

Abolition of Tenure in the Australian Public Service: Problems and Prospects

HABIB MOHAMMAD ZAFARULLAH*

In Australia, one of the currently obtaining debates center around the issue of politicization of the bureaucracy. Specifically, the supporters and sympathizers of the Australian Labor Party favor the abolition of tenure in the higher echelons of the public service. This is in line with the thinking that public administration is a basic political process and that to serve the purposes of a modern democratic government, it is imperative to have politically responsive people in policy formulating and implementing positions. The debate is presented in the Australian context and the problems and prospects of the schemes are identified.

In recent years in Australia, the Westminster model of government has fallen into disrepute with all its institutional trappings. Especially, the perennial debate is focused on the public service. Critics accuse the public servants of being irresponsible and non-responsive which, they point out, stem from the notions of 'political neutrality, anonymity and impartiality.' They argue that the concepts of civil service neutrality and current justifications for a career service in terms of professionalism, continuity and frank and fearless advice, are all *ex post* justifications¹ and that to meet the demands of the society it is essential to reform the bureaucracy, subject it to strong and undiluted political control and adhere it to the philosophy of the party in power.

The conceptualization that "public administration is politics" is gaining considerable acceptance among scholars, knowledgeable political leaders and many non-conservative public servants today. One of the subjects of intense public controversy centers around the issue of involving public officials,

*Assistant Professor of Public Administration, University of Dhaka, Bangladesh. Presently, doctoral candidate, University of Sydney, Australia.

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particularly those at the top of the hierarchy, in politics, or, for that matter, opening the doors of the public service for political adherents. Exponents of this conceptualization claim that one of the ways of making the bureaucracy responsible, responsive and an instrument of social change is the abolition of the current system of tenure in the upper echelons of the public service and the appointment of people supportive of and sympathetic to the policies and programs of the government of the day.² This new line of thinking has, quite understandably, emanated from those who decry the conservative nature of the Australian policy. They advocate the reform of the bureaucracy in conformity with the politics and philosophies of the Australian Labor Party (ALP).

This paper looks at the system of tenure, the reasons for its retention in the Australian Public Service (APS) and the probable implications of its abolition. The relationship between politics and administration, the doctrine of neutrality of public servants and the political role of the bureaucracy will be examined.

Politics, Administration and Political Neutrality

Governmental systems are built upon a number of philosophical or political axioms that are either traditionally acquired, deliberately designed through constitutional means, autocratically imposed or derived as upshots of social or political revolutions. Whatever their complexions, for the materialization of these principles they have to depend upon their administrative machineries. In a dynamic democracy it is important to have a dynamic administrative system that is capable of adjusting itself to the demands of the society. Its links with the environment are varied and complex; a multitude of transactions take place daily between itself and the people. If it fails to realize the aspirations of the majority of the population, that is, the democratic dogma, democracy will remain in theory only. Thus, it is absolutely naive to think of separating politics from administration; the two are connected by an umbilical chord. Politics in administration simply cannot be shunned. "When we speak of administration, politics stares us in the face".³ In every governmental system policy formulation (politics) is intertwined with policy implementation (administration).

The influence of politics in administration is difficult to evade for a couple of reasons. First, the vital character of the work of public organizations calls for political pressure. Second, as public servants are indirectly but effectively controlled by the electorate in a democracy, political influence is inevitable.⁴ In Australia, the prime minister and the ministers are political leaders, are elected by the people, and are political heads of government

departments. Members of parliament, like ministers (who are also parliamentarians) are also popularly elected and are politicians. They exercise, as a legislative body and as individuals, enormous influence in administrative agencies. The top officials of departments who are career public servants are appointed by the government according to public service regulations. They are not politicians but at all times are actively aware of political factors that are important to the cabinet or to the parliamentarians to whom they look for support. Other lower level public employees are also not political figures, but they too become highly sensitive to political forces.

In a democracy, the political party in power has the responsibility of outlining the broad overall policies of the government. The party elected is obviously most responsive to the needs of the electorate. The public servant up to this stage remains uninvolved but not unconcerned. The party, having been elected, has certain defined goals which it wishes to pursue and which have been endorsed by the people. It is this fact which gives the party its mandate to involve the public service actively not only in constructing the necessary administrative facilities to implement policy but also in the formulation of the policy itself. As one Australian scholar remarked, "many of the initiatives in shaping Australia's national objectives spring from the experience of the public service".⁵

In the Westminster system, which was adopted in Australia with minor variations, determination of policy, however, is the function of a minister and once a policy is determined it is the unquestioned and unquestionable business of the public servants to strive to carry out that policy with goodwill whether they agree with it or not.⁶ At the same time, it is the traditional duty of public servants, while decisions are being formulated, to make available to their political chiefs all the information and experience at their disposal and to work without fear or favor, irrespective of whether the advice thus tendered may or may not be in accordance with the minister's views. The presentation to the minister of relevant facts, the ascertaining and marshaling of which may often call to play the whole department demand of the public servants the greatest sincerity and care.⁷ The presentation of inferences from the facts equally demands from them all the wisdom and all the detachment that they can command.

The traditional notion of ministerial responsibility is a salient feature of the Australian political setting whose implications for the public service have wide pervasion. The notion not only establishes a bridge across which most of the traffic between parliament and the bureaucracy is routed but, applied collectively to the cabinet, it ensures a unity of purpose and a coordination of direction at the top.⁸ Parliament benefits by being able to mark one identifiable target — the cabinet; the public servants benefit because

they do not have to debate publicly any challenge of their political overlords.⁹ The traditional model of political neutrality, which defines the relationship between public servants and other actors in the political system, is inadequate in its portrayal of the existing nature and complexity of these relations. One of the tenets of the system is that public servants, as indicated earlier, execute policy decisions loyally and zealously irrespective of the philosophy and programs of the party in power and regardless of their personal opinions. As a result, they enjoy security of tenure during 'good behavior' and 'satisfactory performance'. Thus, in the event of a change in government, official 'neutrality' helps to ensure continuity of administration by 'competent' and experienced public servants who provide 'impartial' advice on policy options and 'enthusiastically' implement policy decisions. The assurance of continuity of staff, expertise, organizational loyalty and guaranteed fixed conditions of employment in the Australian bureaucracy encourages "a professional outlook and devotion to public service."¹⁰

According to Finer, a neutral public service manifests such cardinal features as responsibility, efficiency, continuity, accumulated experience, stability, impartiality and expertise. The high level of professionalism of public servants is attributed to these qualities and is in contradistinction to the amateurish administrative style of the ministers.¹¹ His view closely approximates the Weberian model of bureaucracy that emphasizes a career system based upon merit.¹²

Malcolm Fraser, the former Australian Prime Minister, described the public servant as an agent of the elected government who should have the capacity to serve a government of whatever political complexion by being politically non-partisan and detached to protect the stability and professionalism of the public service.¹³ In Australia, however, the doctrine is not spelled out in specific terms in any law book. It is rather a part of a code of conduct that the public servants are to follow and is often related to another concept — 'anonymity'. The public officials are indoctrinated to keep away from the limelight and to follow the dictates of their political masters.¹⁴ This doctrine clearly emphasizes a career system that totally disregards political considerations.

It is credulous to think of public officials remaining unconcerned or apathetic to public policies or programs they are required to implement or administer. Unless they are spineless creatures, they are not expected to act against their personal convictions.¹⁵ Like the ordinary citizens they too nurture and defend their own political principles or beliefs. They cannot be two-dimensional — to be one in thought and another in action as the 'yes-men' of political superiors. The classical model of a neutral bureaucracy has long been replaced by one, as Hecló says, a new role of the public servants

as "an unexpected and insecurely placed [full] participant in the original grand design of . . . government."¹⁶

Political scientists have long recognized that career public servants are enmeshed in politics. The bureaucrats can make tremendous impact on public policy because of their ability to mobilize political support and to apply or deny bureaucratic expertise.¹⁷ They initiate, defend and execute public policy and thus exercise enormous political discretion. Thus they are "inelectably performing political acts".¹⁸ This follows the prevailing assumption that public administration is a basic political process and it is the antithesis of the old assumption that politics is separate from administration, to which the doctrine of public service neutrality is an auxiliary principle. Thus, as one scholar opined,

the doctrine is an anachronism and a fiction that may well be discarded. It is based on misconceptions regarding the nature of the science of administration and about the role and behavior of higher public servants.¹⁹

The Case Against Tenure in the Public Service

The doctrine of neutrality and the permanency of the public servants are complementary. Therefore the rejection of one obviously leads to the rejection of the other. A search for neutrality in the contemporary age is an exercise in futility. This is exactly why tenure has been subjected to intensive public scrutiny during the period following the return of a Labor government in Australia in 1972.

It is generally acknowledged that political change in whatever form — revolutionary or constitutional — is usually disruptive and accompanied by uncertainty and insecurity. It is often argued that when permanency in office for public servants is combined with longevity in office by a particular party, a change in government presents a specially difficult challenge to the capacity of public servants to serve impartially different political masters. There were many reasons to anticipate that the 1972 elections might result in a greater than usual degree of change, or at least of uncertainty. In many ways, there were no Australian precedents for the situation. The period of governmental control by the outgoing Liberal Party had been characterized by the unusual duration of twenty three years and by all sorts of controversial policies. The most dramatic test of the adaptability of career bureaucrats resulted from such a change. Key officials at the highest levels of the administration found established relationships suddenly and profoundly disrupted.²⁰

The Labor government in 1972 had a mandate for extensive policy changes and was clearly committed to do something about the number and kind of public servants although, as with election issues generally, what and how much were necessarily vague. Prime Minister Gough Whitlam's government believed that the public service had become contaminated with grafters, incompetents, political hacks, and a considerable number of disloyal persons, and that a partial, if not wholesale, substitution of 'honest' men with 'administrative ability' would solve most of the problems. The administrative talent would have to be found in men with socio-political orientation other than that which presumably had dominated the public service during the past. Obviously, the neutrality of the public servants came into question as it was found to be

nothing less than a delusion and a diversion. It is a delusion because public servants do in fact tender advice which is partial, biased, and self-serving. It is a diversion because a refusal to recognize this sends the search for those responsible for bad policy in the wrong directions.²¹

Under the doctrine of political neutrality, as we have indicated before, the public servants are expected to carry out faithfully the policy instructions of their superiors. Consequently, it is not necessary for a party recently come to power to replace, at least, the top brass of the public service with men of their own party and choice. In fact, however, the relationship is not quite this clear-cut. Men who spend a lifetime on a particular job or department cannot help acquiring the attitude that they know more about the work and what ought to be done than a minister whose tenure may end with the party in power. For this reason, ministers may find that public servants are not as responsive to new ideas and policies as they should like them to be. In unusual cases, indeed, public servants of a department may sabotage policies that have the support of the minister, the cabinet and the general public. In Australia, the rise in the power of the bureaucracy is attributed by one scholar to the "low status of political activity and poor calibre of politicians".²² Obviously, the bureaucrats, with their administrative expertise, entered the policy-making arena. The powers of the public servants, thus have become enormous and "harder to challenge because the public service has little capacity to review itself . . . its emphasis on security of employment . . . helps to entrench a prevailing complacency."²³

Viewed in these terms, the relationship between public servants and politicians pose a basic issue. The concept of the career service and its progressive extension to the top of the administrative hierarchy has, no doubt, created opportunities for competent men and women and thereby has improved the quality of governmental personnel. At the same time, however, it has become more and more difficult for ministers to inject new ideas. The permanency of public servants, according to Appleby, is

a result of the natural self-interest of incumbents [which may] easily exceed the requirements of good administration and may make for undesirable inflexibility, non-responsiveness and inertia.²⁴

The leaders of the ALP and their supporters frequently mentioned during the period when the Fraser Liberal-National Party coalition was in power (1975-83) of turfing out the senior public servants after being elected to office because of their (the public servants') assumed contribution to Liberal policies to which they are opposed. They expressed suspicion, frustration and dismay in dealing with a higher bureaucracy which had been controlled by one party for such a long time and which seemed aloof, unconcerned and at time even hostile to them and their policies.²⁵ Long continuance led to decline in the competence and integrity of the public servants.²⁶

Whitlam, the last Labor Prime Minister (1972-75), after being in office for almost a year, pleaded for the abolition of tenure and stressed the need for greater mobility between the public services and the outside world. He said that it is not always necessary that appointments in public service should "be for life or until retirement or reaching a certain stage" for jobs to be done with competence.²⁷ In spite of these assertions, his government "eschewed any radical changes to the public service; tenure was unquestioned."²⁸

Due to the strategic positions which they occupy in the political system, public servants, primarily the senior ones, are thrust into active participation in the process of policy formulation and decision making. The assertion that senior public servants "merely advise the minister of alternative ways and means"²⁹ would be valid only if these are value free, which they are not.³⁰ Rather, as Kernaghan put it, "the significance of the value preferences and choices of officials is particularly evident from their active involvement in the policy and the political process."³¹ In other words, implicit in the act of proposing 'alternative ways and means' is the ability to influence policy-making or ipso facto political involvement. This would increase the congruence in political philosophy between the party in power and the public service and, thereby, the capacity of the party to promote policies and programs supportive of its philosophy.

Political appointments in the public service is not an end in itself, or merely a distribution of 'spoils,' as was in the United States, among party supporters and loyals, but as an action directed at realizing objectives perceived by a majority of the electorate. As Lipset wrote: "Unless the electorate is given the opportunity to change the key experts as well as the politicians, elections will lose much of their significance."³² As public servants become overtly or apparently political, the arguments for political appointments to senior positions is strengthened. Political appointees are

crucial elements in the democratic control over a public service. They act 'as a nexus between politics and administration' and their value lies in providing a bridge between the public, the legislature and the party in power and the cabinet on the one hand and the more permanent public service on the other.³³ This would strengthen the chain of authority between the political leadership and the public service and would grant the minister the control necessary to allow him to answer for the action of officials whom he had, in fact, appointed and whom he could, in fact, dismiss.

Another valid reason behind the call for abolishing tenure is to eliminate bureaucratic intransigence. In the past, the Australian bureaucracy manifested a tendency to establish its own standards of the public interest contradictory to the values of the party in power.³⁴ The bureaucracy, according to one critic,

... serves some interests rather than others and it is responsive to some influences more than it is to others . . . it is a machine serving its own vested interests . . . [and] is not controlled by the government or the community. It controls itself. The public service really runs society.³⁵

Political parties of a reformist nature denounce permanency in public service for yet another reason. The political leaders in charge of the government, due to their preoccupation³ in their respective constituencies, in cabinet meetings, in parliamentary sessions, in party activities and in the maintenance of public relations, do not find enough time to frequently meet their departmental officials in the capital. The result is a lack of contact which means that either the public servants are able to read the minister's mind or the minister can discriminate between their (the public servants') qualities well.³⁶ As a matter of fact, it is the party political culture and not the administrative culture wherein the ministers are immersed and are thus less involved with the problems of policy initiation, formulation and execution.³⁷ Thus, political appointments of persons belonging to, or supportive of, the party in power at the top layers of the administrative hierarchy may fill in this void and provide major support to the elected leadership.³⁸

The abolition of tenure can be advocated from another angle. Caiden maintains that lifetime employment for public servants has been rendered redundant in a full employment economy like Australia. Instead of keeping people tied to a single employer — the government, society could benefit more if employees are free to move from one large-scale organization to another offering more or less the same conditions with jobs guaranteed throughout their working lives.³⁹

Abolition of Tenure and its Implications

After the ALP came to power in 1972 it did initiate moves to 'politicize' the higher echelons of the bureaucracy and attempts were made to give the politicians a greater degree of control in the formulation of policies.⁴⁰ Efforts were also directed to make the public servants more responsive.⁴¹ But wholesale restructuring of the public service was not ventured; the changes made were piecemeal in nature, diverse and uncoordinated. These were neither considerable in extent, nor radical in intent as expected of a 'reformist' government.⁴² In fact, any attempt at radical modification of the bureaucracy was not in the agenda of the Labor regime at that time. Only a handful of outsiders were appointed as ministerial staffs, members of reform and advisory bodies and permanent heads.

It was generally presumed during the Fraser years of Liberal rule that if the ALP came to power once again its first move should be to abolish tenure at least at the higher levels of the bureaucracy and go for its total reform. In early 1983, a new Labor government took over the reins of power but to date no action has been taken in that direction. Indeed, Bob Hawke, the new Prime Minister, disclaimed any move on the part of his government to restructure the public service.⁴³ But many in the ALP still cling to the view that permanency in at least the apex should be done away with. It is still too early to speculate whether the government will really go for radical change in the future. The debate still continues. But what would follow abolition of tenure if that is effected? What implications would 'politicization' have for the public service?

In Australia, those who adhere to the conservative views of government eulogize the career system tooth and nail and consider the permanency of the public service as a strength of the political system. They cannot accept the idea of abandoning tenure which they think will totally politicize the public servants with profound impact on the character of the administration.⁴⁴

One important reason why patronage or spoils system did not take root in Australia was that in a parliamentary democracy the fate of a government remains uncertain, unlike the American presidential system where the term of the president is for a fixed four-year period, always ready to resign in the event of a defeat in the parliament. In the United States, under the spoils system, the politically appointed civil servants are certain for a four-year period (or even eight, in the event of a re-election) in the administration. But in a parliamentary system with a political appointment scheme, public servants would enjoy no certainty whatsoever.

In a submission to the Royal Commission on Australian Government Administration (RCAGA), the Administrative and Clerical Officers' Association expressed their support for a career public service and regarded security of tenure as a vital prerequisite to the concept of a career service. The Association strongly opposed appointments to higher levels from outside the public service and maintained that "such recruiting denies the right for career opportunities to those who have entered through fair and open competition at the base level."⁴⁵ Senior bureaucrats, however, evaded the issue. An RCAGA survey on the career service revealed that public servants regard permanent tenure as an important element in the life of an employee. Even the members of the Commission favored permanency which, they believed, gives the senior bureaucrats the kind of certainty which enables them to withstand political pressures. The Public Service Board (PSB), the central personnel agency, also did not find persuasive reasons for abolishing tenure as such a move involved risks.⁴⁶ Although it did not define the risks involved, "it took for granted that the impartiality and competence of the public service were not at issue."⁴⁷ In reality, the PSB acts as the custodian of the career principles and is reluctant to make any departure from tradition.

Thus, the act of abolishing tenure will meet stiff resistance from those who conform to the conservative views on administration and have a natural tendency to hold on to the status quo. Such people are found in abundance in the bureaucracy itself and their argument would "dwell on the difficulties of any scheme of reform and emphasize fears of change as opposed to a comfortable familiarity with the existing situation".⁴⁸ But public servants will not be the only ones to resist change; others in the community whose privileged positions will be at stake would fight to retain it. Therefore, reform of the bureaucracy has to be undertaken in a much wider social and political context. Attempts to solve the ills of this institution in isolation from the structure of power and purpose in the polity are bound to prove illusory.

One implication of the abolition scheme could be the flourishing of mere prejudices of politicians that might create chaos in the working of departments. They might become capricious in approach in their bid to control the public service with enlarged powers.⁴⁹ Moreover, if security of tenure, so long enjoyed by the public servants, is suddenly withdrawn, it would cause psychological tensions among them. As one scholar warns:

If the aspiration of rising to the top were removed by a successful policy of bringing in people at the top from outside the service there could be a considerable change in the motivation of middle-level public servants.⁵⁰

This demoralizing effect would sweep the entire public service unless checked through indoctrination and training. Only through a change in the

expectations of public servants can positive results be gained from abolishing tenure and it will become easier to extend the system throughout the service.

In the same token, it is often argued that all people — be it career public servants or 'committed' political appointees — are driven by purely self-seeking motives to fulfill security, social and ego needs.⁵¹ However politically committed they are, the political appointees' egocentric and self-centered nature inhibit them from taking selfless interest in the affairs of the state.

Difficulties might also arise with people's acceptance of a 'political public service' as it is commonly held that the majority of citizens oppose its creation. They would not support the politicization of the bureaucracy. But the critics of the existing system think otherwise.

The public service is already politicized (and always has been) in the sense of being headed by men of very strong political views . . . Many years of almost uninterrupted one party rule, plus the natural socialization processes of the bureaucracy, have resulted in a situation where it is easy enough for conservative governments to find quiet men supportive of their policies . . .⁵²

The greatest impact that the new system might produce concerns the power of the bureaucracy. It is feared that a political bureaucracy could become omnipotent and the existing safeguards will not be effective to contain it. Moreover, with politicization of the bureaucracy, other institutions, particularly the military and the judiciary, could not remain free from political influence. And above all, the possibility of buying people (the critics of the government, for instance) with short term appointments, should not be overlooked.

Conclusions

The public service in Australia is now ripe for change — structural as well as attitudinal. Career or political, the public servants have been and will remain the servants of the people. A central challenge of all modern governments, notably the social democratic ones like the ALP, is to ensure responsible and responsive administrative behavior in the face of growing bureaucratic power. It is widely believed that many conscious people, suspicious and disdainful of a privileged and powerful bureaucracy would ultimately welcome any kind of radical reform. If true democracy is the final goal, a public servant's crucial role in policy making and implementation "requires him to accept responsibility both in the sense of a professional code of ethics and in the sense of accountability to the public".⁵³ Merely quashing security of tenure will not bring in the desired results; it is only one of the means of

achieving control over the bureaucracy. Other means like freedom of information legislation, representation of disadvantaged sections of the community in the administration, devolution and delegation of power, reduction of the anonymity of public servants, and community participation in decision making must be exercised.

Government policies cannot be made in a vacuum. Most changes in policy, once made, tend to be irreversible. Changes should therefore be based on experience. The new Labor government should get inspiration from its successes and take lessons from its failures during 1972-75. Behind any reform effort there must be strong political commitment and the ALP should put public service reform as a major task on its agenda. A career, conservative and routinized system cannot be compatible with a social democratic government bent on radical changes in the functions of the state. However, the risks involved should be carefully avoided or else the entire scheme would turn out to be inefficacious.

Endnotes

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