then does a framework for efficient bureaucracies take this into account?

As noted above, it is not immediately clear how or whether bureaucracies represent democratic interests. Bureaucrats are not subject to direct election by voters, are often difficult to identify as specifically responsible for a particular policy decision (how does one find *the* responsible bureaucrat out of hundreds of agencies?). They can only be held accountable indirectly through the elected officials who themselves are held responsible for far more things than specific misdeeds committed by the bureaucracy and thus likely consider it a relatively unimportant part of managing their re-election.

These types of issues are commonly referred to in game theory and economics as “principal-agent” problems. That is to say, the principal(s) (the American public or even elected representatives) cannot sufficiently control the agent(s) (politicians or bureaucrats, respectively) that are meant to work on their behalf. In theory, their interests are aligned: if the public or legislature does not get what they want, they punish the offending agents. Unfortunately, without sufficient information to know when the principal’s goals are being usurped or an inability to punish the agents well enough, the agents may develop other interests that are not supposed to play a factor in their decision making *on behalf* of the principal.

In a 1994 study, Dan Wood and Richard Waterman undertook an extensive study that applied principal-agent analysis to federal bureaucracies in the U.S. to determine how these effects play a role in democratic government. Although the results are

discussed in depth (and through the context of other studies) in the sections below, the study found the following:

- “1. Bureaucratic responsiveness to political control is the norm rather than the exception.
2. Political control mechanisms are important, especially presidential appointments. [...]
3. Organization matters – [*responsiveness* is greater in executive or cabinet departments although *quality* of long-term policies may be greater in independent agencies]
4. Presidential statements [and statements of high-ranking congressional leaders] are influential.”^{xxiv}

While it is not necessarily self-evident that bureaucracies represent the interests of general citizens and voters, as we will see below, empirical findings suggest there may be a number of reasons why bureaucratic decision-making is more representative than generally assumed.

Bureaucracies may protect democracy better than elected officials alone:

For the purpose of simplifying this discussion to purely an analysis of the “democracy” variable, we will for the moment make the gross oversimplification that, the quality of “democratic-ness” is determined by how well the government actually creates and implements policy in accordance with the desires of its constituent public, explicitly expressed or otherwise.

In this context, bureaucrats enjoy a number of advantages. To begin with their most important characteristic, on the whole, is that they are likely experts in their field,

whether by experience or by training. When politicians are elected, they are naturally forced to be a generalist – they must represent their constituents on *every* issue; not merely issues they can pick and choose based on expertise. And while individual politicians may (hopefully) have a few fields of expertise, for any individual there will be plenty of subject areas in which they know little and moreover, the likelihood that *all* of the politicians that must vote to approve particular policies are experts in the given area is virtually nonexistent. As a consequence, related to the efficiency consequences highlighted in Chapter 2.2, the quality of bureaucratic decision making, particularly on an average, day-to-day level of decision making, is likely to be better than that of generalist politicians and by implication, will better achieve what citizens desire from their government.

Furthermore, there may be reason to believe that decisions made by a person with the personality of a bureaucratic civil servant may be preferable to those made by the personality of a politician. Put another way, the job of being a bureaucrat is much different than being a politician: their focus and general authority (read: power) is far more narrow; most of their work is silent and behind the scenes with minimal public recognition;¹⁴ and with a presumable background in the relevant field, a likely passion for dealing actively with the issues at hand. In contrast, a “politician” personality can be typecast as power-hungry and attention seeking. Obviously, such generalizations are neither universal nor likely even observed in a particular individual at such extremes.

¹⁴ When was the last time you thought to yourself, “that civil servant did a *really* excellent job!” rather than just holding the basic expectation that a process would run seamlessly? Indeed, this selective observation bias where citizens only recognize when bureaucracies have done something wrong and with little credit given when things are done right is likely a major reason Americans tend to hold such disdain for bureaucracies.

Nonetheless, they do highlight that the self-selection for people choose to become civil servants could have an important correlation with their ability to implement policy. Similarly, the arguments show why publically elected politicians may have more limitations than Americans generally accept. In another context, Americans are frequently baffled at how politicians fail to come to agreements even in the face of overwhelming public consensus, a clear public interest in solving the problem, and supposed need to face accountability at the ballot box. Reconceiving a “politician’s” interest on an extended basis makes such outcomes far less surprising – even if there is a compromise consensus that everyone could agree to, so long as there is still potential to extract concessions from the opposition, media attention, etc. there is value in dragging out a policy fight. In contrast, bureaucrats face far fewer perverted incentives and tend to have personalities that are less likely think of issues in these power-politicking (and ultimately undemocratic) ways.

Finally, politically autonomous bureaucrats may be less at risk of being “captured” by politicians than the politicians are themselves liable of being bought off. That is to say, in the republican process, there is always a risk that politicians are coopted by effective lobbying efforts, large campaign contributors, and a variety of individuals or organizations that can convince politicians to adopt areas of focus or perhaps even specific policy positions that a majority of the American public may not approve of. Of course, the easiest counterargument is that similar cooption can happen to bureaucrats and organizations as well. This risk is admittedly meaningful and explored in detail later in the chapter. However, this does not negate the issue of “captured politicians” being a

legitimate risk to the quality of democracy – a risk that may be mitigated by more insulated bureaucracies.

As these reasons emphasize, the quality of our democracy may actually be *improved* by the inclusion of bureaucratic organizations that are less structurally accountable to elected politicians. This is certainly not to generalize and say that democracy would benefit by entirely replacing ‘dirty, avaricious politicians’ with a mass of ‘honest and hardworking civil servants;’ but having a healthy bureaucratic branch may help limit some negative effects inherent to a purely republican system.

Bureaucracies represent diverse, democratic interests:

For this next section, let us narrow our definition of “democracy” to be a bit more stringent. The previous section relied on a fairly amorphous, nearly tautological, conception wherein decisions that any set of citizens *would* want are necessarily better than those that citizens would not. Here, let us specify that representation of democratic interest requires specific regard to the polity that is supposedly being represented. For example, how well does the U.S. government represent the broad swath of ethnicities, religions, genders, etc. that make up America? How well does it represent and incorporate uniquely “American values” in its policies?

Even under this definition, there are a number of arguments for why bureaucracies are good tools for representing the character of a nation as a whole.^{xxv} The most fundamental reason is that *if* an administrative apparatus has the same values of the citizens as a whole then it will naturally move to behave in ways that incorporate the

broadly shared values and be responsive to changes in shared images.^{xxvi} While that is a big “if” that is not easily dismissed, there is reason to believe it is not prohibitive. In *Street-Level Bureaucracy* (1980), Michael Lipsky points out that a majority of street-level bureaucrats such as teachers or police officers and other groups of people who are largely integrated into society and its diversities are ultimately responsible for determining actual policy. “For example, no matter what the law says the speed limit is, in practice, it is determined by the individual traffic cop.”^{xxvii} Insofar as these government agents that you interact with on a daily basis are diverse/representative, it becomes clearer why bureaucracies cannot be wildly unaccountable. When bureaucrats go to implement policy, they all put their own spin on the issue for whatever is appropriate for the context and situation. In this subtle but pervasive manner, our government represents our local democratic interests far more than we imagine.

While we may agree that ground-level bureaucrats are fairly representative, is this still true at the federal or policymaking levels? The answer appears to be yes. A variety of academic work suggests that national legislatures (e.g. elected politicians) are often composed of, influenced by, and generally favor the interests of the highest and most privileged classes in society.^{xxviii} As a result, they often do not truly represent the whole of society on a range of national interests. In contrast, in his work “Bureaucracy and Constitutionalism,” Norton Long demonstrates that the whole gambit of people working for the federal civil service is far more diverse in a manner that more closely resembles (the American) public.^{xxix} He further suggests that the bureaucracy has a greater democratic character wherein the public’s “interest receive[s] more effective and more responsible representation.”^{xxx}

Of course, this claim relies on the belief that bureaucracies are actually diverse in their representation. More recent findings in the U.S. suggest that while this claim is true, there are limitations. In particular, in *The Promise of Representative Bureaucracy: Diversity and Responsiveness in a Government Agency* (1997), Sally Selden finds that while, in the U.S. “women and minorities are proportionally represented within the bureaucracy as a whole,”^{xxxix} this does not continue to be true at the uppermost levels of the hierarchy.^{xxxii} While this suggests there is certainly more work that can be done to increase the democratic character of the U.S. civil service,¹⁵ there is no *a priori* reason to assume that bureaucrats cannot represent the values and interests of the citizenry they serve and, in fact, that the wide range of the bureaucratic labor pool provides some unique advantages over elected politicians in best advancing the diversity of the public’s interests.

Bureaucracies link the consensus among warring, gridlocked, or transitioning political factions:

Alas, even proof that bureaucracies have advantages over political elements in representing the values and interests of citizens generally is insufficient for a true democrat. No one makes the right decision all of the time and, in instances of poor judgement calls, whoever is in charge must be explicitly responsive to changes in public opinion to maintain credibility. This leads us to the most stringent definition of

¹⁵ Indeed, the problem appears itself to be that the approval of higher level bureaucrats requires approval of the aforementioned privileged, upper-society Congress who naturally prefers civil servants who are most focused on their areas of interest. This suggests that an even *more* independent bureaucracy as discussed in later chapter may actually improve the democratic character of the administration.

“democracy” where the bureaucracy must be able to demonstrate that it is capable of shifting itself to match a particular polity’s expressed interests and fully represent the public’s changing interest through such times of transition.

Fortunately for the sake of democracy, a significant amount of empirical research suggests “that bureaucracies tend to be highly responsive both to their political principals and to public opinion generally.”^{xxxiii} Being responsive to politicians vs. public at large is not an unimportant distinction. The former is important as it satisfies our intrinsic desire to have unelected officials be responsive in enacting the will of elected, “accountable” decision makers. However, given the limitations of national legislatures and politicians in making truly representative decisions (discussed above), it is important that bureaucracies are also directly responsive to public opinion. This means that in cases of perverted political interests that are contrary to the general political will, bureaucracies may still resist those mandates in favor of policies that more closely match the expressed interest of constituents.

Indeed, this split focus between allegiance to political principals and the public as a whole may be the best of all worlds. Consider the perspective of the procedural democratic purist where the only legitimate way to act is to follow the direct instructions from the politicians they serve. For one, significant inefficiencies would arise as a result of being unable to respond to slightly new or adapted scenarios without express authorization in the form of a statute from Congress. For another, direct political allegiance would result in a dramatic shift in policy from one election to the next as a

new political party took power. Aside from being an interesting intellectual exercise in political hypotheticals, we actually know what such a system would look like in reality.

During the 19th century, the U.S. was dominated by the “spoils system” of civil service wherein when a new party took power, the first decision was to replace the entire bureaucratic apparatus with agents that would more closely institute the policies of the newly elected party. In this system, political decisions were largely made by party loyalists on positions based on patronage in enacting the will of the party. Of course, to the procedural purist, “[s]uch a bureaucracy can be viewed as an extension of the majority party, and therefore of the preferences expressed at the ballot box.”^{xxxiv} Of course, such a system also destroyed most senses of bureaucratic expertise/professionalism and resulted in significant levels of corruption.

In a well-functioning system, bureaucracies help facilitate gradual transitions between elections. Bureaucracies that retain more independent character permit more seamless and, likely, legitimate transitions from one party’s control to another. If it is considered widely unacceptable to treat bureaucratic appointments on the basis of party loyalty, people will instead be considered on the basis of their non-partisan expertise. Such experts are then provided the experience necessary to make gradual adjustments to policy in a manner that reduces the transition costs of an election and probably better represents public preferences – with a few exceptions, the American public probably looks for targeted changes in specific policies, not a massive systemic overhaul. As Waterman and Wood put it best, “bureaucracies perform an integrative function for U.S.

democracy, [blending] demands from past democratic coalitions with those from current democratic coalitions to produce a policy output at a consistent level.”^{xxxv}

This characteristic remains even if the specific voting system has a high degree of misrepresentation error.¹⁶ Bureaucrats therefore do a better job of representing the collective voting public than an official representing a specific party – for example, how well does a Republican politician elected with 55% of the vote represent the remaining 45% of constituents who did not vote for him/her? At any given time, the whole voting public or even voters within a particular district do not fully subscribe to one party or its platforms; rather, people are constantly divided over issues, perpetually debate them, and gradually shift their opinions about them.

In 1950, Dr. Kenneth Arrow developed his Impossibility Theorem^{xxxvi} which proved that the notion that the groups of officials who are elected somehow represent a “general will of the public” is fundamentally flawed. Institutions that represent groups which fundamentally disagree with each other (such as Congress) benefit from a “fallacy of false personification” when we rhetorically refer to them as a singular “it” rather than the more appropriate “they.”^{xxxvii} This type of language suggests that decisions that a particular statute or law passed by Congress is necessarily representative of citizens’ collective preferences. Arrow’s Theorem demonstrates that, mathematically, just because a ‘majority of representatives through a specific set of procedures’ managed to pass a law

¹⁶ A First-Past-The-Post system or, perhaps worse, a multi-party system where elections are held regionally almost ensures that an official is elected where less than 50% of the voters would have chosen him/her as their first choice. By its nature, this misrepresentation of the collective voters’ true interests relative to the final decision that had to be made at the ballot box reduces the quality of democratic representation.

does not in any way meaningfully approximate the level of democratic support from the public for the law.^{xxxviii}

In such a world, bureaucracy certainly does not have as high a threshold for “democratic representation” as most people commonly believe – making decisions through elected representatives is not much better in reflecting people’s preferences. However, over time, bureaucracy has the unique, added advantage of “blending” a large variety of policy preferences across the political spectrum, a number of different political administrations, and appealing to a number of constituents which, unexpectedly, may make it a *more* democratic institution than a particular legislature under even our narrowest definition of democracy.

What then is the most appropriate manner to fully incorporate our fundamental belief in democratic values while also permitting an unelected bureaucracy sufficient political autonomy in order to act decisively and efficiently? The above observations certainly correct the misconception that not being directly elected to an office necessarily reduces such a person’s value to democratic representation. However, it would be an equally absurd misconception or interpretation of the evidence to conclude that a state should be entirely run through various series of internally appointed bureaucrats without any formal election process.¹⁷

Instead, the compromise to be gained from these lessons might be the following: a system of administration for large governments should formally authorize expert bureaucrats a first-attempt at resolving problems within a clearly defined jurisdiction and

¹⁷ Such a system is approximately what currently exists in China today.

somewhat broad set of powers. However, such a system must still be flexible enough to permit change in response to elected will if citizens greatly disapprove of some decisions or the system is not working. If the bureaucrats are presumptively responsible for proposing policy, what then is the role for elected politicians? In this world, elected legislatures and officials ought to be more focused on oversight of the empowered bureaucracy and intervene in specific situations that are clearly being mishandled rather than micromanaging of every component of legislation that could be better left to Administrative Law (see Chapter 3.2 Autonomy).

Bureaucratic Capture

As alluded to in the section above, the players in the struggle for control of decision making authority are not only the bureaucrats, the politicians, and the direct citizens. In private spheres where the purpose of the bureaucratic arm is regulation of business, there remains the risk that, rather than being ‘captured’ and used as tools of politicians looking to further their careers, bureaucrats are instead ‘captured’ and used as tools by the businesses they are attempting to regulate.

Such an outcome would certainly be concerning for any true democrat: rather than representing the democratic will of citizens, the government is instead wielding its power to further the interests of a few, non-voting actors. In particular, the apparent will of the public to regulate some types of business activity to prevent terrible externalities that hurt

citizens¹⁸ will certainly not be reflected and enforced by the government supposedly meant to serve the people.

Before we go too deeply down this doomsday scenario, do keep in mind that much of the evidence provided in the section above refutes this argumentation. Even to the extent that this does happen (and let us be clear, there *are* instances where this happens), the empirical research suggests that, on the whole, bureaucracies are generally responsive to democratic will and the opinions of the public. To the extent that that is true, bureaucracies do serve the public and are not merely corporate serving tools used to defraud taxpayers.

Nonetheless, given the severity of its implications, this argument deserves to be taken seriously. In particular, there are a number of competing ways that political scientists have speculated that this phenomenon may occur. The first is the simplest and basically materializes in the manner just described. That is, industries, particularly those that are heavily regulated or licensed (such as airlines, roads, or telecom at the national level or retail generally at the local level), eventually develop relationships over time whereby they come to heavily influence or even control their regulators.^{xxxix} These relationships develop gradually and might come about through direct lobbying or the fact that the regulators spend more time interacting with the regulated parties than with other government officials or citizens who have strong desires to regulate or curtail certain aspects of the industry. As a result, the regulators eventually just come to identify more with the interests of the parties they work with.

¹⁸ Pollution water and land, destruction of ecosystems that has spillover effects from reduced biodiversity, construction of noisy and obnoxious production plants next to a residential neighborhood, etc.

It is certainly not difficult to imagine that if you are constantly presented with one side of the argument (“look at all the problems I suffer as a result of regulation! I could be so much more profitable if I didn’t have these restrictions!”) with only minimal exposure to the counterargument (“these actions result in polluted water that harm our long term health” or “this behavior exposes our entire financial system to significant risk if something goes wrong!”) that very soon you begin to attribute an outsized value of importance on the ‘problems’ that you are always faced with.

Industries that are highly regulated or licensed are also more likely to capture their regulators as there is a limited amount of competition. With only a few large firms, representatives and lobbyists from the businesses can develop close relationships with the bureaucrats rather than the regulators treating these representatives as simply ‘a face in the mass of the crowd.’ In addition, when those firms are institutionally protected, the need for new licenses can prevent new competitors from entering the market which might then bring attention to the unfair advantages¹⁹ that the existing players extract from the government.

A second version of bureaucratic capture has a slightly expanded perspective of the relevant players. Rather than just the private businesses and the particular agency, this view also considers the role of a congressional committee which is tasked to oversee the agency. This committee also has the potential to be captured through the process of democratic capture we discussed in the last section.^{x1} Under this framework, the

¹⁹ Or as an economist would refer to them, “rents”

bureaucratic process is controlled by a triumvirate of actors, frequently known as “iron triangles” or “issue networks.”^{xli}

A third but potentially less concerning theory considers bureaucracies to be controlled by policy elites (as opposed to specifically elected actors such as a President, mayor, governor, etc.).^{xlii} Naturally, this is less concerning as it seems more likely that ‘policy elites’ such as those who work at think tanks view issues from a public interest perspective more than an acutely self-interested profit motive.

Regardless of which specific method that this happens through, how does the theory stand up to empirics? Apparently, not too well. In particular, the very existence of the deregulation movement in the U.S. raises serious questions about the degree to which regulatory agencies, on the whole, are likely to simply serve the interests of their ‘capturers’ whom they are responsible for regulating. Wood and Waterman specifically comment on the implications of this example:

The deregulation of the 1970s challenged one of the [bureaucratic capture] theory’s basic premises, namely, that the regulatory agencies serve the interests of the regulated clientele, not the public interest. The theory could not stand up to the empirical test...In one industry after another, regulatory agencies aggressively promoted deregulation. Had the deregulation movement been confined to one or two agencies, it might easily have been dismissed as a mere exception to the larger rule. But the deregulation movement was broadly based, involving numerous agencies and regulated industries.^{xliii}

If it was truly the case that businesses had substantially captured these agencies to their own benefit or to protect a highly valued oligopoly, then one would expect that the ‘regulated’ companies would resist deregulation which would sacrifice their ability to control government policy. Similarly, the ‘captured’ bureaucrats would similarly resist

deregulation efforts as an extension of the wishes of their corporate controllers. Of course, this was the exact opposite of what actually occurred.

What is also interesting about the latter two versions of this theory are that problems actually arise from an *excess of political control* over the bureaucracy. As discussed earlier, capture of elected officials is far more likely according to empirical observations. Whether by subcommittee or kowtowing policy elites (ex. chiefs of staff/campaign managers), it is the micromanaging of the bureaucracy by individuals who are captured higher up the food chain that most commonly results in capture according to these theories. Coincidentally enough, these efforts are often what generate the procedural nonsense and inefficiency that most people think of when they angrily rant about the ineffectuality of bureaucracies. As James Q. Wilson notes:

Congress has always micromanaged the federal bureaucracy, but the form of that micromanagement has changed from seeking favors for political supporters (there is still a good bit of this) to devising elaborate, detailed rules for bureaucracy, engaging in close oversight, and demanding information.^{xliv}

These elaborate procedures frequently slow down decision making processes²⁰ and are often wielded in manners that neutralize the ability of agencies to perform the jobs they were tasked to do and instead represent the interest of undemocratic interest groups. To reiterate the lesson to be learned from this, it seems clear that an important method for improving the quality of our bureaucracy, both for the sake of efficiency and our democratic values, is to increase the administration's political autonomy by providing

²⁰ Regrettably named "the bureaucratic process" as such restrictions are certainly not necessarily to nearly such an extent as we currently observe and greatly contributes to the bureaucracy's 'PR problem'

agencies with broad²¹ (but clearly defined) tasks, jurisdiction, and tools with which to address issues. While one should always be vigilant for the dangers of bureaucratic capture, the overall threat is negligible relative to an excess of micromanagement by politicians who have been properly bought off. As another consequence, this particular line of argumentation against bureaucracy on the grounds that it is antithetical to our democratic values is further debunked and leaves it as a powerful compliment to directly elected democratic officials.

Privatization & Client Serving Behavior

We now return to the question of alternatives to bureaucracy and, in particular, the role of privatization in achieving government objectives. The argument for privatization is compelling: bring the full weight of market efficiencies to solve the problem and you can even ‘out-efficiency’ a bureaucracy that, by comparison, is slow and bumbling.

This case is compelling because in some cases it is right. In instances where the only remaining relevant factor to a project is cost, the market system is remarkably good at maximizing *cost efficiencies*. When the National Aeronautics and Space Administration (NASA) asks Elon musk to design and test space-ware that meets certain specifications^{xlv} or the Department of Defense relies on Lockheed Martin to manufacture its F-22s,^{xlvi} these are instances in which reliance on the private sector or private-public partnerships (PPPs)^{xlvii} can greatly improve efficiency.

²¹ Broad, in this context, is meant to denote a lack of micromanagement. For example, one might be able to broadly, yet clearly task the EPA to reduce carbon emissions without specifying a variety of procedures for holding hearings and proscribing the specific method of solution the agency is to enforce.

However, while private sector companies are very good at minimizing costs and maximizing profits, the pinpoint focus on these objectives can be detrimental in the pursuit of public-interest objectives. These limitations are the reason that large-scale privatization of government departments is not a viable alternative to bureaucracy (in most cases). In particular:

- Public functions being run by private companies (but enabled by the writ of government) is fundamentally undemocratic and fails to meet the democracy standard described in the last chapter.
- The objective may contain a sufficient number of ‘public good’ components such that there is no market for the ‘good’ that the government is trying to develop.
- Privatization of departments that will find insufficient competition or free barriers to entry will merely result in a private rentier monopoly funded by taxpayers.
- Finally, if there are considerations other than cost (for example, the means used to accomplish the result matter), private sector profit incentive may fail to achieve all of the project’s objectives.

Let us consider these criticisms one at a time. Critics of widespread privatization efforts such as Moe and Gilmore (1995) assert that “from the standpoint of representative democracy, the mission of any public bureaucracy has to be top-down, not bottom up.”^{xlvi} In other words, while publically run agencies are ultimately accountable to Congress and the public, private companies are not. In the event of their failure, the worst that can happen is that they are fired and lose their contract. Public companies are fundamentally not built to divine the interests of the public broadly, only the ‘clients’

they serve in a transaction. As you can imagine for programs like Social Security, prisons, or tax collection, there are important public interests that should be considered more than focus on the undefinable ‘clients.’

In many of these examples, things go wrong because cost is not the only important variable – how a goal is accomplished is significant. As will be discussed in Chapter 3.3 Accountability, tax collection that is driven by overzealous profit incentive encouraged tax collectors on behalf of the federal government to improperly pressure people into paying taxes that could not be proven to be incurred by the individuals or to make payments when the taxpayers could have legitimately qualified for exemptions. Similarly, the privatization of the prison system has come under significant fire due to prisoner mistreatment, high levels of recidivism on account of ‘probation fines,’ and increase use of jail terms by *lobbying judges* to hand down harsher sentences (especially to minority suspects).^{xlix} These are examples where the means (how you jail/treat prisoners, how hard it is appropriate to push people to garner tax revenue) of accomplishing a public objective have significant impacts on the legitimacy of the action. These kinds of actions from private contractors are highly disturbing from the perspective of democratic accountability and the public interest and are not problems that tend to be generated by agencies designed to act in the public interest without the need to adhere to a strict profit motive metric of success.

Moreover, even for systems in which there is a clearer ‘client serving’ role that might be acceptable (ex. welfare), the ‘market’s’ preferences may not be good ones and the lack of *democratic* process in determining them in accordance to the balance of

values discussed earlier is even more damaging to a society's democratic character. As some critics note:

Democracy is ultimately a set of guarantees about process - your rights to participate in collective decisions – not about outcomes. [...] Market values and democratic values are not interchangeable equivalents [...] One of the earliest calls for a system of school choice, that is, to create a competitive market within public education, was by Southern whites in the wake of *Brown v. Board of Education* desegregation order. Going unmet was the demand for racial segregation, and the creation of a market for public education was seen as a way to persuade schools to pay less attention to external political institutions and more to local consumers.¹

As this example makes perfectly clear, the role of democracy in protecting the other 'peripheral rights' as described in the last chapter is to overrule discriminatory sentiment in favor of recognition for democratic equality as humans. That is a value that private firms cannot understand or exhibit.

A third concern is that the definition of a market is not always clear. Market transactions help improve efficiency by identifying a beneficial transaction of a good or service and pricing it such that competitors will not outcompete you. As a whole host of economists led by Nobel Laureate Joseph Stiglitz point out, not all markets are perfect or have these characteristics.^{li} When it may not be possible to identify a clear 'buyer,' 'seller,' 'good/service,' or 'price,' market-based systems are likely either to collapse or cause negative externalities. All of most economic theory (anything based off of general equilibrium theory) that espouses the wonders of market systems requires these core assumptions to hold – they regularly do not in the context of public objectives/goods.

Finally, privatization may be rejected on empirical grounds. While government agencies work directly at cost, private companies naturally require a profit margin in

order to operate. In some cases, the fact that companies make a profit is irrelevant – if a comparable government agency could not accomplish the same task for less than the cost than the company can for the cost *plus* profit, taxpayers are still benefited by using the private system. It is further prudent to recognize that in many cases (assuming the transaction passes all of the conditions above) that this is usually the case. However, it is equally important that to recognize that instances may exist in which governmental economies of scale trump those in the private sector in which case there is no basis for preferring a privatization approach for the sole purpose of ‘making the government smaller.’

In summary, limited use of the private sector or cooperation through PPPs can be a highly efficient tool used in conjunction with expanded bureaucracies. However, privatization does not provide a legitimate alternative to executive bureaucratic organization. Full-scale privatization risks devaluing the democratic commitments that America was founded upon as private companies are neither accountable to the public, nor necessarily responsive to the public interest^{22, lii} in the same manner as bureaucracy, and often cannot overcome the potential perversion of the profit motive to act in ways that are not compatible with our other civic values.

²² Frequently, companies found to have flagrantly acted against the public interest change their names rather than reform their practices (which would be a sign of responsiveness to public interest). For example, Blackwater has changed their name twice, first after shoddy work that killed two U.S. soldiers and then again after killing civilians in Iraq. Phillip Morris renamed itself to distance itself after marketing campaigns for tobacco were launched to target children.

2.2 Efficiency vs. Politics: Response to Bureaucratic Proponents

At the beginning of this section we mentioned one of the core arguments that those in favor of an administrative state often use: namely, that bureaucracies are more effective at actually getting things done unlike those useless politicians. For many of us who look at a fairly dysfunctional political system stymied by gridlock and hyper-partisanship, we are already familiar with the ineffectiveness of politicians arguing to score political points rather than effecting meaningful policy. Compared to that, surely any alternative would be better, right? And while we are at it, why not give that job to experts in the field who already know what the best, most efficient solution is to a problem in their given area of expertise?

There are certainly merits to such arguments that will be addressed in the next chapter. First, however, we need to consider the implicit premise that this argument assumes: decisions made by bureaucracies are really only about the best way to do something and are therefore not really political. *Anyone* who looked at a particular problem with the right expertise would come to the same conclusion about which decision is more *efficient* and so bureaucrats should be free to make utility maximizing decisions that are self-evidently beneficial and leave the ugly fight over power and politics to the politicians. While one may dismiss this as a meaningless distinction, the philosophical implication is powerful. If one can fully separate political decisions from the decisions about how to efficiently do something, the administrators do not really need to be accountable to anyone except other experts who will evaluate whether their

decisions are efficient or inefficient as a matter of *fact*, not opinion or balancing values. As a consequence, so long as political decision making is still done by elected representatives, one need not worry about whether bureaucratic decisions are fair, just, or representative – the politicians already did all of that – it only matters whether they can be proven right or evaluated against a more efficient alternative.

While this work ultimately supports and argues in defense of a properly structured, meritocratic, quasi-autonomous bureaucracy, it is important to recognize the serious flaws in this argument. After all, a case is only compelling if it has fairly treated all of its objections and can still stand on its merits. While it is important for a government to strive towards increasing its effectiveness and the utility of its citizens, values such as representation and democratic voice cannot be dismissed so easily.

In order to consider how much bureaucrats are engaged in political behavior we must first have an operating definition for politics. Often politics is defined as an “authoritative allocation of values” or the determination of “who gets what, when and how.”^{liii} This definition also provides insight to the discussion of why we have government (as explored in Section I) as the nature of politics is itself meant to be the act of balancing competing values in a manner compatible with American values. The argument for public administration described above attempts to claim that the determination of “how” certain missions are accomplished is less subject to the ‘allocation of values’ and thus less political than the other questions. As Woodrow Wilson described a theoretical framework of public administration, “[t]he process of government can be separated into two parts: determining the will of the state (politics)

and executing the will of the state (administration).”^{liv} The attendant question is whether, in practice, this difference really exists in a meaningful way?

As much as we would all love to believe in a government administration that was perfectly efficient and instituted all of its policies that made everyone maximally satisfied, regrettably the answer to this question (as evidenced by decades of dissatisfaction with the DMV) is no. As one author noted, for reasons both practical as well as intellectually ethical, “students of administration cannot deal with the problems of politics by assuming them away.”^{lv} There are three core reasons that the politics/administration dichotomy is false. One, bureaucrats are empowered with authority to make political decisions that affect the will of the state. Two, the very notion of efficiency is embedded with normative value judgements that functionally express a manifestation of politics. Three, the organization of bureaucracy itself is typically a function of the political interests of those who empower it (namely, the legislature) and is often viewed merely as a tool to shift power from some actors to others.

The first counter-argument is that upon a little inspection, bureaucrats regularly engage in politics. A prominent study in the field of public administration from John Gaus noted that beyond implementing “clearly understood directives from Congress,” bureaucracies regularly shape policies themselves by interpreting relatively vague statutes into specific actions and policies.^{lvi} Indeed, the entire notion of Administrative Law (covered more in Chapter 4.2 Autonomy) is predicated on the importance of administrative agencies operating as the semi-ultimate authority for interpreting statutes and rules even when they are unclear or potentially politically controversial.

For example, consider the SEC's decision to allocate resources in prosecuting fraudulent bankers – it could expend lots of resources prosecuting a banker through a trial and get a personal, criminal conviction or it could accept a much milder plea deal with a fine while expending a fraction of the cost. On one hand, one could argue that the lawyers determine what the most efficient way to use their resources, making it a non-political decision. But implicitly, a number of political decisions were made. (a) Would we rather have the criminals pay fines or serve jail time? (b) If there is a difference in a punishment's effectiveness, are there some types of crimes the SEC should pursue more vigorously than others to set an example for high priority issues? (c) Should the severity of a financial crime be comparable to other jail-able offenses? (d) If so, is there an important justice component in ensuring the equality of punishments? While there are certainly some questions of efficiency that could be determined empirically (ex. jail time vs. fine effectiveness in deterring future crime), many others involve establishing political priorities.

The second counterargument also ensures that bureaucrats engage in political decision making. The reason is that the notion of 'efficiency' has a host of implicit political and value judgements embedded in it. While one may try to define 'administrative efficiency' as a realm dealing with facts rather than value judgements, it is clear that bureaucrats regularly have to exceed this line. For example, how would one determine the efficiency of the Department of Agriculture, or a library? The most common way people consider 'efficiency' is an assessment of "an input-output ratio" where someone has to assess the amount of inputs and outputs and weigh the value of different inputs against each other and against various outputs. Therefore, choosing

between decisions necessarily means balancing values at some level; “efficiency can hardly be value-neutral.”^{lvii} While advocacy for governance by pure scientific efficiency may be convenient, it is not based on a valid argument.

Indeed, Dwight Waldo, one of the most central thinkers in public administration recognized that “public administration scholars have a vision of what the ‘good society’ looks like: It is industrial, urban, and centrally planned; it has no poverty, no corruption, and no extremes of wealth. Science is its ideal, and waste and inefficiency are its enemy.”^{lviii} Aside from whether this view is accurate, the underlying point is significant: one way or another, proponents of public administration do have their own vision of what ‘efficiency’ accomplishes and how it fulfills their vision of the good life. While this is not necessarily a criticism of bureaucracies per se, it is an important philosophical question that advocates must answer rather than pretending away the inherently political nature of bureaucracies. For this work, Chapter 1.2 Why Do We Have Government has attempted to clarify and resolve these issues as it relates to bureaucracies.

The final counterargument was most convincingly put by Harold Seidman in his 1970 work *Politics, Position, and Power*. The argument can be summarized thusly: “The institutional location and environment of a policy or program and the organizational structure, process, and procedures that govern it help determine the distribution of power and influence within the polity.”^{lix} That is to say that all too frequently, bureaucracies are not arranged according to their efficiency but instead by their political value to different players among the government.

The argument that political atmosphere determines the power of an agency advances two points: One, it cements the first argument mentioned here that bureaucracies are not and cannot truly be separated from politics. Two, it helps explain many of the existing inefficiencies that appear in bureaucratic organizations. For example, agencies and executive oversight responsibilities are often duplicated due to political fights in Congress over power. Seidman highlights a number of these instances. For example, banks, savings and loans, and credit unions are regulated by five different federal departments which increases disputes over regulatory authority, resource allocation, etc.^{lx} Seidman explains this as the result of a fight between Congress and the various influential arms of the banking industry to help “commercial banks pick their regulators according to the activity they’re engaged in.” (this problem and phenomenon is covered more in Chapters 2.1 Democracy, Representation, & Bureaucratic Capture and 3.3 Accountability).^{lxi}

Another example can be found in highway regulation. In 1966, both the National Highway Safety Agency and the National Traffic Agency (each with their own agency head) were created to do many of the same tasks. This is obviously inefficient, but makes sense from a political perspective. “The reason for the two agencies rather than one was a simple matter of inter-chamber politics: two Senate committees wanted to confirm the agency head, and the creation of two agencies achieved this purely political goal. The organizational and administrative ‘problems’ of the executive branch are thus often ‘nothing but mirror images of jurisdictional conflicts within the Congress.’”^{lxii} There are also a number of examples of this cause of duplication in foreign policy such as the

creation of the Department of Homeland Security (DHS) and the Director of National Intelligence (DNI).

To be fair however, such outcomes are hardly inexorable. There are a number of agencies such as the Food and Drug Administration (FDA), the Center for Disease Control (CDC) and the National Aeronautics and Space Administration (NASA) that do not appear to face these problems. While the next couple chapters will cover specific responses to the types of inefficient arrangements Seidman addresses, his argument highlights an important point on behalf of the bureaucracies themselves. That is to say that many of the problems of bureaucracies are not the result of incompetent bureaucrats, but rather of incompetent (or power hungry) politicians. Chapter 3.3 will cover the role that other, non-bureaucratic parties play in managing the U.S. federal bureaucracy and how they can fulfill their responsibility to generate a more efficient government. The important point to remember is that the purpose of this work is *not* to defend that the U.S. government as it exists now is efficient, well-managed, or even particularly good. Rather, the purpose is to highlight best practices that can help create efficient bureaucracies and defend that *even in the face* of political realities such as those highlighted here, even merely mediocre bureaucracies are ultimately indispensable for the management of the modern state.

To review, we have covered three of the primary objections/limitations to the efficiency claims of public administration proponents. We recognize that bureaucrats do, in fact, engage in lower-level political decision making. We have acknowledged that bureaucrats do need to have a vision of ‘the good life’ when evaluating claims of

efficiency and that they ought to do so primarily with regards to bounded utility satisfaction. And finally, we have recognized that bureaucratic efficiency is ultimately (and unfortunately) limited by the political climate and politicians who are unwilling to subscribe to the lessons of efficient bureaucratic organization that will be discussed in Section III.

2.3 Bureaucratic Efficiency & Centralization: Response to Critics of Bureaucracy

Up to this point, all this paper has explored is the nature of the identity crisis that constitutes our attempt to understand “what exactly is the *purpose* of government?” and “how do our conceptions of ‘efficiency’ match with our democratic values in achieving our ideal society?” However, for those lines of inquiry to matter, we first have to deal with the empirical question, “can bureaucracies actually be efficient?”

Before we begin, let us establish some ground rules: first, for the purposes of this discussion, the definition of “efficiency” will generally be limited to whether decisions are made faster, with higher quality,²³ and lower cost. Noting that the previous sentence is hopelessly filled with comparative adjectives, we have to briefly modify the question to, “*what* are bureaucracies more or less efficient than?”

Again, this is a despairingly difficult question to answer, as it is impossible to contrast bureaucracies with the nearly infinite list of potential alternatives. Direct democracy? A hereditary monarchy? A hierarchical meritocratic technocracy with a quasi-elected executive? Obviously producing an endless list of potential alternatives is hardly productive. Perhaps even more frighteningly, consider the modern world we live in: high levels of data and transactions are constantly needed to sustain even basic public services such as a military, police, roads, or a legal system. With the exceptions of direct democracy or anarchy, to run even the most basic of tasks, nearly any kind of

²³ “Quality” of decisions will be proxied by the amount of nonpartisan expert input included in final decisions.

government system one can think of will almost *inevitably rely on some form of bureaucracy!*²⁴ Therefore, the purpose of this chapter and, indeed, this entire work is simply to make the prospect of the wide-spread bureaucracies we see today a little less “frightening” and, in the later chapters, discuss the ways in which bureaucracies can be structured and used in more efficient ways while recognizing their limitations where alternatives such as privatization ought to be considered.

Let us return to the question of whether bureaucracies are indeed generally efficient. In later chapters, we will discuss the specific factors that contribute to bureaucratic efficiency; but at a macro level, political scientists suggest that principles such as centralized administration, meritocracy (bureaucrats hired by expertise rather than political loyalty), and political insulation are critical to ensuring a well-run modern state. While discussed more in depth in Chapter 2.1 Democracy, Representation, and Bureaucratic Capture, this line of thought was particularly developed in response (and in contrast to) the “spoils system” in the U.S. that saw a “public administration shot through with incompetence, ripe for corruption.”^{xiii}

Referring again to Dwight Waldo’s seminal work *The Administrative State*, George Frederickson and Kevin Smith summarize the theoretical grounds best:

Good administration (and thus good government) could best be promoted by centralizing and concentrating power, by running agencies according to sound, scientific management principles, by making technical competence the criteria for civil service employment, and by shielding these technical experts from whatever winds happened to be stirring the dust in the political arena. [...] An efficient and expertly run administrative apparatus insulated from politics and under the authority of a powerful executive would increase accountability and promote

²⁴ Discussion of privatization is considered in Chapter 2.1

effective, competently run public programs and policies. If things did not work, everyone would know who to blame and why, and the representative institutions of democracy could act accordingly.^{lxiv}

There are a couple of key takeaways from this that are important to highlight. Aside from the variables such as technical competence, political insulation, and the mechanics of accountability that are explored in depth later in Sections III and IV, an effective administration is generally more effective when it is centralized. A decentralized mechanism that still acts with a unitary purpose²⁵ is as much a mismatch as using a spoon to shovel a pile of dirt – chances are that it is going to require an extraordinary amount of wasteful duplication.

A natural consequence of this centralization is a relative increase in executive power. Of course, such a proposal is easily concerning to those inherently skeptical of the risk of government overreach. Given the strength and validity of these claims, let us take a detour from discussions of efficiency to respond to concerns some may have regarding the centralization implied by expanded bureaucracy.

Certainly, in combination with factors such as an elimination in formal democratic voice (transition to an autocratic system) or significant expansion of the purview of government power into our personal life (transition to a totalitarian system), such centralization would indeed be alarming. However, to those who look at the long-term effects of an alternative to a marginally empowered executive relative to the legislature (a shifting of type of check/balance), it becomes apparent that this is the lesser

²⁵ E.g. Acting on behalf of a single “government,” (unitary purpose), a decentralized mechanism still does not possess the potentially efficient characteristics of a marketplace where decentralized actors can ‘invisible hand’ their way to efficiency through, (a) competition, and (b) focus on a near singular objective – economic profits.

of evils for those concerned about the abuse of state power. In particular, while it is important to consider the threat of the executive to individual rights and democratic institutions during times of normalcy, it is perhaps more critical during times of crisis. Consider the maxim, “[a]utocracy during hours is the price of democracy after hours.”^{lxv} As a matter of historical example, during times of panic, even (and perhaps especially) democratic societies often find themselves in a rush to safety. Naturally, a response to crisis requires speed (e.g. a component of efficiency) and long democratic deliberation is often uncondusive to a satisfying response. Lacking an existing mechanism to guide them out of crisis and insufficient time to deliberate extensively, democratic societies are often forced to abandon their existing institutions *and individual protections* in exchange for a fully unitary executive that can respond to the crisis at hand. Of course, such conditions are ripe for abuses of power and a hurtling trajectory towards concentration of power that can never be reversed. Such is the risk to a society that does not build in an emergency mechanism for a sufficiently strong executive prior to times of crisis.

Lest we repeat the abject failure of the Articles of Confederation or suffer the fate of countries such as Italy, Germany, and Egypt, among a panoply of others who succumbed to such influences, let us consider the role of an empowered bureaucracy as an institutional alternative to prevent the risk of descent into outright totalitarianism. Centralized bureaucracies and a relatively empowered executive branch maintain the ability to make quick decisions²⁶ in times of crisis while remaining accountable to

²⁶ Of course, some may question the “quickness” of a bureaucracy to make decisions. However, remember to consider these comparisons as relative. Relative to a lengthy Congressional debate, drafting of legislation, etc. a Presidential decision is unquestionably faster. (Remember that in such instances, the bureaucracy is usually used to implement executive will more so than form it, thus making the process even faster). Is it the case that by anecdotal example, private sector transactions work even faster by comparison

democratic institutions that can not only check an executive during the event but even more importantly, in the period that follows. Sufficient empowerment prevents the justification for further suspending important checks and balances during times of crisis. If the bureaucratic system as it exists is sufficiently empowered, capable, and quick to respond to a crisis, a demagogue with ill intent will find it much more difficult to justify suspending individual rights or suspending democratic procedures.

Returning to the issues of efficiency and quality of governance, Kevin Smith and George Frederickson note that empowering bureaucracy also increases accountability by bringing to bear a greater degree of executive focus. While this phenomenon is explored in more detail in Chapter 3.3 Accountability, limiting the number of people responsible for particular actions prevents blame shifting and diffusion. That is to say that when bad things result from general Congressional inaction, even if people are upset with Congress generally, it is difficult to hold accountable and vote out of office a specific representative for a pervasive culture and the collective behavior of 525 people. Conversely, when the bureaucracy does something wrong, everyone knows that the President is to blame and are quick to vote him/her out of office. This incentive structure results in a highly attentive executive branch to ensure that things get done – after all, all of their jobs are at stake.

So far we have demonstrated why centralized bureaucracies are capable of meeting the lower cost (less duplication) and faster decision conditions of efficiency. Finally let us return to the question of expert input in decision making. The first method

to examples everyone loves to hate such as the DMV or waiting for the State Department to issue a passport? Absolutely. However, lacking a comfortableness with Walmart making decisions about issues of national security, it appears that we're still left with government bureaucracy.

this theory uses to attain expert competence is almost unfair, as it is basically definitional. In order to meet the “technical competence” standard described above, it is necessary to have a hiring criterion for bureaucrats that is based on previous experience and/or education in the relevant field. If we have further defined the executive to be broadly expanded with more discretionary authority and we have guaranteed the people hired to wield that authority are experts, by definition experts have a greater influence on policy making. However, there are also subtler ways in which this effect manifests: evidence suggests that as the bureaucracy is filled with greater expertise and tasked with more responsibility, even elected lawmakers come to rely on their advice, testimony, and opinions of these expert administrators.^{lxvi} As a consequence, properly structured and understood, bureaucracies have the foundational capability to significantly add to the efficiency of the modern state.

Counterarguments

Of course, such idealistic projections only exist in a world where considerations of the failings and limitations of bureaucracy are not considered. Let us take a moment to run through some of the common arguments relating to bureaucratic inefficiency and consider why they are either untrue or not as critically damaging as we might assume.

Bureaucracy generates lots of useless material:

If you ask people who are skeptical of the government’s ability to do anything competently to provide words they associate with the word “bureaucracy,” some answers

you are likely to find will include responses such as “useless,” “redundant,” “repetitive,” “slow,” or “unimaginative.” This is due to one of the most legitimate criticisms of bureaucracies; by the nature of their size, they can often be difficult to manage. Government bureaucracies in particular have incentives to produce as much material as possible on as many issues related to one’s particular agency that one can think of – even if a large portion of the material may not appear relevant at a given moment.

Former chairman of the Joint Chiefs of Staff (JCS), Colin Powell made the following criticism of the JCS prior to the 1986 Goldwater-Nichols Defense Reorganization Act:

The sixteen-hundred-member joint staff that worked for the JCS spent thousands of man-hours pumping out ponderous, least-common-denominator documents that every chief would accept but few Secretaries of Defense or Presidents found useful. The tortuous routines worked out for processing this paper flow would have done credit to a thirteenth-century papal curia.^{lxvii}

Beyond the testimony of a government official who has firsthand experience helping run the administration, it would obviously be ludicrous to deny that bureaucracies often face problems with redundancy and wasting resources on needless materials. Recognizing that such problems are some of the most critical, Sections III and IV detail a variety of mechanisms to help reduce this problem. However, even lacking those changes, there are reasons to believe that all is not lost for those who would like to be optimistic about the possibility of a well-run government.

For one, there is an important lesson to be learned from Mr. Powell’s anecdote. The most important factor in making the JCS documents useless was that they were “least-common-denominator.” That is to say, on areas where there was harsh contention

that needed to be advanced to a higher level for decision, such disagreement was instead masked by advancing material that was uncontentious but without substance that was ultimately useless for decision makers higher in the chain of command. In Chapter 4.1 Information, the contexts for adversarial vs. consensus decision making are considered more deeply. However, the lesson here is clear: when lower-level decision makers cannot come to an agreement, such disagreement should be clearly presented to the higher level managers highlighting *all* of the available options in order to be resolved. Indeed, as applied to the JCS, this issue was vastly improved upon passage of the 1986 Defense Reorganization Act which was strongly supported by Colin Powell. A critical change was allowance of the JCS Chairman to voice his/her own opinion to the President while the other chiefs could continue to disagree, rather than having to representing an artificially forced and fake consensus. This demonstrates that, by design, the rules of the bureaucracy can have beneficial (or harmful) impacts on its level of efficiency.

Besides that takeaway, there is also an explanation for why widespread production of supposedly “useless” material is actually critically important for governments. Agencies, legislatures, private sector researchers, and plenty of other actors are perpetually engaged in the process of evaluating and re-evaluating particular policy decisions and potential alternatives. Similarly, when something goes wrong or the unexpected hits, a quick turnaround with a backup plan may be imperative. As such, even if only a limited fraction of material such as reports, policy memos, or process documentation appears useful at a given moment, is critical to preserve ‘response optionality.’ For example, if a terrorist attack suddenly breaks out in Azerbaijan, you can bet that the ground reports and memos the State Department has been ‘uselessly’

producing for decades suddenly begin looking a lot less useless to decision makers that suddenly have an urgent need for that information.

The great quantity of information and data is also critical for government transparency and allowing citizens, investigators, and researchers to understand, evaluate, and especially criticize government actions. This type of clarity is an important check on the potential for corrupt officials, fraud, or abuses of power. Of course, there is nothing to say that the data collection we have now is optimal – certainly we would prefer that government agencies make faster transitions to digital production of materials rather than having departments like the Internal Revenue Service (IRS) relying on paper or even *video tape* methods of holding recorded information. Nonetheless, particularly as citizens who have a vested interest in holding government accountable, we should not be so quick to dismiss the value of the vast materials produced by an administrative bureaucracy, even when its value may not be immediately apparent.

Bureaucracies are rigid and stick to standard operating procedures (SOPs) even when they fail:

This is perhaps the second-most common argument made in favor of the belief that bureaucracies are inefficient. Academics such as Robert Merton and William Whyte Jr. hypothesize that the very environment of “bureaucracy,”²⁷ where people are expected to conform to specific patterns and rules and emphasize methodical focus on details affect

²⁷ This vision of bureaucracy as primarily rules-oriented is a particular conception that this paper does not consider inherently necessary. In chapters 2.1 and 3.2, the notion of reducing this phenomenon by reducing micromanagement by politicians is discussed more thoroughly.

bureaucrats down the their very psyche.^{lxviii} In their view, enough time spent in a bureaucracy is comparable to time spent in solitary confinement: you become so disoriented that you can no longer tell what is real, forgetting the *end goals* you are trying to achieve and substituting them with a hyperactive focus the rules designed to get you there.

While it certainly would not be difficult to a particular example or two to make this point, on average, the overreliance on SOPs is generally overstated across the great diversity of bureaucracies. In particular, this problem is most egregious in cases where legislatures have aggressively inserted themselves in order to micromanage the process. In his classic work *Bureaucracy: What Government Agencies Do and Why They Do It* (1989), James Wilson found that bureaucrats both frequently have some discretion over issues and that a whole host of factors affect how that discretion is used.

When bureaucrats are free to choose a course of action their choices will reflect the full array of incentives operating on them: some will need to manage a workload; others will reflect the expectations of workplace peers and professional colleagues elsewhere; still others may reflect their own convictions.^{lxix}

This conclusion was made following a study of a large variety of bureaucracies; some good, some not; and found that in spite of frequently detailed and esoterically prescribed procedures, bureaucratic missions provided by legislatures are often unclear. For example, the mission of the State Department is to “[c]reate a more secure, democratic, and prosperous world for the benefit of the American people and the international community.” What that statement really means is anyone’s guess; but rest assured that if your boss gave you those instructions, you would probably be smartest to just resign then and there.

This lack of clear legislative direction for what the purpose and goals of an agency are actually helps explain the tendency towards reliance on SOPs that Merton and Whyte criticize. In situations where you do not know what your boss wants from you and all he/she has done is hand you a list of rules to follow, *of course* you are going to just start blindly following the rules.

Bureaucracies are simply inefficient monopolies:

Let us now consider a more specific type of bureaucratic function. Rather than the broad set of all things bureaucrats might do (regulate, produce reports and analysis, etc.) let us specifically consider agencies that provide public services. This discussion begins with a premise that most of the political spectrum – from high liberals to libertarians to conservatives to economists²⁸ – would generally agree: at a minimum, government's role should include the provision of public goods or services where by producing it, one is unable to exclude free-riders from also using the service. Textbook examples include clean air and national defense. Where disagreements begin to arise is when the government provides more than that narrow set of goods. At that line, many argue that it is instead appropriate to privatize other services and leave them to the free market.

Of course, this disagreement is complicated by the fact that the line is irritatingly fuzzy. There are a number of services (garbage, education, etc.) that are provided by both public governments and private companies. Conversely, even supposedly pure

²⁸ Economists have so many unique, odd, and often confounding policy proscriptions that it seems appropriate to provide them their own position on the political map.

public goods such as national defense regularly utilize private contractors. The questions then remain, what role in achieving government objectives should the private sector play and how might it serve as an alternative to publically run bureaucracy? While Chapter 2.1 Democracy, Representation, & Bureaucracy considered the impacts of privatization from the more ethical perspective about its broader impact on democracy, this chapter considers the impact of these theories on efficiency when applied to government actions.

This debate is highly divisive among various political factions. As one author points out, “What [authors like Waldo] might call a well-run bureaucracy, Adam Smith and Milton Friedman might call a monopoly.”^{lxx} Let us consider for the moment the basic assumptions that economists make when taking this perspective:

- 1) All of the actors are rational (generally self-interested)
- 2) Perfect competition
 - a. In a normal market, there are many consumers (in this case, citizens who consume public services) and producers (actors providing the services) such that each side has lots of options from which to choose
 - b. Consumers have good information about all of the choices available
 - c. The fact that consumers can choose the ‘cheapest’ option forces producers into a bidding war that results in the lowest price possible
 - d. Consumers have the *ability* for costless choice among their options (e.g. citizens are perfectly mobile and can easily move from one district to another in response to changes in policies that they do not like)
- 3) Monopolies

- a. Monopolies are inefficient and unresponsive because they have no particular self-interest not to be – there is no competitor to outbid them and the consumer has no alternative than to engage at the price set by the monopolist
- b. Particularly if one view bureaucrats as traditionally “rational” (self-interested in some dimension – personal, professional, institutional, etc.), then the citizen consumers are likely to get a very bad deal

On many dimensions, this case is quite compelling. It also implies a number of odd, but potentially effective suggestions for public policy. For example, even for issues where it seems impossible to effectively use a private company, even a generally decentralized series of jurisdictions may be preferable to a centralized bureaucracy presumably administered foremost at the federal level. The theory goes that consumers who have different preferences for everything from level and type of taxation to type of services provided could look at a large variety of options available to them and move to the district that matches their wants. This ‘competition’ would also force inefficient agencies in some districts to change their ways or face being deserted by the public.^{lxxi} In many ways, this system actually describes the setup of the U.S. as it exists now. Among the various states, state governments implement widely varying policies and even at the local level counties, cities, and districts implement a fully diverse range of policy options.

It turns out that this hypothesis, seminally articulated by Charles Tiebout, produced an explosion of research “on the differences between polycentric (centralized,

single-jurisdiction) and monocentric (fragmented, multijurisdictional) [sic²⁹] government.”^{lxxii} While the research is inconclusive on whether a polycentric or monocentric model results in greater or fewer overall costs,^{lxxiii} a study by William Lyons, David Lowery, and Ruth DeHoog (1992) demonstrates fairly conclusively that, at minimum, some of the key assumptions relating to rationality and perfect competition that were just listed do not appear to hold true.

First, the study found that the mobile consumers assumption (2.d) is fairly restricted and is probably unlikely to produce the kind of pressure the theory requires. While people from fragmented areas were slightly more likely to move than in consolidated ones, the statistical likelihood was still miniscule with an average of 2.66% chance of moving.^{lxxiv}

Second, the study found that not only is the complete information assumption (2.b) entirely invalid, fragmented districts made the problem worse! The study found that people in polycentric regions had very little idea what government services were available to them and that instead, “the residents in our consolidated-government sites were far better informed about their local government services than their fragmented-government counterparts.”^{lxxv} This outcome actually makes a lot of sense when you consider that it is much simpler to inform and explain to a public about a single service that is available to them through one department rather than a maze of services through a maze of departments or jurisdictions that one has to wade through to get what they want. This point alone is sufficient to functionally neutralize the theory – if people do not even

²⁹ The definitions for poly and monocentric are reversed. Monocentric = Single jurisdictional area; Polycentric = multijurisdictional areas)

really know what they are choosing how can we expect people to be responsive to *changes* in policy across decentralized actors?³⁰ And if we believe that consumers are rational and self-interested, is it not then *preferable* to have centralized systems wherein long-term consistency is actually better for generating an informed electorate and thus public accountability?

Moreover, as a more general third point, there is little evidence that bureaucrats perform their job with a ‘self-interested’ attitude that manifests in a manner that is consistent or measurable. Lacking that, the assignment of the government as a ‘rational producer’ is no longer viable and it is unclear that external ‘competitive’ pressures will have any significant impact in swaying policy decisions.

Of course, it is impossible to side one way or another on the Tiebout hypothesis’ value lacking hard empirical evidence to affirm or rebut it. However, the response is sufficiently mixed that, for the time being, it does not present a deadly objection to centralized bureaucracy as we currently understand it.

³⁰ One might argue people do not consider this information from day-to-day but they do heavily consider it when moving – even if they may be moving for reasons such as jobs or family rather than over public policy. A study by Teske et al (1993) showed that information among movers was actually worse than that among non-movers – 24% accuracy by non-movers compared to 19% by movers. This held across all variables with the exception of income.

Section 3: Bureaucratic Organization

Energy in the executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws; to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice; to the security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy.

– Alexander Hamilton, Federalist No. 69, March 14, 1788

Section Overview

Up to this point, we have considered very little that would be useful for practical application. While the previous Section was largely theoretical and defensive,³¹ this Section will begin covering a positive way forward. In particular, the purpose of this Section is to cover the ways that bureaucracies are *structured* and the lessons that can be learned on how best to organize bureaucratic systems. After all, despite the previous argument that bureaucracy is the least-bad form of administration, that point does little to convince people that bureaucracies are largely lean, clean, governing machines. With that in mind, it is important to consider and make recommendations on how to improve the efficiency and quality of bureaucratic branches rather than accept their current stereotype as dysfunctional and inoperative groups of “committees” that seem to perpetually spin useless gears.

The first chapter will cover the importance of specializing different bureaucratic divisions and along which dimensions to do so. The second chapter focuses on the importance of autonomy. This includes political independence for the whole bureaucratic system as well as appropriate levels of autonomy for a variety of actors throughout the system. Naturally, it also addresses issues of jurisdiction among competing branches and agencies. Finally, the third chapter includes lessons on how to improve the accountability of bureaucratic actors, the current role of parties engaged in oversight, and the incredibly damaging effects that improperly structured oversight can have on bureaucratic efficiency.

³¹ It responded to arguments made by critics of bureaucracy and simply provided a *justification* for an expanded bureaucracy more than articulating a clear path forward.

3.1 Specialization

Specialization lies at the heart of any social organization system. In the very first sentence of the famed *Wealth of Nations*, Adam Smith attributes the greatest improvability in worker productivity to the division of labor that allows individuals to specialize in skills of their comparative advantage. Just as the private sector reaps monumental gains from labor specialization, it would be reckless for any bureaucracy to do otherwise.

The purpose of this chapter is to stress the importance of bureaucratic specializations and illuminate agencies which manage to perform quite well (or poorly) as a result. There are also a number of dimensions on which specialization can be most effectively done: (in descending order of importance) type of expertise, level of risk, and jurisdiction. Furthermore, as has been discussed throughout this work, clarity of purpose and mission is crucial for performance of bureaucrats so that they may best understand their objectives. Finally, it is important to remember this lesson even in application to institutions that *are already working*. In particular, bureaucracies that are currently effective will not necessarily continue to be so if they are overburdened with tasks that violate any of the above conditions.

The Role of Experts

The entirety of this paper has relied on the use of experts in making policy. The mantra emphasizes ‘experts making expert decisions.’ While the argument is likely self-evident, it bears emphasizing here, lest the point be understated.

Many of America's most trusted and competent institutions are the ones most reliant on field experts, especially scientists and engineers. Bureaucracies that know the value of their experts and make them central to the decision-making process are prone to be considered more professional and meritocratic. The Centers for Disease Control (CDC) for example highlights all of its higher level experts prominently on their website.^{lxxvi} The Environmental Protection Agency (EPA) similarly lists all of their experts with their particular specialty, department assignment, and contact information.^{lxxvii} The Food and Drug Administration (FDA) has an alternative approach that allows it to readily connect with academia and the private sector – the FDA has established connection with nearly every medical and health association in the U.S. whose members provide invaluable clinical advice and keep the agency up-to-date on the most recent scientific findings and theories.

As another example, the Army Corps of Engineers is a model for bureaucratic efficiency combining the discipline of the military with the expertise of engineering. The Corps is divided into both functional and regional subgroups with clearly delineated jurisdictions (see below),^{lxxviii} and requires an intensive amount of training under EM385-1 guidelines.^{lxxix} The Corps is highly professional and some even maintain that the catastrophic devastation caused by hurricane Katrina was largely on account of local governments' unwillingness to listen to the expert advice of the Army Corps of Engineers.^{lxxx}

Division by Risk

Beyond specialization among employee talent/technical expertise, structural specialization is also critical. While it is often neglected by pundits, perhaps the second most important aspect of structural division within a bureaucracy is division by risk profile. Basically, some institutions such as the Department of Agriculture (DoA) cares far less about the security and scrutiny of particular pieces of information than, say, the Central Intelligence Agency (CIA). This is natural, the CIA deals with far more sensitive information and situations than the DoA. However, because of the limits on the flow of information, information and decision making is transmitted far more slowly at the CIA than other agencies.³²

Aside from the fact that agriculture and international intelligence have nothing to do with each other, if the two agencies were put under the same roof, information speed would have to default to the lowest common denominator. The CIA could not afford to risk information slipping out; and so the DoA would have to unnecessarily adopt the same strict, but transmission retarding standards as the CIA. This deadweight loss can be a massive source of bureaucratic inefficiency if agencies are not separated according to their risk level.

Even within the CIA, this problem can arise. 90% of the CIA's information is said to come from public sources and a significant portion of its staff dedicated to analyzing this non-sensitive information.^{lxxxii} However, because intelligence gathering is housed in the same department as other clandestine operations (and the wall between public source

³² Alternatively, information could be pushed to move quicker in the event of an emergency, but far greater resources must be dedicated to accomplish this goal.

analysis and covert information analysis is insufficiently defined), this large amount of analysis done by the CIA that could be quickly accelerated to senior officials is instead stuck far longer at the lower levels, greatly reducing transmission speed.

Indeed, the 9/11 Commission found that this problem was, in part, a factor that contributed to the intelligence failures leading up to 9/11:

[A]t least for the CIA, part of the burden in tackling terrorism arose from the background we have described: an organization [...] institutionally averse to risk with its capacity for covert action atrophied, predisposed to restrict the distribution of information, having difficulty assimilating new types of personnel and accustomed to presenting descriptive reportage of the latest intelligence. The CIA, to put it another way, needed significant change in order to get maximum effect in counterterrorism.^{lxxxii}

In this situation, the CIA would greatly benefit from spinning off, or at least more stringently walling off, non-sensitive parts of its intelligence analysis apparatus.

Similarly, the relatively high-risk (stringent control) State Department was forced to assume control over the lower risk U.S. Information Agency (USIA) which was closed in 1999.^{lxxxiii} Since its formation in 1953, its mission had been one of “public diplomacy” – in short, its mission was to spread U.S. culture (arguably, low-level U.S. propaganda) to foreign countries and help clarify (read: positively spin) but not develop U.S. policy towards other nations.^{lxxxiv} Since the USIA was about promoting U.S. culture, it was much less concerned with intricacies such as wording of internal cables or press releases. As a result, it was able to rapidly conduct a variety of activities ranging from promotion of U.S. movies to hosting U.S. cultural events.

During the consolidation, the USIA lost a significant number of characteristics that made it efficient and cost-effective as it adopted lengthier State Department protocols. Although the position of Director of USIA had direct connection and authority over the various geographic offices allowing information to flow quickly (little ‘analysis’ was needed) and responses to follow soon thereafter, the USIA had to soon rely on the various geographical bureaus housed within the State Department.^{lxxxv} Furthermore, while the former USIA had a stable source of funding that could be quickly deployed to a variety of projects, in the State Department, funding is now controlled by the functional bureau above the agency which has to decide whether to fund public diplomacy efforts among a number of other concerns - funding is not guaranteed to be available and requests for projects must be made on a regular basis.

These examples highlight the danger of an overreliance on grouping by ‘subject area.’ Insofar as an agency can be subdivided into even more specific roles and still find itself with a meaningful amount of work to do, it ought to be. Later we will discuss the harms of overburdening effective institutions but it is equally important to ensure that levels of risk, quality control, and speed of information/decision transmission, among other variables are compatible before joining institutions (or when deciding whether to split them).

Jurisdiction and Clarity of Purpose

Clarity of jurisdiction and purpose are two more factors that are integral to efficient administration. Chapter 4.1 Information will discuss some of these effects specifically in regard to intra-agency operations but since further ‘specialization’ by

creation of new departments or division of old ones produces new bodies of bureaucrats, it is important to ensure that each of them has an equally clear purpose. Similarly, clear jurisdiction is essential to prevent various bureaucracies from fighting over authority or wasting resources trying to increase their jurisdiction if the boundary is unclear.

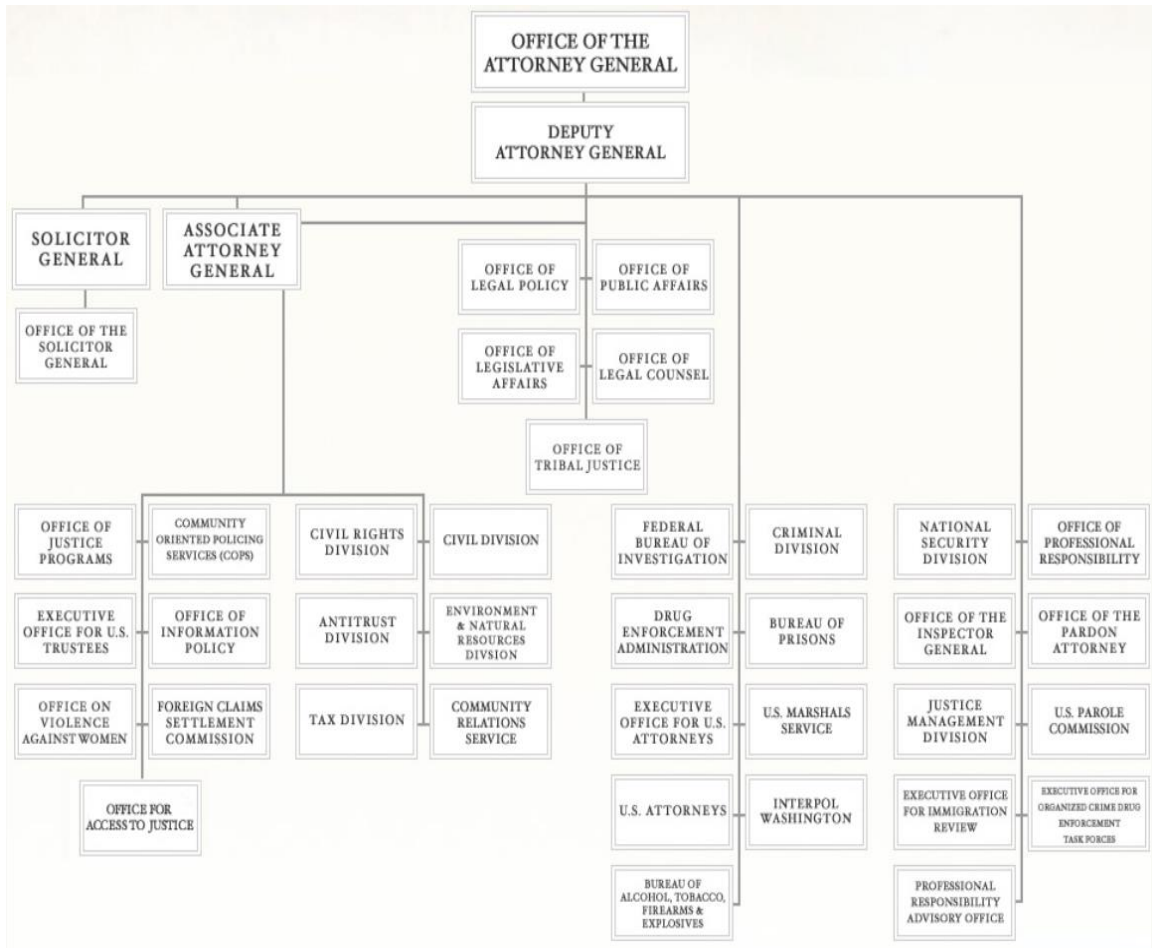
The Department of Justice

The Department of Justice (DOJ) generally and Federal Bureau of Investigation (FBI) specifically both exhibit these qualities and demonstrate the advantage of jurisdictional specialization. What is remarkable is that despite the enormous scope of the Department, its overall mission is actually quite clear:

To enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans.^{lxxxvi}

Unlike the State Department's mission mentioned in Chapter 2.3 Bureaucratic Efficiency & Centralization, the DOJ's mission focuses specifically on crime and legal administration (specific to its functional jurisdiction) and even provides guidance on the sub-areas on which to focus. Moreover, organization of the Department of Justice continues to assign clear functional roles to each sub-department. Figure 3.1.1 shows the organizational structure of the DOJ.

Figure 3.1.1^{lxxxvii}



A quick glance will show that the sub-departments of the DOJ are roughly organized into four further functional groups which are easy to keep track of: agencies related to community facing roles (civil rights, environment, community relations, etc.), a policy affairs group, an enforcement group (FBI, DEA, etc.), and an enforcement group that specifically handles issues that could involve national security elements (national security division, immigration review, etc.). The clear demarcation of these functions allows a department responsible for errors to be easily identified thus accelerating responsiveness and reducing the probability of repeated mistakes.

Furthermore, even within the sub-groups, agencies retain their clarity of mission. The Drug Enforcement Agency (DEA) assumes responsibilities specifically for controlled substance laws,^{lxxxviii} the tax division handles issues related to tax fraud, etc. The FBI also plays an important role in this arrangement. The FBI is tasked with the “authority to investigate all federal crime not assigned exclusively to another federal agency.”^{lxxxix} In essence, the FBI plays the role of mopping up anything not covered by the other sub-departments. This is important as a miscellaneous case is not handed arbitrarily to sub-departments which do not specialize in the case and are ill-equipped to handle it. The remainder of the DOJ can remain specialized and not dilute their clear missions and expertise. A key lesson for specialization is to recognize that pre-meditated specialization cannot predict the unexpected; consequently, among a variety of specialized bodies, a highly professional generalist group is necessary to catch issues that would otherwise fall through the cracks.

There are even more factors that make the FBI a particularly good example of a highly efficient organization. J. Edgar Hoover was responsible for making a number of reforms that brought the FBI to the prominence it holds today.^{xc} These included “weeding out incompetent employees, stepping up requirements for special agents, and instituting regular inspections at Headquarters and in the field offices.”^{xcii} In effect, making the FBI into a professional, meritocratic civil service. Furthermore, the agency was tasked with long-term coordination projects that helped coordinate information between all law enforcement agencies including the national fingerprint database, “collecting comprehensive crime statistics,” and initiating formal training for law enforcement.^{xciii} These are projects that may be inappropriate or would languish in other specialized

departments – directing the generalist branch to coordinate inter-specialization efforts is an efficient assignment of comparative advantage. Finally, despite being the ‘catch-all’ department of the DOJ, the FBI is remarkably well funded. In 2015, its \$8.3 billion budget exceeded one-fifth of the entire DOJ budget.^{xciii} In essence, if a generalist team is meant to catch any stray issues not covered by other sub-agencies or if it is meant to run long-term programs, it is important that it is not neglected as a subsidiary consideration.

The Commerce Department

On the other side of the coin, the Commerce Department is a prime example of the failure to institute clear mission, purpose and jurisdiction. While its purpose is nominally to promote U.S. business at home and abroad,^{xciv} the Commerce Department houses over 19 sub-agencies ranging from the National Weather Service to National Marine Fisheries to the Census Bureau.^{xcv} Notably, the National Oceanic and Atmospheric Administration is also under the purview of the commerce department. That is correct, the administration largely responsible for monitoring and reporting on the potential impacts of climate change (in large part caused by business admissions) is under the jurisdiction of the department tasked to promote the interests of business.

Aside from the flagrant and disturbing conflict of interest, this hodgepodge collection of agencies clearly suffers from a lack of unifying purpose or specialization based on expertise. In fact, this problem has become so abundant that *even Congress* has been considering proposals for reformation – regrettably these proposals have been repeatedly made and ‘considered’ for decades.^{xcvi} What is particularly odd is that there

seems to be little reason for this lack of specialization. As President Obama's recent proposal for restructuring highlights, there are no less than five other *independent* U.S. federal agencies with varying tasks directed towards promoting U.S. business including the Export-Import Bank, the Overseas Private Investment Corporation, the Trade and Development Agency, and the Office of the Trade Representative.^{xcvii}

The reason why such Congressional reformations have failed thus far could actually be predicted from the conclusions in Chapter 2.2 Efficiency vs. Politics – everything is political. In particular, congressional republicans oppose reorganization to centralize these economic bodies on ideological grounds that it would make the government agency too strong as it would closely resemble Japan's highly centralized Ministry of International Trade and Industry (MITI).^{xcviii} While mentioned briefly in Chapter 5.2 Japan vs. China, up to the 1980s, MITI provided a central role in Japanese economic planning with highly respected bureaucrats working closely with leaders of major industries and it is often praised as being a well-administered bureaucracy that played a crucial role in Japan's strong economic development.

Meanwhile, the Commerce Department continues to languish. It is a little known administration to the American public that is riddled with division in jurisdiction, purpose, and type of technical expertise. Its sub-agencies falter due to lack of clear coordination as the Patent and Trademark Office generates large backlogs of applications,^{xcix} oceans and fisheries faced rapid depletion without a response until confronted with intense public pressure,^c and the Census department relies on hopelessly

outdated technology.^{ci} Poor jurisdictional and objective clarity causes significant inefficiencies within/among bureaucratic branches.

Overburdening: The Death of an Institution

Finally, while it may be easy to get caught up in some of the examples of properly structured bureaucracies, it would be dangerous to forget that bureaucracies cannot do everything. In particular, specialization requires that new tasks are not assigned to existing bureaucracies just because they are seen as ‘efficient’ – the fact that they are efficient at what they do now (and with the jurisdiction, clarity of purpose, etc. that they have now) does not mean that they will continue to be so when additional functions are added on. The most tragic story is obviously the aforementioned Commerce Department that became a figurative Christmas tree of bureaucratic sub-agencies. However, the Federal Reserve and State Department, while still generally respected, face these problems even now.

The Federal Reserve’s sense of purpose and available tools used to be fairly straightforward: through Open Market Operations, the Fed controlled interest rates and inflation to facilitate stable economic growth and, later, reduce unemployment. However, since its creation in 1913, the Federal Reserve’s role in supervising and regulating banks has exploded. Despite the various bank failures in 1971 demonstrating the Fed’s inability to properly regulate the banks that it was also in charge of supporting (recall that the regional Federal Reserve offices are quasi-private),^{cii} Congress continued to task the agency with greater supervisory responsibilities. As such, in 2008 the Federal Reserve was placed in the awkward situation of trying to simultaneously regulate the nation’s

largest financial institutions while also trying to keep them afloat to prevent massive systemic risk. The Federal Reserve faces both a conflict of interest and a potential inability³³ to properly regulate financial institutions – this distraction only serves to undermine the credibility and efficacy of the Federal Reserve as it was once known.

As mentioned above, the State Department has had to manage the inclusion of external agencies such as USIA and the Arms Control and Disarmament Agency. While these agencies had sufficiently clear purposes and jurisdictions when they were independent (and could still coordinate closely with the State Department), they were functionally tacked onto the existing State Department Responsibilities. While, given the circumstances, the State Department has managed to do unusually well in managing what is otherwise a fairly unwieldy bureaucratic organization, its efficacy could be improved by further sub-division or outright separation of ‘non-core functions’ (see Chapter 4.2 Implementation) in order to focus specifically on bilateral relationships and embassies with/in countries around the world.

Conclusion

As discussed throughout this work, it goes without saying that experts are, by definition, the most qualified individuals to make decisions related to their field of expertise. An efficient bureaucracy will make sure to center these experts at the forefront of its policy making. Structurally, bureaucracies gain efficiency when their risk levels are commensurate with the information/situation they are handling and when their

³³ Due to the lack of centrality regulation plays in the Federal Reserve’s broader mandate, regulation becomes only one of many concerns the institution has to deal with.

jurisdiction and purpose is clear. However, one must be watchful of the potential to overburden an otherwise effective institution. While such actions may be intuitively compelling or politically convenient, the ultimate impact on administrative bureaucracies can be detrimental.

3.2 Autonomy

Central to the concept of a professional and capable civil service is the notion that policy decisions are made based on professional expertise, not political advantage. As we discussed in Chapter 2.1 Democracy, Representation, and Bureaucratic Capture, one of the most common reasons for bureaucratic failure is actually due to micromanagement from politicians that are acting for their personal political interests. As a consequence, a healthy bureaucracy requires a certain level of autonomy from its political controllers to insulate it from wild swings in the political climate that could coopt the bureaucracy or be detrimental to any long-term efforts.

Political Independence

While there are many aspects that contribute to bureaucratic autonomy, perhaps the most central is independence from political controllers of the bureaucracy. In Chapter 2.1, we assessed some of the concerns related to democratic capture. However, the inefficiency of political wrangling goes beyond that – stalemates based on ideological intransigence as well as competing regional interests create collective action problems that significantly delay critical policy making.

Admittedly, in some cases these issues can be overcome. Notably, they are overcome by Congress decidedly *taking discretion out of their own hands* to avoid the political competitions associated with policy micromanagement. For example, over the course of normal operations, the Defense Department realizes that some bases are no longer useful and ought to be shut down. Unfortunately, when they make these

recommendations to Congress, individual congressmen who have a base in their district obviously oppose such a decision and want to force the DoD to continue their operation. Even more frustratingly, representatives from other districts support such efforts as they are afraid that ‘their base could be next’ and prefer to side with keeping the unnecessary base open in the hope that others will return the favor.^{ciii} In order to resolve this problem, Congress passed the Base Closure and Realignment Act of 1988 which forced itself to take an all-or-nothing approach to base closure.^{civ} Since congressmen in the abstract could agree that bases needed to be closed, the new procedures made it such that if the base closures recommended by the DoD were not unanimously rejected, the Department was empowered to unilaterally begin the closures.

This example highlights a perfect example of how, by legislative design, democratically elected representatives can still retain a say in decisions that they feel are particularly poor but leave the default prerogative to the agency which can best determine what they do or do not need. Regrettably, these examples are far rarer than we might like. Instead, it is probably easier to structure agencies that are more independent by design rather than Congress ‘self-policing’ on a case-by-case basis.

Many examples of the most trusted federal institutions in America^{cv} are also the most independent. Agencies such as the Food and Drug Administration (FDA), the National Science Foundation (NSF), and the Centers for Disease Control (CDC), tend to face little congressional micromanagement about their decisions or procedures and are simultaneously widely regarded for their expert/professional decisions and benefit from significant public approval – certainly more than our elected representatives.

A great example of the advantages attendant with politically independent executive bureaucracies is the Federal Reserve. Compared to central banks of other countries, the Federal Reserve has unusually wide discretion for setting objectives and available tools including expanded Open Market Operations, more flexibility in interest rate determination, and the ability to autonomously set inflation targets. What is unique about this arrangement is that while central banks usually either have control over the *goals* they are meant to achieve or the *means* by which they can do so, the Federal Reserve is fairly unique insofar as it has fully autonomous authority to do both.^{cv}

Obviously, the Federal Reserve has a number of other components that make it a trusted institution. It hires experts with highly advanced degrees that are specialized in their field pursuant to the recommendations made in Chapter 3.1 Specialization. Nonetheless, experts suggest that the Fed's value is derived even more from its political independence and ability to make difficult decisions than from its expertise.^{cvii} For example, elected officials responsible for fiscal policy have great incentives to inflate their way out of debt in the short-term. However, Federal Reserve policy ever since Paul Volcker's tenure as Federal Reserve Chairman has successfully countered those pressures as rampant inflationary policy may destabilize the economic system and not be within the nation's long-term interests.

In sum, bureaucracies that are granted political autonomy and are permitted to hire and make decisions based on experts to the field rather than political considerations are likely to generate decisions with greater long-term focus, public approval, and overall efficacy.

Bureaucratic Jurisprudence and Administrative Law

Having discussed bureaucratic autonomy from the perspective of legislatures, it is now time to consider bureaucratic autonomy from the courts. One may ask, “what do executive agencies and courts have in common and in what sense does bureaucracy need independence from the judiciary?” This question brings us to a discussion of administrative law.

Administrative law is the body of law that governs the activities of government agencies. Some agencies, particularly regulatory ones such as the Securities and Exchange Commission (SEC) or the Environmental Protection Agency (EPA), are granted authority to make rules, adjudicate them, and enforce them. Over the course of this process, disputes arise either because the agency believes someone has violated a rule and the subject disagrees or because a subject of the regulation wishes the agency to reconsider the rule if there are broader impacts the policy did not originally intend for. When these cases arise, they are adjudicated by an administrative law judge (ALJ) who is typically an expert of the field being governed, the agency making the rules, and generally of law.^{cviii} The ALJ’s role is comparable to that of a trial judge: they take oaths, administer testimony, collect and rule on evidence, and make a variety of factual determinations.^{cix}

The role of these administrative legal proceedings varies across the globe. Administrative law in commonwealth countries such as Australia,^{cx} the United Kingdom,^{cx} and Canada^{cxii} (among others) tend to have specific procedures that describe the process for judicial review of administrative cases. In essence, one brings a dispute to the ALJ who adjudicates; and if one is unsatisfied with the result, they retain the right to

re-litigate the issue in front of the general court system (judicial review) on grounds that vary across country. While many of the described procedures mentioned for commonwealth countries in some ways limit the grounds on which issues can be re-litigated, countries like the U.S. have very broad limitations which means that almost all negative decisions can be re-litigated.

In essence, an administrative bureaucracy whose experts are best equipped to assess the facts of a case and often best suited to interpret the regulatory rules that were issued (after all, the agency did issue the regulations themselves, best know what their purpose was, and have the most experience interpreting instructions to their agency from Congress) gets to hear the case first. But in countries with broad judicial review, parties, particularly corporations, who have decisions that are made against them, have the ability to functionally ‘hit the reset button’ and redo the trial³⁴ in front of a judge who is probably not an expert in the particular subject matter.

This system has two significant negative effects. Firstly, as noted above, the ultimate decision about the policies is stripped from the bureaucratic experts who are best equipped to assess the facts and determine the criterion for ‘efficiency’ – they know what the regulation was supposed to accomplish and what the proper interpretation of the rule(s) are. Particularly for highly technical cases such as environmental or financial cases, evidence suggests that most judges are simply unqualified to handle these cases or even identify what evidence ought to be admissible.^{cxiii} Secondly, the ability to restart the litigation process is highly inefficient. For one, it only decreases the chance that

³⁴ In fairness to the judicial review process, depending on the specific country’s restrictions, the type of arguments that can be heard may be limited. For example, one may not be able to re-litigate the facts of the case, merely whether the decision was made without bias, with regards to the ‘right’ criterion, etc.

regulations actually have deterrent effects by increasing the likelihood that a company can escape facing punishment as it only has to have the case decided in its favor in *either* of the two proceedings. For another, the same process is literally duplicated (but with worse quality). Given how backlogged the American court system already is,^{cxiv} replicating this process is costly both monetarily and ethically.³⁵

Of course, that is not to say there is no time that judicial review may be appropriate. The judiciary may be required to intervene in cases where the government may have greatly overstepped its bounds and may be responsible for a significant Constitutional violation. Similarly, a clear demonstration of political bias or conflict of interest may be worthy of reconsideration. In either case however, a reconception and radical narrowing of the grounds on which administrative law can be reviewed by general courts would both improve the quality of bureaucratic policymaking and the overall cost of the American court system.

While such a change might be radical from the perspective of American jurisprudence, such systems are not uncommon throughout the world and demonstrate the efficacy of such arrangements. Unlike in commonwealth countries, judicial review of administrative law in civil law countries tends to be far more restrained or even non-existent. For example, French administrative law (the basis of a widely used doctrine called “Continental administrative law”) relies on a series of administrative courts for the majority of the process only allowing appeal at the last stage to the most senior “Council of State” in limited circumstances.^{cxv} In classic fashion, Germany has a variety of systems

³⁵ Cases which may rely on far greater urgency are delayed which causes a variety of harms, particularly for poorer parties trying to get justice in the judicial system.

that is basically a whole bureaucracy of administrative law itself!^{cxvi} Even more resistant to judicial review, Sweden's system of administrative courts is entirely separate from the general court system.^{cxvii}

These examples show that greater bureaucratic autonomy from the conventional judicial system is perfectly compatible both with protecting the rule of law and a healthy, modern state. Furthermore, they possess all of the advantages mentioned above including greater input of experts on regulatory policies and fewer wasted resources on duplicated litigation procedures.

So what is the status of administrative law in the U.S.? As mentioned earlier, the U.S. already has very few requirements relative to most of the modern world that limits what is eligible for judicial review. But if that were not bad enough, in a 2015 injunction in *Charles Hill Jr. v. Securities and Exchange Commission*,^{cxviii} a federal judge functionally ruled that an administrative law proceeding was unconstitutional because the ALJ was not directly appointed/accountable to the President. Since ALJ's are frequently expert bureaucrats/lawyers who are appointed by officers of an agency on an as-needed basis, their appointment is not typically done directly by the President or a senior official. While the implications of this case are unclear as it remains unresolved, it has the potential to greatly undermine the role of administrative law in the U.S.^{cxix}

Conclusion

While accountability of anyone in government is highly important (and discussed in the next Chapter 3.3 Accountability), for a professional civil service it is equally

important that expert bureaucrats are given sufficient freedom to make expert decisions. Whether agencies need greater political autonomy from politicians in the legislature, or the ability to enforce their own regulatory rules without the interference of an unqualified judiciary, bureaucratic actors need greater autonomy in order to make efficient, effective, and lasting policies.

3.3 Accountability

For most people, accountability has been the cornerstone of incentive driven behavior throughout the course of their life. Whether it was being discovered taking an extra cookie as a child, worrying about being found cheating on a test as a student, or your boss realizing that you are slacking at work, the notion of ‘being caught’ and held responsible for your decisions is what determines so many of our actions and, perhaps unfortunately, particularly our actions to do good. The purpose of this chapter is to discuss ways in which bureaucratic accountability can be increased, thereby improving the quality of governance by bureaucracy.

Minimizing the Unit of Responsibility

A fundamental premise to the notion of holding people accountable is that people responsible for a particular outcome can be identified and subsequently punished or rewarded. However, this task is significantly more difficult than one might think.

To showcase this difficulty, imagine you are a teacher of a very noisy classroom. In order to teach effectively, you need to get the class to quiet down. Unfortunately, every time you turn your back to write on the board, some students start whispering to each other. The more some people whisper, the more other people join in and as the noise level increases everyone speaks louder in order to be heard. Eventually this escalates into an unstoppable crescendo that you can never seem to prevent for long. You are convinced that if you can find an instigator, whoever is the first to start whispering, you can crack down on him/her and stop this whole chain of events.

Unfortunately, you face a number of problems. First, the students only ever talk when your back is turned and when you look back at the class, the culprit could be anyone! It is possible that with enough effort you could identify the person responsible, but asking every student one-by-one who started talking until you had a definitive answer would require a lot of ‘resources’ and ultimately take more time away from teaching than just dealing with the noise. As if that were not bad enough, it may not even be the case that there is a single individual responsible. If there are multiple groups that all start the whispering at once, there is no single individual and it is impracticable to (a) identify the specific groups throughout the class, or (b) punish the entire class under the assumption that the people who *are* responsible will be included. If anything, that may make the problem worse as there is no deterrent effect – if everyone will be punished for some talking anyway, the students who were previously non-talkers may as well join in!

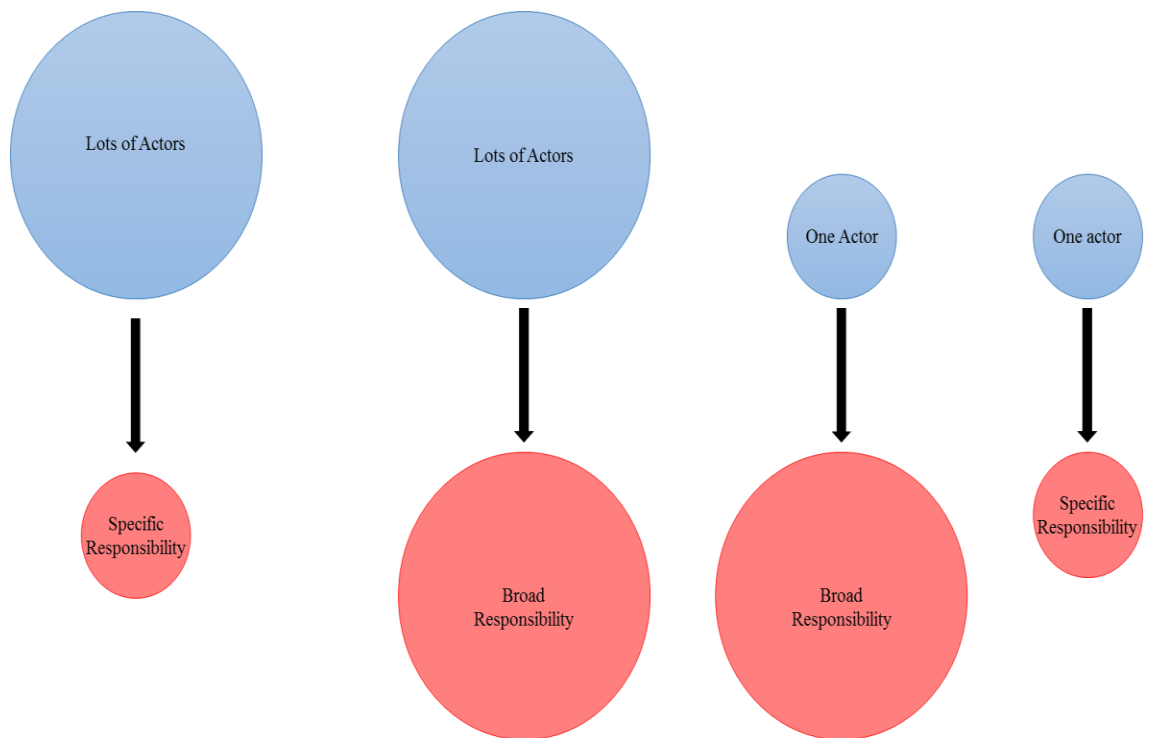
In many ways, this is similar to trying to hold bureaucrats responsible if their jobs are ‘undifferentiated’³⁶. It is far too costly to identify a particular person responsible when someone goes wrong and frequently people’s responsibilities overlap and so it is impossible to find an individual responsible. In the world of economists, this is considered a type of classic principal-agent problem.

Indeed, beyond the world of bureaucracy, this setup explains why it is so difficult for voters to hold their elected representatives accountable for anything. To conceptualize this, consider two sets of divides: between the agent and what they are responsible for;

³⁶ Undifferentiated in this context merely means that what one individual is responsible for is undifferentiable from anyone else. Either other people equally share the responsibility or there is no metric to determine how much you contributed to the group effort.

and for each of these, are the agents/responsibilities diffuse or concentrated. This provides four possible situations as highlighted by Figure 3.3.1.

Figure 1



The first example where there are a lot of actors responsible for one thing is the responsibility structure for undifferentiated bureaucracies. When something goes wrong, the problem is clearly identifiable. However, while we may be able to identify the collective group of people who were responsible (the State Department, the CIA, the Federal Reserve, etc.), identifying the particular bureaucrat who could have and should have been expected to stop, notice, or do something is very difficult. As it is hardly practicable to fire or punish a whole department, such situations often result in condemnations to ‘do better’ and a senior official resigning. For reasons we will see in situation three, this is an ineffective manner to incentivize senior officials and leaves

lower level officials without a strong incentive to expend effort to prevent such situations in the future.

The second example with lots of actors and a broad responsibility is comparable to the way we treat Congress. As it is the worst of the incentive structures, it should be unsurprising to us that citizens are so dissatisfied with Congressional performance. In this arrangement, two scenarios are possible.

Scenario #1 will be called the ‘midterm elections’ situation. Imagine a variety of things in the country are going badly, economic growth is poor, our foreign relations are souring, and people are generally dissatisfied. Congress is nominally responsible for all of these things. Furthermore, let us put aside the issue of being unable to identify actors – we can look at the voting record of all of the representatives. However, because every given representative voted on all of these things, their record is probably mixed. Maybe some representatives voted for a good stimulus package but voted against a key international treaty. How do we view these votes? Moreover, how do we evaluate their vote on an arcane change to the structure for the CIA that does not receive much media attention but may have consequences that are only evident years down the line? Do we keep them or vote them out of office? The answer seems unclear and seems (at least empirically) to result in us only voting out the people who explicitly voted poorly in all circumstances or blaming and voting out an entire party all at once.

On the flip side, we will call scenario #2 the ‘incumbent bias’ situation. Let us say that in this situation the broadness of responsibility is not a problem – the only problem for voters is the status of the economy. Unfortunately, the Congress is gridlocked about

the best way to improve the economy and is unable to pass any legislation. In spite of the problem being evident, who exactly is responsible for the gridlock is unclear – unlike the above scenario, inaction prevents us from identifying the particular legislators at fault. In this world, who do we vote out of office to punish? Putting aside the possibility that one party might be framed as more responsible than the other, the answer appears to be no one. As observed in Chapter 2.1 Democracy, Representation, & Bureaucratic Capture, despite unprecedentedly low voter approvals for Congress as a whole, the chance for reelection for incumbents in Congress is almost 100%! This outcome only makes sense in the context of being unable to figure out whom specifically to hold responsible.

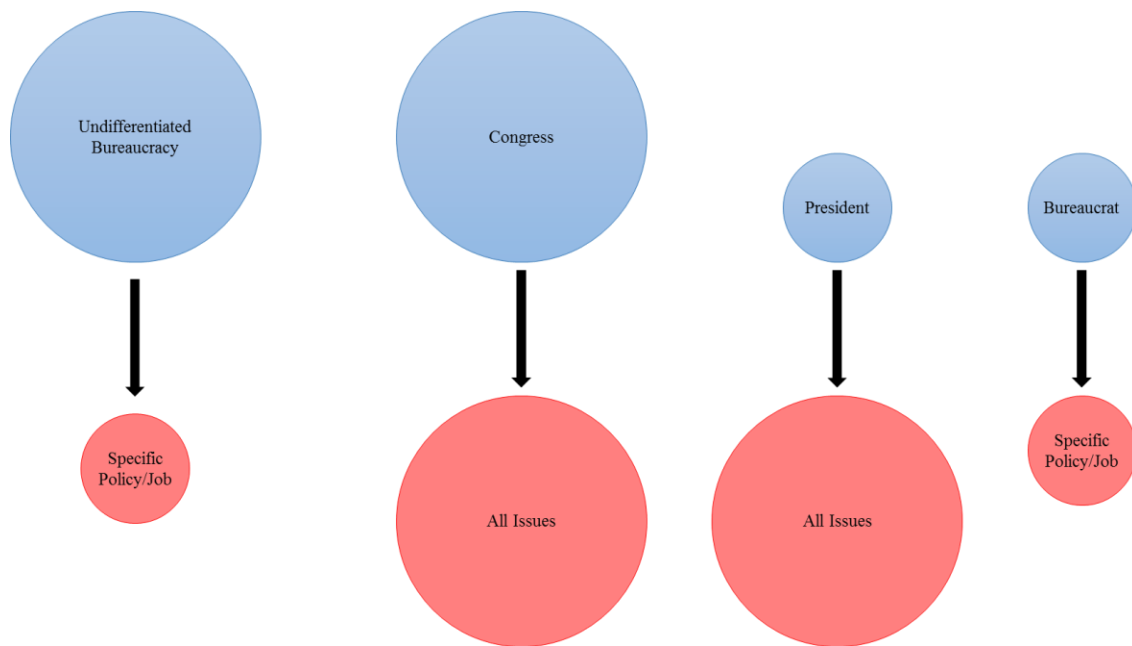
In reality, these scenarios are occurring simultaneously. As a consequence, it is basically impossible to properly incentivize Congressional representatives to vote for any particular plan. Goodbye conventional notions of democratic accountability!

If you are inclined to think that this problem is solved by focusing all of our attention exclusively on the President and his/her administration, think again. This is the third example where one person is held to account for a great many responsibilities. The President prototypically embodies this role as the decision of whether to vote for him/her could be based on any infinite number of decisions they made, and even many things for which he/she was incapable of influencing. This is a poor incentive structure for two reasons: first, just like for Congress, how should we evaluate a President who makes some ‘good’ decisions and some ‘bad’ ones? Without clear metrics, a President merely has to guess at what the electorate thinks is more/less important than anything else. Second, because of this, voting a President out of office means very little – what was the

straw that broke the camel's back? Because the reason for losing an election could be a result of any number of decisions they made, the incoming President has no better information for what the public would like him/her to prioritize.

All of these relationships can be seen in Figure 3.3.2, but we are with our fourth and final option: a concentrated actor responsible for a specific job/outcome. This is both the ideal structure for a bureaucracy and, because bureaucracies have the capacity to be structured in this way, why bureaucracies can be so efficient as governing institutions.

Figure 3.3.2



This structure is ideal because if something goes wrong, the person responsible is easily identifiable and can be punished. Knowledge both that they will be found out and of what specifically will trigger a negative (or positive) response is a strong incentive to behave in accordance to what is being incentivized. Of course, in order to have such a

structure and avoid the ‘undifferentiated’ bureaucracy, a couple of elements are key. First, a bureaucracy or incentive structure should avoid instances of shared jurisdiction of responsibility. If too many different people (or departments) are responsible, it will be too easy for anyone to point the finger at someone else when something goes wrong. If a job simply requires multiple people to be accomplished, assigning one person to be ultimately responsible for the outcome ensures that there is an actor with sufficient drive to closely monitor the task.

Of course, this assignment of responsibility cannot be blindly carried up a chain of command – after all, the same problem still exists wherein many people are responsible for one thing and it is impossible to determine who is at fault. On a related note, if the number of people required to accomplish a task becomes prohibitively large (rather than a small group of people a single person can be responsible for), the recommendation above is inapplicable. To compensate for these problems, it is important at every point in the chain of command to have key ‘production goals’ that are measurable on an individual level.

These measurable goals will vary from level to level. For example, analysts at the lowest level may be responsible for covering a number of specific issues (at the Federal Reserve it might be keeping tabs on a number of banks for solvency concerns, at the State Department, it might be generating any report relevant to Mongolian agriculture policy). This ‘jurisdiction’ (read: responsibility) is ultimately within the purview of the analyst and is thus subject to quality control – if the individual neglects to identify something crucial among the data, he/she is personally held responsible. Moving up a few levels,

middle managers are responsible for taking these reports and escalating issues to senior officials. A number of ways to control these transfers are discussed below but these individuals should be responsible for prioritizing the importance of these issues before advancing them to their boss. Over time, these managers should be evaluated on the basis of how their prediction of the appropriate priority of issues is ultimately reflected in reality.

The vagueness here is an unfortunate necessity since what a person could be held responsible for varies vastly from organization to organization. However, in the abstract, properly structured and measurable objectives on the individual level can solve both of the issues mentioned above. Being assigned differently to individuals at every level of the bureaucracy both closely defines what a particular person should focus their attention on and disincentivizes slacking on the basis of shared responsibility. For situations where significant group collaboration is required, these standards can help evaluate the party or parties that are contributing least and thus hold them accountable. In a best case scenario, such an arrangement results in an ‘arms race’ of productivity as parties struggle never to be the lowest level contributor.

Incentivizing Performance

This leads us to the controversial subject of performance incentivization. Currently, government institutions struggle to vary compensation among individuals that incentivizes harder work by rewarding good employees.^{cxv} From a macro perspective this creates two more problems. First, morale of existing employees is hurt if they do not have the potential to be compensated for superior work to their colleagues (see

Chapter 4.2 Implementation for the impacts of this). Second, government is unable to hire the most talented workers as the most skilled are able to receive significantly greater compensation in the private sector in exchange for their superior skills and/or dedication. Ironically, if this situation gets bad enough, this ultimately results in government employees being *overpaid* – offering a ‘fixed’ salary, the government has to estimate the average productivity of their workers. As the hardest workers drop out, they may be replaced by lower quality workers whose labor is worth less than the previous ‘average’ salary.

Obviously, this situation is mitigated by the fact that not all people are driven by money. As such, for some people in many fields, employees are willing to take a pay cut in the attempt to perform their civic duty. Nonetheless, even on the margin the chance for improved pay for improved performance still creates positive incentives for more concentrated work if one can simultaneously perform their civic duty.

Of course, instituting such a policy is far easier said than done. Done incorrectly, such a policy could actually prove to be disastrous. If the type of outcome trying to be incentivized is misidentified, perverse incentives could cause bureaucrats to work to attain their goal by any means necessary; even if that means acting against the public interest and violating a civic ethic that might otherwise restrain a well-intentioned public servant. For example, in the late 1990s, the Internal Revenue Service (IRS) assessed performance standards based on metrics such as taxes collected or assessed. As a result, agents aggressively tried to assess taxes in inappropriate manners that resulted in Congressional inquiry and criticism.^{cxxi} As this shows, those looking to institute pay-for-

performance reform should do so very carefully and with great consideration for whether a particular action is beneficial when increased in the extreme.

Another factor to avoid with regards to incentive schemes is tendency of incentives to produce groupthink. In particular, if individuals (especially career officials) only have the potential to be promoted within their organization, there are heavy pressures to conform to the views of the department as a whole, stifling independent thought outside the conventional assumptions used within the branch. This problem was found to be a particularly acute problem in the armed forces by a Blue Ribbon Panel on the Department of Defense commissioned by President Nixon:

The fact that promotions are within the exclusive authority of an officer's parent Service creates an incentive for an officer, even when they are serving on assignments with unified organizations, to adhere closely to the official Service position of his parent Service on issues in which he is involved. This circumstance can influence the objectivity of an officer's performance.^{cxxii}

One response that may be especially apt is discussed in Chapter 4.2; namely, ensure that various branches that have employees with common skill sets should make arrangements/career trajectories that permit fluid movement between the institutions. Thus, institutional groupthink will not result from (perceived) promotion ineligibility due to non-conformity. Beyond that, managers and executives simply ought to be wary of the tendency of departments to develop specific shared images that employees may come to adopt.³⁷

³⁷ Equally concerning, these images may become so strong that attempts to make policies with a different may be resisted at an institutional level.

Having assessed a few of the potential problems with pay-for-performance and other such incentive systems, the question finally comes down to, how *should* incentive systems be designed? As a disclaimer, there are many ways to accomplish this and the methods recommended here are certainly not definitive. However, in addition to taking care to avoid the problems listed above, it is also important to consider who is put in charge of determining pay-for-performance and how that fits into the broader set of bureaucratic constraints that naturally limit the flexibility of a hierarchal structure.

For example, while a direct supervisor might have the best information about a subordinate's work ethic, work quality, timeliness, etc., putting entire control of performance evaluation (and thus in this system, compensation decision) in their hands could have negative disincentives for the worker. Research suggests that the desire to be promoted or earn financial incentives often discourages lower level analysts from providing their honest opinions, particularly if it requires reporting bad or embarrassing news.^{cxxiii} In particular, experts on the intelligence failures in Vietnam suggest that career officials in the State Department were unwilling to write candid criticisms of the Viet Cong following the significant blowback that analysts received simply for providing accurate assessments in similar reports on the poor state of Chinese nationalist forces during WWII.^{cxxiv}

This problem is expounded if promotion and/or pay decisions are the responsibility of one's direct boss. When identifying news or voicing an opinion may reflect negatively on the department, middle level officials who may be held responsible will try to bury or positively spin such information. Unfortunately, it is often this

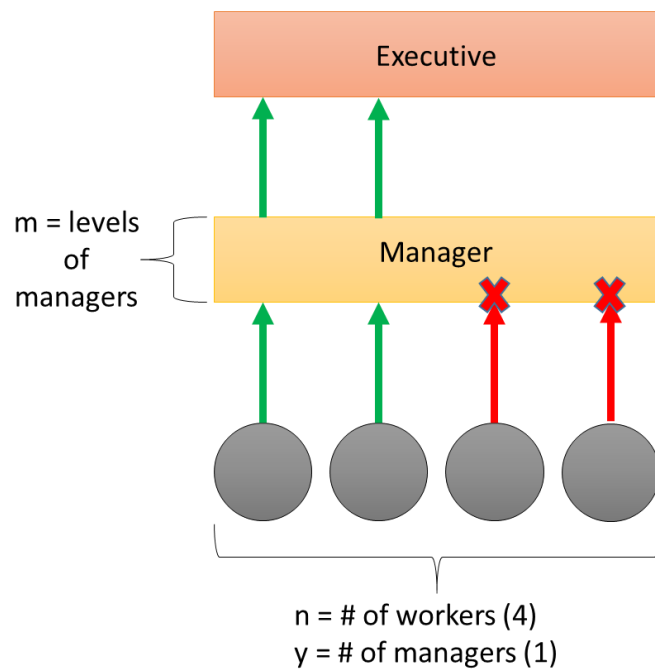
information that is most crucial to reach senior officials to avoid a massively escalating situation. However, if an analyst's superior decides to suppress or re-frame these reports, that analyst will have little incentive to cause a fuss if it would upset their boss and result in negative performance evaluations. Indeed, as will be discussed more thoroughly in Chapter 4.1 Information, creating channels to ensure that time-sensitive information reaches senior officials is a critical component of efficient bureaucracy.

A more explicit example of this problem is provided directly by a State Department task force report that found evidence for this incentive problem:

Under the present system, the key factor in determining whether an officer will be promoted is the efficiency report written by his immediate supervisor. The knowledge that the good opinion of his supervisor is crucial in determining whether an officer advances at a normal rate or falls behind and is eventually selected out can act as a powerful deterrent to his forthright expression of views on policy matters which may be at variance with the views of his supervisor.^{cxxv}

Consider the following alternative ways decision-making advice or information could flow through the bureaucracy. Figure 3.3.3 highlights the ideal mechanism for these information transfers. In the diagram, gray circles represent ground level workers/analysts, green arrows represent good pieces of advice or information while red arrows show bad recommendations. In an ideal world, a manager is meant to prune out the bad ideas and pass along the good to the executive. Of course, if this was always possible, there would be no need for this paper. In the real world, identifying what information/advice is good or bad is a lot trickier than it seems, particularly *ex ante*. One may have to choose more risk-averse or risk-accepting structures depending on a particular division's risk profile as discussed in Chapter 3.1 Specialization.

Figure 3.3.3 – Ideal Scenario



Figures 3.3.4 and 3.3.5 show more realistic scenarios under the assumption that, without the benefit of hindsight, managers are incapable of perfectly identifying which information/recommendation will be important or irrelevant. Figure 3.3.4 shows a conservative scenario where managers only pass on recommendations that are unambiguously good. This type of manager would be best for a risk-averse bureaucratic branch such as the Food and Drug Administration. Conversely, Figure 3.3.5 shows a more aggressive scenario where managers err on the side of providing their boss with all the possible options on the table, even if some of them may be a bad idea. This type of manager would be best for a more risk-accepting branch that can afford to try lots of approaches to solve a problem such as the Department of Agriculture or the Federal Reserve.

Figure 3.3.4 – Conservative Scenario

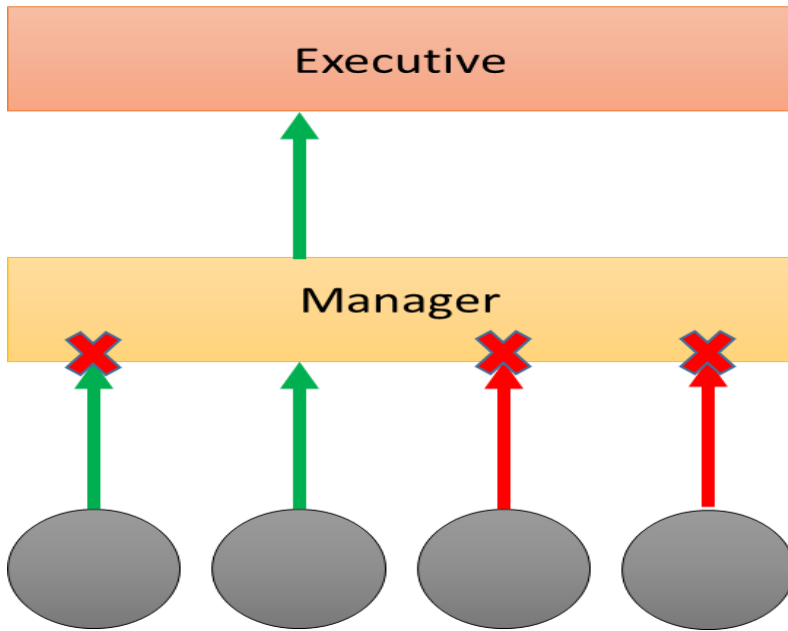
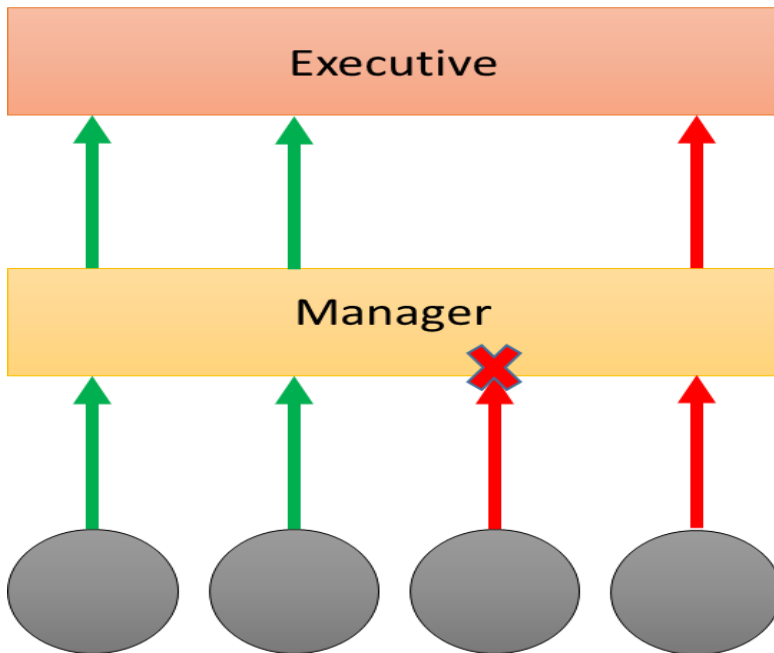


Figure 3.3.5 – Risk-accepting Scenario



Returning to the issue of the ideal way to structure a bureaucracy, let us define a few variables. Firstly, there are three primary variables that affect the quality of a given structure, cost (C), speed of the advice/information (S), and the quality of the information (Q). As such, any ideal form of this type of bureaucratic structure will meet the conditions:

$$\max(S, Q) ; \min(C)$$

In a given situation, cost may be held as constant (e.g. there is a set budget constraint) which would allow for various solutions to the condition $\max(S, Q)$. With the definition of a few variables such as the number of workers per manager (n), how many managers need to review work before it is passed up to the next level (y), the number or organizational levels between the ground level and the executive (m), and the number of groups at the lowest level (\bar{N}), the solution set for $\max(S, Q) ; \min(C)$ can be described as:

$$S = m = \log_n(\bar{N}) + 1 \quad s.t. (m \neq 0)$$

$$C = y \left(\sum_{i=0}^m n^i \right) - (y - 1)(n\bar{N} - 1)$$

$$Q \propto m \left(\frac{y}{n} \right)$$

The proofs and attendant assumptions for this model can be found in Appendix 1.1. In a world in which C can be assumed to be constant, any bureaucratic organization that meets the solution conditions for the variables of speed and quality can be considered to be the most effective form of structural bureaucratic organization in terms of passage of

recommendations/information in compatibility with measurable performance metrics described above.

However, for those of us non-economists in the room, let us consider what these conditions would actual mean and look like in some real-world examples. First, consider an example of a situation that has a number of advantages but does not quite meet these conditions. In Figure 3.3.6, we see an example where each group of workers is assigned two managers who have to review work before passing it up instead of just one. For ideas that are obviously good, both managers support the decision and it is advanced in green. Similarly, particularly bad ideas are eliminated by both reviewers. The difference is for the ideas on the margin – moderately bad recommendations that look like they could be good or good advice that are not so overwhelmingly positive that there is some hesitation about passing them on. In this situation, the recommendation is approved by one reviewer and rejected by another. The option is still passed onto senior management but with a note that it was only supported by one reviewer and thus should only be considered as a last resort after exhausting the clearly good options. This improved ranking of recommendations (along with increasing the total number passed along to the executive to choose from) has significant improvements in information quality (Q).³⁸

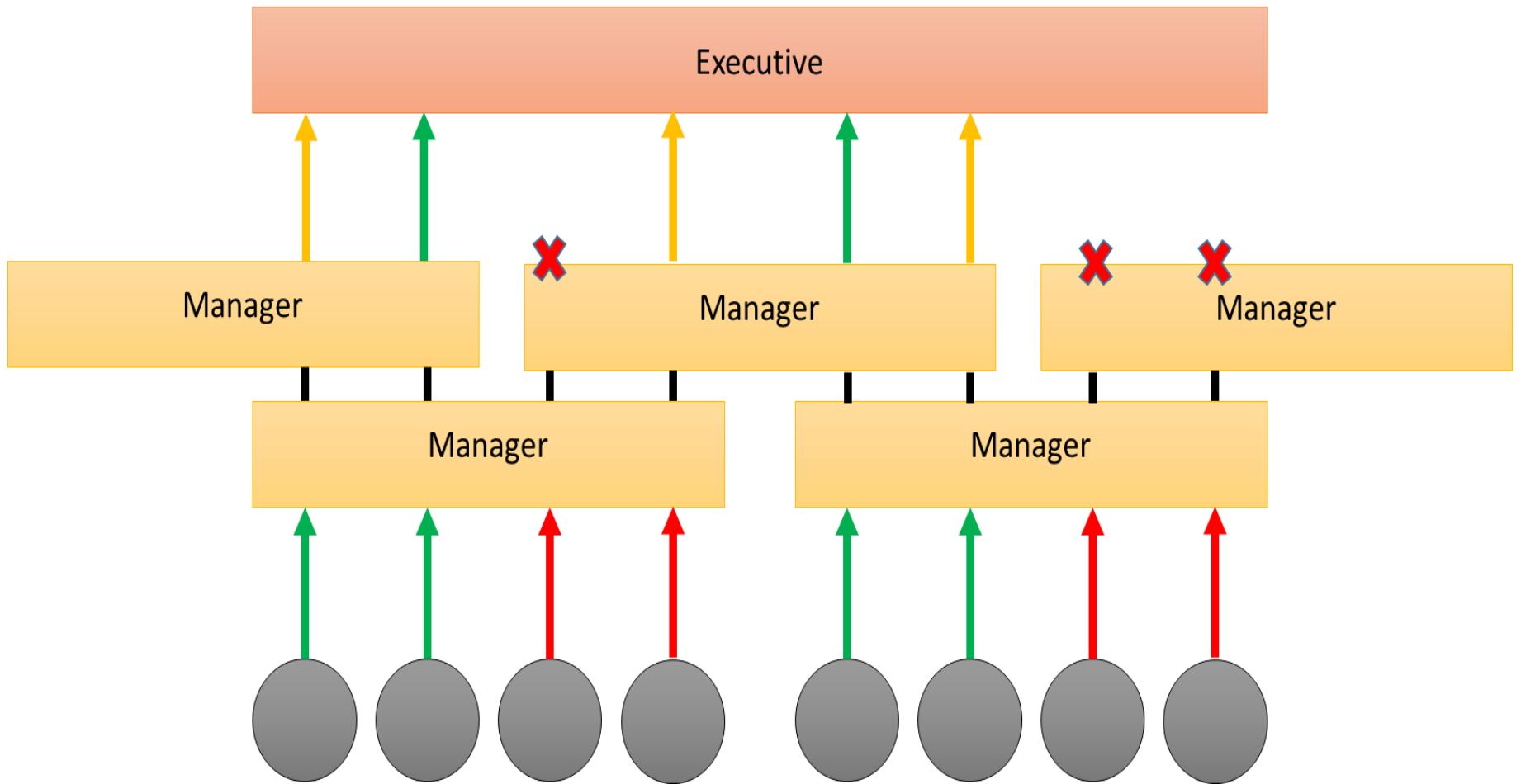
This system is also significantly advantageous for avoiding discouraging honest assessments from low level workers. If an analyst submits a report that may be in the interest of one manager to hide/re-contextualize, the analyst is not faced with the moral dilemma of causing ripples by pushing for the report to be advanced. Instead, the second

³⁸ The primary increase in Q is a result in the change in the variable y by adding a second management reviewer.

manager (whose pay/performance evaluation is not controlled by manager #1) still retains the ability to advance the report over the objections of the first manager – they become responsible and are politically capable of advancing such information.

While this structure may work very well for small departments or chains of command, this unfortunately is unsustainable on a large scale. Note that this requires a second person for every existing person at any level of the organization except the very bottom. The effect is to almost double the cost of the bureaucracy as can be seen in the equation for C. Therefore, while information quality may be maximized, cost is not simultaneously minimized thus disqualifying this structure from being ideal for large bureaucracies.

Figure 3.3.6 – The “Double Check” Structure



Alternatively, let us consider an arrangement that may meet all of the necessary conditions. This structure which will be termed the ‘faculty advisor’ model is diagramed in Figure 3.3.7. In this model, we return to the original structure with only one manager per group of workers. However, instead of assuming that workers are confined to one path for workflow, each analyst is assigned a manager outside his/her formal chain of command. Much like a faculty advisor at a college, this relationship is formally informal and the second manager is someone from whom the analyst can seek advice and mentorship from without having to ask ‘stupid questions’ in front of his/her direct colleagues.

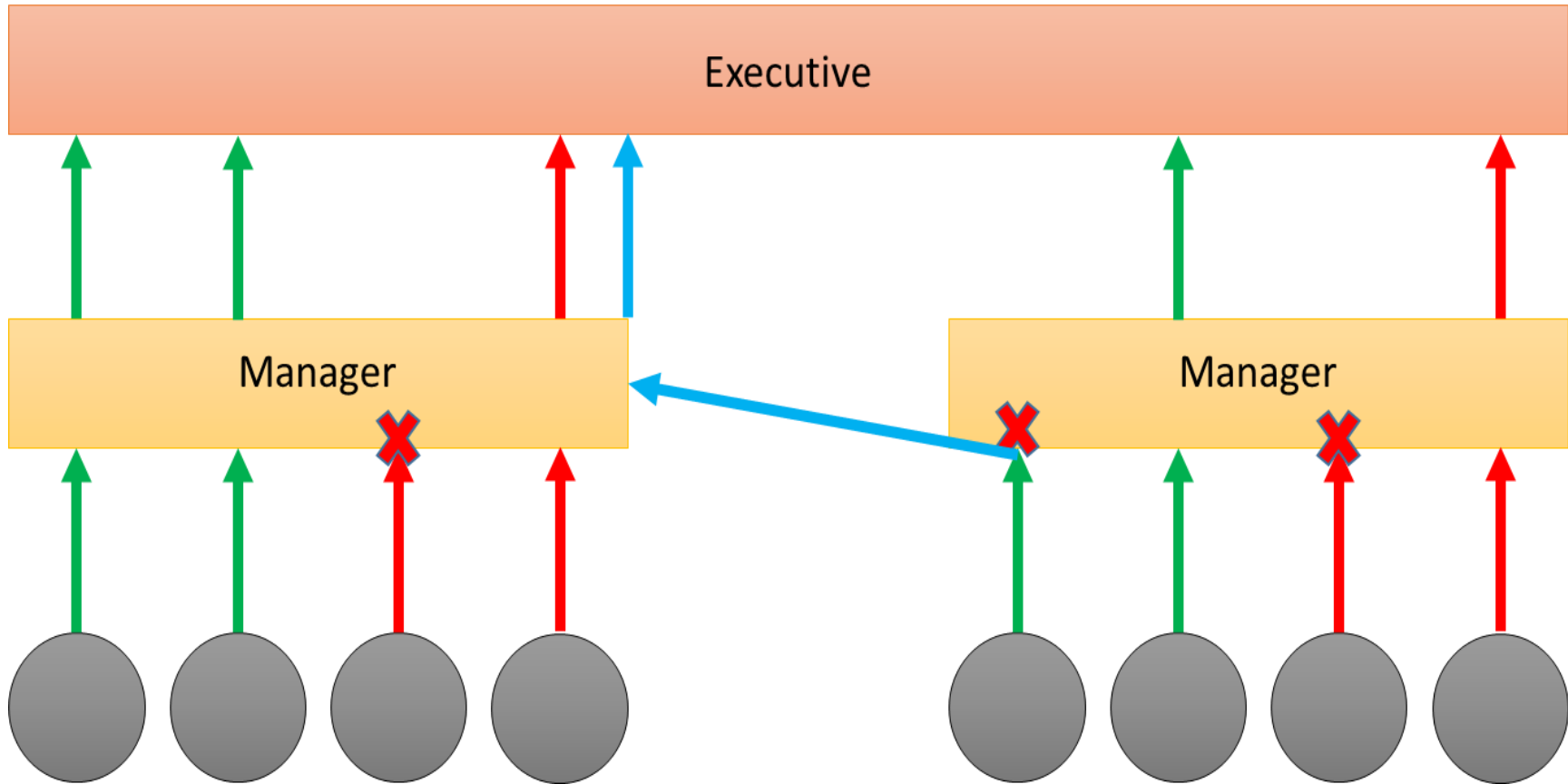
The structure has a unique solution to the ‘angry boss’ problem for pay-for-performance incentives. When an analyst makes a recommendation that his/her supervisor rejects (or that the analyst knows the supervisor will not like), they can then turn to their ‘advisor’ manager. On the analyst’s behalf, they can give the work a second opinion and independently advance the information without the analyst having to personally fight with their direct supervisor/potential paycheck controller. Note that there are also key incentives to avoid abusing this system: an analyst has to stick their reputation on the belief that this information is sufficiently important to advance through abnormal channels. Overusing this system will result in the advisor/manager no longer facilitating these advancements and the analyst losing credibility in the eyes of their advisor and, if the situation becomes egregious enough for the primary manager to find out, in the eyes of their own team.

Having resolved the compensation incentive problem, we can now test this system against the efficiency calculation. Indeed, we can see that by reducing the number of total managers needed at every given level, cost (C) has been notably minimized. Further, assuming

that the amount of work to be done and analysts needed to process it ($n\bar{N}$) is exogenous and constant, C cannot be further minimized without outsized multiplier impacts on speed and/or quality. Consequently, the only decision left is a situational judgment of offsetting S and Q based on the number of management levels one chooses which will be determined by data that is not directly available in this hypothetical.

As mentioned before, this need not be the only optimal design, but simply one example of many that could fit the relevant production function. The important lesson to take away is that properly incentivizing performance is an important step for any bureaucracy; but doing so can be tricky and may require considering a lot of factors to ensure that it is done properly.

Figure 3.3.7 – “Faculty Advisor” Structure



Reviewing Past Decisions

Finally, bureaucratic accountability can be improved by formally including structures that force organizations to review the effectiveness of their previous decisions. In the words of Italian philosopher George Santayana, “those who cannot remember the past are condemned to repeat it.”^{cxv} While this might be a principle that a majority of people might consider self-evident, it is surprising how rarely it is implemented.

A perfect example for this lesson is the Federal Reserve. While the Federal Reserve tends to admit mistakes that it made long ago, it tends to be far more defensive about decisions made in the recent past.^{cxvii} Furthermore, there is no formal, built-in metric that forces the Fed to reconsider the effectiveness of its policies on an ongoing basis. This is a consequence that is seen in the non-responsiveness of certain policies. For example, the Federal Reserve is responsible for setting and aiming for a variety of economic targets such as inflation or the prime interest rates. Frequently, the Federal Reserve will set a goal and pursue policies to reach the target. Unfortunately, with more than ideal frequency, the Fed policies fail to meet this target (recently, this trend is prototypical of the Federal Reserve’s inflation policies). Instead of immediately reconsidering the policy tool being used to meet the target, the goal itself is merely revised downwards to make it closer to the reality that occurred.^{cxviii} In spite of this revision, the policy tool has not actually effected any change yet continues to be used for some time until its repeated failure forces the Fed to reconsider its action plan, far later than it should have taken to reevaluate the policy.

This is certainly not a situation unique to the Federal Reserve. Failure to formally review historical results can occur as a result of the apparent urgency of new issues that

require response, overwhelming the perceived importance of a retrospective analysis. Alternatively, if individual actors feel like they have ‘learned their lesson,’ they may not formally document what to avoid or pursue which cannot then be passed onto other members of a department or to the agent’s successor when he/she retires or accepts another job. Because of these tendencies, formal evaluation procedures are necessary both to consider the effectiveness of ongoing policies at an institutional level and to force individual officials throughout the bureaucracy to internally reevaluate the validity of their ‘rules of thumb’ or shared images that commonly guide their day-to-day decision making. Such procedures should improve the responsiveness of bureaucracies to failing policies and long-term quality of policy decisions.

Section 4: Bureaucratic Management

“Good government only happens when the people working in it do their jobs, and do them well.”

– Matthew Lesko

Section Overview

Having covered the theoretical and philosophical justifications for an expanded bureaucratic state as well as the best practices for structuring a bureaucracy in order to maximize its efficiency as a governing organization, we are now faced with the question of, “now what do we do with it?” Only the most naïve and socially removed theorist would attempt to argue that any organization simply follows its structural procedures without any regard to the people who operate within it. Everything an organization does it only does because of choices made by people – managers, middlemen, or workers on the ground. The very purpose of government or any socially constructed institution is to help coordinate this far flung group of individuals; to figure out a way to overcome collective action problems and get hundreds or thousands of competing perspectives and opinions on the same page. As such, to ignore the role of human incentives and choices in an analysis of these institutions would be dangerous and absurd in the extreme.

The purpose of this Section is to consider the impact that individuals have in the overall structure of a bureaucracy and provide advice to a ‘manager’ (President, CEO, etc.) on how best to oversee such an enterprise. As necessary background information to understand how to consider individual impact, a brief explanation of types of people to hire for certain positions is useful. The first chapter will address concerns relating to the flow of information in an organization – how to handle the tension between preferring speed or quality of information that reaches top management, how to extract information that subordinates are attempting to hide or that low-level workers do not realize is important, and how to strategically share information with other key players in order to

overcome divided or opposing efforts from subordinates. Once the executive or manager has received the information they need to make a decision, the second chapter helps explain how to actually implement that decision. This second chapter handles issues such as what types of people to hire for certain positions and the importance of maintaining morale in order to guarantee effective work from bureaucrats. Finally, the third chapter combines the lessons of the previous chapters to discuss how a new manager can overcome the problems associated with instituting new policies or reforms.

4.1 Information

The role of any manager of an organization can functionally be split into three purposes: (1) gathering information for subordinates relevant to making a decision, (2) making the decision, and (3) getting the organization to implement that decision. This chapter focuses on the first of these goals.

While there are a number of structural issues that determine how information is passed (who is allowed or required to see something), the first issue we will discuss is the role of individual incentives and how a particular person can modify the information that ultimately flows from themselves to another. Obviously, this analysis requires a fairly robust understanding of how different people act and react based on their personal experience, prerogatives, and interests and what effect that is likely to have on information. While a more robust breakdown of these interests is covered in the next Chapter 4.2 Implementation, for now it is sufficient to understand that career officials who have spent a long time with an organization often view themselves as more qualified than their (often newer) managers – whether elected officials in government or middlemen employees with a new CEO. As President Truman noted in his memoirs:

The difficulty with many career officials in the government is that they regard themselves as the men who really make policy and run the government. They look upon the elected officials as just temporary occupants. [...] Too often career people seek to impose their own views instead of carrying out the established policy of the administration. Sometimes they achieve this by influencing the key people appointed by the President to achieve this by influencing the key people appointed by the President to put his policies into operation.^{cxxix}

As we discussed in Chapter 2.1 Democracy, Representation, & Bureaucracy, from a democratic perspective, this attitude may be potentially problematic. While for all of

the reasons discussed previously, the relative negative impact on democracy is negligible and may have positive effects by increasing the consistency of government policies, such arguments are little comfort to a President who is considering a change away from ‘the way things have always been done.’

According to Morton Halperin & Priscilla Clapp, there are three primary reasons why an executive may find difficulty in translating their will into implemented policy:

1. Officials may not know what senior officials really want
2. Officials may be unable to do what they think they are being assigned
3. Officials may resist what they have been instructed to do^{xxxx}

All of these problems are certainly worthy of addressing for anyone concerned about improving the quality of administration. The second of the points ultimately cannot be helped – if one is unable to do what they are tasked (given a set allocation of resources), no amount of structural quality is going to consistently enable individuals to be better equipped to handle all situations. The third issue of officials resisting instructions is covered in detail in the next two chapters. This section deals with the first: how can senior officials better understand the issues at hand and communicate solutions back to the lower levels in ways that the people on the ground will comprehend.

Information Movement: Quality & Speed

One of the most insidious issues regarding inefficiency in information transmission is fundamentally structural. Ultimately, any structure has to choose whether it is more important for its top officials to see information quickly, or see information that

is good. For an empirical quantification of this problem, refer to the bureaucratic structuring parameters described in the last chapter (3.3 Accountability).

To understand this more intuitively, consider two different organizational approaches. Imagine you are the President of the United States and you have to decide whether to execute a drone strike on a suspected terrorist and you can select two different methods of gathering intelligence. Your first option is that a single source on the ground tells you that the individual you see from your satellites is indeed the target you suspect. There is no time to corroborate this source with other people, make sure the facts of the story line up, or have intelligence analysts assess the credibility of this testimony. Furthermore, you may suspect that this source is only telling you what you want to hear in order to earn some reward money. If you are wrong, you risk killing civilians and inviting international backlash. Your second option is to submit this testimony to intense scrutiny and analysis. You will find lots of corroboration and all of the experts will be able to confirm without serious question whether the person is the target you intend. However, this analysis naturally requires far more time to confirm and it is highly likely that the target will no longer be in range by the time you get this information. Which system would you prefer? What is the appropriate level of compromise between these extremes?

In order to answer these questions, let us consider some of the ways that information quality and speed can be improved. One of the biggest problems that affect the quality of information that is passed on is that the underlings who choose which information to advance to their boss rarely see their boss' problems.^{cxxxix} Halperin &

Clapp explain in more detail the way this issue compounds across entire organizations such as the U.S. government:

Few officials see the president at all. Even fewer see him often enough to have a good feel for his approach to problem solving. Many of those who have to implement decisions are not privy to conversations between the president and his principal advisers or between those advisers and their subordinates. The orders that they receive, in writing or orally, are not only very general but often are the only clues they have.^{cxxxii}

It is important to note from this insight that there are a number of ways that information is permuted as it spreads through an organization – even if all participants are well intentioned

- Not sufficiently understanding what the information will be used for, subordinates may pass up information that is irrelevant to the executive's concerns and miss some small but key pieces of relevant information
- Due to time constraints, principal advisers do not have a sufficiently clear understanding of what the executive wants to achieve
- End users of information may have a similar problem as above (unclear instructions) but also lack explanation of the *reasoning* that went into such decisions and therefore are unclear in what direction to err in instances where their discretion is required

Lacking an understanding of the nuance behind decisions critically damages the ability of policy implementers to properly conform to the policies requested by the executive(s). Back in 1957, American diplomat George Kennan explained the implication of this phenomenon on foreign policy noting that, “policies can be correctly and

effectively implemented only by people who understand the entire philosophy and world of thought of the person or persons who took the original decision.”^{xxxiii} While Kennan goes on to describe the frequency with which this communication fails to happen, the issue has arguably gotten even worse in the half-century since he originally made the observation.^{xxxiv}

This deterioration is regrettable as it is actually one of the lowest cost ways that information quality can be improved both up and down the chain of command. Managers spending marginally more time explaining the objectives they hope to accomplish and the reasoning that they are pursuing a particular strategy can greatly improve performance at all levels of their organization. As noted above, this can improve information quality that managers receive as well as the use of information and instructions that are passed back down. The caveat of course is that general platitudes about the organization’s “mission” are no more helpful than meaninglessly vague statements by politicians committing to “security” or “justice.” Instructions must be both clear and specific in such a way that they pertain to a particular kind of behavior implementers can practice.^{xxxv} Nonetheless, with a bit of practice, it is an ultimately time efficient method of improving organizational efficiency.

Having covered an example of improving information quality, let us now examine a manner of improving information speed. Throughout most organizations, individuals often have the ability to affect the speed at which information is advanced based on

³⁹ In many ways, this is arguably one of the things that makes Warren Buffet such a renowned manager. Rather than vague statements about commitment to “profits,” “client service,” or “value-add,” annual letters regularly specify ethical expectations that managers are expected to observe, instances where managers ought to use discretion as opposed to escalating an issue, and when make a variety of financial decisions

which channel they choose to send it through.^{cxxxvi} While this ability does have the potential to create problems when individuals wish to bury information by sending it through slow channels, this issue will be addressed in more depth over the next two chapters. Nonetheless, having departments be able to signal new and urgent information or even institutional priorities is critical knowledge that executives require.

One good example of this type of channel is military assistants that the armed services regularly keeps stationed at the White House in order to pass information to the President. Secretary of State Dean Acheson details one of these instances when naval assistance directly brought information to the President before a meeting with the British Prime and Foreign Ministers:

After dinner the President and Prime Minister withdrew to the aft saloon while the table was being cleared, in a few minutes sending for [the Foreign Secretary] and me. The President opened by a complaint that I instantly recognized as coming from a persistent and infuriating practice of the Navy. Through his naval aide the President would be given what was known in the trade as “raw intelligence,” reports not analyzed and appraised in accordance with required procedure.^{»cxxxvii}

Of course, this method obviously has its costs in terms of information quality, having surpassed all of the typical channels that typically analyze whether certain data is significant. In this particular example, “[w]hen fully analyzed and put together with other data, [...] this Navy bombshell amounted to very little.”^{»cxxxviii} While this method is likely to generate plenty of ‘false positives’ in identifying issues of concern, it may be useful to offset the tendency of a slower moving, fact-checking bureaucracy to generate implicit ‘false negatives’ that occur through the weeding out process or an expiration of timeliness and thus relevance of information. Even in instances that turn out to yield

nothing, increasing executive attention on an issue that has dramatic escalation potential can result in significant, preventative actions.

The key lesson to be learned is to employ both a large bureaucracy meant to methodically process the majority of day-to-day information and issues while permitting some intentionally constructed channels to permit immediate escalation of issues on an as needed basis. This is preferable to a ‘middle ground’ or compromise approach which is likely to neither be fast enough to respond to the most urgent of crises or comprehensive enough to handle the most complicated of issues. Given that crises tend to come in the form of either (or sometimes both) extremes, the cost of being unable to effectively respond in either scenario would be detrimental to most organizations – especially if the stakes are such that missing even one proper response is catastrophic for credibility or continued operation.

However, for managers who elect to utilize this approach, there are a number of other factors that are critical to keep in mind. One, recognize that information being sent through fast-track channels is often unfiltered and therefore not immediately actionable. Such information *must* be subjected to further scrutiny – the advantage being that your renewed focus on the issue is likely to expedite the analysis process on the issue.

Two, recognize that fast-tracked information may not reflect a generally urgent issue and instead an institutional priority from a particular division. While some may be inclined to write-off such attempts to ‘subvert’ the process, such signals can be valuable for understanding relations and differing priorities between various sub-level branches

which can be used to analyze how they will respond to policy changes you wish to make (see chapters 4.2 and 4.3).

Three, in order to maximize your time, it is important that the number of these channels is limited to prevent their perpetual use by underlings to grab your attention. Having everything being advanced quickly is as good as nothing being advanced as none of the critical weeding out process can occur. Unless you think you can replicate the work of the tens, hundreds, or thousands worth of people's work that is required to weed out irrelevant information before it gets to you through the normal procedure, reviewing all information is simply not an option. What then is the best way to ensure that channels are used judiciously? Ensure that control over them is shared by a number of people, perhaps a variety of sub-managers in a particular division. Competition between the controllers of the channel will push them to only use the channel in particularly important instances in order to avoid diluting the impact of 'fast-tracking' information when the next manager has something they wish to advance.

Reducing/Widening the Circle

Aside from the structural issue of speed vs. quality of information flow, an effective manager also needs to be able to understand the variety of interests that go into information that they are presented with in order to understand the attendant biases. While this perspective has a distinctive flavor of realist cynicism, executives (government officials in particular) "find [...] that the real test of their ability is to expand their own information, because they learn that the information being provided to them by

subordinates is designed not so much to enlighten them as to convince them to adopt certain positions.”^{cxxxix}

Since subordinates want to look good in the eyes of their boss, they frequently only show information that supports their position or that they think their superior wants to hear. One example comes from the U.S. ambassador to NATO in the 1960s, Harlan Cleveland, who details how information can be selectively presented in the example of armed services divisions making requests for greater levels of funding and soldiers:

Sober and honest officers [...] will describe the Warsaw Pact “threat” to the central front as more than a million men, against perhaps three-quarters of a million for NATO without reminding you of the War College dictum that the attacker needs two or three times as many men as the defender. [...] They will speak of NATO manpower without explaining that the Western allies have committed to NATO varying proportions of their men under arms; some of those armed but uncommitted men, ranging from one-fifth to four-fifths of national totals, would surely be available in a real pinch.”^{cxl}

It is clear that ground level operators need not lie in order to mis-contextualize information in a way that favors their aimed objective. A similar phenomenon occurred in the justification for the Iraq War. The Bush administration pushed for a particular set of fact patterns in Iraq to be analyzed regarding links to Al Qaeda or WMDs. While the original sets of the reports yielded nothing, continued pressure to look specifically at Iraq began to bias the intelligence scope and thus generate ever more desperate pieces of ‘concerning intelligence’ in the hopes of finding what senior administration officials wanted.

To make matters worse, beyond the individual incentives to ‘look good’ that generate selective information sharing, branches that find themselves in competition with

each other for disputed jurisdiction over their purpose or authority can institutionally hurt how information is reported to higher level managers. A clear example of this is the intelligence failure in Vietnam which systematically damaged assessment of conditions on the ground:

According to a former Air Force intelligence officer, both the Air Force and the navy exaggerated the effectiveness of their bombing of North Vietnam. Both recognized that the postwar dispute over the Navy's bombing role would be affected by evaluation of their bombing operations in Vietnam. Each service, believing (or fearing) that the other would exaggerate, decided to emphasize the positive in order to protect its position.^{cxli}

Highlighting this lesson of information bias is critical for Presidents as it often takes a fair amount of time in office before the lesson is typically learned. LBJ did not realize until 1965 that optimistic outlooks being projected for Vietnam were basically worthless.^{cxlii} It took President Kennedy more than a year into office until he made this realization saying, "Winston Churchill once said that the secret of the survival of the British Empire was that they never trusted the judgment of the man on the spot. I never understood that until recently."^{cxliii} Given the amount of time that it takes (read: is wasted) before many executives learn this lesson from experience, it is particularly important to avoid the problem preemptively. But what exactly can one do in response to this unfortunate reality?

The next chapter 4.2 specifically discusses how these problems ought to inform hiring decisions in order to address some of these issues preemptively. However, for executives at the highest levels facing this problem prospectively, communicating

bilaterally or establishing small core meetings (sometimes informally⁴⁰) may allow more upfront and honest discussions among senior officials. Brent Scowcroft, National Security Council (NSC) Adviser during the first Bush administration retells of an example of how this approach was used effectively:

It was becoming apparent to me that a full-blown NSC gathering was not always the place for a no-holds-barred discussion among the President's top advisors. Some might be inhibited from expressing themselves frankly with staff present and the constant possibility of leaks. I suggested that [an] opening session take place informally, in the Oval Office and with only a select group present [...] The President liked the suggestion, and it worked. This marked the beginning of a new pattern for top-level meetings (the "core group") during the rest of the Administration.^{cxliv}

This method of reducing the number of people involved in a certain conversation, advice giving session, or decision making process is known as 'reducing the circle.' While this tactic can be highly effective when *gathering* clear and honest information,⁴¹ it is a bad method of translating information and instructions back to subordinates. For the reasons discussed previously about low-level implementers being able to understand the reasoning for their boss' decision, reducing the number of people who have access to understanding information about a new policy decision can have catastrophic consequences on its implementation.

Reducing the circle can be achieved in a number of ways. A manager may structurally create some meetings to which certain individuals are not invited. He/she may personally entreat senior officials to avoid sharing information with other officials

⁴⁰ In a government context, this may require holding meetings outside of formal procedures

⁴¹ Note that institutional biases that affect how individuals choose to present information still exist. Understanding the direction of these biases and being able to mentally correct for them or push harder on particularly convenient conclusions is the critical hallmark of an effective manager.

on the basis that sensitive information may be leaked. Finally, he/she can personally and implicitly pressure particular senior officials to voluntarily stay out of the decision making process if it can be portrayed as outside of their institutional expertise. This is an advantage that becomes even more pronounced following the recommendations made in Chapter 3.1 Specialization. If officials feel that they are being consulted heavily when issues are viewed as primarily within their area of expertise, they can be persuaded to exert less pressure on issues outside of their area if that may be seen as diluting that expertise. An account of Secretary of State John Foster Dulles demonstrates this phenomenon particularly well:

Dulles saw himself as Eisenhower's exclusive advisor on foreign policy and went to great lengths to protect this position. But the consequence of this was that the more an issue moved away from the center of foreign policy, the more carefully Dulles would pick his ground before asserting himself with the President. Dulles was very conscious of Ike's military background [...] and on economic matters he watched what Humphrey would do first. He also thought it was hazardous to guess what Congress wanted.^{cxlv}

Of course, some of these measures to reduce the circle are less necessary if disagreements between divisions are already apparent and the likelihood of biased information being presented unchecked is significantly reduced. In fact, in instances where a subordinate is more likely to benefit from a reduced circle strategy,⁴² widening the circle on the basis that it is important for the adviser to hear multiple perspectives or external opinions not beholden to particular bureaucratic interests may be in order. This is a common reason why corporate executives frequently rely on consulting firms to advise

⁴² Namely, situations where the executive has a less clearly informed opinion on the matter, does not yet understand the institutional interests, or knows what he/she wants to do and is also competing with a senior official with a different opinion who has the ability to bring enough pressure on the executive to make it highly costly in terms of political capital to make a contrary decision.

on everything from executive compensation to operational procedures when they are finding internal resistance to a decision they wish to make. This issue of when it is appropriate to widening the circle brings us to the discussion of the adversarial vs. consensus advisement process.

Adversary vs. Consensus

Having discussed a variety of ways that an effective executive can control and improve the quality of information flow both for the purposes of learning and implementing his/her will based on deciding who sits in “the circle,” it is necessary to consider a particular subsidiary version of this approach. In terms of the metaphor, this argument relates less to who sits in the circle and more about how people *move within* the circle.

To be specific, let us remember that your job as a manager (given the lessons above) is to maximize the quality of information coming to you, including by being able to rid, or at least see past, the biases of subordinates. Simultaneously, as a manager your time is also both limited and precious and so speed is of the essence. What is the best arrangement to achieve or balance these two goals? This question leads us to consider the costs and benefits of an adversarial or consensus based form of receiving advice/information from subordinates.

Let us be a bit clearer about what these two proposals entail. In an adversarial system, your variety of subordinate advisers come to you without having had significant time or institutional pressure to meet beforehand and jointly discuss the relevant issue.

Instead, you convene a meeting with everyone coming with their own, differing opinions on what should be done. At the meeting, your advisers argue about the relative advantages and disadvantages of the others' proposals and you ultimately choose or invent an option that takes concerns from many parties into account. In a consensus system, the opposite occurs. Your advisers are forced to meet together prior to any such meeting, confer with each other to hash out their major differences, and only come back to you when they have a proposal that they can all agree with.

Both systems have their advantages and disadvantages. The consensus based approach that requires advisors to agree beforehand saves an executive's time by reducing the amount of back-and-forth argumentation one has to hear. Furthermore, it avoids putting the executive in the uncomfortable position of having to overrule some of his/her senior advisors which can be highly damaging to morale, the severe consequences of which are discussed in more depth in the next chapter. As a result, U.S. Presidents without exception prefer this approach for handling all routine matters.^{cxlvi} However, they remain divided when it comes to more consequential decisions.^{43cxlvii}

One reason for this division relates to the desire for divisions to protect their institutional priorities that we discussed earlier. Among other methods, representatives of different branches can collude to jointly hide information that might make either side look bad or make a proposal that requires the use of pet projects that each division has but is in danger of getting cut. In this way, divisions can protect their internal autonomy from higher level executives by only showing one possible (pre-agreed) option in order to

⁴³ As an example, Eisenhower regularly preferred his administration to adopt the consensus based model in a vast majority of cases. In contrast, as we will see shortly, other Presidents and senior officials view this approach as highly problematic.

minimize their bosses' ability to choose any other course of action.^{cxlviii} Presidents such as Kennedy and Truman avoided this problem by adopting the adversarial system and preventing key officials such as the Secretaries of Defense and State from coming to an agreement before meetings with the President.^{cxlix} Since that time, the existence of the national security adviser institutionally prevents 'collusion' between the Secretaries of Defense and State bilaterally as the "circle" has been widened, thus adding another voice that would have to be consulted with.^{cl}

Of course, this approach is not foolproof. Besides the additional consumption of time needed to oversee the adversarial process, some individuals may not be able to challenge the opinion of other senior officials if they believe they may have to work with (and acquire the support of) said senior officials.^{cli} To the extent this occurs, the effectiveness of the adversarial system in bringing out the whole variety of options available to a President is diminished.

What then is the appropriate course of action? While there is obviously great disagreement, it seems that the adversarial system may be superior to the consensus approach. The concern about shyness in the face of having to criticize key colleagues that one depends on can be substantially mitigated if a President were to occasionally consult with people as individuals to get their independent opinion rather than forcing people to voice contrary opinions in front of each other – particularly if one expects power differentials between the advisers who are participating. Additionally, the time cost seems minimal compared to the high quality of information the executive receives. Not only does one receive many good options to choose from, potentially expensive or

otherwise detrimentally poor policies may remain unfound and in place if they are concealed through the consensus system. In such a world, these inefficiencies are likely *never* discovered.

As a final example in the value that the adversarial system can bring, recall the 1986 Goldwater-Nichols Defense Reorganization Act (mentioned in Chapter 2.3 Bureaucratic Efficiency & Centralization) that Chairman of the Joint Chiefs of Staff Colin Powell supported. Powell particularly supported the new ability for the Chairman to voice his/her own opinion to the Secretary of Defense and President (more adversarial) than merely having to represent the diplomatically negotiated compromise among the various Chiefs of Staff (consensus-based). In the consensus based system, the need for ‘compromise’ resulted in a default to the least common denominator of uncontroversial, but equally unsubstantial recommendations that were neither decisive nor insightful. By contrast, hearing multiple opinions, even if it may have taken more time, actually equipped the President with the tools necessary to actually make a good decision.

Conclusion

Before the next chapter discussed methods of implementing a decision once it has been made, let us recap the important lessons we have learned regarding the flow and acquisition of information by a manager of a bureaucracy. One, there is a structural tension between speed and quality of information and as it is important to handle emergency cases that arise in both extremes, it is imperative to both maintain a broader bureaucracy to improve information quality and a few quick channels to accelerate urgent

information in order to generate further scrutiny of the issue. Two, effective managers need to broaden the information they have access to while realizing that information provided to them by subordinates is often biased or laden with an agenda. Three, since managers have limited time and political capital to fight about decisions with their subordinates, they can reduce channels for advisors they know already oppose a decision that they wish to make. Alternatively, when awaiting subordinates to provide them with information and advice on issues where they are undecided, managers ought to adopt an adversarial process of consultation in order to listen to a diversity of arguments and facts rather than a consensus conclusion that may conceal a variety of inter-departmental biases. Through these methods an executive can maximize the quality of information being provided to them and set themselves up to implement their decisions with a minimal amount of resistance from other senior officials.

4.2 Implementation

Having covered best practices for a chief administrator to efficiently collect critical information for making decisions and how to begin preparing the ground with senior advisers to accept new policy decisions, it is time to consider the broader strategies that are necessary to ensure faithful implementation of these decisions. While the next Chapter 4.3 Resistance and Reform will discuss the more intensive problems faced for a new manager instituting a broad set of reforms and significantly shifted policy decisions, this chapter will have a narrower scope focusing on the variables that affect the level of resistance or enthusiastic implementation of policy decisions on an ongoing, day-to-day basis.

Previous chapters have spent an almost mind-numbing amount of time discussing the way that a variety of structural factors affect bureaucratic efficiency. However, understanding that bureaucracies are not cold, autonomously operating machines requires recognizing the indispensable role that human beings play in all of the operations a bureaucracy carries out. In particular, this chapter covers two aspects of the human element in bureaucracy. First, the way that differing backgrounds cause people to view and respond to bureaucratic inputs and problems differently. Second, the importance of high morale on the ground to ensure effective implementation of policy and some important ways that mismanaged/misstructured bureaucracies can devastate this valuable asset.

Hiring Decisions: Types of Bureaucrats

While there are an infinite number of ways one could split, categorize, and define different ‘types’ of bureaucrats, this paper will choose a delineation used by Halperin & Clapp: career officials vs. “in-and-outers.”^{clii} While this categorization is particularly well suited for analysis of government bureaucracies, parallel lessons can be drawn for private sector bureaucracies by treating “in-and-outers” (IAOs or Outsiders) as individuals external to the company or industry such as consultants or an outside executive from a company not operating in an identical operational capacity.

The definition for career officials is reasonably intuitive – they are people who have served a majority of their career within the particular bureaucracy being assessed and have had a great deal of familiarity with the organization over its lifetime. In contrast, IAOs have spent the majority of their career in the private sector and spend brief periods of time coming to serve in the government.^{cliii} IAOs can also include private sector experts who lend their advice and expertise to the President or other chief executive while not holding a formal position within the bureaucracy.

Having identified the primary groups we will analyze, it is important to understand the radical differences that generally define how these individuals are likely to respond to incentives and direction from the executive. For the purpose of the analysis, we will assume that both groups have people have equal levels of technical expertise,⁴⁴ and that career officials only have a comparative advantage in understanding the culture and specific procedures unique to the bureaucracy.

⁴⁴ In practice, this may not be a safe assumption

Career Officials

Luckily for the sake of our discussion, career officials have one of the most intuitively obvious psychological profiles regarding their work. Having spent years working for the bureaucracy, they have come to identify with the interests of the organization. Wanting all of their hard work to have meant something, they care greatly about the future success of their organization and likely see their future career trajectory to be largely determined by their continued ability to earn promotions and advance within the organization. Furthermore, given the length of time they have spent working for their bureaucratic division, they believe that their experience and intimate knowledge of the organization uniquely qualifies them to understand the best policies forward (or problems with the organization) and may be resistant to external advice or decisions made by an executive they view as an ‘outsider’ whom they view to be less informed. By nature of their extended tenure in their job, career officials are usually patient in achieving long-term objectives.⁴⁵ Similarly, as the downside risk of being fired for a major error is catastrophically career ending, career officials tend to be generally cautious and risk averse in their recommendations and decisions.

This particular type of employee profile is indispensable for a number of jobs; namely they are needed for running routine operations, overseeing long-term projects, and operating divisions that have high risk profiles.⁴⁶ The incentive system for career officials is also fairly easy to understand: insofar as they expect to continue their career working within the bureaucracy, they care about improving their eligibility for

⁴⁵ Seeing as they have the entirety of their careers to bring about the objectives they desire, why wouldn’t they be patient?

⁴⁶ Ex. Agencies like the CIA or Homeland Security that cannot afford large public errors at any cost

promotion. While this raises the stakes for structuring beneficial conditions for assigning promotion, this setup can be extremely problematic if designed improperly or without thought.

For example, a promotion track that only permits advancement internally limits the freedom for subordinates to express ideas and opinions beyond the conventional perspective. While this issue and how avoid it through proper incentive and promotion structures were discussed in Chapter 3.3 Accountability, the general tendency of career officials to have adopted the perspective of their institution after viewing issues through that lens for so long still generates a creativity problem. In particular, the promotion of a career official into a managing role of the organization will be problematic if the chief executive is looking for someone who will challenge the current interests, purpose, and focus of the organization (as self-defined by the organization).^{civ}

So how can this be avoided without indiscriminately preventing career officials from being promoted to lead organizations? As noted below, such a policy would be devastating both to morale and talent retention. One step is for an executive to ensure that departments which have employees that share similar skill sets coordinate to give employees the ability to be promoted laterally into new divisions thus limiting their bias towards conforming their opinions to match the view of their immediate colleagues. A second option is to recognize that, so long as the type of reform wanted is not foreign to the department, career officials can be instrumental in settling internal debates about the future of the organization.^{civ} Indeed, career officials have a unique advantage in these

situations as they have credibility among their peers for a commitment to a shared vision for the department that outsiders cannot be trusted to have.

In-and-Outers (IAOs)

While career officials were best described as patient, cautious, promotion-driven, and oriented to view problems through the lens of the bureaucracy, in-and-outers tend to have a very different profile. IAOs tend to come from the private sector as lawyers, bankers, scientists, etc. or from academia and thus initially tend to view problems through the lens of their personal experiences, academic theories, or business standard practices rather than defaulting to the bureaucratic norm.^{clvi} However, for IAOs without a significant degree of previous bureaucratic/public experience, they recognize that they suffer from a lack of specific experience in operating the bureaucracy and thus may be more easily pressured by career officials into eventually adopting the institutional perspectives that already exist.^{clvii}

Since an IAO is likely to only have a limited amount of time in their new position, they may be less patient than career officials in implementing changes or accomplishing their objectives. Similarly, as the risk of performing poorly is reduced by an improved ability to return to work in the private sector after their service, IAOs tend to be less risk averse than career officials. However, this need not mean that IAOs are reckless – indeed the opposite may be true as poor performance can more easily result in their exclusion from having influence on important decisions. IOAs' attitudes towards risk can be summarized thusly:

In-and-outers may be less patient and cautious, but nearly all participants in the policy process desire to be involved in decisions and actions of major importance. They wish to see themselves as being effective and influential in shaping those decisions. The desire to be involved most acutely affects participants who are not routinely and inevitably part of the decisionmaking [sic] process. It is difficult for the president not to involve the secretary of state and the secretary of defense in [national security] decisions [...] Other officials who are on staff or in advisory or planning positions need to struggle to remain involved.^{clviii}

As IOAs tend to more frequently inhabit advisory positions, they are likely to have tempered, but still less risk-averse attitudes compared to career officials.

Due to the variety of perspectives an IAO might hold (relative to the psychology of a career official), it is prudent to further sub-divide IAOs into the roles they might take: namely, whether they are put in a managing position or a staff position. The position that an individual is assigned to is likely to reveal even more characteristics that are helpful in modeling their behavior.

Staff positions are those that tend to require a high degree of technical expertise and a great deal of experience with the issues at hand; while these tend to be held by career officials, IAOs tend to bring greater diversity of external perspectives when they hold these positions. Individuals in staff positions frequently serve in policy development positions, as personal staff assistants to senior officials, and in operation/planning positions rather than being responsible for management of other large staffs.^{clix} On account of the fact that these individuals are usually hired on the basis of their technical expertise with the subject matter, IOAs in these positions enter the bureaucracy with fairly pre-established attitudes and frameworks that may differ from those prevalent

among the existing career officials.^{clx} As a result, they tend to exhibit strong views and ideological thinking that can bring new perspectives to the bureaucracy.

In contrast, management positions are those that primarily lead large bureaucratic programs⁴⁷ and equally have to deal with a great deal of subordinates and all of their attendant opinions. As an example, with regards to U.S. foreign policy, the most commonly known and high profile management positions typically held by in-and-outers include the Secretary of Energy, Secretary of State, the civilian heads of the three military services, and the administrator of the U.S. Agency for International Development (USAID).^{clxi}

If the IAOs that come to these positions also have significant technical expertise in the particular subject area then they may well exhibit behavior and perspectives similar to those described above who are in staff positions. However, as these individuals also require significant skills in organizational and personnel management and may have to manage programs that rely on a broad range of technical bases, it is more common that IOAs brought to these positions have expertise that is more generalized than for those hired to staff positions. As a result of viewing issues through the information they receive from their subordinates (mainly career officials) and having weaker convictions and ideological frameworks through which they view their programs, IAOs in management positions are more likely to come to adopt the perspectives and institutional interests of their department.^{clxii} In this sense, while these IAOs still less risk averse than career officials, without external pressure (such as from an executive) managerial IAOs without

⁴⁷ In this paper, these types of positions are nearly synonymously used with the term “senior official”

previous expertise are likely to be similar to career officials in terms of their organizational perspective.

To recap, IAOs that go into staff positions are likely to enter the bureaucracy with pre-established ways of approaching problems that they view as within their expertise and be more resistant to automatically adopting prevailing views. In contrast, IAOs in managerial positions and facing significant pressures from career subordinates have an increased chance of adopting the existing institutional perspectives. However, there is one more dimension, irrespective of position, that affects IAO behavior and may sometimes serve to mitigate the positional effects just described – specific or generalized expertise.

For any officials who draw their influence from reliance on their specific, technical expertise, they rely on others recognizing and deferring to them in instances where their expertise is relevant. In turn, they are likely to defer to others' expertise in other matters in order to protect their image as a specialist and because to do otherwise risks retaliation wherein other 'experts' can then challenge them on their territory in the future.^{clxiii} This behavior is endemic to career officials and specialized IAOs.^{48clxiv} Therefore, while IAOs in staff positions will tend to hold unique views in their particular area of expertise they are unlikely to challenge conventional orthodoxies in other areas.

On the flip side, IAOs without a specific area of expertise are more likely to be resistant to, so-called, expert advice. This is not to say that they do not consider it at all, but are merely more willing to challenge the information and advice being provided to

⁴⁸ For example, Foreign Service officers are quite hesitant to challenge views of the Treasury department on economic matters or the Department of Defense on strategic or tactical military questions.

them and more closely examine the basis on which it was founded. This insight is particularly useful because, although by default managerial IAOs are likely to adopt the perspective of their career subordinates, when entering with a particular agenda or strong allegiance to the views of their executive (who probably had a hand in hiring them), this tendency can be useful for challenging traditional orthodoxies. This phenomenon is more closely examined in the next chapter when discussing strategies to institute reform.

Staff Deployment

Obviously, the purpose of this section is not to say that any one type of bureaucrat is better than another. A healthy bureaucracy requires a good mix of all of the personas described above in order to properly function in response to a diversity of needs. Career officials are particularly important for preserving institutional knowledge, retaining consistency in government policy, and carefully mitigating risk to sensitive institutions. In-an-outers in staff positions or with technical expertise are important to bringing new, cutting-edge, and innovative perspectives to the otherwise intellectually homogenous bureaucracy. And as we will discuss next chapter, IAOs in management positions can play an important role in facilitating large policy shifts or broad reforms when they are needed and injecting revitalizing energy to projects that are stalled under the supervision of more time-insensitive career officials. The hallmark of a great manager is the ability to constantly keep in mind the differing strengths, weaknesses, and incentives their employees have in order to utilize their talents most effectively.

Morale

The need to pen an analysis of morale is as bittersweet as waking from a deep slumber: it needs to be done but one hates having to do it. However, in the wise words of General Eisenhower, “the best morale exists when you never hear the word mentioned. When you hear a lot of talk about it, it's usually lousy,”^{clxv} and indeed, this section contains imperative lessons for those who may suffer from a deficiency of charisma.

Recall from the previous chapter that the three greatest challenges administrators face in ensuring subordinates successfully implement their decisions are (1) that they may not know what the administrator wants, (2) that they may be unable to carry out the command, or (3) they may resist the orders they are given. As anyone who has had a particularly stirring teacher, mentor, or friend will readily tell you, blind loyalty can only be attained at the hands of one who commands your respect, admiration, and trust. For this reason, morale among your subordinates is the lynchpin to ensure the faithful execution of your instructions.

The initial lessons are probably self-evident to anyone who has ever served in even the most minute of leadership positions and cover the preconditions necessary to positively inspire subordinates. To begin with the obvious, personnel must believe that what they are doing matters. If bureaucrats, more than most, will be in the position of believing that they are merely spinning the wheels of a larger machine, the least they need to expect is the belief that what the machine produces is actually important. Therefore, clear demonstration of how individual divisions or units contribute to the

national or organizational interest is essential. Lacking that, the bureaucracy will suffer from lackluster workers and a significant drain of talent as they find careers elsewhere.

The same is true for workers who feel that they are in a dead-end job. This feeling can be generated in two main ways. First, if they believe that their career path within the organization does not provide room for advancement, younger career officials are unlikely to stay (or even take the job in the first place) and older ones are disincentivized from contributing their all or transitioning new replacements for their jobs.^{clxvi} Second, the general image and role of a particular division cannot be diminishing without a specific plan for existing workers.^{clxvii} Rounds of gradual budget cuts or an inevitable sense of closure to a particular agency or department both signals to workers the lack of future advancement opportunities and the not-so-subtle suggestion that the work that they are currently doing serves little to no purpose.

Obviously, being able to eliminate obsolete or redundant divisions is critical to a healthy organization. As such, two approaches can help mitigate these effects. Firstly, lay out a transition plan to keep talented employees and move them to other, expanding agencies that require similar skill sets.⁴⁹ Secondly, formulate decisive opinions about what divisions need to be eliminated. Killing an agency through a slow death of gradual rounds of cuts only serves to demoralize employees and decrease the likelihood that they can be retained. Therefore, elimination needs to be quick and a transition to a new program (or just employees to other departments if the issue is obsolescence) must be immediate.

⁴⁹ This approach will be all the easier to institute if one is already following the recommendation to have agencies coordinate to encourage lateral promotions mentioned above in order to limit institutional bias

The consequences of not heeding this advice can be disastrous. One need look no further than the current predicament the Internal Revenue Service (IRS) faces: with an aging workforce and crippling inability to hire young workers, there is serious concern about the basic sustainability of one of the most central bureaucratic agencies to the functioning of the U.S. government.^{clxviii} After successive rounds of budget cuts and a subsequent inability to invest in advertising the importance and mission of the agency, the IRS is unable to hire and retain new talent on account of its reputation as an agency that is universally hated and results in a presumably dead end career.⁵⁰

Having covered the structural prerequisites for maintaining positive morale (communication about why particular jobs make a difference, ensuring appropriate room for advancement, and preventing images of diminishing departments), there is also an important management aspect to morale. Namely, as Presidents and CEOs will tell you alike, there can often be advantages to making decisions in secret, confined to a few high level executives, and excluding the bureaucracy. These include preventing leaks to media or Congress that make it more difficult to proceed with a decision, avoiding bitter fights with established bureaucratic interests that are described throughout the rest of the paper, or simply saving the time of going through bureaucratic procedures. While these reasons are compelling and in some cases probably justified, a good executive must exhibit great restraint in using extra-bureaucratic tools. Keeping the bureaucracy in the dark and explicitly excluding it from key decisions has a detrimental effect on loyalty as it diminishes the impression of ‘what I’m doing matters’ insofar as a limited number of

⁵⁰ This is in spite of the fact that the IRS has some of the fastest advancement tracks in the U.S. federal government

executives are prone to make decisions without input generated from lower levels anyway. This morale reduction in turn perpetuates even more passive disobedience which further incentivizes operating outside of the bureaucracy in an unending vicious cycle.

From a basic efficiency perspective, keeping the bureaucracy in the dark also has negative impacts. Prior to serving for President Nixon, Henry Kissinger noted the following about the dangers of extra-bureaucratic approaches:

Because the management of the bureaucracy takes so much energy and precisely because changing course is so difficult, many of the most important decisions are taken by extra-bureaucratic means. Some of the key decisions are kept to a very small circle while the bureaucracy happily continues working away in ignorance of the fact that decisions are being made [...] The only way secrecy can be kept is to exclude from the making of the decision all those who are theoretically charged with carrying it out. There is, thus, small wonder for [...] cynicism of American efforts because of inconsistent actions. In the majority of cases this was due to the ignorance of certain parts of the bureaucracy, rather than to malevolent intent. Another result is that the relevant part of the bureaucracy, because it is being excluded from the making of a particular decision, continues with great intensity sending out cables, thereby distorting the effort with the best intentions in the world. You cannot stop them from doing this because you do not tell them what is going on.^{clxix}

This is not to say that for some issues such as those that contain *highly* sensitive information that acting covertly and with a limited number of people may not be necessary. However, an executive must be judicious in his/her use of these procedures and take all efforts possible to push the direction of the bureaucracy to support the policy. This approach has the added benefit of enjoying longer sustained effects that can last even after one leaves their position. Of course, as Kissinger noted, this approach naturally takes both more time and effort – neither of which are inconsequential to an already busy manager. This brings us to our next chapter which discusses in detail how to balance

these demands when trying to do the difficult work of reforming bureaucratic culture, perspective, or structure.

4.3 Resistance and Reform

After slogging through all of the previous chapters covering both the types of structural improvements one ought to make to bureaucracies as well as the personal challenges that come with running it, we finally reach the ultimate purpose of gathering together all of these tools: understanding how to guide the bureaucracy in a new direction and implement significant reform or policy change. Certainly this task sounds far easier than it seems; few challenges are more daunting than the thought of showing down against a seemingly immovable institution of hundreds, thousands, or even millions of people with their own personal and organizational interests potentially opposing your every move. Alas, whether you view the modern era as a period of unprecedented population (growth) where this required level of coordination is inevitable or an information age with the opportunity to deploy the best efficiencies of technology and collective action to bring our society closer together and address our worst ills, understanding how to manage bureaucracy and steer it for the better is an integral part of both our present and future lives.

In thinking about how and why bureaucracies change, we will adopt one of the more pessimistic (although not necessarily unrealistic) perspectives of large social systems. That is to say that “[t]he bureaucratic system is basically inert; it moves only when pushed hard and persistently.”^{clxx} There is a wide variety of reasons that this is generally the case: most bureaucrats prefer the status quo, only small groups of people have an interest to execute any particular change, and since each person and manager trying to make a change has limited resources and time there is only so much they can do.

In addition, it may be difficult to institute policies that go against the “shared images”^{clxxi} of most of the participants. While it is probably prudent to be highly sensitive to (and potentially cynical of) structural issues related to bureaucracy, there is no reason to believe the majority of bureaucrats are cutthroat, House-of-Cards style power maximizers regardless of the consequences. Indeed, as we noted in Chapter 2.1 Democracy, Representation, & Bureaucratic Capture, one of the primary advantages of working with bureaucracies is the increased likelihood that individuals care deeply about the public interest.

As such, most bureaucrats approach their job with a set of ideological beliefs and particular schemas for understanding and simplifying the world. Through all of the pressures to conform mentioned in previous chapters, with enough time in the bureaucracy, these schemas tend to converge to a set of shared images that the vast majority of people operate off of. Consequently, policy decisions are often made with these in mind. Some examples include the entire notion of the Cold War, viewing the rise of various powers as threats rather than peaceful expansion. On the domestic policy side increasingly positive images of LGB⁵¹ individuals shaped LGBT oriented policies from the Health and Human Services (HHS) department and concerns about ‘peak oil’ and ‘dependence on foreign oil’ (particularly following 9/11) helped generate increased support in the Treasury and Energy Departments for transition to renewable energy.

Policies that can be justified in terms of the generally accepted shared images are likely to be accepted favorably and duly supported while those that cannot will almost

⁵¹ Regrettably, trans individuals still face overwhelming stigmatization in the media and public at large. Fortunately, recent HHS policies have had spill-over effects and have been trans inclusive.

inevitably face resistance.^{clxxii} While such iconoclastic policies are not impossible, the risk of opposition is high. Consider for example Nixon's denouement with China: the Nixon administration made significant efforts to plan the President's meeting with Mao in his trip to Peking and it was widely agreed that such a move was so unorthodox that only a small handful of people could afford to know.^{clxxiii}

While policy changes may be accomplished by changing shared images, changing shared images is often either an exceedingly slow and gradual process (shifting away from viewing Russia as a primary strategic threat, evolving views on gay marriage, etc.) or requires a significant exogenous shock (9/11 and the sudden rise in the perceived threat of terrorism).^{clxxiv} Admittedly, from this perspective, the amount an executive can do in a restricted amount of time is limited. Therefore, three limitations should be kept in mind when approaching any significant reformation or change:

1. One can make changes more easily if they can be justified in the context of prevalent shared images
2. One can make changes where shared images are either unsettled or insufficiently controversial to have an ideological perspective without significant resistance
3. One has a limited amount of political capital to make a direct shift away from a given set of shared images (whether held by solely by the bureaucracy or the public at large). As such, one can only realistically pursue a limited number⁵² of these 'big picture' reorganizations at a time.

⁵² Probably only one if the shift requires adding public pressure to get the bureaucracy to conform

Understanding Interests & Types of Resistance

Let us now assume that we understand the limitations listed above and have chosen one of the given paths. We still need to ensure that we understand what types of changes will generate resistance at the local and institutional levels. This inquiry naturally requires us to revisit the question of what interest all of the other actors hold.

First, it is important to realize that not all branches or organizations of a bureaucracy view put equal emphasis on all types of benefits and costs. Divisions that have large (and generally expensive) “capabilities” will treat budget issues far differently than those that already operate off of lower-cost approaches. New policies will be closely scrutinized by high capability organizations with regards to the impact they will have on existing budgets and plans. Conversely, the low capability division may care less about budget impacts,⁵³ but probably far more about the immediate implications of a policy decision on their long-term goals, reputation, or whatever their ‘currency of choice’ might be.^{clxxv} A good example is the difference between the Department of Defense and the State Department and their differing responses to the proposal for deployment of an anti-ballistic missile (ABM) system during the Cold War:

For the U.S. Army, it meant a bigger budget and a greater role in strategic warfare. State Department officials on the other hand, cared much less about costs and capabilities than about how the decision would affect U.S. relations with allies and potential adversaries.^{clxxvi}

Understanding whether a division is likely to care more about how a decision affects their budget vs. their reputation vs. a key policy variable that they are highly concerned with

⁵³ If they are being considered relevant to a policy, they have already ruled out any cost-intensive approaches or are expecting increased funding to handle the issue

(like goodwill among foreign states) is integral to identifying where to expect resistance among your bureaucracy.

The second complication is that while organizations generally support increasing their jurisdiction (and thus influence over important policies – holding preference for budget implications equal), they will resist expansion if such expansion requires bringing in more high-level players externally and/or if their new tasks appear to dilute their ‘essence.’

To understand this point, one must recognize the importance of people and organizations understanding a clear vision of their purpose and mission. In the same way a library is meant for lending books, a college is meant for teaching students, or an HBO Go account is meant for watching *Game of Thrones*, diluting the perceived specialization of an agency has the potential to create confusion about its purpose and effectiveness. In small doses, expanded purview has the potential to reap great economies of scale: a library that hosts community events becomes more like a community center, a college that invests in social activities for its students may find better satisfaction and interest in learning, and being able to watch other great shows like *The Wire* or *The Newsroom* is a great bonus! But if stretched too far, their value ironically can fall as their capabilities expand. If ‘library’ becomes synonymous with ‘community center,’ it is likely to invest less in its books and more poorly serve the studious or intellectually curious individuals it once did. As any college senior writing (read: procrastinating on) thesis will tell you, an excess of activities distracts one from their noble school work more than it enhances it. When suddenly you have access to 1,000 shows that you never watch, you find yourself

asking, “is this subscription really worth it?” even if you would have been perfectly happy to pay for it to get access to the few that you *do* really like. As both psychology and behavioral economic research is beginning to suggest, having more choices or capabilities can actually decrease satisfaction or confidence in an organization’s competence if the additions make something’s purpose or mission murkier.^{clxxvii}

This is the phenomenon that leaders of bureaucratic agencies intuitively understand: if new functions dilute their perceived specialization or purpose it will damage their long-term objectives or core competency. Note that not all changes necessarily have this impact in order to be resisted, only the *perception* of the existing bureaucrats matter. For example, following WWII, the U.S. State Department actually resisted the creation and reliance on the UN as those efforts increasingly required reliance on expert advice outside of the Foreign Service and expanded its focus to interdependent economic cooperation (something not previously under its purview).^{clxxviii} Most people today would readily agree that the formation of the UN has had a net positive impact for U.S. (and global) interests but being a good idea is not enough to ensure the policy will sail smoothly.

Similarly, ground level implementers tend to resist or at least not enthusiastically initiate new protocols or take new jobs if they are viewed as not essential to their organization’s core. Given a little thought, this conclusion is hardly surprising. “Ambitious career officers avoid serving in ‘unessential activities,’”^{clxxix} as those roles tend to carry less prestige and give the impression of containing fewer ‘core’ skills that would be valuable when superiors consider their promotion.

In application, the confluence of these problems can be seen in the internal fight among the U.S. armed forces regarding control of air-based missions. The Navy and Airforce fought over who controlled planes at sea as the Navy sees their core purpose to be all matters at sea and the Airforce considers their purpose to be all matters related to aircraft.^{clxxx} Their desire to remain one of the preeminent military branches ultimately spilled over to actively negative recommendations. For example, the Navy opposed the creation of long range bombers that could be launched from “semi-prepared fields” and hit targets across the ocean as such capabilities would seriously diminish the need for and thus importance of naval aircraft carriers.^{clxxxi} Similarly, the Army and Airforce ran into a similar problem stemming from the ‘moral hazard’ of unessential activity incentives: While the Army willingly ceded to the Airforce the ability to provide air-based combat support and transport (air travel was *not* a core competency of the Army and thus they were willing to shed it while the Airforce naturally desired control of the skies), the Army soon realized that the Airforce “was giving its highest priority to strategic bombardment and therefore was neglecting missions of concern to the Army.”^{clxxxii} In response, the Army reconsidered its decision and aimed to develop capabilities to provide its own combat air support, transport, and airlifts. The Airforce found itself in a catch-22 wherein it simultaneously was unable/unwilling to sufficiently support the Army’s missions but equally unwilling to allow the Army to run its own air capabilities and operations as such a move was perceived as a threat to its core purpose.

As you can tell, there are a whole mess of problems tangled among the various military anecdotes. However, to simplify the issues a bit, consider the following macro level lessons that can be learned about responding to these problems. First and foremost,

this highlights the importance of the lessons discussed in Chapter 3.1 Specialization which elucidates the importance of allowing groups to specialize in more clearly defined core competencies rather than tack on purposes to a mega-organization lacking a clear purpose. Second, each executive needs to look at issues such as the conflict between the Airforce and Army over air support and decide whether allowing the (representative) Army to create its own capabilities will just basically duplicate what already exists, thus wasting resources, and whether the respective Airforce can be sufficiently incentivized to support the other actor. If the answers to those questions are no, the executive needs to take a playbook from the previous chapter 4.2 Implementation and promote a career official who believes as you do and can simply settle the debate between the divisions. If the answers are yes, it is important to articulate and emphasize the importance of these additional missions and reduce their stigma as ‘non-essential.’

While the previous issue related to policies that expand a division’s jurisdiction, whether expanding or contracting, policy changes that will reduce available spots for promotion of career officials will be resisted. Relating to the morale issue last chapter, career officials continue with their job in the expectation for a chance at promotion – either higher in command within their branch or to be put in charge of a role that coordinates a variety of agencies (their own included). Decisions that decrease this likelihood either by formally eliminating senior positions or that requires bringing in large numbers of outsiders to compete for those positions will be opposed.⁵⁴

⁵⁴ Consider again the example of the State Department resisting the inclusion of UN experts as part of their team(s)

Responding to the concerns discussed up to this point can frequently be done at the most senior levels: if you can identify where resistance is likely to come from disputes can be headed off by using some combination of personal charm and wit to get the senior participants of a particular division on board with the plan and quell general discontent among those whom the policy will affect (but have little influence over the existence of the policy in question). However, we must also face matters that are subtler either because the locus of resistance is diffuse (just a general sense of disagreement rather than a particular person/branch objecting) or because resistance can take place at the lowest ground level.

One of the most common ways for lower level officials to resist instructions is to follow the letter rather than the spirit of an order. For example, in 1968 as military officials were planning escalation of military intervention into North Vietnam, President Lyndon B. Johnson made a speech where he said:

We are reducing – substantially reducing – the present level of hostilities...unilaterally and at once. Tonight, I have ordered our aircraft and our naval vessels to make no attacks on North Vietnam, except in the area north of the [DMZ] where the continuing enemy buildup directly threatens allied forward positions.^{clxxxiii}

The implication is clear – only make military attacks on specific, tactical targets that directly threaten our forces south of the DMZ. However, the formal orders directly sent to military officials only instructed cessation of bombing north of 20 degrees. While it seems probable that the military officials had some form of access to the speech and its content, without direct communication they could claim ignorance. Whether with malice or not towards LBJ's policy intentions, the next day's military activity focused on an all-

out bombing of the only major North Vietnamese city south of 20 degrees – certainly not a purely tactical target – in a move that suggested further escalation of violence, not less.^{clxxxiv}

While this difficulty can never be fully eliminated, the lesson is clear. As discussed in Chapter 4.1 Information, equally as important as transmitting specific instructions about policy decisions to the lower levels, good executives must formally include detailed explanations about the purpose of a particular policy and what it is meant to achieve.

In summary, organizations will view policy changes in terms of whatever common dimension they are used to thinking about policy – budget reliant divisions caring about budget implications, image focused divisions caring about reputation, etc. Additionally, agencies and the people who run them deeply value clarity of their mission and purpose. They will favorably view moves that help them focus on their *perceived* core purpose and resist moves that muddy that vision. Whether expanding to include more outsiders or closing senior positions available, moves that decrease the chance of career official promotion will be resisted. Finally, without clear explanation about the purpose of instructions, low level officers can avoid implementing new policies by strictly following (and misinterpreting) the letter of one's instructions rather than their intent.

Utilizing Time and Energy

Given all of the different factors that trigger some part of the bureaucracy to resist a new policy change, we are faced with the question of how an executive can effectively manage his/her time in the face of these challenges. As some researchers note, “no matter how important [an] issue may appear to an observer in retrospect, it was only one of a large number of issues confronting any senior participant at the time.”^{clxxxv} It is also important to recall that this limitation, in addition to a restricted amount of political capital severely constrains senior officials’ ability to effect policy. This is the primary explanation that Henry Kissinger provides for Secretary McNamara’s apparent ineffectiveness in effectively managing the Vietnam War:

McNamara’s profundity in analysis had to give way to a very practical problem: how many times a month could he go to the mat with the JCS? [...] If one wants to explain why it is that McNamara’s theories about the war in Vietnam were not always matched by implementation, especially toward the end, the primary reason was that he felt that confronted with issues of ABM, troop deployment, force levels, renewal of the strategic force, and Vietnam strategy, he could only handle so many of those simultaneously. He picked those which he thought were crucial at the moment.^{clxxxvi}

While this example highlights a contest of wills between senior officials, similar problems plague executives in ensuring that their subordinates are working. Not only does the executive need to busy him/herself with all of the problems that particular official is working on but all of the issues every other subordinate has on their plate.

As a result of this inevitable tendency for the executive to be stretched thinly, often decisions opposed by senior officials can be resisted simply by forgetting about them. Only on the largest issues is one likely to face repeated pressure or follow up about

a particular decision. Jonathan Daniels, a seminal figure in the civil rights movement and advocate for the voting rights act observed this phenomenon:

[i]f the President asks about a suggestion a second time, he can be told that it is being investigated. If he asks a third time, a wise Cabinet officer will give him at least part of what he suggests. But only occasionally, except about the most important matters, do Presidents ever get around to asking three times.^{clxxxvii}

The inability of one person to manage everything (particularly if it is being resisted or ignored) is fundamentally inescapable. However, before we discuss general ways that executives can expediently force an intransigent bureaucracy to comply with orders, there are two particular responses that are appropriate to the threat of a senior official ‘forgetting’ about instructions.

Although this will be discussed in far more detail below, if you are unable to dedicate time to perpetually follow up on decisions you think are likely to be resisted or ignored, appoint particular individuals (that you know agree with your position) to implement the management and follow up for you and merely alert you if there is a problem. The pressure and knowledge that lack of compliance will be noticed may alone be enough to solve the problem.

Of course, appointing a whole new set of people just to watch the existing people would only serve to duplicate the entire bureaucracy and moot the very purpose of having the senior officials there to do their job. Consequently, this is a strategy that can be employed in select circumstances that coordinates multiple people across organizations (see below) or when you can reasonably expect resistance to occur. Therefore, you must be able to identify when these situations will arise. Recalling the discussion from chapter

4.1, this is another reason why the adversarial advisement process is preferable to a consensus process. During the adversarial process when you are still in the business of being persuaded, individuals have a great deal of incentive to clearly express what it is they would like to see and not see. Information revealed in this process permits you to have a better gauge of the extent that particular subordinates will support or resist your decision. If you expect resistance, consider following up (or appointing another to do so).

This business of ‘following up’ reveals another important aspect about effective implementation in the face of resistance. Namely, presidential/executive emphasis helps signal that high level attention is being given to a particular issue and therefore that poor implementation will be quickly noticed and not received well.^{clxxxviii} To most people that conclusion is intuitive – of course you work harder when your boss is looking right at you. But it is also important to recognize that the relative effect of executive emphasis is inversely correlated with the number of people a job requires to get done. That is to say that if an action requires a lot of people to act – maybe it is particularly complicated or requires coordinating many individuals – executive attention will have little marginal effect on any given person.^{clxxxix} This is true for two reasons: one, unless you are the person being stared down by the president/executive, you probably do not feel the same sense of urgency as the person who is. Therefore, without even knowing it, unless your boss (senior official) explicitly expresses that urgency, you may be complicit in stalling an effort simply by insufficiently prioritizing the objective. Two, finding a particular person to punish or hold accountable among a diverse set of actors is naturally difficult. Of course, this problem is significantly mitigated if one has instituted the recommendations noted in Chapter 3.3 Accountability.

But ultimately, in spite of however many accountability measures one has in place, there will always be room for lower level implementers to resist a decision. One of the most time efficient methods of forcing the bureaucracy to be on board (public bureaucracies in particular) is to create what are known as “action-forcing events, including presidential trips and speeches that would oblige the government to develop policies.”^{xc} These can either be used to align the bureaucracy with a controversial decision that has already been made at the top (ex. a presidential speech expressing support for Palestinian statehood) or force the bureaucracy that has been unwilling to commit to one piece of advice or another to do so (ex. a presidential visit to Kurdistan might force the State Department to develop a decision on *whether* an independent Kurdish state ought to be supported). Any move that brings expanded pressure by making commitments more openly (to the public or even other divisions within an organization) that even a bureaucracy would not dare back down from can be considered ‘action-forcing.’ Because such measures are so quick and can force alignment at all levels of the bureaucracy, this approach, when deployable, is highly efficient.

Effecting Policy Across Organizations

Having covered the general lessons regarding resistance, let us consider the methods to implement new policies across organizations (now potentially even more disparate having followed the advice in chapter 3.1). Coordination among groups of specialized experts and divisions is the ultimate ideal for solving any complicated issue and is what bureaucracy is supposedly meant to accomplish. Of course, doing this is certainly more difficult than it sounds. As anyone who has spent any time among

professional academics will readily tell you, experts from different fields are almost inevitably going to disagree. Additionally, the time utilization problem we just discussed tends to have the impact of causing organizations to prioritize the issues that are exclusively on their plate and neglect those that other divisions are jointly working on and could be held equally responsible for. Furthermore, time constraints prevent the executive from perpetually managing every interdepartmental project.

As a modern example for us to examine the importance of these joint efforts, defense experts are currently advocating for greater coordination and someone to run efforts to respond to the Islamic State's (ISIS's) online outreach. As Frank Cilluffo⁵⁵ and Sharon Cardash⁵⁶ point out, “[l]ots of government agencies are doing something; the White House needs to coordinate them.”^{cxci} In particular, they acknowledge a great many departments need to be coordinated including the armed forces, other war and defense operations (under title 50), foreign relations, local law enforcement, and private companies who provide internet mediums for ISIS propaganda.^{cxcii} They also highlight the danger from a lack of coordination: when one US agency goes to shut down a particular site or outlet, it may disrupt another branch that is using that site to collect valuable information to target even more ISIS efforts. These are the types of issues that proper coordination can avert.

A majority of joint efforts, particularly if they will exist on an ongoing basis, can be routinized in a series of standard operating procedures which allows a department to become accustomed to a regular cost of dedicated resources and human capital. However,

⁵⁵ Served as Special Assistant to the President for Homeland Security immediately after 9/11

⁵⁶ Served as Security Policy Advisor to Canada's Minister of Foreign Affairs

in order for this to happen, a onetime ‘reform’ or policy event is required to force divisions together, assign them their mission, and establish these procedures (such as choosing someone to organize the online anti-ISIS measures). While an executive could personally supervise these reorganization efforts, the ability to enact reform is then limited to the executive’s attention span, which is probably better left to the most important reformations. This returns us to the approach mentioned briefly ago wherein one appoints a special agent (hereafter referred to as a “Special Reform Agent (SRA)”) to do the follow up effort necessary to ensure that instructions are carried out.

There are a number of historical examples of Presidents using this technique to great effect. President Nixon used Henry Kissinger to accomplish objectives that were moving too slowly (e.g. likely being resisted).^{cxci} President Kennedy appointed Averell Harriman to coordinate negotiation with Russia over the weapons test ban treaty and the Laos agreement.^{cxci} President Truman called on John Foster Dulles to help settle disputes between the State and Defense Departments regarding the timing for a peace treaty with Japan.^{cxci} In all of these examples, an important common theme is that the individuals held the great personal confidence of the President and/or were a relative outsider to the departments that needed to be coordinated and thus did not have an overwhelming inclination to only represent one perspective.

This leads us to a couple of interesting conclusions. First and most obviously, as an executive, it is important to ensure that you can guarantee that the SRA you choose to appoint is more loyal to you than any of the other competing powers involved. Second, in selecting an SRA that does not have a pre-existing bureaucratic loyalty that overwhelms

loyalty to you or prevents the agent from handling concerns from the other departments, in-and-outers often make ideal candidates for these positions.

Recall from last chapter the general characteristics of IAOs:

- They tend to be less cautious than career officials about trying new things
- They tend to be more urgent than career officials due to their perception of a limited amount of time to accomplish their goals
- They retain key incentives to ‘be effective’ and conform to the positions of whoever appointed them
- Those without lots of personal involvement with the division they are working with tend to accept the organizational interest(s) of the career officials under them without a competing imperative
- Those without specialized expertise tend to be more willing to challenge ‘expert advice’

Many of these characteristics make IAOs excellent candidates for SRA positions. Besides the fact that an IAO would share the executive’s urgency to accomplish their goals in a more reasonable timeframe, he/she would also be more likely to challenge conventional systems that career officials may otherwise be satisfied with.

However, this is not to say that all IAOs are equally good for all types of interagency policies. For example, since IAOs without a detailed understanding of the divisions they will be working with will tend to blindly accept the existing institutional interests and biases, it may actually be worse to appoint an IAO that does not have a

strong personal interest, vision for reform, and/or history working with/for the relevant agencies than a career official (a) who understands the ways the arguments behind the existing biases are overhyped, and (b) who's appointment to a more advanced position will increase morale among other career officers.

A similar split occurs for IAOs with/without specialized technical expertise. While IAOs with specialized expertise may be good candidates for cooperative interagency projects, they may not be ideal for leading reform efforts. Recall that those with specialized expertise require others to value the supremacy of their judgment in their field and thus have an imperative to defer to others when the subject matter extends beyond their expertise. When attempting to implement reform across one or more departments, conflicts with existing career experts is inevitable and an SRA who too easily defers to their institutional preference will be of little help to the executive's reform agenda. Recall however that since IAOs without a particular field of specialized expertise are more likely to challenge 'expert opinions' and therefore may be able to push agendas farther before having to return to the executive for additional political support.

Whether these SRAs should be appointed on an *ad hoc* basis or institutionalized in a formal role (ex. Policy Counterterrorism Evaluation Group under Sec. Rumsfeld, the creation of the National Security Advisor under Pres. Eisenhower, etc.) is a function of how effective the executive views the options for the particular situation and of political climate which is outside the scope of this paper. However, it is imperative that the person chosen for the job have the right qualities for the job. To summarize these situations:

For reform agendas:

- An IAO
- Someone who has an understanding of the structure of the agencies they are reforming
- Someone without a particular field for specialized technical advice
- A clear vision of the end result that aligns with the executive's objectives

For cooperative interagency projects:

- An IAO
- Someone with expertise specialized to the *issue* being tackled by the various agency

For running existing, well-managed programs:

- A career official who knows the organization and who's promotion will boost morale

Of course, no matter how inclined one might be to challenge experts on the assumptions that go into their conclusions, particularly when there is a competing interest to protect the status quo, it bears remembering the importance of always understanding the limitations of expert advice. Presumptively, this work has been oriented around the notion that bureaucracies that empower experts to work on issues within their area of expertise are the core of efficient governance. While that is a principle worth standing behind, any good executive will realize that this does not equate to taking expert advice at face value. Indeed, further inquiry to understand why projections are made the way they are and the levels of confidence about various pieces of information is integral to a

decision maker's risk analysis – it is an important lesson that is sometimes too easy to forget.

History is rife with examples of people reading reports produced by the bureaucracy to fixate on numerical projections as somehow fixed and containing a great deal more certainty than there actually is. For example, David Lilienthal who was charged with leading the Atomic Energy Commission (AEC) made the following shocking revelation during his tenure about the terrifyingly simplistic way experts made estimates about how long it would take the Soviet Union to acquire atomic weapons:

It is chiefly a matter of reasoning from our own American experience, guessing from that how much longer it will take Russia using our methods and based upon our own problems of achieving weapons. But when this is put into a report, the reader, e.g., Congressional committee, is given the impression, and deliberately, that behind the estimates lies specific knowledge, knowledge so important and delicate that its nature and sources cannot be disclosed or hinted at.^{cxvii}

The fact that some expert analysis may be based on far more limited data or simplistic 'rule of thumb' assumptions than one might initially assume is too dangerous to risk forgetting. Nuclear physicist Herbert York tells of a similar tale of how subjectively the performance standards of the first American ICBMs were determined (1 megaton explosive yield, range of 5,500 nautical miles, margin of error of 5 miles or better):^{cxviii}

So why 1.0 megaton? The answer is because and only because one million is a particularly round number in our culture. We picked one megaton [...] for the same reason that everyone speaks of rich men as millionaires and never as being tenmillionaires [sic] or one-hundred-thousandaires. [...] Thus, the actual physical size of the first Atlas warhead and the number of people it would kill were determined by the fact that human beings have two hands with five fingers each and therefore count by tens. [...] The only funny thing about this story is that it is

true. It really was that arbitrary, and what's more, that same arbitrariness has stayed with us.^{cxviii}

The implications of these stories are clear. While the availability of expert advice is indispensable in the vast majority of cases, it is the incumbent responsibility of the executive (or any consumer of bureaucratic/expert advice) to challenge the assumptions of information provided to him/her to better inform decisions. A number of lessons mentioned before can help assist with this effort including appointment of IAO advisers that will challenge conventional wisdom on your behalf and an adversarial advice process that will not only allow other senior officials to make challenges but also provide an alternative body of evidence in a different subject area that may overrule the first suggestion. Indeed, expanding the variety of expert *type* that is permitted to weigh in is not only helpful for understanding many facets of a problem but for providing the executive an excuse to overrule a department head he/she disagrees with without slighting the senior official(s).^{cxix}

While there was certainly a large amount of material covered here that may be difficult for a manager to keep in mind at any given moment, consider the lessons at their most simplistic: (1) resistance can be overcome by an action-forcing event or appointing an agent to follow through on particular goals, (2) since agents can only be deployed sparingly, recognize when individuals or departments are likely to resist you when utilizing this strategy, (3) organizations are likely to resist new policies that require bringing in more players, reduce the possibility that existing career officials will be promoted to senior positions, or add responsibilities not core to the function of the branch (or remove responsibilities that *are* considered core), (4) ensure that the people chosen to

be SRAs hold their first loyalty to you (the executive) and have the ideal personality profile, and finally (5) while it is important to rely on all of the tools at your disposal including a wealth of expertise, never surrender your own critical thought in understanding and challenging advice provided to you – even if it is by an expert. With these lessons in mind, one should be well equipped to effectively organize and execute meaningful reform throughout even the largest bureaucracies.

Section 5: Case Studies

“In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.”

– George Washington, September 19, 1796

5.1 Puerto Rico – When Centralized Bureaucracies Fail

Although the majority of this paper has been spent extolling the virtues of bureaucracy and discussing ways in which they could be improved, it is equally important to highlight the importance of following those lessons and that requires a discussion of instances when bureaucracy runs amok.

Since our discussion in Chapter 2.3 Bureaucratic Efficiency & Centralization, we have implicitly taken for granted that bureaucracies tend to operate best in systems of policymaking that are generally centralized. To recall, the primary reasons for this were: (1) avoiding unnecessary and wasteful duplication of systems, (2) preventing inconsistent policies that are confusing and inequitable to citizens, and (3) generating the closest thing a government can achieve to ‘economies of scale.’⁵⁷ Certainly, a specific analysis of the advantages, limitations, and best practices for centralized vs. decentralized policy making is deserving of more attention and to ignore its influence would be disingenuous, but such an analysis is ultimately beyond the scope of this work. Consequently, this case study highlights the factors relevant to centralization of jurisdiction to recognize their effects separately from those specifically related to bureaucratic structure.

When criticizing the outcomes of centralized systems, many use autocratic and totalitarian systems to demonize centralization neglecting other important factors that may have contributed to their ruin (e.g. substantially fewer personal freedoms). They

⁵⁷ The same decision makers have access to larger, standardized datasets; platforms for large programs (social security, healthcare.gov, etc.) are identical across regions thus reducing resources spent replicating fixed costs and in cross-system transaction costs; and reducing citizen transaction costs to moving within a country.

should instead look no further than directly off of the U.S. coast; Puerto Rico is a perfect example of a centralized government that is riddled with flaws despite substantial protections for personal freedoms. The purpose of this chapter is to use Puerto Rico as a case study to (a) assess the valid concerns of those who are concerned about greater centralization that may correlate with an expanded bureaucratic arm, as well as (b) highlight the importance of the lessons discussed in Sections III and IV by using them as a framework for understanding the failure of government on the island.

Puerto Rico – The Situation

Puerto Rico is a protectorate of the United States. Ceded by Spain to the U.S. in 1898 (along with Cuba, the Philippines, and Guam), Puerto Ricans received U.S. citizenship beginning in 1917 and the island officially joined the U.S. Commonwealth in 1952.^{cc} As an “unincorporated territory” or “insular area,” Puerto Rico is in the awkward position of not being a state but still being a part of the United States.^{cci} As a protectorate of the U.S., the federal government retains the right to apply federal laws to Puerto Rico (although they are officially granted local autonomy). However, its lack of statehood prevents the Constitution (except guarantees of personal freedom) and many federal laws from automatically applying to the territory.^{ccii} This somewhat ambiguous political status both helps and hinders the island in a number of ways, which will be debated later.

What is not up for debate is the exceedingly distressed situation Puerto Rico finds itself in today. To begin, Puerto Rico’s economy faces numerous structural issues – a portion of which are arguably caused by poor governance and public policy. In many places, positive economic growth can still be considered a sign of distress if it is too low

to sustain expected levels of spending, debt, etc. For the past decade, the Puerto Rican economy has not merely grown slowly but has actively contracted; which, according to former Chief IMF Economist Anne Krueger, “is remarkable for an economy suffering neither civil strife nor overt financial crisis.”^{cciii} In a vicious cycle, the poor economic situation has led to outmigration and population loss as citizens move to the US mainland to find better jobs.^{cciv} As more people (especially those with high skills) leave, the labor force and tax base shrink causing even more economic malaise. These forces, among others, have led to unsustainable growth in the Puerto Rican government’s debt. With over \$72 billion in public sector debt, debt has reached over 100% of GNP, triggering multiple credit downgrades and the island now borders on the edge of default. To put this in perspective, Puerto Rico has more debt than any U.S. state other than New York or California while only having the population of Oklahoma and a GDP smaller than Kansas.^{ccv} Simply put, Puerto Rico’s economy is in big trouble.

As if the purely economic pressures were not enough, Puerto Rico is also hurt by a number of exogenous crises. Years of neglect have left the island with a “crumbling infrastructure.”^{ccvi} Until 2013, high oil prices resulted in exorbitant energy costs that funneled money away from the local economy.^{ccvii} Being an island with an oil-dependent energy system, import of fuel alone added a significant premium to electricity costs as residents pay an average of \$0.22/kWh – multiple times the rates found on the U.S. mainland.^{ccviii} Finally, a drought that began in 2013 has resulted in poor access to water and some city governments have had to institute strict rationing policies.^{ccix} All of these issues further exacerbate the economic woes as companies find themselves in a difficult environment for doing business and people are driven away from the island.

The questions now remain: what are the causes of these problems? To what degree is the government at fault for making these problems? Are inefficient, centralized bureaucracies at fault? Whatever is to blame, what specific responses should the government have and how do they inform our understanding of governmental organization?

Federal Centralization

This section is meant to identify the failures of centralized decision-making systems as separable from decisions specific to bureaucratic decision-making. We will begin with the problems that centralization at the federal level has caused for Puerto Rico. As we will see, when the federal government applies laws that are uniform across the United States, it often fails to account for some of the specific situations in places like Puerto Rico. In particular, we will look at how the Puerto Rican economy differs from the U.S. as a whole and how federal regulation failed to account for these distinctions.

One of the key characteristics that makes Puerto Rico a useful example is that, as an island, its difference in geography represents a fundamentally different type of economy than U.S. mainland which is usually what federal government considers when drafting laws. For example, in an effort to promote manufacturing jobs (a capital intensive form of labor that is generally sensitive to economies of scale and competition), the U.S. Congress passed a series of tax breaks in Section 936 of the U.S. tax code to benefit domestic manufacturers operating in Puerto Rico.^{ccx} In the short term, this had the effect of bringing manufacturing jobs, pharmaceutical and software development in

particular,⁵⁸ to the island. However, properly understood, legislators making these incentives should have viewed the tax breaks in one of two ways: (a) a permanent subsidy meant to sustain an otherwise inefficient manufacturing economy in Puerto Rico indefinitely, or (b) as a temporary subsidy that only served to draw investment away from Puerto Rico's comparative advantages (tourism, low labor costs, etc.). Unfortunately, they ended up with the latter when Congress voted in 1996 to phase out Section 936 over the next decade.^{ccxi}

Some pundits argue that these tax breaks are a significant contributing factor to Puerto Rico's current debt problems.^{ccxii} This position is not entirely accurate if we assume that this subsidy could not be expected to last forever. Removing the tax breaks returned Puerto Rico to the same economic capabilities it maintained prior to the benefits – the same issues regarding how to develop the island economically that exist now would have equally existed then. Therefore, it is not so much that the tax breaks caused the problem so much as they 'added to the clock' before Puerto Rico had to face its debt problems. Nonetheless, these tax effects highlight a key issue that can arise from improper centralization: *without sufficient consideration of how individual components of a jurisdiction are unique, blanket, uniform regulation can fail to be efficient or effective.*

Unfortunately, unsustainable federal subsidies are not the only manner in which federal regulations have stifled Puerto Rico's natural comparative advantages. As alluded to earlier, Puerto Rico's labor market differs drastically from that of the mainland. Puerto Rico is on an island, making large, tangible capital investments relatively costly.

⁵⁸ Due to high transportation costs to and from the island, industries that produce low-weight products benefit disproportionately.

Furthermore, unlike any other states, Puerto Rico is surrounded by other island nations such as Haiti, the Dominican Republic, and the Bahamas, which all face similar restrictions and therefore find their comparative advantage in producing cheap labor in lieu of providing cheap capital. However, the U.S. federal minimum wage of \$7.25/hour raises average Puerto Rico labor costs to be far greater than its neighbors. For example, a Puerto Rican worker would be paid \$290 for a 40-hour work week compared to less than \$60/worker per week paid in the Dominican Republic.^{ccxiii} As one might imagine, when Puerto Rico loses this comparative advantage (ex. cheap tourism – a labor intensive industry), they sacrifice lots of business to these neighboring countries. Imagine it this way: you are planning a trip to the Caribbean. You can choose to go to Puerto Rico where you will get sun and beaches and sand and your stay will cost \$1,000. Your other option is to go to the Dominican Republic where you can also get the same sun and beaches and sand but for \$300 – less than a third of the price! Which place are you going to choose to visit? That is the same question potential tourists are going to ask themselves and it shows the powerful predicament Puerto Rico finds itself in.

Now before we simplistically begin decrying minimum wages as harmful to the economy, let us consider the nuance and context to this analysis. Puerto Rico finds itself in this situation because tourism and cheap labor (without considering artificially subsidized industries) is really the only basis on which it can compete. Many expert studies have shown that in most cases, minimum wages do not have a substantially negative impact on employment and that raising minimum wages can have net positive impacts on an economy.^{ccxiv} This reasoning is fairly intuitive as well – in major cities and established economies like Los Angeles or San Francisco, minimum wage workers are

not performing jobs that can be easily exported to a new, lower cost area. All of the restaurants in Los Angeles cannot just pick up and leave for New Mexico because Hollywood simply is not going to move with them; and our beloved celebrities are certainly not driving hundreds of miles to get their Chipotle. What this tells us is that the effectiveness of policies like the minimum wage are contingent on factors that vary from place to place – we may want a lower minimum wage in a lower cost area like Puerto Rico or Alabama, but be fine having a higher wage in New York. In most cases, the federal minimum wage currently plays this role well; since most states have minimum wages higher than the federal level, the federal wage provides a useful ‘catch-all’ to set the lowest bar and let capable states raise their levels higher. As the mainland U.S. economy is reasonably cohesive, this policy tends to work out fine. Unfortunately, when there are significant exceptions like Puerto Rico, sometimes it does not quite work out. As another warning to making inappropriately uniform policy across a large jurisdiction – centralized policy makers need to build in mechanisms that allow for flexibility for differing circumstances.⁵⁹ As discussed in Chapter 3.2 Autonomy, this is actually a characteristic that properly structured bureaucracies given direct policy-making power can be empowered to do.

In addition to the effect of the federal minimum wage on the Puerto Rican labor force, high federal welfare payments (relative to income and cost of living) disincentivize unskilled laborers from looking for work. Through many federal transfer programs such as Medicaid and Social Security, low-skill, low-wage Puerto Ricans can receive just as

⁵⁹ As applied to minimum wages, this could take the form of pegging regional or state-by-state minimum wages based on costs of living, etc. In this way, a centralized policy making institution could still adjust for differences between areas.

much and sometimes more money in benefits than they would working (wherein they would no longer qualify in many cases).^{ccxv} One estimate shows that “a household of three eligible for food stamps, AFDC, Medicaid, and utilities subsidies could receive \$1,743 per month – as compared to a minimum wage earner’s take-home earnings of \$1,159.”^{ccxvi}

Again, it is important to stress that we cannot reductively conclude that welfare benefits are inherently bad and primarily cause laziness. In moderation and with sufficient oversight, such benefits can help struggling families take time to search for higher paying jobs and allow creative entrepreneurs to take risks in starting their own business that they may not otherwise take. The problem(s) as applied to Puerto Rico are that the federal programs do not sufficiently account for difference in wages, income, and cost of living in unique local situations. Furthermore, an issue specific to these welfare policies is that they provide high benefits to a few that are costly to lose, rather than fewer, broadly available benefits that face less resistance when being phased out.^{ccxvii}

As we have noted, improperly applied, blanket centralization can result in very poor outcomes. However, all is not lost; we have also learned an important lesson that could help even centralized decision making institutions avoid these problems – be prepared to make exceptions and extend flexibility of policies to areas with differing circumstances. Or better yet, if there is a metric by which these differences can be consistently scaled (such as cost of living), build those adaptive measures into the policy itself to reduce arbitrariness in policy application. As with any type of organizing structure, centralized governments definitely have risks to avoid. However, the mere

existence of problematic centralized governments does not summarily discount the possibility for a strong and effective set of centralized institutions or bureaucracies.

Territorial (Local) Bureaucracy

In addition to some of the issues stemming from centralization at the federal level, many of Puerto Rico's problems are compounded by inefficient and poorly administered bureaucracy at the local (territory) level. In a manner unique to Puerto Rico, the territory owns and runs in excess of 20 different public corporations. While most other U.S. states manage utilities and similar businesses through partially privatized systems/partnerships, Puerto Rico instead runs all of these operations itself. Some of the largest include the Electric Power Authority (PREPA), the Aqueduct and Sewers Authority (PRASA), the Highways and Transportation Authority (HTA), and the government's financing arm, COFINA. These examples will help show us the ways in which government-run bureaucracies can run amok and why the government should not be solely responsible for operations that can be effectively run in partnership with the free market.

The first and probably most significant problem that these state enterprises have is that they are beholden to political interests that are often contrary to the long-run goals of the agency and territory. As discussed in chapters 2.1 Democracy, Representation, & Bureaucratic Capture and 3.2 Autonomy, one of the supposed advantages of bureaucratic administration is that it leaves policy implementation to experts who will be the best at assessing the options available – failing to do so leaves institutions vulnerable to political capture by elected politicians. Unfortunately, Puerto Rico finds itself in this exact

situation. In large part, the failure of the existing bureaucratic institutions can be blamed on the significant degree of political appointments.

For most of the agencies, the replacement of top bureaucrats is aligned with the political election cycle. Therefore, it is commonplace for a political party to immediately staff all of the public corporations with their appointees when they win an election; in the process, they wipe out expertise and operating continuity from the agency. For example, the public utility PREPA appoints a new executive director almost every time a new political party gains power. This new director, along with the new party, functionally replaces the entire board of directors. This perpetual back-and-forth tends to treat public agencies as political tools rather than public resources and greatly reduces their efficacy. Furthermore, for PREPA, many of these appointments do not even require expertise in engineering, finance, or energy systems to become part of the board. This helps generate a culture of incompetence that defeats the supposed purpose of bureaucratic administration: having experts make expert decisions.

Because these agencies are so sensitive and *accountable* to the political parties in charge, they often find it difficult to institute politically difficult but necessary changes. Despite running deficits for years, PREPA has been unable to raise electricity prices in order to balance its costs or even invest in necessary technology to continue operating. Expert reports indicate that PREPA is “using technologies decades out of date,” costing significantly more than it could if the proper investments had been made.^{ccxviii}

Similarly, Puerto Ricans continue to pay more for less when it comes to education. “Puerto Rico currently has 40% fewer students but 10% more teachers than a

decade ago,” and students attending the University of Puerto Rico pay a low, flat tuition, regardless of need, that is far lower than on the mainland or even comparable private high schools.^{ccxix} While it would be far more efficient to consolidate schools in low population areas and increase university tuition (and only extend need-based subsidies), such actions would result in significant political backlash as teachers would be laid off and some families would face higher education costs.

Other agencies suffer from over-employment and inflexible labor forces causing the territory to issue more new debt to cover recurring expenses such as payroll.^{ccxx} Significant layoffs would be immediately blamed on the existing administration and politicians would face punishment in the next election. This of course deters action that may be needed to slim down government and in some cases, may be causing politicians to pressure agencies to hire more people, even if they are unnecessary.

Aside from inordinate labor costs, agencies even find it difficult to collect money they are rightfully owed for performed services. Tax evasion is rampant on the island and is one of the many reasons government revenue estimates consistently fall short.^{ccxxi} PREPA finds itself often unable to collect money for electricity it has provided and refuses to shut off power to customers with delinquent accounts as such a move would be politically unpopular, further incentivizing such behavior.^{ccxxii} Instead, such agencies ‘bargain’ with customers by offering to arbitrarily reduce the amount they owe in order to collect at least some of what the public corporation is owed.^{ccxxiii} Tax collection has certainly never been a popular government function; but at the point a government is

unable to collect payments due to the political consequences of cracking down, it is clear that politics is playing too great a role in day-to-day governance.

Here we can see many of the dangers of having bureaucracies that are inherently political. In an ironic plot twist, *increased accountability* to elected, political branches of government can actually harm the effectiveness of government in doing its job(s). This example serves to stress the importance of having government agencies that are independent and shielded from other political branches of government to ensure continuity from administration to administration (rather than agencies acting as political tools) and to allow departments to make difficult, but necessary decisions (Chapter 3.2).

Culture of Incompetence:

In addition to the problems caused when bureaucracies are not protected from politics, Puerto Rico's public corporations generally suffer from what is best termed a 'culture of incompetence.' A combination of poor accountability and unqualified bureaucrats regularly results in inadequate government responses to new (and old) problems.

As an example, massive spending aside, Puerto Rico's budget is also in trouble largely due to the inability to perform basic government functions. Not only is the Commonwealth unable to collect its taxes, the bureaucrats in charge of the island's finances are unable to track how much money is spent and owed^{ccxxiv} and make perpetually inaccurate projections. Every year since 2004, revenue forecasts have exceeded their actual collections by about \$1.5 billion and (as if things were not bad

enough) estimates for tax refunds have also been consistently underestimated.^{ccxxv} The treasury is so unequipped and poorly managed that many external experts agree that a financial oversight board run by more experienced individuals is critical for a solvent financial future for Puerto Rico.^{ccxxvi}

Among others, there are four main reasons for this chronic bureaucratic failure that have been covered in previous chapters. First, reform efforts to date have been unsuccessful because they have often been led by the appointment of career officials who lack the same experience and urgency as their predecessors (chapters 4.2 and 4.4 Reform). This may change over the next few years as external financial firms that have lent Puerto Rico money are pushing to bring in expert advisors who are not beholden to existing bureaucratic institutions.

Second, rather than hiring a smaller number of qualified specialists for positions, a morass of under-experienced workers fill many positions. The government employs nearly a third of the island's population^{ccxxvii} and often have insufficient skill requirements when hiring employees (recall how little it takes to be part of the Power Authority's governing board) – a detrimental impact to anyone hoping for a bureaucracy based around expert specialization as discussed in Chapter 3.1 Specialization. For the employees that are hired, there is little accountability and often not even a measurable standard to assess how well workers are performing.

Third, on account of the lack of measurable performance standards, employee compensation is often fixed and unable to reward exceptional work (or punish poor performers). Consequently, there may be little incentive to do anything other than show

up at work every day, discouraging any impetus to tackle looming institutional threats. As discussed in Chapter 3.3 Accountability, properly structured compensation is critical to ensuring employees work their hardest but also to attracting individuals with the skills and qualifications that Puerto Rican institutions are so badly lacking. Without the potential for competitive compensation for their skills, Puerto Rico will likely continue to suffer brain drain as their most talented graduates leave for the U.S. mainland.

Finally, lack of accountability results, as there are few institutional procedures wherein public corporations are forced to review the effectiveness of their previous policies in projecting a long-run plan. This is not only evident as many of the public corporations have pursued the same policies for nearly two decades in the face of crumbling infrastructure and budget overruns, but also unsurprising – after all, how could we expect institutions who cannot even track how much money they are taking in/spending to assess the cost-effectiveness of programs? As chapter 3.3 also notes, processes that allow agencies to review their work are the only way that bureaucracies (or any organization for that matter) can learn from their mistakes and adapt to the problems that confront them.

Conclusion

Fortunately, all need not be lost for Puerto Rico. Many of the issues highlighted are entirely controllable with the proper changes in public policy – the problems are not insurmountable. To begin, there are a number of policy changes at the federal level that can correct for the current discrepancies between Puerto Rico’s circumstances and federal law. Oddly enough, many of the issues attributed to ‘centralization,’ are largely a result

of Puerto Rico's treatment as a protectorate rather than a fully-fledged state. Ironically, as a result, more centralization may actually solve many of these issues.

Consider the impact that equal statehood recognition would have for the island. Equal levels of federal funding for programs such as Medicare or higher education could both improve economic growth and stem the flow of mass migration to the U.S. mainland.^{ccxxviii} Similarly, access to the centralized, professional tax collection apparatus would offset the poor quality duplication for these functions that are run by the local government.^{ccxxix} Finally, access to the U.S. bankruptcy code (particularly Chapter 9) would give the island the ability to systematically and legally impair debts that are unsustainable.⁶⁰ In essence, centralization or lack thereof may not be the most important factor in terms of governance efficacy but rather that one must make a full choice of one or the other. Either fully centralize and benefit from the consistent application of federal policies so that the island has the same advantages of every other U.S. state or decentralize and permit Puerto Rico full autonomy to govern themselves.

With regards to the incompetent bureaucracies, the variety of best practices discussed throughout this work would be a good first step for rectifying these problems. To recall, these include the following:

⁶⁰ Currently, Puerto Rico's protectorate status neither provides them legal access to the U.S. code nor allows them to institute their own bankruptcy procedures basically leaving the entire island at the mercy of federal courts and bilateral agreements with hedge funds that hold their debt.

- Permit policymakers (bureaucratic or otherwise) sufficient autonomy to set different thresholds for a given policy⁶¹ to adapt to varying situations of different regions (Autonomy)
- Ensure that bureaucracies are insulated from political pressures by reducing the number of employment conditions based on political appointment and increase those based on merit or job qualification (Democracy and Representation, Autonomy, & Specialization)
- Provided measurable standards by which to assess employee performance (Accountability)
- Incentivize performance by making employee pay variable based on the performance standards mentioned above (Accountability)
- Institute formal procedures to ensure that bureaucracies are reviewing the effectiveness of past decisions and performance (Accountability)
- Hire people who have the correct level of urgency and incentive to spearhead reform efforts (Implementation & Reform)

More than anything else, this case helps feature the universalizability of the principles in Sections 3 and 4. Failing to take these into consideration is not insignificant – such an oversight could have devastating impact on the efficiency and quality of governance.

⁶¹ It is important to retain the same type of policy from the perspective of platform, implementation, and legality in order to still access economies of scale

5.2 Japan vs. China

Japan and China pose a uniquely useful case for considering the material we have covered so far: from the broadest themes of the proper role of bureaucracy in a democratic society (and a contrast to its role in a non-democratic one) to highlighting the radical difference between how a good vs. bad bureaucracy can shape the direction and prosperity of a nation.

Through periods of significant upheaval in both Japan and China, the status of their respective bureaucratic classes remained the best indicator of their national stability and economic success. That is to say, from the (approximate) period of the 1880s to WWII, Japan developed rapidly, largely on account of its superior bureaucratic organization and centralized state structure. Meanwhile a decentralized China with a progressively less professional civil service faced one of the greatest declines in its abnormally long history. In contrast, emergence from WWII resulted in a sudden role reversal. The Chinese Communist Party (CCP) developed an extensive, centralized, and specialized bureaucracy capable of managing radical social and economic changes in the years to come. Meanwhile, as strengthening political parties⁶² in Japan began aggressively interfering with and dismantling the existing professional civil service the politicians were simultaneously captured by a variety of rent-seeking interests in the most decisive political capture seen in the developed world.

⁶² In reality, it was really just one party - singular

Certainly, it would be naïve to pretend as if the state of these countries' bureaucracies was the only variable that affected their relative ability to develop. As a consequence, in the interest of full disclosure, the below analysis provides the cases' entire context, much of which will appear irrelevant to the topic of bureaucracy. However, as you will hopefully notice, many other factors such as culture, democratic vs. autocratic structure, and the status of political elites are largely relevant due to their influence on the structures of bureaucracy and the potential for development of a centralized, 'big government,' administrative state.

Before beginning, it is important to note that the purpose of case studies is to identify common or extendable principles about the variable in question – namely the importance of effective and centralized bureaucracy. That is not to say that all aspects of a particular case are generalizable nor that just because a series of conditions turned out well that *all* of those conditions ought to be emulated. For example, recognizing some aspects of well-organized bureaucracy by the CCP is neither an endorsement of authoritarian rule nor communism as ideology. Similarly, recognition that the Japanese government had extensive reach into the personal lives of citizens and also happened to generate positive bureaucratic outcomes is in no way an endorsement of a similarly expansive government reach. Lessons insofar as they can be identified here must be contextualized by the respective objectives and needs of a given society. For American readers in particular, keep in mind the discussion throughout Section I discussing the balancing of various values held by the American polity and use it as a guide in determining which lessons are directly transferrable and which aspects are not.

1880-1945: Why Did Japan Progress While China Plodded?

From the period of 1880-1945 (the Meiji era in Japan), this paper asserts that modernization was more successful in Japan than in China due to a stronger national identity and flexibility to permit change. This conclusion is in line with modern historians who are beginning to recognize and emphasize the larger impact of macro-level social disruption rather than technical micro-policies in their narratives on industrialization and progress.^{ccxxx} As such, Japan soon discovered that one of the easiest ways to generate a state-centric national identity was simply greater presence of the State – for better or worse, “expansive government”⁶³ undeniably has the impact of increasing social reliance on the state. As John King Fairbank and Merle Goldman highlight in “China: A New History,” “the one thing essential for the industrialization of late-comers like Japan or Russia was government leadership.”^{ccxxxii} Conversely, the relative weakness of the Chinese government in day-to-day lives likely explains China’s inability to modernize quickly.^{ccxxxii}

Japan was clearly aided in its development by “an emerging national consciousness” that occurred during the Meiji era.^{ccxxxiii} Supported by neo-Confucian ideals about respect for authority generally and the government in particular, the developing bureaucratic state was considered widely legitimate. This meant the Japanese were both psychologically prepared for change that was generated by reform and recognition of the State as the most legitimate actor to facilitate these social adjustments.^{ccxxxiv}

⁶³ In contrast to ‘big government’ which is meant to describe the size of the governing apparatus to achieve its objectives, ‘expansive government’ is meant to describe the level to which government action reaches into people’s personal lives. While big government tends to be a corollary of expansive government, the reverse need not be true as the concepts are theoretically independent.

As manifested in Japan, neo-Confucian ideals helped the populace embrace change through a commitment to learning/accumulation of knowledge from the outside world and a self-sacrificial attitude towards the nation that likely reduced the threat of explosive unrest resulting from change.^{64, ccxxxv} In the words of Sibusawa Eiichi, “the secret to success [...] is the determination to work for the sake of society and of mankind as well as for the future of the nation, even if it means sacrificing oneself.” By contrast, neither the Chinese scholarly elite nor common people were prepared to depart from traditional “Chinese learning” and this lack of flexibility likely translated in a general “lack of responsiveness” to a world developing around them.^{ccxxxvi}

The adoption of these attitudes in Japan was greatly advanced by compulsory education instituted by the centralized Meiji government which ensured that everyone had a unified understanding of their relation to the state^{ccxxxvii} and a broader understanding of the foreign threat that existed if Japan was left behind (spurring local pressure *toward* reform, rather than away from it). In tandem, the government changed curriculum to emphasize state unity and state-centric moralistic ideals in response to the threat of resistance.^{ccxxxviii} In essence, higher rates of education and literacy in combination with a centralized school system helped cultivate a unified ‘Japanese identity’ that prevented local factionalism.

Japanese elites focused the locus of this newfound Japanese identity around the mythic image of the historically irrelevant emperor (not dissimilar to the sense of mythic reverence Americans feel towards the Constitution).^{ccxxxix} Nonetheless, even the national

⁶⁴ This was also supported by a generally more colored history in Japan of using foreign ideas, technologies, and developments.

identity of the Emperor would not have ensured the success of modernization without a general reliance on the competence of the Japanese state. Unlike China where governance was fairly local and tended to avoid interference beyond basic public institutions, Japanese rule extended into everyday life for the Japanese people. This likely increased the efficiency and speed with which reforms could be implemented and made people more reliant on the state as they became used to the benefits provided by high quality government institutions. Certainly when the people have a vested interest in the government's continued existence, it seems reasonable to expect fewer revolutionary tendencies to overthrow the institutions that be.

Beyond education, a focus on meritocratic recruiting into all government positions assuredly improved the quality of government services/actions.⁶⁵ Assisted by the neo-Confucian ideals of meritocracy, Japan opened its administrations to a broader pool of talent^{ccxi} and began civil service examinations for recruitment in 1887.^{66, ccxli} By contrast, while China originally began with similar merit-based recruitment for its institutions, broader corruption in addition to dilution of the curriculum for civil service examinations culminating in the abolishment of the examination system altogether further perpetuated an unpreparedness for nationally directed reform.

While unrelated to bureaucracy, the final important factors in establishing a legitimate, unified national identity were anti-imperialist concerns and a sense of gradual change. Concerns of foreign domination almost universally help generate nationalist

⁶⁵ It also played a contributing role to a sense of social mobility which will be discussed later.

⁶⁶ Recall both previous lessons concerning the importance of technical competence (Chapter 3.1 Specialization) and morale that is generated from mobility within a bureaucracy that is based on one's efforts (Chapter 4.2 Implementation)

tendencies to resist occupation or subjugation. While this was true for both Japan and China, it was likely of graver concern to Japan due to the Iwakura Mission and the threat not fully realized in China until it was too late.^{ccxlii} While a helpful factor (indeed, what eventually spurred sufficient Chinese nationalism during Japanese occupation), at the time it was ultimately not enough alone to combat other factors resisting Chinese modernization. Concurrently, Japan's 'head start' in instituting reforms in response to these concerns gave them enough time to institute gradual change that did not appear to attack core values and institutions. While initially resisted, pre-industrial reforms like compulsory education and military were resisted, but "eventually [...] became a well-accepted obligation."^{ccxliii} As noted earlier, these key institutions for later reform gained legitimacy over time. Were these reforms to be introduced simultaneously with broad industrialization, Japan may have faced significantly more resistance and threat of revolt due to a perception of 'destroying the Japanese identity' as functionally happened during the transitions in Chinese educational curricula.

One lesson here is important – acceptance of changed or new institutions take time and may best be done gradually. As discussed in Chapter 4.3 Reform, it is important to keep in mind your level of political capital at any given moment when pursuing reform, lest a critical mass of the powers that be come to oppose you.

Admittedly, there are far more factors that affected the relative development of the Chinese and Japanese economies during this period. Some of these include relevant control of their tax bases,^{ccxliv} ability to democratize and integrate new technology,^{ccxlv} education levels with regards to containing inequality from industrialization,^{ccxlvii} and the

structuring of industrial reforms so as not to alienate powerful societal elites.^{ccxlvii} While none of these reveal any unique insights about bureaucracy in particular, it is critical to note that all but the last of these variables were largely determined by Japan's transition to a centralized governing structure and implementation of a professional civil service that was able to quickly, cheaply, and uniformly implement these policies on a national scale.

1945 – 2007: Chinese Rise, the Unitary Party, and the Death of Japanese “Democracy”

One of the most fascinating aspects of the Japan/China case is the significant role reversal between the two countries that closely tracked the efficiency of their bureaucracies (measured by speed and cost of policy implementation, not necessarily the quality of any given decision). On the Japan side, the rise of structurally democratic influence resulted in a democratic capture while simultaneously reducing the autonomy of bureaucracy. As discussed both in chapters 2.1 Democracy, Representation & Bureaucratic Capture and 3.2 Autonomy, these changes had a highly damaging effect on Japan's otherwise efficient bureaucracy as increased micromanagement by captured Japanese politicians translated into a *de facto* captured bureaucracy. Meanwhile the CCP developed an extensive bureaucratic apparatus that was able to implement policies quickly with a great deal of political insulation. Of course, in the Chinese case, this insulation came at the cost of any formal democratic voice and a lack of responsiveness to citizen needs engendered by the lack of political opposition. However, it would be

difficult to deny that for an autocratic state, China has done an unusually good job at stably managing a vast nation and facilitating rapid economic growth.

Before we get into the specific facts of Japan and China during the time period from 1945 – 2007, it is important outline the important implications they will suggest. Furthermore, we must revisit some of the discussion from Chapter 2.1 in order to contextualize these situations and explain how exogenous factors (namely, the rise of a single dominant political group hereafter referred to as the “Unitary Party”⁶⁷) had a negative impact on governance outcomes independent of the quality of their bureaucracies.

This paper asserts that the lesson to be learned from post WWII Japan and China is that the structure of a largely Bureaucratic State⁶⁸ is likely superior to that of a Political State.⁶⁹ The ultimate success or failure of democratic governing procedures (in terms of public responsiveness and effectiveness) is contingent on the structure of the participating parties. In particular, democratic governance is rendered ineffective when political parties engage in political ‘capture’ and rely on a system of clientelism to remain successful. As a corollary, while strong states (as might be typified by the Bureaucratic State or to a lesser extent, the Chinese Communist Party) are well-empowered to respond to citizens’ concerns or changing circumstances, virtually unrivaled strong parties are ultimately

⁶⁷ To further clarify the definition of a Unitary Party, it can be seen as a party that is so successful that it is virtually unchallengable – whether in a democratic system or not, the Unitary Party ultimately has enough influence to single-handedly pass/direct policy and is stable enough to retain control over multiple years.

⁶⁸ In some cases synonymous with the “Modern Administrative State,” the “Bureaucratic State” is a country governed ostensibly with a politically autonomous/insulated bureaucracy rather than micromanagement by formally elected politicians.

⁶⁹ The reverse of a “Bureaucratic State,” policies in the “Political State” are micromanaged by formal political officials (or political appointees made to a bureaucracy) without regard to their expertise in a particular subject matter. In a Political State, a bureaucracy (if it exists at all) is merely a direct extension of legislative power.

detrimental to active governance. This results from the methods of political maneuvering that are likely to ensure the necessary success of the Unitary Party: namely, either that the party relies on a base too broad to risk considering substantive reforms or that the party successfully gains reliable support through methods of clientelism, which ultimately leaves citizens thinking of the voting process on a demographic rather than ideological basis. Ultimately, this section makes two conclusions: (1) that in a democratic system, the Unitary Party (often referred to as “successful” parties) fails to effectively govern, and (2) the China and Japan example demonstrates that, independent of factors such as centralized political power, initial starting points of economic development, and (on the margin) differences in cultural homogeneity, bureaucratic quality remains a defining characteristic of good governance.

The Success of Parties

To put bureaucracies, particularly for these cases, in their political context, let us begin with an assessment of how parties cultivate and maintain their strength generally. Let us further make a simplistic but useful distinction between two main ways that political parties can gather strength. Namely, accruing a political following might be thought of either primarily ideological or primarily demographic (ex. Patronage-based, clientelistic, etc.) As an illustration, an ideological political society is one where the members (voters, politicians, rulers) discuss political issues from the perspective of what might be in the interest of society as a whole; similar to what Jean-Jacques Rousseau refers to as “the general will.”^{ccxlviii} Similarly, political members might advocate for policies on the basis of principled ideologies that they believe should represent the

guiding values or tenets that should govern society. Indeed, many Americans admire the quality of the American founders. Renowned political scientist Francis Fukuyama notes that “[a]t least part of the reason for [America’s] strong leadership was that America was not a full democracy but rather a highly elitist society,” which articulated opinions rooted in a broader public interest rather than a ‘rational’ self-interest.^{ccxlix} By contrast, a demographic political society is one where members vote or make political decisions as a corollary to their self or demographic interests.

The importance of this distinction is the way in which the political system affects party behavior. An ideological perspective might shift over time in response to changing circumstances or political commitments and does not require any specific set of policies except insofar as they are in accordance with the prevailing ideological commitments of the time. Conversely, to earn ‘patronage’ of a demographic, a party might require extensive and expensive policies targeted to appease a variety of bases or local interest. These policies are generally less susceptible to review or change as such action would risk offending/losing the relevant base. However, a patronage-based system may be more common in large democratic systems as they are significantly more stable from a party’s perspective: it provides a base of support that can be relied on despite changing circumstances or even varying governance success. One could even assert that mass ideological consensus is so difficult to achieve (even more so to maintain) that demographic politicking is virtually the only way to sustain a Unitary Party that is so successful/dominant that it dwarfs any competition.

Clientelism is often a function of demographic politics described above. Specifically, clientelism is the implicit exchange wherein politicians rely on citizens' support by guaranteeing specific, local, and potentially rent-seeking benefits that localities can benefit from, sometimes at the expense of more efficient national goals. On a theoretical level, "[i]t is impossible to understand the rise of clientelism except in the context of the emergence of modern democracy and the appearance of the first mass political parties,"^{cc1} as large parties lend sufficient political capital to accommodate rent-seeking policies and are in turn perpetuated by an assortment of these interests. As discussed in Chapter 2.1, the risk of clientelism and its outsized impact on democratic capture is a fundamental advantage of politically insulated bureaucracies – both from the perspective of economic efficiency and democratic equality.

Whether in an ideological or demographic political society, mass mobilized parties may have efficiency issues in-and-of themselves as they rely on so many branches of support that they are functionally immobilized from enacting substantive or wide-ranging reforms. This is not to say that mass mobilized parties do not provide important benefits in modern democracies. Parties manage to overcome collective action problems, generate democratic interest, and help clearly articulate positions and policies.^{cc1i} However, often, mass mobilized parties and even more, the formation of the Unitary Party, achieved through the advent of clientelism defies a framework of checks and balances. While a Madisonian theory of factionalism argues that competing interest groups check/balance each other by legitimately trying to appease a multitude of these groups simultaneously and thus improving the quality of democracy,^{cc1ii} these effects disappear when the number of interest groups becomes quite small. The important

conclusion from this is that the benefits of political parties in many ways require the existence of multi-party pluralism.

Ultimately, the development of mass parties further reduces the responsiveness of government. Mass mobilized or Unitary parties that rely on a broad base of support (think – the Democratic Party in the U.S.) will find itself facing many challenges in passing wide-spread reforms. Either the party will be unable to risk upsetting an existing constituency, it will fail to form a coherent policy out of a group of disparate and diverging interests, or it will be unable to cater to newly developing social groups.⁷⁰ This presents two scenarios for proponents of bureaucracy: either a mass party is unresponsive to democratic desires in which case bureaucracies that are at least nominally responsive as noted in Chapter 2.1 may be preferable. Or we have the luxury of living in a multi-party system in which case all of the other discussion of bureaucracy throughout this work in compatibility with a system of more responsive elected officials.

The Success of States

The next important distinction is the difference between the Political and Bureaucratic State. At a generalized level, this dichotomy is centered on whether the locus of policy making is located in democratically or politically exposed branches of government (often, a legislature) or a more autonomous, politically insulated branch (often, an executive branch or administrative agency). This paper asserts that a

⁷⁰ Tt least until they reach a critical mass such that they can functionally support their own, new, mass party (one that may face all the same problems of the other mass parties)

Bureaucratic State, which develops policies through professional, politically insulated administrations, tends to produce more targeted, comprehensive, and largely effective legislation than a Political State. For this point Japan serves as a particularly useful example as it could be best described as a 'Bureaucratic State' from the Meiji era through the beginning of the post-occupation period. However, with the rise of strong political parties and a more legislature-heavy constitution, Japan eventually transitions to a 'Political State.'

One issue that governments, particularly political ones, face is the threat of (democratic) political capture. As discussed earlier, political capture represents any instance in which an inefficient decision is made solely as the result of a political calculus to unduly favor one segment of society over another. This could manifest in a number of ways, including the need to appease local, demographic interests for votes (as described earlier); the need to appease moneyed interests to finance campaigns; the need to make appointments to important administrative positions on the basis of political motive instead of skill, talent, or experience; or a need to provide rent-seeking policies to some influential interest group. Political capture can occur any time a personal or local interest has the ability to interfere with policy decision making. For obvious reasons, this can happen far more readily (although not exclusively) to democratic regimes than authoritarian ones.

However, reconsider one of the themes discussed throughout this paper: one of the ways that a government, democratic states in particular, can help shield public policy from democratic capture is to vest policy making authority in professional, technocratic

administrations that are granted a certain degree of autonomy. The U.S. succeeded in creating “the Food and Drug Administration, the Centers for Disease Control, the armed services, and the Federal Reserve [which] are among the most technically competent, well-run, and autonomous government bodies anywhere in the world.”^{ccliii} This autonomy grants greater consistency and predictability in terms of policy execution, permits the rise of policies and people on the basis of merit rather than status, and better upholds the concept of rule of law.

Japan

The development of modern, post-WWII Japan is characterized namely by the rise and continuing dominance of the Liberal Democratic Party (LDP). Since the Meiji era, Japan was ruled by an oligopoly with limited democratic participation; an efficient, educated, and competent bureaucratic administration; and managed to rapidly modernize/industrialize far faster than any of its Asian neighbors in the early 1900s. While these successes continued through the first few decades following occupation, Japan began to slowly decline in terms of its political responsiveness. Beginning with the consolidation of the Liberal and Democratic parties (founding the LDP) and merger of the two wings of the Socialist Party in 1955, Japan came to be dominated by mass political parties.^{ccliv} A while after this consolidation was completed, Japan came to enter a number of political and economic crises including the inability to satisfactorily renegotiate the terms of the U.S.-Japan Security Treaty and the Lost Decade(s) beginning in the early 1990s.

The correlation between this transition and the effectiveness of Japanese government is no accident. During the Meiji era, “politicians were not interested in the daily considerations of policy or the drafting of laws. [...] Policy was used as a way of protesting.”^{cclv} That is to say, the Japanese legislature, the Diet, exercised power to oppose the default of centralized bureaucratic administration rather than holding responsibility for drafting all parts of public policy. Even during the period directly post-occupation, economic bureaucrats used “informal mechanisms of state intervention in the economy [that] came to be called *administrative guidance*.”^{cclvi} Up until the ultimate consolidation of the LDP in the 1980s, Japanese bureaucracies such as the Ministry of International Trade and Industry (MITI) were described as “small, inexpensive, but elite state bureaucrac[ies] staffed by the best managerial talent available in the system.”^{cclvii} In this manner, bureaucratic policy direction was used to great success. However, the transition away from this bureaucratically centered model to a broader form of democracy left this governing structure vulnerable to democratic political capture.

With regards to law-making more generally, Japan has a particularly unique approach. “While the western democracies regard the formulation and decision of policy as a single function, the Japanese regard it as two,”^{cclviii} not dissimilar to the politics vs. administration dichotomy examine in Chapter 2.2 Efficiency vs. Politics. As a result, Japan’s law-making process is split into two tracks: The policy affairs research council (similar to the U.S. Senate sub-committee system) and the executive council (the metaphorical equivalent of the U.S. Senate itself). Yamamoto Katsuichi, a Japanese lower minister and economics professor describes it thusly: “the policy affairs research council is where the specialists’ decisions are made. The executive council is where the

political decisions are made.^{cccclix} During the Meiji era and throughout the war, the policy council was not considered to be of great political concern and was generally left to a lower party official (sometimes not a party official at all) with past experience in administration.^{ccclx} As a social matter, the policy council chairmanship was never regarded as equivalent to the leader of a party - the council reflected the will of the *government*, not the parties which were only marginally relevant. However, the introduction of more widespread democracy through the new constitution changed this balance. The chairmanship is now quite coveted in Japanese politics and has been host to a number of Japanese politicians. Consequently, we might draw parallels between the politicization of the post so central to basic policy construction and the relative decline in the government's ability to meaningfully act in terms of policy progression or reform.

Even in terms of political administration (as opposed to policy development), Japan is left with a number of political/democratic vulnerabilities in its decision making process(es). The economist Toichiro Asada points out that, economic ideas are not the central limitation on economic policy as political/institutional constraints affect economic policy just as much. "In the case of Japan, the government was and still is divided, with the opposition parties holding the majority of one of two diets, and there is not inflation-targeting framework despite the 'independence' of the Bank of Japan"^{cccclxi} This was likely a key component prolonging the depression of Japan's economy for more than two decades since the 1990s.

In addition to the lack of independence between political decision making and policy construction, widespread participation and influence in the democratic process

spurred the formation of political parties which could rely on demographic methods of gaining political support rather than ideological ones. As historian Andrew Gordon points out, “[i]n the 1950s the LDP sought alliances with a variety of social constituencies [...] The LDP concluded the first of several implicit social contracts with the millions of farmers who had taken ownership of their fields under the land reform.”^{cclxii} Similarly, the LDP functionally bought off “the huge population of [small] business owners” by taxing them lightly and passing the Department Store Law in 1956. The Department Store Law instituted a series of zoning restrictions which prevented the rise of larger, non-family owned stores that existing small business owners may not have been able to compete with due to economies of scale.^{cclxiii} To a lesser extent, Gordon also notes that the LDP strongly supported certain union interests which ultimately rounded off a broad base of political support that was virtually unrivaled.^{cclxiv}

This type of clientelism extends beyond broadly demographic interests and can also affect the actions of individual statesmen and representatives. For a number of campaign and other expenses, “the Dietman is expected to pay handsomely. [...] Since the villager is inclined to give his support to the politician who does the most for him, there is vigorous competition among the politicians over who can supply the most largesse for the community.”^{cclxv} Local economic clientelism is also quite pervasive: village elders often expect representatives to pay for many local or private events (boy scout trips, monetary gifts for weddings/funerals, etc.).^{cclxvi} Handling these issues creates further inefficiencies as representatives now require extensive staffs in order to process, manage, and respond to these various interests which further drain national resources. In

many ways, this clientelism is what permits and perpetuates the success of the LDP in ruling Japan over the past six decades.

A large, powerful economy such as Japan's might be able to survive just an economic drain on national resources alone. However, the LDP is further immobilized as a function of their broad-based demographic support as the party cannot engage in serious reform or redirect wide-reaching national policies without the risk of upsetting given constituencies. Through the 1960s-1970s, the LDP was becoming "a big tent party" and thusly needed to accommodate the interests of far more demographic factions.^{cclxvii} While in its initial stages, this may appear to be an increased level of political responsiveness, the eventual consolidation resulted in policy paralysis which destroyed the effectiveness of the Japanese state. As an example, in 1975, public sector employees (a non-key demographic to the LDP) attempted to demand greater protection from recent inflation. "Over one million public sector workers participated in the Strike for the Right to Strike. [...] The labor movement could not mobilize on a broad front"^{cclxviii} Despite requesting similar rights as the private sector unions which generally received at least compromise support from the LDP, the public sector workers were functionally crushed by a government that no longer required their support to succeed. Beyond an ability to resist responding to individual interest groups, major policy reform that threatens the 'protected' status that farmers or large corporations currently enjoy seems unlikely as they retain the ability to force the ruling LDP away from such courses of action.

To highlight this, we can observe the specific failures of the LDP's governance of Japan after consolidating its power. For example, the party was unable to respond to

serious environmental concerns on its own. In the 1970's, students and local farmers opposed the construction of an airport in Chiba prefecture on environmental/pollution concerns.^{cclxix} “It was only after highly publicized pitched battles between heavily armored police and the fiercely opposed farmers and students that the airport finally opened.”^{cclxx} In the end, the anti-pollution groups failed to force change with regards to economic policy despite “reach[ing] out to build strong networks of support nationwide.”^{cclxxi} In the end, change in Japanese environmental policies had to be facilitated by non-democratic judicial decisions as a number of landmark court decisions regarding pollution were made from 1971 to 1973.^{cclxxii} This is significant as it reflects the lack of responsiveness coming from the legislature.

As another example, during the same time period, local elections for mayor or governorship ultimately determined the responsiveness of the Japanese government. “This trend was dubbed the era of ‘progressive local government.’ It was an unusual moment in Japan’s modern history when local governments ran ahead of the national government. [...] The central bureaucracy and the LDP responded to these unprecedented gains for the opposition by joining rather than fighting.”^{cclxxiii} Here, the local governments and remaining independent bureaucracies, less concerned with national political efforts than bureaucratic administration of specific territories, were ultimately the ‘most’ responsive to the people’s needs. The national government was ultimately unable to respond to the issues until dragged by the sizable demographic coalitions built at the level of the local governments. Problems ranging from the lack of flexibility in monetary and fiscal policies through the 1990s-2000s to the inability of the government to fully reflect citizens’ serious concerns about the status of the Japan-U.S. Security Treaty demonstrates

what can happen when an efficiently managed bureaucratic state improperly transitions to a politically captured democracy of mass parties.

Ultimately, the degradation of the Japanese state can be attributed to the methods of political capture listed above. The deadly combination of democratic political capture and demographic politics in Japan is best articulated by Japanese statesman (speaker of the lower house) after retirement: “When asked what was wrong with Japanese politics, he answered, ‘First of all, the electorate is at fault. [...] they *force* the politicians to spend money on them.’”^{cclxxiv} Given that democratic ‘accountability’ can only be narrowed to local constituents/interests, there is an outsized incentive and ability to get politicians to support potentially inefficient financial allocations to fund local projects or benefit interest groups. This ultimately has detrimental effects to the efficacy of national policy. When interest groups are able to influence their political agents that control bureaucratic agencies, these politicians can be directed to force agencies to adopt complex and often self-contradicting rules leaving them unable to leverage their professional expertise implement commonsense solutions.^{cclxxv} In addition to issuing self-defeating public policy, micro-management control of budgets can also be seen as a core limitation of the political state. In contrast to Japan, European nations largely leave control of drafting and directing budgets to formation by the executive branch, affording significantly more input from the relevant agencies and helping preserve the autonomy of the Bureaucratic State.

Another important component of political capture is not the result of external groups, but rather the direction of appointments for potentially apolitical and professional administrative roles to party members as a means to *internally control the party*. In Japan,

“politicians standing at the peak of the hierarchy got first shot at the cabinet and favored party posts.”^{cclxxvi} However, given the LDP’s dominance, the party is split into a number of ‘factions’ that represent a small, but at least partially diverse range of regional and ideological interests. Strength and loyalty to the faction is also considered in assignment of positions within the party and government.^{cclxxvii} This structure further divides the internal politics of the party and prevents the LDP from truly gathering common support for major initiatives, which was identified above as one of the primary purposes for political parties. Similarly, political appointment to government positions might not be exceedingly onerous so long as the authority of the positions were confined to agency direction and oversight rather than administrative policy making. However, in Japan, “[a]ppointment to a ministerial post is also supposed to offer the opportunity for fundraising. [...] Another reason why Dietmen want to become ministers is that none of the top positions in the party are open them until they have had ministerial experience.”^{cclxxviii} With such incentives, even the day-to-day administration is left to political actors who may see their job as a means to an end rather than an important and solemn duty in-and-of itself.

China

In contrast to Japan, the Chinese Communist Party managed to begin with a state that was weak at best, non-existent at worst, yet managed to transition to a relatively successful modern state. A number of key factors here include the central direction of an authoritarian state that was resistant to the influence of interest groups or local politics as

well as the development and increased reliance on a professional technocratic class of bureaucrats.

While new Japanese parties predicated their political success on demographic support and clientelist favors, the Chinese Communist Party managed to achieve its widespread success within a framework of ideological politics rather than demographic-specific pandering.⁷¹ “In China, the state was colonized not by patronage politicians but by a disciplined Leninist party that sought to subordinate it to its own ideological purposes.”^{cclxxxix} Beyond the difference in how politics was framed, the very structure of Chinese political organizations differed greatly from that of democracies. In liberal democracies, parties are primarily responsible for ‘representing’ their constituents and bringing both attention and resolution to those interests. In China, parties were instead regarded as the primary organizational unit for developing state institutions and industry.^{cclxxx} These differences highlight the relative strengths and weakness of modern Japan and China in responding to public concerns or changing circumstances.

This paper argues that the extent to which Chinese industrialization and reformation was successful was largely predicated on the creation of a professional bureaucratic class. “[T]he First Five Year Plan and Soviet-aid projects nurtured CCP’s first generation of technocratic bureaucrats. [...] It was from these people [trainees of Soviet expertise] onwards that CCP technocratic bureaucracy started to emerge as a distinct social-political elite group in the Party and China’s economic governance system.”^{cclxxxi} While certainly not the entire reason for the success of China’s

⁷¹ Note that this was largely accomplished due to military dominance, rendering extreme political pandering relatively superfluous.

development, the parallel formation of the bureaucratic class and swift progress in China is an important factor in explaining their rapid national growth.

As a structural matter, it would appear that a more wide-spread democratic system is particularly vulnerable to these threats. It is true that patronage exists in all authoritarian regimes, but electoral democracies leave the state uniquely vulnerable to the issues of political capture highlighted above.^{cclxxxii} During the consolidation of the modern Chinese state, Chinese leaders recognized the weakness on the international state produced by a weak state apparatus. While at the time, decentralization was arguably a more pressing issue, it is unclear how a strong, centralized state could have been formed with the early introduction of democracy. As founder of the nationalist party, Sun Yat-sen described in 1945, “[b]ecause of too much ‘freedom’, China has had no organization, no resisting power, and has become a pan of loose sand so that she has been subjected to the encroachment of foreign imperialism [...] To resist foreign oppression, we must curtail ‘individual freedom’ and form a solid organization, like putting cement into loose sand to make it a solid rock.”^{cclxxxiii} It appears reasonably clear that following the civil war, the Communist party managed overcome both the weakness of the central state and avoid the potential for weak, undirected action that could have resulted from the creation of a democratic state on top of a socially and ethnically fractured nation. Functionally, this emphasizes the need for government authority to be sufficiently centralized in order to sustain a bureaucracy that can reach and unify the various parts of a nation.

Empirically speaking, this policy flexibility was wielded with great success. While recovering from a traumatic civil war, the new Chinese government managed to

quickly industrialize despite beginning without important institutions such as reliable tax collection. In spite of particular poor economic policies such as the Five Year Plans, the bureaucratic apparatus managed to institute a very fast ‘trial-and-error’ process to test new programs. Unlike the Soviet Union which carried autocratic Communism with an ideological fervor that drove it into the ground, the Chinese bureaucracy was willing to ‘test’ Special Economic Zones (SEZs) when existing programs were failing. As these tests began yielding positive results, transition to more capitalist models was instituted quite rapidly. If anything, the failure of particular Chinese/communist policies highlights the high levels of responsiveness that effectively organized bureaucracies can exhibit.

Consider the supposed benefits we have discussed from Japan’s path through modernization: a strong and ideologically motivated leadership, the development of a professional bureaucracy, and the insulation of policy decisions from political influence. Furthermore, we have claimed that as the correlation between the diminishing of these factors and the devolution of Japan’s governance quality is meaningful. This correlational claim becomes more compelling as China saw the opposite effects during the same time period (controlling for global trends at the time). This is evidenced in China by the fact that Mao, Deng Xiaoping, and the Chinese Communist Party to manage to conduct massive policy changes in the face of a historic lack of centralized government control in China with relative ease. That is not to say that all the policies, when implemented, were effective. Rather, conducting the overhaul in policy did not require a concurrent overhaul in bureaucracy. Indeed, “[i]f there is a single quality that would seem to distinguish the Chinese party-state from those of other developing countries, it is its degree of autonomy.”^{cclxxxiv} Rather than operating as a mere mouthpiece for local or powerful

interests, the Communist party has been able to set independent policies that are subject to quick and efficient reversal when policies appear to be ineffective.

Conclusion

This case provides us a valuable look at the confluence of lessons we have learned throughout this paper and their interaction with a variety of other variables. In particular, this case demonstrates that, generally speaking, a centralized government that either is generally protected from democratic influences or operates a sufficiently autonomous bureaucracy can be successful. Given that Americans should be unwilling to surrender their democratic voice, even for higher quality policymaking, the semi-autonomous bureaucracy seems to be the clear option to get the best of both worlds. However, without heeding these considerations, systems that remain vulnerable to democratic political capture are ultimately doomed to immobilization.

As we have observed, “Chinese style autonomy” permitted to Communist party to act relatively free of interest groups, procedural constraints, or the need to participate in demographic politicking.^{cclxxxv} With proper leadership committed to the public interest, such autonomy “allows the government to move much more quickly and dramatically on policy issues than its democratic counterparts.”^{cclxxxvi} Although some of the mechanisms of Chinese reform/industrialization may have been distasteful, it is undeniable that it permitted an unprecedented level of development in a relatively short period of time.

That is not to say that the Chinese system does not have its issues. China expert Minxin Pei highlights a number of issues that the Chinese bureaucracy specifically faces

which may be the result of *too* much autonomy and development that outpaces proper regulation. In the modern Chinese bureaucracy, “subordinate units of the state have become [...] able to protect their own political and economic positions regardless of performance, and resist discipline from higher levels of the state and party.”^{cclxxxvii} Additionally, the rapid development of China risks the possibility that the government will lose control over social actors that gained power through the rapid economic growth.^{cclxxxviii} However, while many of these limitations are specific to China, they reflect they reflect the importance of having a multi-party democratic system that will challenge the existing administration as an important complement to healthy bureaucratic structures.

The lessons that other nations are able to learn from these examples are numerous. Foremost, the legislature should afford more autonomy to professionally administered bureaucracy. Rather than micro-managing policies, the legislature should instead start out by giving agencies broad powers with particular mandates. From there the role of the legislature can be to veto particularly poor decisions that the agencies make and eliminate branches that become obsolete. Given many Western liberals’ attachment to democracy (the U.S. and Europe are unlikely to transition to single-party authoritarian states), citizens should be wary of the formation of a party that attempts to govern too many competing or non-aligned interests and should consider reforms to permit greater electoral rewards to the success of smaller, issue-specific parties. Finally, a strong bureaucratic organization is important for protecting the quality of policymaking in the worst-case scenarios. In spite of the rise of the Unitary CCP, the insulation of the technocracy left the government marginally responsive and highly efficient in removing

failing policies. In essence, for those most concerned that a 'big government authoritarian takeover' is inevitable – an empowered and professional bureaucracy may actually be your best bet.

Appendix

Appendix 1.1

C = Cost

S = Speed

Q = Quality

m = number of organizational levels

n = number of people per management node

y = number of managers per management node

\bar{N} = number of groups for lowest level workers

The number of levels in the organization are an effective proxy of how long it will take decisions to flow ($S = m$). We will assume that the amount of work needed to be done at the lowest levels is exogenous such that the people at the lowest level (nN) is fixed. However, we will assume that one can decide how many people each manager should be in charge of (n). Similarly, the organization can decide how many managers should be responsible for reviewing information at any given level (y). We know that the relationship between these variables in a n^{th} -node tree is:

$$n^{(m)} = n\bar{N}$$

$$n^{(m-1)} = \bar{N}$$

$$\log_n(\bar{N}) = m - 1$$

$$\therefore S = m = \log_n(\bar{N}) + 1 \quad s.t. (m \neq 0)$$

Similarly, the number of people working for the organization are an effective proxy for the cost of a system. Mathematically, we know the number of people to be the sum of people at each node. However, if an organization has assigned multiple managers to each level (node) this should be reflected by multiplying to total number by the number of managers (y). However, as the managers do not duplicate the base level, that multiplier effect must be removed by subtracting away a base level for every multiplier effect above the base. Finally, the executive at the apex of the bureaucracy is presumably not duplicated in the same way the managers are and so an extra 1 per y is removed.

$$C = \left(\sum_{i=0}^m n^i \right)$$

$$C = y \left(\sum_{i=0}^m n^i \right)$$

$$C = y \left(\sum_{i=0}^m n^i \right) - (y - 1)(n\bar{N})$$

$$\therefore C = y \left(\sum_{i=0}^m n^i \right) - (y - 1)(n\bar{N} - 1)$$

Finally, our proxy for quality is based on a more proximate system. The number of levels are presumed to increase decision quality by pruning out poor options and adding further analysis for more senior chains. Consequently, y has a similar effect as

more managers are increased. However, increases in n hurt decision quality as managers become more stretched and are unable to observe, evaluate, or refine work quality coming from their subordinates as well.

$$Q \propto m\left(\frac{y}{n}\right)$$

Therefore, an ideal bureaucracy will:

$$\max(S, Q) ; \min(C)$$

In this system, C may be held constant as it may be constrained by a set budget.

Therefore, the systems should be solved such that they can maximize S and Q.

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