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**PUBLIC SERVICE BARGAINS AND PUBLIC SERVICE
REFORM**

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ABSTRACT

This paper tries to develop the concept of public-service ‘bargains’ as a tool for comparative analysis of public service reform. It distinguishes ‘systemic’ from ‘pragmatic’ bargains, suggesting pragmatic bargains are likely to be more readily changed than systemic ones, and ‘Schafferian’ types of pragmatic bargains more readily than ‘hybrid’ ones. Such a pattern seems broadly consistent with a ‘transaction costs’ perspective on institutional reform, but from that perspective what seems surprising is that Westminster-model systems starting from a quasi-Schafferian bargain have not generally moved to radical ‘managerial’ bargains. However, when public service bargains are examined further from a ‘cheating’ perspective, the half-hearted adoption of managerialism may be explicable. Cheating problems beset the managerial bargain and potentially make uncertainty costs unexportable by elected politicians. Shifting to more hybrid type bargains or mixed Schafferian-managerial bargains may have a lower ‘upside’ on politicians seeking to avoid blame but also seems to have a lower downside, especially when quasi-cheating opportunities for politicians are exploited. If this analysis is robust, a generalized return to pure Schafferian bargains seems unlikely, but so does a generalized move to managerial bargains.

1. FORMS OF 'PUBLIC SERVICE BARGAIN'

A vast but diffuse literature has emerged on contemporary public service reform to describe, compare and account for developments like 'the New Public Management' and 'the regulatory state' (cf. Majone 1994; Barzelay 1999, forthcoming). But it is becoming widely accepted that a better understanding of who did what kind of new public management and why needs to be linked to proper benchmarking of the various institutional points from which efforts to reform public services took off in different countries. And that in turn implies a more differentiated characterization of the 'old public management' – too often casually equated in public-management-reform literature with some very generalized 'traditional model' of bureaucracy. This paper aims to contribute to such understanding by developing the concept of a 'public service bargain' as a tool for comparison and analysis of public service systems.

The notion of a 'public service bargain' is particularly associated with the late Bernard Schaffer (1973: 252). Schaffer used the idea of a public service bargain to characterize and explain the development of the public bureaucracy in a single country (the UK) at a particular point in time. For Schaffer the UK's public service bargain was a nineteenth-century 'constructive' deal agreed between elected politicians and civil servants over their respective entitlements and duties. It was expressed wholly in convention and took a draconian form: 'In this ... bargain, concluded between elected politicians and senior bureaucrats in the nineteenth century, the latter exchanged overt partisanship, some political rights and a public political profile in return for "permanent careers, honours and a six-hour working

day" (quoted in Hood and Jackson 1991: 168). For their part, elected politicians exchanged the ability to appoint/dismiss public servants and change their work conditions at will for non-partisan obedience and professional competence. Schaffer's notion of the UK public service bargain is a fiction, in that no such bargain was ever formally enacted. Much the same idea might be conveyed without resort to fiction by the concept of 'role' (defined by Anton (1980: x) as 'patterned (i.e. repeated) behavior that takes place in response to the actions of others' and developed by Aberbach, Putnam and Rockman (1981)). But Schaffer's characterization of the UK public service bargain cuts across Aberbach, Putnam and Rockman's first three 'images' of bureaucrat-politician roles. And like other fictions in science and the law the notion of a public service bargain serves as a convenient explanatory device (Hood and Jackson 1991: 168), in that, according to Schaffer, British politicians and public servants behaved as if such a bargain had in fact been concluded.

Though Schaffer originally devised the notion of a public service bargain as a UK- or at least Westminster model-specific concept, that concept has the advantage of being potentially stretchable in several directions – both for strategic analysis and for historical and cross-national comparison. At the most general level we can define a public service bargain as some real or constructive deal concluded between public servants and other actors in the political system over their respective entitlements and duties, and expressed in convention or formal law or a mixture of both. And such a concept is potentially useful not only as a means of identifying historical and cross-national variety in the different forms of 'bargain' that preceded the New Public Management era, but also as an analytic concept, since a leading theme of contemporary political science is the understanding of strategic behaviour over

bargains. Accordingly, this paper aims to discuss both comparative and analytic ways of developing the concept of public service bargains.

To widen the notion of a public service bargain beyond the specific form discussed by Schaffer, it seems useful to borrow Feigenbaum and Henig's (1993) distinction (originally drawn to identify different types of privatization) between 'pragmatic' and 'systemic' types. A 'systemic' public service bargain is part of a fundamental (even if 'constructive') constitutional settlement. The obvious example is that of a system in which 'representative bureaucracy' (Subramaniam 1967) in the public service is at the heart of a 'consociational' settlement in a socially divided society. In such a settlement, members of the different social groups (ethnic, racial, religious, etc.) in the public service provide 'glue' – in some cases, the only glue – to bond a divided society together, notably to prevent what Horowitz (1985) terms 'ethnocracy', the domination of one ethnic group over others. What they get in exchange is a share of administrative, military or police power in the form of overt or de facto quotas for different social groups.

Given that bureaucratic, military and police structures typically involve senior positions that are in high demand and control over them by a single group is a powerful symbol of ethnic domination (Ibid: 443; Centre for Ethnic Studies (UWI) n.d.), many political structures, such as Belgium, Switzerland or the European Union, are unthinkable without their 'representative bureaucracy' characteristics (cf. Page 1997; Krislov 1974: 82-103; Chapman 1959: 85 and 284-5). In the most extreme form of 'consociational bargain', who the public servants are in ethnic (or other social grouping) terms is more important than what they do or how they do it (the central

preoccupation of most contemporary writing on public administration and management).

Another type of ‘systemic bargain’ is the arrangement envisaged by Georg Hegel in the Philosophy of Right (1896), in which public servants provide a ‘trustee’ or ‘guardian’ concern with the public or collective good of the state or society or constitutional order in exchange for status honour and (for Hegel at least) material comforts and the promise of being ‘looked after’ over a career that relieve them of the need for close attention to their own self-interest. The Confucian notion of public officials as trustees who receive high status in exchange for an obligation to put the interests of society at large ahead of their own is closely related. Though heavily derided by economics of bureaucracy writers like William Niskanen (1971: 193), for whom such an exchange is inherently implausible, Hegelian bargains continue to be aspired to. Examples include the many contemporary institutional arrangements (like independent central banks and economic regulators insulated from ‘politics’, blessed by bodies like the World Bank) that involve an autonomous role for non-elected public officials. One of the leading examples is the constitutional guardianship role implied for the civil service under the 1949 Basic Law in Germany, obliging public servants to be loyal to the constitution rather than the government of the day. Thomas Anton (1980: 6) argues Swedish civil servants traditionally had a similar autonomous role, with rights of access to policy-making processes enshrined in the 1809 Constitution. Public servants in a Hegelian or Confucian bargain have an autonomous status as an ‘estate’ within the constitutional structure, functioning as ‘trustees’ rather than ‘agents’ of a superordinate in the principal-agent metaphor beloved of innumerable rational-choice writers.

In contrast to ‘systemic’ public service bargains, which cut to the constitutional essence or basic foundations of a society, are bargains of a more downstream or pragmatic type, concerning appropriate roles, duties and working relationships between elected politicians and public servants. In Weaver and Rockman’s (1993) terms, they could be considered part of downstream decision-making arrangements rather than basic institutional constraints. Obviously this distinction is fuzzy and problematic at the margin, since it rests on counterfactuals on which judgements may well vary. The point is simply that whereas it is not possible to imagine entities like Belgium, Lebanon, India or the EU continuing to exist if their public services were drawn only from a single ethnic/caste/confessional or national group, it is possible to imagine other political entities continuing to exist with bureaucratic arrangements rather different from those they have developed (such as a ‘spoils system bureaucracy’ instead of a mandarin class career civil service, or vice-versa). Hence public service bargains in those sorts of systems seem to have shallower social foundations or to be part of a narrower politician-bureaucrat settlement (much closer to the spirit of the principal-agent metaphor) than in the systemic types.

There are several possible types of ‘pragmatic’ public service bargain. At one extreme are ‘group’ bargains, applying to the public service as a whole or general classes within it, and at the other extreme are ‘individual’ bargains, where top public servants negotiate their own role, working conditions and relationships with politicians on a person-specific basis. In effect the latter is a structure with no generalized public service bargain, only a set of individual ad hoc bargains with particular officeholders, in which public servants enter into individual deals with

elected politicians and obtain some personal managerial or regulatory space not subject to day-to-day politician command in exchange for the obligation to accept public blame for their errors.

Most systems can be expected to be hybrid in these terms, but also to vary in their position on the spectrum. Perhaps the most ‘groupy’ form of pragmatic bargain is the ‘Schafferian’ bargain, when public servants provide loyalty and competent service to the government of the day in exchange for trust, anonymity, merit selection and permanent (or at least indefinite) tenure. Like the consociational and Hegelian bargains, this constructive public service bargain cuts across Aberbach, Putnam and Rockman’s (1981) Images I to III of bureaucrat roles relative to elected politicians (cf. Chapman 1959: 31). It is unusual in the degree to which it casts public servants as political eunuchs and the degree to which it insulates public service appointment and dismissal from the control of elected politicians. The bargain affects the public service as a class, because there is little scope for public servants to enter into individual deals with politicians over their relationship, or vice-versa. At the other end of the scale are strong ‘managerial’ or ‘regulatory’ bargains in which terms, conditions and working relationships are person-specific and individually negotiable. Cases towards that end of the scale might include the US city-manager tradition or the appointment of chiefs of staff by particular ministers or the much-discussed New Zealand post-1986 CEO structure. Such managerial or regulatory bargains commonly involve elected politicians trading off liability for blame in exchange for an element of ‘credit slippage’ (using Fiorina’s (1986) well-known terminology).

Somewhere in between the ‘Schafferian’ and ‘managerial’ types comes a hybrid category in which there is more scope for individual deals between politicians and public servants over their relationship than applies to the pure Schafferian bargain, but the deals take place within a broader collective public service bargain than applies with the pure managerial or regulatory bargain and blame is shared with politicians rather than transferred to individual public servants.¹ Hybrid bargains range from private secretariat or adviser roles, such as the tradition of ‘posts of confidence’ (Chapman 1959: 276) to more extensive arrangements such as the French (and EU) Cabinet system in which politicians pick their teams of trusted councillors (typically from within the public service in the French case) and work with them on a team basis. The patrimonial or spoils systems bureaucracies of many of the Latin-American states also come between the pure ‘Schafferian’ and ‘managerial’ types.

These five general types are summarized in Table 1. This five-part classification is not intended to be comprehensive. Its purpose is simply to show that the notion of a public service bargain can be taken beyond the particular form it took up in the Westminster-model countries, and that the Schafferian’ public service bargain is only one out of a number of possible forms when it is viewed in comparative perspective. The classification offered in Table 1 necessarily deals, too, in ‘pure types, whereas as noted earlier most public service systems in practice involve some mixture of types (for example, a mix of Hegelian and managerial in the Swedish case and of Hegelian and consociational in the Singaporean one). Even in the UK, the Schafferian bargain applied only to a part of the public service (the national

¹ Aberbach and Rockman’s (1988) ‘Image IV’ bureaucrats, who share political roles with elected politicians, may be hybrid in this sense. But Aberbach and Rockman do not discuss the institutional fusion of politician and bureaucrat roles in some of the smaller European countries like Denmark and

civil service), not to the secondary public service that emerged in the form of ‘quangos’ in the twentieth century, whose heads were hired in many cases on conditions approximating to those of the more patronage-oriented public services of other states. But the point of making the distinctions summarized in Table 1 is to highlight or benchmark the institutional point of departure from which public service systems enter the ‘New Public Management’ age. In general, we would expect the institutional entry point to the era of ‘New Public Management’ heavily to shape the public service reform action (or inaction) in each political system. These issues are discussed in the next section.

Austria which traditionally allowed civil servants to combine bureaucratic roles with election to the legislature (Chapman 1959: 288).

TABLE 1: FIVE CLASSIC TYPES OF ‘PUBLIC SERVICE BARGAIN’

BROAD TYPE	SUB-TYPE	WHAT SOCIETY OR POLITICIANS GET	WHAT PUBLIC SERVANTS GET	CASES
Systemic or upstream; general social or constitutional bargains	CONSOCIATIONAL BARGAIN	‘Social glue’ through representative bureaucracy.	Share of administrative power	Belgium, India, Lebanon, Trinidad, EU
	HEGELIAN OR CONFUCIAN BARGAIN	Focus on trustee role of promoting general public good	Status (and for Hegel career-long material comfort)	Germany
Pragmatic or downstream; more specific politician-bureaucrat bargains	SCHAFFERIAN BARGAIN	Loyalty to and competent service to the government of the day	Permanent tenure, trust by Ministers, avoidance of public blame for policy	UK, classic Westminster-model systems
	HYBRID BARGAIN	Competent service with party or personal loyalty	Trust by Ministers, limited public blame for policy	French <u>Cabinets</u> Patrimonial or spoils systems
	MANAGERIAL/ REGULATORY BARGAIN	Public servants who are blameable for regulatory or operational errors	Operational autonomy or managerial space	US city-managers, chief-of-staff positions etc.

2. VARIETY AND CHANGE IN PUBLIC SERVICE BARGAINS

In an abstract sense the politics of public service bargains can be seen as a set of dynamic movements around the basic varieties identified in the previous section, and the many hybrids they can produce. But we have no systematic comparative analysis of change and stability in public service bargains and indeed, as Raadschelders (1998: 160) notes, the number of genuinely comparative studies of public service systems remains small. Nor do we have a generally accepted basis for explaining cross-national variation and change in such bargains. But three very tentative hypotheses can be suggested: that ‘systemic’ bargains seem in general to have been ‘stickier’ than ‘pragmatic’ bargains in the age of New Public Management; that the pure ‘Schafferian’ type bargain seems to have come under particularly heavy pressure in that period; but that weakening in pure Schafferian bargains has not in

most cases led to the adoption of pure managerial bargains, but rather to hybrid ones or at least Schafferian-managerial hybrids.

Though the literature on international public management reform is patchy and fragmented (e.g. Barzelay 1999 forthcoming) and may well exhibit a bias towards the English-speaking countries, it seems to suggest that more dramatic changes have been made to the tradition of the 'Schafferian bargain' in the Westminster-model countries than to the other types of bargain discussed earlier. That is not to say that 'systemic' bargains have remained completely unchanged. In Germany, for example, the tendency seems to have been to bypass the 'Hegelian' public service bargain by building private-law entities around the public service for many state functions. And many of the fashionable managerial and service-provision doctrines seem to have been applied, at a surface level at least, across systems with different types of basic public service bargains. But it is the pure Schafferian bargain that seems to have been the most subject to frontal attack.

'Schafferian bargains' seem to have weakened across many of the Westminster-model systems, and not only in respect of the 'six hour day' which Schaffer saw as part of the bargain and which seems particularly quaint a quarter of a century later. The Schafferian bargain appears to have unravelled in several ways. Its features of permanent or indefinite tenure, particularly for departmental heads, has been limited in several states (Australia (Commonwealth government) after 1983, New Zealand after 1988, the UK for regulators of privatized utilities from 1984 and executive agency CEOs from 1989), and the same goes for the closed-career promotion structure. The anonymity of public servants has also been reduced, with

Ministers in some cases unilaterally reducing the scope of their accountability away from the notionally all-encompassing nature of ministerial responsibility in classic Westminster-model doctrine, while extending their patronage powers. Its feature of career public service dominance of policy advice and management has been weakened by the introduction of ‘chiefs of staff’ (as in Canada), special advisers and regulators. Freedom of information measures have also changed the climate of confidentiality within which senior public servants work, even if they can find ways of circumventing such measures. Such tendencies work against the notion of the career public servant as confidential Ministerial adviser entitled and competent to ‘speak truth to power’ in frank exchanges behind closed doors in exchange for public loyalty and abstention from party political activity, and place more emphasis on the arms-length implementer or regulator role. This latter shift is central to Campbell and Wilson’s (1995) analysis of the decline of the ‘Whitehall model’.

Indeed, it is notable that the Westminster-model country (New Zealand) with one of the most Schafferian initial bargains is the one that seems to have moved furthest away from it. In New Zealand the 1912 Public Service Act (and the extra-statutory conventions with which it seems to have been invested) gave such strong tenure entitlements to senior public servants that elected politicians had less scope for moving senior bureaucrats sideways or out than applied to the UK, where the retention of the royal ‘prerogative power’ as the basis of civil service employment allowed for summary dismissal (Hood 1998; Boston *et al* 1996).

However, such differences have attracted relatively little discussion. From the tone of the widespread political rhetoric of public-service managerialism, we might

expect the ‘Schafferian’ type of bargain to have been generally replaced by a ‘managerial’ type of bargain, in which public servants are notionally given more ‘managerial space’ or ‘regulatory space’ on an individual basis in exchange for direct accountability for results. As noted earlier, something like that happened in New Zealand, where the whole public service moved into an approximation of a ‘managerial’ form of bargain in 1988, with chief executives directly responsible for specified ‘outputs’ in exchange for a greater degree of managerial freedom. But this ‘full monty’ pattern does not seem to have been generally adopted across the Westminster-model countries, in spite of widespread managerial ‘mood music’. More common (as in the UK, Australia and Canada) seems to have been a partial move towards a ‘managerial’ bargain, together with a weakened or diluted form of ‘Schafferian’ bargain.²

These hypotheses, it must be stressed, are tentative. But if it is true that the pure Schafferian bargain has come under more direct attack than other types in the ‘New Public Management’ era but that it has tended to be modified in a ‘hybrid’ direction rather than generally replaced by a pure form of managerial bargain, why should that be? Such a development cannot be explained by a simple pendulum or politics-of-reaction theory (of the type offered by Hirschman (1982) for privatization) in which any type of public service bargain could be expected to self-destruct over time as a result of the negative effects it produces. Such an account would suggest all types of public service bargains were equally liable to succumb to reform pressures driven by the politics of disappointment or perceptions that ‘the grass is greener’

² . In the UK what seems to have happened is a differentiation of the public service bargain, with a different regime for ‘regular’ departmental officials on the one hand (who retained traditional indefinite tenure) and executive agency chief executives and OF-type regulators on the other, on limited-term tenure (Hood 1998).

elsewhere, when that is not what seems to have been happening. Instead, we need some account of the factors shaping politicians' choice among different 'public service bargains' and a historical account of general changes in politics, technology or organization in the 'New Public Management' era.

We have no generally-accepted account of either of these elements. But one possible starting point is Murray Horn's (1995: 16-22) well-known account of institutional choice from a transaction-cost basis. Horn assumes legislators or other institutional designers seek to achieve commitment (durability of their preferred measures over time) while minimizing agency costs (the risk that agents or administrative organizations will follow an agenda of their own and get out of control) and minimizing uncertainty costs for favoured interests (the risk that an arrangement may turn out to impose substantial costs on one or more of the players). Viewed in this light, the Hegelian and consociational type of bargain can be seen as arrangements which privilege institutional 'commitment' to a particular form of ethnic/social conflict management or constitutional position (with agency costs for the society or politicians variable depending on factors such as the ease with which the bureaucracy can be steered through the courts). By their nature the institutional products of such bargains are likely to be very costly to change in transactional terms, meaning reforms are likely to take the form of bypassing or overlays rather than frontal assault.

Within the pragmatic types of bargain, commitment is inherently low for both the Schafferian and hybrid cases, and variable in the managerial/regulatory type of bargain (though such institutional commitment tends to be inherently limited in

Westminster-model and Parliamentary-type systems). The agency costs for elected politicians are likely to be variable in the pure Schafferian type (because permanent tenure expectations means control has to take place through time-intensive ‘conversations’ if the political chemistry of the politician-bureaucrat link is problematic) and higher in the managerial type (because of the time-intensive requirement to agree contractual frameworks and work without ‘orders of the day’ at arms-length) than in the hybrid type (where tenure is tied to specific politicians and arms-length frameworking control is not required). The uncertainty costs to politicians are likely to be higher for Schafferian and hybrid forms of bargain (since in the former case blame is taken by Ministers and in the second it is at least shared with the public service team) than in the managerial form, since in the latter case politicians can pass blame to individual public servants.

This reasoning is summarized in Table 2 below. To the extent it is correct, it suggests elected politicians would prefer the pure Schafferian bargain to the other two types only if its agency costs were perceived to be lower. The pure managerial or regulatory bargain would be preferred to the Schafferian or hybrid types if uncertainty costs were highly salient (or possibly if an extra degree of commitment was wanted, to the extent that can be delivered by the managerial/regulatory bargain), outweighing the high agency costs of this type.

TABLE 2: COMMITMENT, UNCERTAINTY AND AGENCY IN PRAGMATIC BARGAINS

Capacity or Cost Features	Type of Pragmatic Bargain		
	Schafferian	Hybrid	Managerial
Commitment capacity	Lower (loyalty to government of the day)	Lower (loyalty to the party or minister)	Variable
Uncertainty costs to	Higher (public	Higher (blame shared	<u>Potentially</u> lower if

politicians of policy error	servants notionally 'anonymous')	with team)	blame successfully transferred
Agency costs to politicians of directing public servants	Variable (low setup costs but public servants permanent, have to be persuaded through conversation)	Medium (no arms-length framework costs, public servants tenure aligned with politicians' but need to select and appoint)	Higher (arms-length control means time commitment on frameworking and managing contracts)

On this analysis, the conditions for a switch away from the Schafferian bargain (more salient uncertainty costs of policy error, perceived high agency costs) to some other form of pragmatic public service bargain are far from severe. So what reasons are there for believing uncertainty costs might have risen in the era of (or immediately before) 'New Public Management', leading elected politicians to be more concerned with 'blame avoidance' and/or that the agency costs associated with the 'Schafferian' bargain might have started to look high against the 'managerial' alternative? No detailed discussion is possible here, and some systematic comparative-historical analysis is needed. But possible candidates for provoking greater politician concern with 'blame avoidance' (and hence a drive to put more uncertainty costs on to bureaucrats) might include a mixture of: government growth (more things potentially to go wrong for politicians to take the blame for); falling levels of public trust in elected politicians across many of the developed democracies (with less public inclination to give politicians the benefit of the doubt when things go wrong); increasing professionalization of politics; and a style of post-cold-war politics in which public management itself becomes the dominant issue of politics,³ since contemporary states tend to be locked into international regimes dedicated to trade liberalization and policies of economic rationalism (cf. Aucoin 1990; Dryzek 1996:

³ . Several of these trends are consistent with Michael Power's (1997) discussion of the so-called 'audit society', obsessed with constant verification and checking up on everybody's performance by applying the apparently comforting techniques of financial audit to other domains (like education, safety, the environment).

17-34). If there is a cocktail of historical forces pushing politicians into greater concern with blame-avoidance, the elements above might form some of its ingredients.

But if the reasoning about transaction costs above is correct, politicians wishing to switch out of a pure Schafferian bargain (because of the cocktail of factors described above, or for any other reason) then face a trade-off. The trade-off is between lower uncertainty costs and higher agency costs (plus some, possibly limited, element of commitment) in the managerial-type bargain as against higher uncertainty costs and lower agency costs in the hybrid-type bargain. If relatively few systems have moved from Schafferian to pure managerial bargains, are we to conclude that the elected politicians concerned were after all more concerned with agency costs than uncertainty costs?

If that is true, such a conclusion seems to sit oddly with the ‘blame avoidance’ logic often claimed to be central to contemporary politics and discussed earlier. Why then have most ‘pragmatic-bargain’ political systems apparently not moved all the way to a full-blooded managerial bargain involving institutions like the Swedish agency structure or the New Zealand contractual structure? Why does the pure managerial bargain seem to be more the exception than the rule? One possible answer may be that the fertile opportunities for ‘cheating’ over public service bargains complicate the analysis. Cheating could affect the choice in at least two ways. One possibility for not shifting to full-monty managerialism is that politicians could cheat on hybrid or weakened forms of Schafferian bargains by shifting the blame to bureaucrats without incurring the extra agency costs of moving to arms-length

control. Another is that public servants could cheat on managerial bargains, such that ‘uncertainty costs’ boomerang back to elected politicians whenever ‘residual liability’ issues arise. Accordingly, the next section examines ‘cheating’ within public service bargains.

3. CHEAT OR DELIVER? THE POLITICS OF PUBLIC SERVICE

BARGAINS

If cheating is closely related to transaction costs (even though the concept of cheating is somewhat problematic for bargains that are ‘constructive’), we need to look at public service bargains in the light of the incentives and possibilities available to the ‘contracting parties’ to cheat or deliver on their side of the deal. Without claiming to be comprehensive, Table 3 attempts to summarize some of the main ‘cheating opportunities’ available to the parties under the five public service bargains summarized in Table 1 and discussed earlier.

TABLE 3: CHEATING OPPORTUNITIES IN FIVE PUBLIC SERVICE BARGAINS

BROAD TYPE	SUB-TYPE	WHAT SOCIETY OR POLITICIANS GET	WHAT PUBLIC SERVANTS GET	HOW SOCIETY/ POLITICIANS CAN CHEAT	HOW PUBLIC SERVANTS CAN CHEAT
General social or constitutional bargains	CONSOCIATIONAL BARGAIN	‘Social glue’ through representative bureaucracy.	Share of administrative power	Covert discrimination in hiring, firing etc.	Promotion of social segmentation
	HEGELIAN OR CONFUCIAN BARGAIN	Focus on trustee role of promoting general public good	Status (and for Hegel career-long material comfort)	Denial/erosion of status or ‘alimention’	Corruption and self-seeking behaviour

More specific politician-bureaucrat bargains	SCHAFFERIAN BARGAIN	Loyalty to and competent service to the government of the day	Permanent tenure, trust by Ministers, avoidance of public blame for policy	Party patronage in hiring, firing etc., misleading/circumventing/blaming the bureaucracy	Disloyalty (leaking, sabotage) or incompetence
	HYBRID BARGAIN	Competent service with party or personal loyalty	Trust by Ministers, limited public blame for policy	Double-crossing and failure to give reciprocal support for public servants	Disloyalty (leaking, sabotage) or incompetence
	MANAGERIAL/REGULATORY BARGAIN	Public servants who are blameable for regulatory or operational errors	Operational autonomy or managerial space	Covert political interference in operations	Refusal to accept blame for errors/poor performance

Under the ‘consociational’ type of bargain, in which public servants exchange the function of providing ‘glue’ for a divided society in return for a share of administrative power, the main way in which public servants can ‘cheat’ is by promoting social segmentation instead (for example through racism, national or ethnic preference). For politicians or the society at large, ‘cheating’ behaviour consists of actions like bypassing the consociational bureaucracy or biased distribution of administrative power among the different social groups. Under the ‘Hegelian’ bargain, the cardinal form of ‘cheating’ for public servants consists of ‘looking after Number One’ instead of trusteeship of collective good, through behaviour ranging from outright corruption to bureau-shaping and front-line abandonment. For politicians and society at large, the principal form of cheating for this type of bargain lies in denial or erosion of the autonomous status attached to public service and of lifetime rewards sufficiently comfortable to remove the need for public-spirited individuals to serve special interests (including their own) in doing their jobs.

Turning to the ‘pragmatic’ forms of public service bargain, public servants under the pure Schafferian bargain can ‘cheat’ by failing to deliver loyalty or neutral competence or both. Cheating through disloyalty includes ‘leaking’ of confidential material or policy proposals to journalists or opposition parties by disgruntled bureaucrats, and other forms of policy sabotage (sometimes justified, as in the famous case of the British civil servant Clive Ponting in 1985, by invoking the rhetoric of a ‘Hegelian’ public service bargain with the parliament or society at large rather a ‘Schafferian’ bargain to serve the government of the day). Cheating over neutral competence involves managerial or policy-analytic incompetence, or both. Elected politicians can cheat over the Schafferian bargain by circumventing the career bureaucracy (denying its entitlement to ‘speak truth to power’ or even to know what is going on) and covert partisanship in hiring, firing and promotion. Cheating opportunities for public servants and politicians seem to be fairly similar for the ‘hybrid’ form of public service bargain as for the ‘Schafferian’ one, though in this case public servants are expected to show partisan or personal loyalty rather than loyalty to the government of the day and politicians are expected to look after their own protégés.

The pure ‘managerial’ form of public service bargain seems particularly rich in cheating opportunities for both sides. Public servants can cheat on the bargain through backdoor collusion with politicians or legislators outside the terms of the agreed formal framework (Barker 1998), evasion of control frameworks (as Foster (1992) argues was frequently achieved by UK nationalized industry boards in the era of Morrisonian public enterprise) or political lobbying activity to influence policy settings, with the manager operating as a political actor rather than an implementor of

policy settings coming from elected politicians. Perhaps the main form of cheating on the part of elected politicians consists of unacknowledged incursions into the 'managerial space'. Such behaviour was endemic in spite of officially arms-length relations between Ministers and Morrisonian public corporations over forty years in the UK and was often seen as a key element in the downfall of that form of public enterprise and its replacement in many cases by regulated public utilities (involving a new and allegedly more cheat-proof form of 'managerial' bargain between politicians and quasi-independent regulators). Such 'cheating' has also been observable in the case of the 'Next Steps' executive agencies in the UK, and most dramatically in the Prison Service Agency. The Agency's Chief Executive, sacked in 1995, later went on the record with an account of how the Home Secretary had extensively but surreptitiously intervened in the details of prison management while arguing that as a Minister he had no responsibility for 'operational' issues (Lewis 1997; Barker 1998).

Looking at public service bargains in a cheat-or-deliver frame highlights at least three analytic issues. First, the overall outcome of such bargains obviously depends on the combined strategies of the two parties, and as in the classic Prisoner's Dilemma game, the possibilities include delivery by both sides, cheating by both sides, or cheating by one side but not the other. The corresponding outcomes can range from a 'cooperative equilibrium' in which bargains are adhered to by both sides (Scholz 1991), to (at the other extreme) a poker-game culture in which both sides are continuously manoeuvring, neither trusts the other, and no bargain is likely to have much credibility or stick for very long. Table 4 summarizes these possible outcomes.

TABLE 4: PUBLIC SERVICE BARGAINS: CHEAT OR DELIVER?

SOCIETY/POLITICIANS

PUBLIC SERVANTS	DELIVER	CHEAT
	(1)	(2)
DELIVER	‘Cooperative equilibrium’: high-trust public service arrangements	Public servants cowed or fatalistic but apathetic or resigned
	(3)	(4)
CHEAT	Public or politicians distrust public servants but feel unable to change the system	Low-trust ‘poker-game’ with no stable public service arrangements

Second, in such interactions, what counts is perception of cheating or delivery, and those perceptions may differ among the various players. For instance, according to Polidano (1998: 36), at least some politicians in Westminster model countries prior to the New Public Management era perceived that their relationship with public servants was drifting into cell (3) in Table 4. Largely on the basis of experience in the 1960s and 1970s, the perception was that ministers were unable to control their departments and senior public servants were able and willing to sabotage the demands of elected politicians to protect their own interests. But from the perspective of many public servants the relationship seemed to have gone into cell (2), with politicians unilaterally unloading their responsibilities onto public servants and denying public servants’ traditional entitlement under the ‘Schafferian bargain’ to ‘speak truth to power’ in confidential discussions of policy.

Another example of lack of uniformity in who perceives what as ‘cheating’ is the various types of menage à trois arrangements that have developed around Ministers and Prime Ministers in various Westminster-model countries, in those cases where the traditional model of the Minister advised by the career public service under a single departmental head has been replaced by a triadic (or even four-person) relationship. Patterns include a triangular relationship between minister, departmental head and chief or staff or special adviser (as in the ‘menage à trois Canadienne’) or of

a triangle between minister, agency chief executive and the official head of the parent department (as in the UK experience with the introduction of executive agencies under a ‘managerial bargain’), or a combination of both. Some, perhaps traditionally minded, public servants seem to see the menage à trois (or quatre) structure, with all its possibilities for bypassing games, as a form of cheating on what they conceive as the essence of the Schafferian bargain, while politicians and some other public servants may see it as a perfectly legitimate counter to ‘cheating’ in the form of subtle disloyalty by public servants in the menage à doux.

Moreover (as that example illustrates), there are forms of ‘cheating’ that straddle different forms of public service bargain, if elements of both are present in the same system. The menage à trois relationship created by adding a ‘managerial bargain’ for executive services and regulation to a Schafferian bargain for policy advice, as has happened in the UK, may lead the ‘Schafferian’ part of the trio to undermine the ‘managerial bargain’ part of the structure. In such a menage à trois, Ministers are likely to discover scope for by-passing the head of the parent department and dealing directly with the agency chief executive over sensitive policy matters. The parent department's head then has an incentive to protect his/her position against the other two members of the menage à trois by setting up even more monitoring and second-guessing arrangements by the department over the agency, as did the Permanent Secretary of the UK's Home Office in the mid-1990s as a defensive response to direct dealing between the Home Secretary and the Prison Service Agency chief executive (Barker 1998). The result of such triadic dynamics can be paradoxical, in that public servants believing themselves to have an autonomous individual managerial space under a ‘managerial bargain’ may in fact find that space subject to

more rather than less regulation and oversight from the rest of the bureaucracy, and thus perceive an element of 'cheating' from elsewhere in the public service. Much of the managerialist criticism of the UK's executive agency regime has focused on the failure of parent departments to let go of detailed procedural controls, in spite of the pervasive rhetoric about the need to develop more emphasis on managerial responsibility and a results-orientation (cf. Trosa 1994; Hogwood, Judge and McVicar 1998).⁴ In hybrids of this type, there are more than two players who can 'cheat'.

The third analytic issue raised by the cheat-or-deliver perspective is the question of what mechanisms can serve to prevent public service bargains drifting into the 'cheat/cheat' outcome (cell (4) in Table 4). Possible and related candidates include the 'usual suspects' of culture (shared attitudes and beliefs, such as an ethos of solidarity), institutions and rules (such as dedicated arrangements in the form of courts, special commissioners and the like, for policing, guarding and adjudicating on public service bargains) and the existence of mutual checking arrangements (producing an expectation that the other side will rapidly punish defection by a tit-for-tat response (of the type analyzed by Axelrod (1984)) that erodes or removes any advantages to be gained from 'defection' (cf. also Scholz 1991)).

All of these possible ways of cheat-proofing public service bargains seem precarious. Cultures of high solidarity between elected politicians and public servants seem likely to be problematic in the contemporary age, if some (or any) of the alleged

⁴ . One senior British civil servant remarked of the executive agency programme that 'we thought we were empowering people who manage things but ended up empowering people who count things' (Hood *et al* 1999, forthcoming). Hogwood *et al* (1998) go so far as to identify a pathology of excessive accountability in the executive agency regime, and Polidano (1998: 49) argues that such developments unintendedly reduce administrative responsiveness and move bureaucracies towards administrative gridlock.

historical trends noted above have any validity. Public service bargains are only likely to be effectively ‘policed’ by formal rules and dedicated regulatory institutions if they are expressed – or expressible - in written law rather than convention. But many aspects of such bargains seem inherently difficult to juridify. And ‘tit-for-tattery’ requires that the players are on an equal footing, play the game on an iterative rather than one-shot basis, and are able to recognize one another in subsequent play. While the latter condition is probably met for public service bargains, the first two are less likely to be.

‘Tit-for-tat’ tactics relative to politicians by public servants under the ‘Schafferian’ type of bargain can be subtle (as in the Yes, Minister style of covert obstruction or ‘creative compliance’), but the cumulative effect of such behaviour may be not so much to maintain the Schafferian bargain as to push politicians into a move from ‘Schafferian’ to ‘hybrid’ or ‘managerial’ bargains. And that potential seems to violate the tit-for-tat requirement that the players be on an equal basis, since if the politicians unilaterally shift from Schafferian to hybrid/managerial bargains, some of the classic ‘Schafferian’ tit-for-tat tactics are no longer open to public servants. But other tit-for-tat responses may (perhaps unintendedly on the part of politicians) become available to public servants under managerial or hybrid bargains. In the case of the managerial bargain, some of the most powerful potential ‘tit-for-tat’ responses by public servants under the ‘managerial’ bargain may come after the managers have been sacked and have nothing further to lose from displeasing their political masters.

That is, if the elected politicians have ‘cheated’ on the managerial bargain by covertly exerting hands-on control over administrative operations for which public servants are expected to shoulder the blame public, the most powerful ‘tit-for-tat’ response from agency heads may come after the latter have been sacked. Instead of falling meekly on their swords, they can create further political embarrassment by publicly attacking the ministers who have blamed them, by revealing details of backdoor ministerial interference in the agency's affairs that makes the Minister's political position worse - or at least no better - than it would be under the ministerial-responsibility conventions of the Schafferian bargain.⁵ Even attempts by politicians to make agency heads go quietly by the traditional private-sector approach of generous terminal financial settlements may have negative political consequences if they lead to rows about lavish payoffs to public servants (as happened for instance after the dismissal of the head of the Australian Bicentennial Authority through a generous private-sector-style tax-efficient 'golden goodbye' in the late 1980s).

Accordingly, the reason why Westminster-model countries have not moved as a group from Schafferian to pure managerial bargains may either reflect politicians placing a lower weighting on ‘uncertainty costs’ of policy or operational error relative to ‘agency costs’ than might have been expected (as suggested in the last section), or the way that cheating costs and opportunities have been factored in to their calculations. Attempting to pass all the uncertainty costs of operational errors from

⁵ . Such was the situation faced by the British Home Secretary Michael Howard in 1995 when he sacked Derek Lewis, the chief executive of the Prison Service Agency operating under a version of ‘managerial’ bargain, after some embarrassing prison escapes followed by a damning report critical of security in two gaols. The response of the sacked and disgruntled Lewis was to turn the heat on his erstwhile political ‘principal’ by legal challenge and damaging exposés of Howard's continuous interference in the operational affairs of the agency for which Howard declined to take any responsibility. Lewis's activity provided powerful ammunition for Howard’s political enemies within and outside the Conservative Party and forced him on to the defensive to at least as great an extent as if

elected politicians to public servants under a pure managerial bargain is a high-risk strategy. The strategy is only likely to succeed if the contractual terms are clear-cut or anticipate all the possible contingencies or if elected politicians have not cheated by backdoor interference in the work of the ‘managers’ in an attempt to cut the politicians’ agency costs. None of those conditions is likely to be easy to meet. Shifting to more hybrid type bargains or mixed Schafferian-managerial bargains has a lower ‘upside’ on uncertainty costs for politicians. But it also has a lower downside, and (especially when quasi-cheating opportunities like menage à trois arrangements are considered) can reduce the agency costs of the pure Schafferian bargain. Cheating factors of this type may help to explain why so few countries appear to have gone the ‘full monty’ to public service managerialism in spite of managerial rhetoric and seemingly strong incentives for politicians to shift blame onto public servants.

4. SUMMARY AND CONCLUSION

This paper has sought to show that analysis of ‘public service bargains’ can be used to benchmark the points of origin of contemporary public service reform. Different styles of reform appear likely to be linked to the type of bargain embodied in the different status quo positions, and to the various cheating opportunities each type of bargain affords.

Historically, public service bargains have taken up different forms across the developed democracies, in spite of the tendency of much contemporary writing about public-service reform to treat ‘traditional’ public administration as a uniform style.

he had assumed direct responsibility for prison management under a Schafferian ministerial responsibility bargain.

Political systems starting from bargains that are ‘systemic’, central to their constitution or social foundations, are likely to produce responses to some types of public-service reform that are different to political systems embodying ‘pragmatic’ bargains. For instance, a public service rooted in a consociational bargain is likely to present acute difficulties for doctrines of ‘letting managers manage’ (especially on hiring and firing) that may not exist for a system based on a pragmatic bargain. And a public service rooted in a Hegelian or Confucian bargain is likely to be difficult to adapt to doctrines of politician-bureaucrat relationships building on principal-agent imagery. So in both cases reform efforts may have to take place through quasi-cheating bypassing games (for instance by use of private-law entities for key tasks, as in Germany, while leaving the central public service little changed) that are not necessary for systems based on pragmatic public service bargains.

Likewise, within the ‘pragmatic’ group of bargains, variation in public service reform emphases may reflect the conditions of the previous bargain. For example, systems starting from hybrid bargains (as in the French or EU cabinet model) present ‘agency’ problems rather different from those starting from a pure Schafferian bargain, and it is probably no accident that the case which appears to have shifted most dramatically from a Schafferian to managerial bargain (New Zealand) was one in which the agency costs for politicians associated with the status quo system had been unusually high. More puzzling, in view of what are often claimed to be common concerns by elected politicians to avoid blame (passing uncertainty costs of policy failure on to others) is why the ‘managerial’ bargain – apparently an ideal vehicle for politician blame-avoidance in an era where ‘big government’ combines with falling public trust in politicians in many countries – has not been generally adopted. It was

suggested earlier that this outcome can either be explained by politicians' relative valuation of 'agency' and 'uncertainty' costs or by the way that 'cheating' opportunities have been factored into their calculations on institutional design, but this suggestion is tentative and needs further exploration.

As already noted, the concept of public service bargains is closely related, if not isomorphic, to the notion of public service roles, and it would be surprising if a 'bargain-based' analysis did not overlap heavily with Aberbach, Putnam and Rockman's (1981) well-known 'role-image' analysis. But coming at the issue from an exchange perspective rather than one linked to doctrinal development in US public administration both produces a rather different array of types (in particular the systemic bargains embodying concerns of representativeness and bureaucratic autonomy) and makes possible some strategic-action analysis of 'cheating' and delivery over putative public service bargains.

Exploring links between public service bargains and government capabilities is beyond the scope of this paper. But it would be surprising if such bargains did not help to shape government capabilities, insofar as they embody characteristics of regimes and broader socio/institutional features ('second tier' and 'third tier' elements in Weaver and Rockman's (1993: 8-11) language).⁶ Both for better explanations of variations in reform efforts and for better understanding of government capabilities, public service bargains merit further attention.

⁶ Weaver and Rockman do not give public service a high profile in *Do Institutions Matter?* though they mention one third-tier institutional feature (bureaucratic autonomy) relating to the public service.

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