Reforming the Bureaucracy

Inquire: Reforming the Bureaucracy

Overview

How could American bureaucracy be better? Is there a way to make it more efficient? In this lesson, we will look at the efforts of the government to make bureaucracy more effective and efficient.

The efforts at reform are usually aimed at one of two options: make bureaucracy more efficient and do its job for less money, or make it more effective and able to help the people with less bureaucratic red tape. Privatization and contracting with private companies are two of the main plans for reforming the bureaucracy.

Big Question: Is privatization the answer?

Watch: Controversy and the CFPB: Overseeing an Oversight Bureau

During the 1990s, the two United States political parties had largely come together over the issue of the federal bureaucracy. While differences remained, a great number of bipartisan attempts to roll back the size of government took place during the Clinton administration. However, this shared effort began to fall apart during the presidency of Republican George W. Bush, whose repeated attempts to use contracting and privatization to reduce the federal bureaucracy went further than Democrats were willing to accept.

This growing division was further compounded by an economic recession that began in 2007. For many on the left side of the political spectrum, the onset of the recession reflected a failure of weakened federal bureaucracies to properly regulate the financial markets. To those on the right, it merely reinforced the belief that government bureaucracies are inherently inefficient.

The debate over one particular bureaucratic response to the recession provides important insight into these divisions. The Consumer Financial Protection Bureau (CFPB) is an agency created in 2011, specifically to oversee certain financial industries that had proven to be especially prone to abusive practices, such as subprime mortgage lenders and payday lenders. To many in the Republican Party, this new bureau was merely another instance of growing the federal bureaucracy to take care of problems caused by an inefficient government. To many in the Democratic Party, the new agency was an important cop on a notably chaotic street.

Divisions over this agency were so bitter that for a time, Republicans refused to allow the Senate to consider confirming anyone to head the new bureau. Many wanted the bureau either scrapped or headed
by a committee that would have to generate consensus in order to act. They attempted to cut the bureau’s budget and erected mountains of red tape designed to slow the CFPB’s achievement of its goals. During the height of the recession, many Democrats saw these tactics as a particularly destructive form of obstruction while the country reeled from the financial collapse.

By the spring of 2016, as the recession had receded into the past, the political heat the CFPB once generated had steadily declined. Republicans still push to reduce the power of the bureau and Democrats in general still support it, but lack of urgency has moved these differences into the background. Indeed, there may be a growing consensus between the two parties that the bureau should be more tightly controlled. It may indicate the start of a return to a bipartisan interpretation of bureaucratic institutions.

Read: Privatizing the Bureaucracy

Government Privatization

A more extreme and, in many instances, more controversial solution to the perceived and real inefficiencies in the bureaucracy is privatization. In the United States, the urge to privatize government services has never been as strong as it is in many other countries, largely because the country was born during the Enlightenment and has a long history of championing free-market principles. There are simply far fewer government-run services.

Nevertheless, the federal government has used forms of privatization and contracting throughout its history. Following the growth of bureaucracy and government services during President Johnson’s Great Society in the mid-1960s, a particularly vocal movement began calling for a rollback of government services.

This movement grew stronger in the 1970s and 1980s as politicians, particularly on the right, declared that air needed to be let out of the bloated federal government. In the 1990s, as President Bill Clinton and especially his vice president, Al Gore, worked to aggressively shrink the federal bureaucracy, privatization came to be embraced across the political spectrum.

The Rhetoric and the Process

The rhetoric of privatization — that market competition would stimulate innovation and efficiency — sounded like the proper remedy to many people, and still does to some. But, to many others, talk of privatization is worrying. They contend that certain government functions are simply not possible to replicate in a private context.

When those in government speak of privatization, they are often referring to one of a host of different models that incorporate the market forces of the private sector into the function of government to varying degrees. These include using contractors to supply goods and/or services, distributing government vouchers with which citizens can purchase formerly government-controlled services on the private market, supplying government grants to private organizations to administer government programs, collaborating with a private entity to finance a government program, and even fully divesting the government of a function and directly giving it to the private sector.

Divestiture, or full privatization, occurs when government services are transferred, usually through sale, from government bureaucratic control into an entirely market-based, private environment. At the federal level, this form of privatization is very rare, although it does occur. Consider the Student Loan Marketing Association, often referred to by its nickname, Sallie Mae. When it was created in 1973, it was designed
to be a government entity for processing federal student education loans. Over time, however, it gradually moved further from its original purpose and became increasingly private. Sallie Mae reached full privatization in 2004.

Another example is the U.S. Investigations Services, Inc., which was once the investigative branch of the Office of Personnel Management (OPM) until it was privatized in the 1990s. At the state level, however, the privatization of roads, public utilities, bridges, schools, and even prisons have become increasingly common as state and municipal authorities look for ways to reduce the cost of government.

Possibly the best-known form of privatization is the process of issuing government contracts to private companies in order for them to provide necessary services. This process grew to prominence during President Bill Clinton’s National Partnership for Reinventing Government initiative, intended to streamline the government bureaucracy. Under President George W. Bush, the use of contracting out federal services reached new heights. During the Iraq War, for example, large corporations like Kellogg Brown & Root, owned by Halliburton at the time, signed government contracts to perform a number of services once done by the military, such as military base construction, food preparation, and even laundry services. By 2006, the reliance on contracting to run the war was so great that contractors outnumbered soldiers. Such contracting has faced quite a bit of criticism for both its high cost and its potential for corruption and inefficiencies. However, contracting has become so routine that it is unlikely to slow any time soon.

Third-party financing is a far more complex form of privatization than divestiture or contracting. Here the federal government signs an agreement with a private entity so the two can form a special-purpose vehicle to take ownership of the object being financed. The special-purpose vehicle is empowered to reach out to private financial markets to borrow money. This type of privatization is typically used to finance government office space, military base housing, and other large infrastructure projects. Departments like the Congressional Budget Office have frequently criticized this form of privatization as particularly inefficient and costly for the government.

Whistleblowing

One of the most important forms of bureaucratic oversight comes from inside the bureaucracy itself. Those within the bureaucracy are in the best position to recognize and report on misconduct. But, bureaucracies tend to jealously guard their reputations and are generally resistant to criticism from without and from within. This can create quite a problem for insiders who recognize and want to report mismanagement, and even criminal behavior. The personal cost of doing the right thing can be prohibitive. For a typical bureaucrat, faced with the option of reporting corruption and risking possible termination or turning the other way and continuing to earn a living, the choice is sometimes easy.

Under heightened skepticism, due to government inefficiency and outright corruption in the 1970s, government officials began looking for solutions. When Congress drafted the Civil Service Reform Act of 1978, it specifically included rights for federal whistleblowers — those who publicize misdeeds committed within a bureaucracy or other organization — and set up protection from reprisals. The act’s Merit Systems Protection Board is a quasi-juridical institutional board headed by three members, appointed by the president and confirmed by the Senate that hears complaints, conducts investigations into possible abuses, and institutes protections for bureaucrats who speak out.

Over time, Congress and the president have strengthened these protections with additional acts. These include the Whistleblower Protection Act of 1989 and the Whistleblower Protection Enhancement Act of 2012, which further compelled federal agencies to protect whistleblowers who reasonably perceive that an institution or the people in the institution are acting inappropriately.
Reflect: Whistleblowing: Protecting the Information and the Entity

Poll

In 2013, an unknown computer programmer named Eric Snowden, who was contracting with the National Security Agency (NSA), made headlines when he released top secret information showing the NSA was engaging in illegal surveillance. Snowden was charged with espionage and treason, and is currently living in Russia to avoid jail. This is just one example of an individual deciding to take matters into their own hands and either go public with bad acts by an entity or try to report the bad acts to the proper authorities.

Do you think a “whistleblower” like Snowden should be protected or prosecuted?

- protected
- prosecuted

Expand: Reforming the Bureaucracy

Overview

Since 1980, virtually every presidential election included a debate over the size of the federal government. Americans who believe the bureaucracy has become too large, too expensive, and too powerful have become more numerous and, as a result, many politicians began to demand reform. Bureaucracies move slowly; one hand doesn't always know what the other is doing. Federal employees have so much job security that there is little fear of being fired for incompetence. There are so many agencies organized in such confusing ways.

How can the ordinary citizen feel connected to the government when everything is so impersonal? Public criticism of bureaucratic inefficiency is commonplace. In response, many people, including most presidents, have tried to reform and reorganize the bureaucracy.

The Merit System and the Hatch Act

The merit system tries to ensure that the best-qualified people get government jobs and that party politics are limited. In 1939, Congress passed the Hatch Act, which required employees to have as little to do with political parties as possible once they are hired. The Hatch Act forbids employees from engaging in many party activities. For example, employees can not run for public office or raise funds for a party or candidate, nor can they become officers in a political organization or a delegate to a party convention.

In the early 1970s, some bureaucrats complained that their First Amendment rights were being violated. The issue made its way to the Supreme Court, where the justices ruled that the Hatch Act did not put unreasonable restrictions on employees’ rights. However, in 1993, Congress softened the Hatch Act by making many forms of participation in politics permissible. Federal bureaucrats still cannot run as candidates in elections, but they may be active in party politics.

Requiring Accountability

One criticism of our merit-based bureaucracy is that once a person is employed, there are no requirements that they be held accountable for their work. Since bureaucrats no longer lose their jobs when a new president takes office, some criticize that they become complacent and inflexible. Some suggestions for making civil servants more accountable for their work include the following:
- Limiting appointments to 6-12 years. After the appointment expires, the bureaucrat would then have to go through reexamination and their performance would be reviewed for possible rehire.
- Making it easier to fire a bureaucrat. Civil service rules that are meant to protect workers from partisan politics have made it difficult to fire anyone for poor performance. Reformers want to remove those rules.
- Rotating professionals between agencies and from outside the bureaucracy. Reformers believe that this practice would bring "new blood" to agencies and encourage workers to get a broader view of government service.

Cutting "Red Tape"

One common complaint about bureaucracy is that "red tape" — the maze of government rules, regulations, and paperwork — makes the government so overwhelming to citizens that many people try to avoid all contact. Filling out forms, standing in line, and being put on hold on the telephone all have resulted in many people being discouraged from ever applying for benefits they rightfully deserve.

In response, the presidents of the 20th century have offered no fewer than 11 major reorganizations of the federal bureaucracy. The latest was the National Performance Review, conducted by Vice President Al Gore in 1993. The NPR report contained many horror stories about useless red tape for both citizens and government officials themselves. The NPR called for less centralized management, more employee initiative, fewer rules, and more emphasis on customer satisfaction. As of the year 2000, few of the recommendations have been followed.

One reason that it is so hard to reform the bureaucracy is that it has two masters — the president and Congress. Especially during periods of divided government, one branch can be suspicious that the other is trying to gain control. As a result, one branch or the other resists reform. Finding practical solutions that have bipartisan support is a difficult process, largely because the system of checks and balances is not particularly efficient. Nevertheless, bureaucratic reform is often attempted by the president and Congress. Meanwhile, the red tape remains rather sticky.

Lesson Toolbox

Additional Resources and Readings

Bureaucracy Basics: Crash Course Government and Politics #15
- A Crash Course video covering the basics you need to know about bureaucracy
- https://www.youtube.com/watch?v=l8EQAnKntLs&t=68s

Controlling Bureaucracies: Crash Course Government and Politics #17
- A Crash Course video covering attempts at controlling and reforming bureaucracies
- https://www.youtube.com/watch?v=12MCVhfo4j4

Reforming Bureaucracy
- A video discussing attempts that have been made to reform the bureaucracy
- https://www.youtube.com/watch?v=NykU-8DKayI

Bureaucratic Reform
- A video discussing in length all the reforms and changes that have been made to the bureaucracy
- https://www.youtube.com/watch?v=2E-V2kTU9_s
Lesson Glossary

**merit system**: type of bureaucratic system that aims to ensure that the best-qualified people get government jobs and that party politics are limited

**privatization**: measures that incorporate the market forces of the private sector into the function of government by varying degrees

**red tape**: government rules, regulations, and paperwork

**whistleblowers**: a person who publicizes misdeeds committed within a bureaucracy or other organization

Check Your Knowledge

1. Under the Hatch Act, employees could not run for public office or become officers in a political organization.
   
   A. True
   
   B. False

2. The Congressional Budget Office has frequently criticized third-party financing as particularly inefficient and costly for the government.
   
   A. True
   
   B. False

3. Full privatization, or divestiture, occurs when government services are transferred from government bureaucratic control into an entirely market-based, private environment.
   
   A. True
   
   B. False

Answer Key:

1. A  
2. A  
3. A

Citations

Lesson Content:

Authored and curated by Jay Reynolds, J.D. for The TEL Library. CC BY NC SA 4.0

Adapted Content:

Title: Reforming the Bureaucracy (2018): U.S. History Online Textbook, DOA. License: CC BY 4.0
http://www.ushistory.org/gov/8d.asp

Title: American Government – 15.4 Controlling the Bureaucracy – Government Privatization: Rice University, OpenStax CNX. License: CC BY 4.0
http://cnx.org/contents/5bcc0e59-7345-421d-8507-a1e4608685e8@16.1

Title: American Government – 15.4 Controlling the Bureaucracy – Controversy And The CFPB: Rice University, OpenStax CNX. License: CC BY 4.0
http://cnx.org/contents/5bcc0e59-7345-421d-8507-a1e4608685e8@16.1