

The Guardian State: Strengthening the public service against democratic backsliding

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Abstract

Liberal democracy has become vulnerable to illiberal political movements and the gradual erosion of democratic institutions. To safeguard liberal democracy, we propose the concept of the Guardian State, which embraces liberal principles while acting as a defensive barrier against illiberal tendencies. We need strong administrative institutions that uphold liberal democratic norms and resist pressures from populist politicians. Institutionalizing guardianship as the key norm within the civil service fortifies democratic institutions against backsliding. The principle of neutrality alone cannot ensure that only liberal citizens come to power. Structural measures at the individual and organizational levels are essential to fortify the foundations of the Guardian State and protect liberal democracy against evolving threats. Proactive efforts are necessary to defend and strengthen the public service to ensure the long-term viability of democratic governance. The Guardian State places the bureaucracy in a key role in preserving the core principles of democracy.

Evidence for practice

- The position of the individual civil servants needs to be strengthened by enhancing the autonomy of the bureaucracy from the bottom up. Administrative training that imbues civil servants with democratic norms and socializing them as conservators has become important. The conventional training often focuses on hierarchical principal-agent relationships, while neglecting the civil servant's obligations to the constitution, laws, and fundamental political and moral values. In times of democratic backsliding, training should emphasize the fundamental sources of authority within the government.
- Creating formal structures and independent agencies is crucial for strengthening the autonomy of the civil service. These mechanisms insulate public organizations from political interference and protect democratic values. Depoliticization through independent agencies, accompanied by personnel dedicated to constitutional ethos and conservatorship roles, ensures stable safeguards for democratic norms and values.
- Institutional devices, such as internal regulators and pre-approval systems, can restrain political leaders and enhance civil service autonomy. While not foolproof, these mechanisms, combined with proper civil service training, can make it harder to deviate from democratic and constitutional norms.

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INTRODUCTION

Recent attacks on democracy by politicians such as Trump, Orbán, Bolsonaro, and currently also Netanyahu, teach us that liberal democracy is fragile and struggles to defend itself against illiberal political movements. Free and fair elections, cornerstones of representative democracy, turn out to be the Achilles' heel of liberal democracy. These cases have in common that democracy's institutions are violated by politicians who came to power by proper democratic procedures. Backsliding politicians are keen on dismantling democratic institutions through legal ways. Most continue to follow customary democratic rules and procedures long after they have come to power (Levitsky & Ziblatt, 2018), but when the time is ripe, they use their parliamentary majority to gradually sideline parts of democracy and the rule of law (Bermeo, 2016, 2022).

Even when illiberal political parties can be ousted from power, this does not diminish the hazard of democratic backsliding. The rise and (preliminary) fall of authoritarian and populist politicians within liberal democracies has created a new illiberal-liberal cleavage within somewhat hybridized democracies. In the foreseeable future, populist parties will remain the electoral contenders of liberal parties and even pressure more mainstream parties to shift their centrist agendas to the more extreme flanks. While this may reduce the probabilities of success of populists, it will move the country in an illiberal direction. Populism is not the harbinger of the end of democracy, but it profoundly changes the nature and rules in democracies.

The rise of authoritarian and populist political movements shows inexorably where the weakness of the liberal democratic state vis-a-vis rising levels of illiberal populism lies: the principle of neutrality (Heath, 2020; Rosanvallon, 2011). Neutrality implies that the state stands aloof from the value constellations that exist among citizens within society. The state guarantees citizens' fundamental rights and freedoms and facilitates their free actions, but liberal democracy cannot guarantee that only liberal citizens come to power. When citizens have a conflict among themselves, the state, represented by impartial courts, does not judge citizens' motives but sees to it that the law is interpreted and applied neutrally. The liberal state guarantees a free political space in which political ideas can float freely without followers of any political ideology being persecuted or having to feel physically threatened by the state. However, liberal democracy is a game designed for liberal citizens and we have been witnesses of how easily illiberal politicians can weaponize democratic rules and procedures against democracy itself.

For the sake of protecting liberal democracy, in this paper, we revisit existing views on state-bureaucracy relationships to rethink the autonomy of the bureaucracy as a counterweight against illiberalism. Our reasoning is that

if illiberal citizens can bring illiberal majorities to power by the very rules and institutions of liberal democracy itself, we need to think of ways that these institutes become more resilient against democratic backsliding. We propose a conception of the state that is not neutral in the classic liberal sense, but protective of liberal principles of governance. We call this state the Guardian State. The Guardian State embraces liberal democracy and protects it against illiberal and authoritarian tendencies. The Guardian State, however, does not capture the liberal state; it does not itself become an authoritarian state in the form of an enlightened despotic state. Rather, the Guardian State provides for a protective belt against the backsliding attempts of (future) illiberal populist governments. To be sure, the belt can be breached and liberal democracy be lost under sustained pressures from illiberal majorities. The Guardian State can erect barriers against the first attacks on the liberal state and thereby give democratic liberal forces the chance to resist the illiberalists.

We are not the first to advocate that bureaucracies must be perceived as a constitutive part of liberal democracy (Bertelli, 2021; Bertelli & Lynn, 2006; Etzioni-Halevy, 1985; Heath, 2020). Friedrich's (1940) insistence on the importance of values in intrinsic accountability and allegiance to professional standards, echoed by Heath (2020) can be seen as one such call. While Heath anchors his discussion of the role of bureaucracy in preserving values in political philosophy, Bertelli (2021) does this more in terms of positive political theory. Bureaucracy, it is argued, has its own sources of legitimacy, which are based on expertise, the delegated authority, and the concern for the common good.

With regards to this, and concerned with the threat of New Public Management to liberal democracy, Terry (1990) has called for thinking about "administrative conservatism", with the bureaucracy conserving important values within liberal democracy. Also, bureaucracies have close connections with society, and often are very responsive to the wants and needs of their clients as well as citizens as a whole (Meier, 1997; Peters, 2010). Finally, it is important to emphasize that the oath that bureaucrats take is to display "fidelity to the law" (Selznick, 1992), and defend the constitution, not the government of the day (Heath, 2020; Rosanvallon, 2011).

The problem we try to tackle is this: How can the values and norms of safeguarding the principles of liberal democracy be infused into bureaucracy without resulting in bureaucracy dominating democracy? The problem is twofold. The first part concerns the infusion of guardianship values into the bureaucracy. To address this problem, we will use Selznick's theory of institutions and his conception of the theory of bureaucracy as posed by Weber. Particularly, Selznick's view of bureaucracy as being capable of having moral agency and thus being more than a formalized organization is important here. Inculcated with specific norms bureaucracy gains ethical and moral

faculties that will shape the mission and purpose of the organization.

The second part concerns the question of how the Guardian State's bureaucracy can restrain itself within the (pre-)existing systems of checks-and-balances and the branches of government. One of the pathologies of bureaucracy is that it can become a tool of control, contradicting the principles of liberal democracy. Hierarchy struggles to relate to democracy where a sovereign people elect its leadership through a mechanism of competition between the political elites.

The paper proceeds as follows. First, we introduce the concept of the Guardian State as a response to the surge of illiberal populism and we revisit the debate surrounding the role of bureaucracy in this ongoing transformation. Next, we delve into the foundational elements of a Guardian State, focusing on individuals, values, and structural aspects. This section offers a comprehensive understanding of what we argue constitutes the core of this model. In the third part, we propose concrete measures to empower the civil service, equipping it to effectively counter democratic backsliding. The article concludes by emphasizing the importance of a collective effort. We call for a commitment to review and implement necessary reforms within individual national civil services to counter the threats posed by populist movements to the foundations of liberal democracy.

THE NEED FOR GUARDIANSHIP OF LIBERAL DEMOCRACY

Our main motivation to construct the idea of the Guardian State is that we believe the Guardian State is the most appropriate response to the rise of illiberal populism, just as the idea of the Welfare State was a response to growing social cleavages and poor social conditions for large segments of the population exacerbated by the two world wars, and the Managerial State to some extent was a response to the perceived underperformance of the Welfare State. Indeed, it would not be off the mark to see the Guardian State as a response to the pathologies engendered by the Managerial State (Stoker, 2021).

The ascendance of populism is a complex process, but there is agreement about its close connection to globalization (Rodrik, 2021). Worsening perceptions of citizens regarding their economic prospects provided fertile ground for populist theories where unified, self-seeking elites are pitched against a pure people (Mudde & Kaltwasser, 2013; Müller, 2016). The rise of populism is furthermore closely related to national states' poor management of the economy and the welfare state. Since the 1970s, we have seen the deregulation of financial markets as monetarist economic theories taking hold within academia and public financial authorities.

With the diffusion of regulatory capitalist modes of governance, financial markets became more autonomous

vis-à-vis the state. The creation of independent regulatory agencies, autonomous central banks, rising deregulation, and free trade, the establishment of a monetary union, and the growing number and density of transgovernmental networks of market authorities placed the control over key financial-economic decisions at a distance from democratically elected national politicians (Levi-Faur, 2005; Slaughter & Hale, 2011; Streeck, 2014).

Globalism and neo-liberalism found their way into the state. New Public Management, the idea that the state could be run as a business, became the dominant paradigm within public administration. Public administration turned public management and ideas and techniques from business administration found their way into the practice and teachings of public administration. The impact of this thinking is well known by now: a drive for more efficiency in service delivery, the streamlining of administrative structures and processes, the privatization of the public domains, and the treatment of voters/citizens as customers. The 'hollowing out' of the state found its most ultimate expression perhaps in the fact that the state became decoupled from economic management.

Within the public administration, these trends reinforced technocratic and efficiency-driven values and pushed other public values, such as social equity and rule of law, to the background (Stoker, 2021). The Managerial State could no longer be perceived as the guardian of prosperity and economic well-being (Gallarotti, 2022). Rather, it became a state alienated from ordinary citizens and dominated by "cosmopolitan elites".

DEMOCRATIC BACKSLIDING AND BUREAUCRACY: INDIVIDUAL RESPONSES

Most of the discussion of populist politics and democratic backsliding has concerned political parties, voting behavior, and the behavior of populist politicians, whether elected or not. Much less attention has been on the impact of democratic backsliding of the institutions of the State, particularly the public bureaucracy. The study of the effects of democratic backsliding and the bureaucracy is gaining traction after the initial stream of studies on the rise of populism predominantly focused on how the judiciary, civil society, and the media endured under emerging authoritarian and populist regimes (Bauer, 2023; Bauer et al., 2021; González-Vázquez et al., 2023; Lotta et al., 2023; Milhorance, 2022; Peters & Pierre, 2019).

Attempts of populist politicians to control the bureaucracy are arguably more extreme than other attempts to politicize the bureaucracy (Cooper, 2021), as it goes beyond merely increasing administrative responsiveness or clientelist job provision; they go deeper into core structures and values of the civil service which, once changed, alter permanently systemic components (Bauer &

Becker, 2020; Moynihan, 2022; Peters & Pierre, 2022; Yesilkagit, 2021). Together with political influence over the courts, illiberal attempts to transform the state bureaucracy, like political pressures on institutions that are assumed to be autonomous or have some autonomy in designing and implementing policies, undermine pluralistic standards as well as the rule of law within liberal, democratic regimes.

The scholarly literature on the relationship between democratic backsliding and bureaucracy has focused on the strategies and actions of populist parties and the reactive behaviors of individual civil servants. Even in countries with institutionalized civil service systems, the bureaucracy as an institution has been discussed largely as having to cope with the change in government *ex post*, and the literature has described how the incoming populist governments attempt to manage the bureaucracy they inherit (Moynihan, 2022). The usual expectation when there is a change in government is that the bureaucracy will continue as before, but these are not ordinary governments coming into office. They are governments committed, at least rhetorically, to altering in some fundamental ways the way in which the State will function, rather than merely altering policies. Thus, the autonomy that bureaucrats as individuals and the institution as a whole have enjoyed as part of their bargain with the political leaders (Hood & Lodge, 2006) is threatened by populist governments.

While the literature discussing bureaucracy and populist governments treats the institution of bureaucracy as being passive, the individuals within the institution have been perceived to be more active and more willing to engage in actions to resist the pressures from the populist government. At a minimum, career civil servants may choose to leave the public service (Schuster et al., 2022; Langston, 2002). Those who remain in office may choose to resist the new government in a variety of ways, described as shirking and sabotage (Brehm & Gates, 1997; Guedes-Neto & Peters, 2021). With the various strategies of resistance taken together, the individual public servants can be seen to be engaged in “guerilla government” (O’Leary, 2013). These studies focus on the individual level and thus place a heavy moral burden on the shoulders of individual civil servants as they have to judge for themselves whether or not to go along with illiberal agendas required by the populist government.

Placing such a burden on the individual requires individual civil servants to go against the values of neutrality that s/he probably will have been taught since joining government. They are supposed to be impartial and to follow the directions from elected politicians. They may be expected to “speak truth to power” but in the end, it is power (the politicians) who make the policy choices, and the civil servant is to obey (Bischoff, 2022).

THE GUARDIAN STATE

How do individual civil servants obtain a moral compass that informs them what is the ‘right’ thing to do? How can the moral ethos of the individual civil servant be anchored in the organization they serve? The key process through which individual civil servants are infused with such a moral compass is socialization. The bureaucracy is “*the organizational embodiment of values*”[our italics] (Selznick, 1992, p. 275), infusing the values and norms of the organization into its members. Hence, resistance against illiberal and authoritarian tendencies within liberal democracies should be vested in norms of guardianship that are deeply infused into the institutions of the state. So, what are guardianship and Guardian State about?

The Guardian State, to be clear, is one representation of the state. Being a ‘Guardian State’ means that the state’s functionaries are collectively dedicated to upholding and protecting the principles and institutions of liberal democracy and the rule of law. The adjective ‘guardian’ attributes to the state and its constituent parts the values and norms of liberalism and a commitment to defend those values. Adjectives clarify the functions and roles of a state and capture the essence of its mission and purpose. Therefore, the process of adding adjectives creates “diminished subtypes” (Collier & Levitsky, 1997; Møller & Skaaning, 2013) in which the extension of the concept is reduced, and a more precise, intensive understanding of the concept is created (Sartori, 1970).

Being an institution in the Selznickian sense, a state is an organizational entity that is “*infuse[d] with value* beyond the technical requirements of the task at hand” (Selznick, 1984 [1957]: 17, italics in original). Adjectives designate a specific type of state and symbolize society’s “aspiration and sense of identity” (Selznick, 1984: 19). In the adjective lies the ultimate norm that the political community aims to attain. So, the “welfare” state not only symbolizes the community’s aspirations to be(come) a society where the values of equality, social equity, and care for citizens in need are important, it also sets the norm for how the state and its constituent parts should act (Boin et al., 2020). It infuses the organization’s culture, the staff’s moral compass, and, explicated in mission statements, it deems public institutions the embodiment of specific values and norms.

However, states consist of multiple organizations, and the symbolic power of adjectives works through their constituent parts. Schools are not just skills and knowledge training organizations but are the agents of nation-building or civilization (Mann, 1984). Competition authorities are not merely neutral arbiters but holders of the norms of free markets and the ‘guardians’ of capitalism. More general, “in any large institution, various constituent units are expected to act as *guardians* of particular policies, programs, or procedures” where each unit “has a special obligation to preserve and nurture the values entrusted to it” (Selznick, 1992: 280, *italics added*).

Not every organization within the state may be an institution. Institutionalization is a process and not every part of the state manages to “build purpose into the social structure of the enterprise, or ... of transforming a neutral body of men into a committed polity” (Selznick, 1984: 90). Some public organizations are created, turn into institutions and live long lives; others get terminated or fall into oblivion (Lewis, 2002; Van Witteloostuijn et al., 2018). The capacity of each part of the state to institutionalize is to a large extent dependent upon the capacity of the leadership and the staff of those units to “build purpose” into it (Boin & Christensen, 2008). Given the diversity of tasks and functions state administrations perform, a single adjective will not apply to all organizations. The adjective is a denominator of the central institutional norm a state is infused with at a specific time and place.

The proper place for solidifying the norm of guardianship is, we argue, within the unelected pillar of democracy: the civil service. For illiberal populists to gain power and to backslide liberal democracy the loyalty, or at least the acquiescence, of the civil service is a prerequisite (Bauer et al., 2021). Although a prolonged rule of populists may ultimately place the bureaucracy under full control of illiberal populists, a guardianship-inspired bureaucracy will significantly increase the transaction costs of populists gaining such a degree of control.

This guarding role of the civil service against an illiberal regime begs the question of administrative neutrality and submission to the political level of government. The idea of bureaucracy being a democratic institution by its own standards is an idea that finds ample support (Bertelli, 2021; Etzioni-Halevy, 1985; Heath, 2020; Rosanvallon, 2011). Not only do bureaucracies transform democratic values into societal values during the process of administrative implementation; a bureaucracy also upholds norms of impartiality, neutrality, effectiveness, and expertise. In a Guardian State, bureaucracy will need to be more than neutral; civil servants are agents of the constitution, and neutrality cannot extend to condoning activities that violate constitutional principles. Constitutions also prescribe social and other more material fundamental rights in addition to classical liberal fundamental rights. Being bound by the constitution thus also implies that neutrality in a stricter liberal conception of the state is not possible for bureaucracy.

We should also remember that some scholars (Huntington, 1968) have argued that institutionalization is about building structures as well as infusing values. They have argued that to be successful an institution must devise structures that can cope adequately with the challenges being posed by external forces. Thus, the Guardian State must consider not only the importance of values but also building a resilient and integrated structure that can oppose attempts to alter its procedures and its values.

THE ADMINISTRATOR’S PROACTIVE ROLE AS AN AGENT OF THE DEMOCRATIC REPUBLIC

The Guardian State needs a solid corps of civil servants bound by, and infused with, a constitutional ethos. How can we envisage the civil service of the Guardian State to act in this way? The civil servants working for the Guardian State—particularly those working close to the elected executive—have the responsibility to put guardianship in action. We need a perspective of the “administrative man” or woman appropriate of the Guardian State. As individuals as well as a collective, civil servants need to assume the role of the defender of the democratic order. Given that the perspective on the civil service in mainstream PA is dominated by values like efficiency, loyalty, obedience, and hierarchy, how can a proactive guardianship as a particular form of legitimate bureaucratic agency of the Guardian State be conceived and justified?

There are strong arguments in favor of such a proactive role for civil servants as guardians. However, the theoretical foundation of this thinking needs to be clearly spelled out. Administrative routines in a democratic context are not the issue here; they can and should remain the usual administrative routines. The civil servants of the Guardian State, however, need to be cognizant of that democratic context, and stand up for those values if democracy is under threat. They are allowed to do so because if contexts are changing into backsliding modes, retaining standard administrative loyalty and obedience to the backsliding government increases the risk that bureaucrats continuing business as usual may indirectly contribute to democratic regression.

What is the ethical foundation that sustains loyal bureaucrats when formal obedience risks amounting to complicity in democratic backsliding? The instrumental view put forward by the classical line of PA thinking that is the heritage of Wilson, Weber, Goodnow, and others, does not lend itself easily to a guardianship ethic. They promote a dualistic, top-down view according to which the bureaucracy belongs to the sphere of preparing and implementing public policies separated from the political world of decision-making. If the bureaucracy is conceived as an apolitical tool of government, guardianship ethics will remain out of reach.

What is needed, instead, is a civil service conception infused with a constitutional ethos, with a moral compass also for exceptional circumstances in which the political system itself comes under pressure (Ventriss et al., 2019). More specifically, we are looking for a normative model of bureaucratic leadership based on republican democratic ethics which grants civil servants protection and autonomy vis-à-vis rogue politics if the democratic integrity of the political system at large is at stake. The concept of administrative conservatorship (AC) provides the foundation for this line of thinking. It denotes a prescriptive and proactive role of bureaucratic agency, allowing for discretion and bureaucratic leadership, particularly in

view of protecting the political and administrative integrity of a democratic system (Terry, 1990). Public administrators are conceived of as “guardians” of state institutions and protectors of democratic government and governance (Terry, 1990: 396). Key to this thinking are the notions of tradition (individuals and groups must be anchored and rational action grounded in tradition) and authority (viewed as the capacity for reasoned elaboration based on beliefs, values, and interests of the community which the public administrators serve):

A conservator is a guardian, someone who conserves or preserves from injury, violation or infraction. From an institutional perspective, administrative conservatorship is a dynamic process of strengthening and preserving an institution's special capability, its proficiency, and thereby its integrity, so that it may perform a desired social function

(Terry, 1990: 402)

According to this conceptualization of bureaucratic agency, administrative decisions, especially those with implications for the institutional development and institutional integrity, are bound by value commitments, usually deriving from the constitution of the political system. Such value commitments should “be considered ‘hypersensitive’ since they provide the structural foundation of an institution's distinctive competence” (Terry, 1990: 404). For Terry, public officials—although neither elected nor politically appointed—have a particular responsibility since they, as an administrative elite exercise administrative discretion. They are responsible for the perpetuation and conservation of the values on which the political system is based and the integrity of government institutions (Terry, 1990: 406). Indeed, “AC may be regarded as a kind of statesmanship. It requires balancing the inherent tension in our political system between the need to serve and the need to preserve. Public administrators must be responsive to the demands of political elites, the courts, interest groups, and the citizenry, while at the same time preserving institutional integrity. Public administrators must not be weak or subservient” (Terry, 1990: 407–408).

By linking bureaucrats' pledge to traditional loyalty and moral principles with a duty to preserve the integrity of the political institutions and insisting on their statesmanship's role, Terry's concept of AC equips public administrators with a weighty mandate to proactively defend assaults to the democratic quality of the political system—even if these assaults originate in the government to whom they are formally subordinated.

What does the conservator discussion realistically mean in terms of how civil servants of the Guardian State ought to fulfill their role? The most important concrete task is to raise the awareness that beyond professional standards, there are moral values to which

the civil servants, individually and collectively, have to subscribe. The reductionist view of simple economic entrepreneurship and top-down instrumental functioning of the civil servants—as advocated throughout the New Public Management reform waves—need to be balanced with values of what it means to advance the common good and to exercise public office in a democracy.

Furthermore, civil servants need to be encouraged and ethically trained so that they dare to become pro-active bureaucratic leaders standing up against attempts to regress democratic achievements, standards, and procedures. In that respect, the civil servant of the Guardian State combines the features of a conservator. Beyond ethical training, any structural reforms that help to boost the chances that professional standards prevail over unfounded political ones should be welcomed. The balance is certainly not easy to strike. However, in dark times, in times when elected politicians attempt to dismantle democratic standards, all ways how to increase the autonomy of the bureaucracy should be welcome. Not to be misunderstood—beyond ethics such autonomy can only be justified on the basis of the superior expertise and the technical understanding vested in the civil servants. Thus, investing in evidence-based policy-making tools, boosting long-term planning capacities, binding bureaucratic interventions strictly on administrative law, and strengthening independent legal oversight of administrative actions are also contributions to strengthen such essential professional standards that provide resistance to backsliding governments.¹

The Guardian State requires an agency of the individual civil servant that embraces the political side of the job—and that puts loyalty to the long-term constitutional values and its conservation in view of any kind of challenges center stage. Even if the latter are challenged by the elected superiors of the day. Guardian state bureaucrats are conscious conservers at the same time—and they recognize that their mandate in dark times is to pro-actively defend the political integrity of the liberal democracy they serve. Logically, this argument introduces a hierarchy of values with respect to bureaucratic agency. In normal times, and with respect to the day-to-day business of government, efficiency and effectiveness concerns dominate and the bureaucrat is loyal if s/he is obedient and truthful in setting in motion and implementing what the government of the day wants. The fate of the political order, the integrity of the democratic constitution, is however based on a set of values that rank higher than the adequate following of the government of the day (Rohr, 1998). In cases of conflict, the bureaucrat has the duty, in the sense of a conservator of his political and social community, to resist any doing that endangers the order. As without the integrity of the order, there is no legitimate frame to follow the government of the day, anymore.

MAKING THE GUARDIAN STATE WORK

The Guardian State must be crafted. In this final section we outline our ideas about how the Guardian State can be constructed, or to put it in Selznickian terms: institutionalized. We consider three elements important for achieving this goal: (1) the training and socialization of civil servants, especially bureaucratic leaders, who are deeply immersed in the norms and values of the liberal democratic state; (2) granting autonomy to the civil service and state agencies; and (3) reinforcing internal monitoring and regulatory mechanisms to elevate the bureaucracy as a fourth branch of government.

Bureaucratic leadership

Bureaucratic leadership has significant implications for democracy and the rule of law. Bureaucratic leaders are the ‘carriers’ of the institutional norms and values and set the example for other employees within the civil service. They set the moral compass for the early and mid-career civil servants within the public service. Democratic bureaucratic leadership is important next to *Fachwissen*, that is, specialized knowledge and competence, that civil servants ought to possess. An important asset of democratic bureaucratic leadership should consist of, we believe, of an unfettered “fidelity to the constitution”, which Selznick describes as “a commitment to *valid* rules, *restrained* authority, and *legitimated* criticism” to political—and we assume bureaucratic, also—leadership (Selznick, 1992: 284). Fidelity must be to the constitution, not to the political majority of the day. Unguided by the moral compass that bureaucratic leaders display the knowledge and expertise of civil servants can equally well be put to the service of illiberal political majorities.

Generating bureaucratic leadership that embodies guardianship in the manner described above requires investments and changes both during the job and before individuals enter the civil service. First, creating democratic bureaucratic leadership places significant responsibilities on schools of public administration, public policy, and political science. Programs of the major political science and public administration schools across the world show a strong focus on public *management*-oriented courses to the detriment of courses related to administrative ethics, public law, and political philosophy. Under the influence and influx of managerial knowledge during the past two or three decades within classic schools of public administration, the emphasis on the ‘can do’ aspects of working within the bureaucracy has trumped the political and constitutional aspects of a working bureaucracy within democratic systems. Here lies an important task for teachers of public administration.

Second, the creation of democratic bureaucratic leadership requires a scrutiny and possible adjustment of civil service training programs that are offered on the job. A quick review of, for example, the UK civil service training programs, existing programs shows that emphasis is laid on the development of qualities varying from “balancing the strategic needs”, to the capability to “deliver complex objectives”, and “personal effectiveness”.² On the website of the Dutch *Algemene Bestuursdienst* (General Administrative Service)³ we find ample attention toward practical ‘personal’ and ‘leadership development’ programs that are aimed at building and managing relationships within and outside the bureaucracy. Due to recent scandals,⁴ ethics and morality have become increasingly common topics of discussion. However, these discussions are primarily directed toward individuals rather than focusing on the development of moral agency within the bureaucracy as a collective entity.

More important than what is being offered as on-the-job training is perhaps the openness of the top civil service in most liberal democracies. As part of broad-scale modernization civil services have allowed a horizontal influx of civil servants at the top layers of the bureaucracy from the private sector and/or with no prior working experience in the public service. It has fostered a more managerial culture within those layers of the civil service that closely work with the political principals. This has important consequences for the political-administrative bargains at the top and, we believe, has shifted the top civil servants’ fidelity to the law to a fidelity to the executive-in-power. Socialization and training, then, are important for infusing the bureaucracy with guardianship values and norms, but it requires designs that prevent the leaking of these norms out of the public service.

Autonomy

Animated with a constitutional ethos, the civil service requires distance from the politics of the day to fulfill its guardianship role. For this, there is a need for more administrative autonomy. Our argument is hence that administrative autonomy vis-à-vis elected politicians, whether they are populist or not, is a prerequisite of a sound and viable democracy and the rule of law.

In literature, we can find several ways through which bureaucratic autonomy can be obtained. Bureaucratic autonomy can be the result of benign acts of delegation by politicians, it can be the unintended consequence of political compromise, or it can be the result of the willful forging of autonomy by the bureaucracy itself (Carpenter, 2001). We are going to describe several possible mechanisms for making the Guardian State work and we do this by looking separately at individual and collective levels of the public bureaucracy. The mechanisms themselves contain a mix of all these sources of autonomy.

Strengthening protections for individual civil servants

The first set of mechanisms is aimed at strengthening the autonomy of the bureaucracy bottom up. One of the most important mechanisms with which civil servants can be imbued with democratic norms and to become socialized as stewards and conservators is through administrative training. Much of the conventional training of civil servants emphasizes models of hierarchical principal-agent relationships. While political science and public administration schools teach the existence of complex political-administrative relationships, the classic Weberian model of the neutral administrator still serves as the benchmark against which all other models are measured. The standardization of the Weberian model is a consequence of the fact that liberal democracy is taken for granted. This comes at the expense of discussing the obligation that the civil servant may have to the constitution of the country, or to fundamental political and moral values. This lack of emphasis on obligations to the State is true despite most civil servants taking an oath to support the constitution and the laws of the country. In an era of democratic backsliding, this pattern of training may need to be reconsidered to include attention to the more fundamental sources of legitimate authority within government.

In addition to the training, the career structure of the civil service needs to be revitalized if it is to play the role of guardian. New Public Management tended to open public administration to more appointments from outside government. The increasing politicization of public administration—especially under populist governments—has added more non-career appointments to the bureaucracy. If the civil service is to be effective in defending a liberal, democratic conception of the state then it appears crucial to recreate the career structure within government, so that the civil service is indeed a profession with a strong *esprit de corps* (Cooper et al., 2022). This means, first, that the civil service should obtain a more closed character. Entry into the civil service should be subjected to certain criteria, some of them linked to the previously discussed training of civil servants. This way the civil service will be enabled to socialize with civil servants according to the norms and values attached to the idea of guardianship. Next to a more closed civil service, the governance of the civil service should be organized such that the autonomy of HR functions is ensured. Independent civil service commissions may play an important role here.

Also, we said above that we need to treat the civil service as an institution for the Guardian State to be effective. Much of the discussion has, however, remained at the individual level. We should also think about a civil service that does have status as an institution, and which has mechanisms through which it can act as an institution. For example, the Head of the Home Civil Service in

the United Kingdom or the Clerk of the Privy Council in Canada are responsible to the Prime Minister but also have the responsibility of speaking for the civil service as a whole.⁵ That role can be expanded, with the capacity of these officials to more readily “go public” or go to Parliament when there are concerns about undue influence on civil servants.

Finally, civil servants should strongly sense the obligation to uphold democratic and constitutional values, the civil service must become more open and visible defenders of its values, and democratic values more generally. The expansion of media coverage has tended to make the traditional anonymity of the civil service impossible to maintain. However, reluctant involvement in public fora may be insufficient, and civil servants must become more vocal in their defense of policies and values. One way of empowering the civil service in this direction is to emphasize the leadership roles of civil servants that are associated with stewardship and conservatism. It means that civil servants should be more aware of their co-ownership of the democratic state. Civil servants are representative of the unelected pillar of democracy. This position will allow them to play the role envisaged by Aberbach et al.’s (1981) Image III in which civil servants’ role is to maintain equilibrium between societal interests on the one hand and politicians on the other hand.

Structural strengthening of autonomy

Moving from the bottom up and individual mechanisms to strengthen the autonomy of the civil service vis-a-vis elected politicians, we turn to more structural dimensions of increasing autonomy (Verhoest et al., 2004; Yesilkagit, 2004). Most important are the formal structures to insulate public organizations from the influence of political leaders attempting to undermine democratic values. Formal structures, such as advisory bodies and required consultations, can also be employed to create procedural roadblocks to legal and policy changes that may undermine existing policies or democratic values. These mechanisms may not function as intended, however, unless they are populated by public servants who are dedicated to preserving the rule of law.

One of the most tried structural mechanisms is the depoliticization of functions and decision-making by creating non-majoritarian institutions and delegating decision-making powers to these bodies. It may appear somewhat odd to advocate depoliticization of functions as a means of preserving democratic governance, but it can be used to ensure that important functions of the State continue to be undertaken in a legal and professional manner (but see Wood and Flinders, 2014). Many governments already depoliticize functions such as monetary policy by creating independent organizations, such as central banks, to perform these functions. These

institutions were designed to protect monetary policy from “ordinary politics” but the same structures should be able to provide protection for more extraordinary politics.

The creation of independent agencies fits within a more general strategy of hiving off organizations and activities. The “agencification” of public administration (Verhoest et al., 2021), as a part of New Public Management, is the most extensive example of this style of limiting political control. By moving activities out from under the direct control of ministers, the creation of agencies allowed managers more control over policy and implementation. While most countries did not go as far as the original Swedish version of agencies and give control of the agency to a largely independent board, this movement did create more bureaucratic autonomy (and less accountability).

Governing in this manner may not be unacceptable to the public. In studying what they called “stealth democracy” Hibbing and Theiss-Morse (2002) found that a majority of Americans were willing to have major policy decisions in government made by experts rather than through the normal politicized procedures. In general, delegating decision-making to independent bodies is a manner of safeguarding public values. By granting powers to independent or non-majoritarian authorities, politicians raise the transaction costs of (re-)politicizing those interests. Once an independent agency is created and certain public values are entrusted to the agency, it will take a (future) political majority to undo the delegation decision (Moe, 1995). As the overturning of a delegation decision will also involve the costs of agency termination (Yesilkagit, 2020), independent agencies may work as relatively stable safeguards of democratic norms and values.

However, depolitization through the creation of independent agencies should be accustomed to the appointment of personnel that is imbued with a strong constitutional ethos. To prevent a mechanism that enables the Guardian State to deviate into an unresponsive bureaucratic stronghold (Vibert, 2007) the bar in terms of having a constitutional ethos and abiding by conservatism roles is particularly high. This means that civil service training and career requirements, which we discussed above, may need to be set higher for the staff of independent agencies than for those of ministries.

Bureaucracy as the new fourth branch

Our final idea on how to create the Guardian State is to start conceiving of the bureaucracy, or at least parts thereof, as a separate branch of government next to the judiciary, the legislative, and the executive. In the current understanding of the *Trias Politica*, the bureaucracy is absorbed by the executive and seen as merely the instrumental extension of the elected part of the executive.

Despite the differences in how public administrations are organized and positioned vis-à-vis the elected principals across political systems, but they have in common that they are perceived as having no *raison d'être* other than loyally serving the elected government.

There are by now well-established arguments as to why public administrations are legitimated to assume a more autonomous role. Rosanvallon (2011) sees the bureaucracy play an important role in democracies. He contends that while bureaucracy is often characterized by its unelected nature, its role in translating the will of elected officials into concrete actions is essential for democratic governance. More recently, Bertelli pursues this line of reasoning when he argues that administrative agencies play a significant—but underappreciated—role in shaping public policy and the implementation of democratic decisions. Although being unelected, civil servants have the authority to interpret and execute laws—and they do so as they translate the often abstract and general values that are decided upon in the political process into concrete programs (Bertelli, 2021). Finally, building on ideas and arguments similar to these, Heath (2020: 345) argues “that the executive branch—and more specifically, the class of permanent officials—is also the custodian of these basic liberal principles.” He continues that in the ultimate case, “this means that the executive may be called upon to serve as the countermajoritarian check on the legislature.”

The views of these authors are more generally aimed toward the bureaucracy as a whole. But within the bureaucracy, there are agencies that are better positioned to assume the role of a ‘countermajoritarian’ check on the elected pillar of democracy. We refer more specifically to the institutional devices that can restrain the actions of political leaders, and therefore enhance autonomy for the civil service. Christopher Hood and his colleague (1999) wrote on how governments regulate their own activities. The primary concerns of the internal regulators discussed by Hood et al. were efficiency and probity, and were directed at the public service, but the notion of internal regulation could be expanded to include the concerns about guardianship we have focused on. Examples of the internal regulators would include the various inspectorates within French government, and the Inspectors General in each agency in the United States.

The Inspectors General did play something of a role as guardian during the Trump administration, although the administration did its best to stifle them and limit their powers. Over a space of 6 weeks, President Trump fired five IGs (Baker, 2020) who had been critical of him, or who were rumored to be planning investigations of his administration. These firings were not, however, unprecedented. President Reagan fired all the incumbent IGs when he took office, although some were later reinstated. However, officials of this type could be granted fixed terms, requiring impeachments rather than mere presidential action.

Most analysis and legal approval of rules made by the bureaucracy, or by ministers (Carey and Shugart, 1998) is done after the fact. That puts the onus of rejecting rules that are ultra vires or simply unwise on other institutions and may enable the rules to go into effect before being quashed. Some administrative systems have *ex ante* requirements for approval of such rules, and therefore the administrative system itself may slow down attempts by an illiberal political leader to undermine policies and values.

The most notable of these systems of pre-approval is the *Conseil d'État* in France, and its equivalent in other Napoleonic systems (see Lochak, 2007). This institution, staffed by civil servants, reviews the legality of the rules proposed by government organizations, and can reject those that do not meet standards before they are implemented. The Conseil is composed of civil servants, and therefore we have civil servants controlling other civil servants, as well as indirectly controlling government. Other pre-approval organizations such as the Office of Information and Regulatory Analysis in the United States tend to focus on economic analyses of rules, rather than on their legal and substantive content.

As is true for mechanisms at the individual level these structural and procedural mechanisms are no guarantee for the maintenance of democratic governance, but they can serve to make deviation from democratic and constitutional norms more difficult. The experiences of some countries such as Hungary have demonstrated that a persistent and politically successful leader is difficult for other actors to oppose and to thwart. Still these institutions, along with the appropriate training of civil servants, can help to fortify the guardian state.

CONCLUSION

There cannot be doubt that democracies are increasingly challenged from within by illiberal movements that utilize majoritarian values against pluralism, thus using the institutions of government to undermine the democratic state as we know it. In this article we introduce the concept of the Guardian State as a strategic response to the growing influence of such authoritarian populists and illiberal backsliding. The public bureaucracy stands in the center of our thinking, whose dual role as an instrument of the government and as an institution of the democratic state is too often forgotten. We argued that in challenging times when the robustness of the democratic system itself is at stake, the bureaucracy needs to honor its commitment to and responsibility for preserving the democratic integrity of the system. Against this background, we develop the foundational components of such a Guardian State, focusing on individuals, values, and structural elements. Going beyond theoretical considerations we suggest practical measures designed to empower the civil service to counter

democratic regression. In our view, these recommendations are pivotal in enhancing the civil service's capacity to serve as a "collective" bastion of democratic values—instead of vesting the duty to stand up against backsliders in the individual civil servants alone. We have written this article to initiate debate and critical discussion about the contemporary role of bureaucracy. We do not claim that the contours of a Guardian State we have outlined can settle all questions that arise if the democratic bureaucracy should assume a guardianship role. However, the practical relevance of the problem of populists set out to hijack neutral public administration is so urgent and grave that we feel that the PA community needs to pay quickly closer attention. We thus need systematic theoretical analysis and an evaluation of what types of practical civil service reforms might be adequate to fortify public administrators their resistance against the looming threats to the foundations of liberal democracy posed by populist movements.

ENDNOTES

- 1 There is a huge potential for misunderstanding regarding the political role of bureaucrats. While it is a myth that there ever has been in reality a clear-cut division between the business of value politics and the business of administrative execution. Top bureaucrats have always been sensitive to the political side of their job—and had to be politically awake if they wanted to do a good job (Aberbach, Putnam, & Rockman, 1981).
- 2 UK Government. (n.d.). Training for Leaders in the Civil Service and Public Sector. GOV.UK <https://www.gov.uk/guidance/training-for-leaders-in-the-civil-service-and-public-sector>, consulted on September 12, 2023.
- 3 Algemene Bestuursdienst (n.d.). Professionele Ontwikkeling. Algemene Bestuursdienst. <https://www.algemenebestuursdienst.nl/professionele-ontwikkeling>, consulted on September 12, 2023.
- 4 An important in this respect is the Child Care Allowance scandal, where agencies used algorithmic models to 'detect' fraud, but in effect were targeting citizens with a migration background.
- 5 Other Commonwealth countries have analogous positions.

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