

Making a Case for the State: Review essay on Paul du Gay and Thomas Lopdrup-Hjorth (2023), For Public Service: State, Office and Ethics

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Making a Case for the State. Review essay on Paul du Gay and Thomas Lopdrup-Hjorth (2023), *For Public Service: State, Office and Ethics*. Abingdon: Routledge. 183 pp. ISBN: 978-0-415-67879-7.

Peter Hupe

Zusammenfassung: *For Public Service* ist ein bedeutendes Buch. Mit ihrem Fokus auf Grundüberlegungen bezüglich des Staates thematisieren die Autoren, was es bedeutet, öffentliche*r Bedienstete*r zu sein. Den Grund dafür liefert die aufkommende Allgegenwärtigkeit des New Public Management Ansatzes. Der ‘marktähnliche’ Ansatz des New Public Management hat das Verständnis von öffentlichen Bediensteten als an eine Rolle gebundenen Personen in das eines Individuums verändert, und das auf Kosten der Bedeutung ordnungsgemäßer Verfahren. Allgemeiner hat ein weitverbreiteter *anti-étatisme* die Anforderungen, die mit dem Handeln im Auftrag des Staates in offizieller Funktion einhergehen, vernachlässigt. Dementgegen wollen die Autoren eine positive Darstellung des Staates bieten. In ihrem Vorstoß in politischem Realismus, nehmen sie eine relativistische Haltung gegenüber dem Einfluss eines humanistischen Universalismus ein. Die Autoren betonen strukturelle Elemente des Staates, scheinen jedoch die Politik des Staates in Aktion außer Acht zu lassen. Dilemmata in der konkreten Ausübung eines öffentlichen Amtes bedürfen es auch beachtet zu werden. Zum Beispiel: wie sollten öffentliche Bedienstete mit diskriminierenden politischen Anweisungen umgehen?

Schlagwörter: Staatstheorie, öffentlicher Dienst, Ethik im öffentlichen Dienst, Bürokratietheorie, New Public Management

Abstract: *For Public Service* is an important book. With their focus on the rationale of the State, the authors address what is needed to be a good public servant. Since New Public Management became omnipresent, they see reason to do so. Its ‘market-mimicking’ has turned public servants from role-bound personae into individuals, at the expense of attention to due process. More generally, a widespread *anti-étatisme* has neglected the requirements inherent to acting on behalf of the state in an official capacity. Instead, the authors want to offer a positive account of the state. In their venture in political realism, they go far, adopting a relativist stance towards the impact of a humanist universalism. The authors emphasize structural elements but seem to ignore the politics of the state in action. Dilemmas of conduct in the practice of public office-holding need attention too. For instance, how are public servants to deal with discriminatory political directives?

Keywords: State theory, public service, public service ethics, bureaucracy theory, New Public Management

Introduction

Making a Case for the State. That is the aim Paul du Gay and Thomas Lopdrup-Hjorth must have had in mind when writing this book. It also could have been its title, with a reference to *The Case for Bureaucracy*, Charles Goodsell's (1983) classic in Public Administration. Between the Introduction and the Conclusion, the book reviewed here contains five chapters with, respectively, the following titles: 'The State', 'On Office', 'The Bureaucratic Vocation', 'Whatever Happened to "Administrative Statesmanship"?' and 'Reason of State as an Official Comportment'. The book has a threefold logic: critique, theory and ethics. The starting point is a critique of the *anti-étatisme* as particularly expressed in the reform ideology of New Public Management (NPM) and in seemingly ever-expanding populist sentiments. In contrast, the authors focus on state theory, by elaborating on thoughts of early modern political theorists. The components of critique and theory culminate in an ethics of public office. What does it take to be a good public servant? In function of this logic the book embodies a normative appeal, grounded on a selection of traditional (classic) sources on state, bureaucracy and public office, as well as casuistry from the modern world. The latter entails an account of the historical foundations of the British civil service and a selection of descriptive clips from broader empirical reality, such as Brexit and aspects of the Trump presidency.

In this threefold logic, exposed in a composite argument, the merits of the book can be found. Praising public service the book provides an articulate critique of New Public Management, a proper acknowledgement of the relevance of thought by late sixteenth and early seventeenth century political theorists, as well as a due ethics approach to what it – normatively – takes to work as a public servant in the public service.

Critique of New Public Management

In their NPM critique the authors clearly articulate their point. In the 'pervasive political languages of democratic populism ("mandates") or managerialism ("responsiveness" and "delivery")' they observe a lack of a proper valuation of what the state is and what is needed to serve it (p. 126). The authors are critical of the attitudes expressed in concepts such as network governance and public value management, as appearing to have limited appreciation of the distinctive character of the state and public service. They find it striking how in recent years within public management discourse, the term *public service* has 'gradually been detached from its anchoring in the conceptual universe of "the state" ...' (p. 5). The 'market-mimicking' of New Public Management (p. 62) turned public servants from role-bound personae into 'individuals' (p. 88). The central focus on 'delivery' goes 'at the expense of attention to due process' (p. 84). While oriented at norms such as performance, mandates and responsiveness, senior civil servants were 'redescribed as managers or executives whose role is focused upon delivering the governing party's programme ...' (p. 17). The civil servant, as one particular category of public official, became 'largely viewed as interchangeable with private sector employees or those working for NGOs' (p. 5–6).

The authors see these phenomena with hardly hidden regret. "Values", "publics", "networks", "markets" and other elements of the flotsam and jetsam of "governing without

government” have tended to be the flavours of the day. In such an environment it has often been difficult to imagine how public servants – individuals acting on behalf of the state in an official capacity – are being equipped ...’ (p. 171). Overall, the authors observe ‘a systematic disregard of the state and its various branches’ (p. 90). At most, the state is seen as an ‘anachronism in a globalized world, an ideological disappointment and a totalitarian threat to individual liberties and freedoms’ (p. 22). *Whoever would aspire to become a bureaucrat nowadays* – one could add.

State theory

‘(T)he dominant theologies of left and right in the present find themselves having to face a familiar problem: the problem of authority outlined by Hobbes’, the authors state (p. 172). It is against the background of what they quote as “a permanent structure of anti-statist thought” and a delegitimization of the state that the authors proclaim their mission: ‘(W)e ... want to give a *positive account of the state*’ (p. 11; italics from the original). With the latter term they refer (p. 13) to

‘an institution invented to establish and maintain security, and to facilitate political decision-making and governing. Minimally put, then, the state is the political apparatus that delivers the governmental power needed to protect the members of a territorial population from each other and from external threats.’

Such a state is built upon a structure of offices, a well-functioning bureaucracy and party-politically neutral and impartial civil servants. In pursuit of this goal, the authors extensively explored the thinking of modern political theorists, particularly Thomas Hobbes, Samuel Pufendorf (more than a ‘disciple of Hobbes’) and Lipsius, with the influence of Max Weber as a constant factor in the authors’ argument. What is recovered as the enduring significance of the concepts and doctrines of those theorists is that they, especially Hobbes and Pufendorf, treat the civil state not as the expression of man’s natural will or moral being, but ‘as the result of a new willed imposition, the sovereignty pact – the state being a human artifice imposed by men on themselves as an instrument designed to produce worldly security’ (p. 35). Hence the state embodies ‘a fear-driven agreement of all individuals to subordinate their wills to a single agency of political decision’ (p. 36). As a ‘free-standing coercive structure’ (p. 28) and an ‘impersonal structure of rule’ (p. 24), the state is a *person*, distinct from both rulers and ruled. The authors warn against ‘confusing state with government or “regime”’ (p. 39). It is important to note here that the state is addressed as a universal phenomenon, while democracy is approached as ‘a particular governmental regime’ (p. 89).

Ethics of public office

‘(I)n a state, sovereign tasks are delegated to an “office” for a portfolio of particular responsibilities associated with the activity of governing. ... To be a public servant is therefore to act in an official capacity on behalf of the state’ (p. 8). Public office (or just: office) is ‘an institution that the state makes use of in order to accomplish its purposes’ (p. 139). It is a

‘fundamentally impersonal institution, the “depersonalization” of the execution of official duties being ensured through the regulation of official duties. A crucial feature of such “regulation” is that those charged with office be educated, equipped and trained to govern their conduct in accordance with what is fitting for such offices – whether as bureaucrat, magistrate or soldier, for instance’ (p. 140). The abstract existence of the office, the authors argue, ‘makes it qualitatively different from any natural person. It is constructed precisely in order to make the activity of the state independent of the insufficiency of any human being, and to achieve substantive effects despite the individual imperfections of any particular officeholder’ (p. 9). This makes public service something special, as an ‘activity involving the constitution, maintenance, projection and regulation of governmental authority’ (p. 1). Such activity is distinctive because at stake is ‘governing in an official capacity through and on behalf of the state’ (p. 1). There can be no doubt about the fact that ‘the civil service belongs to the state, rather than to any one government’ (p. 124). And there can be no illusions about individualism either: ‘Civil servants have no constitutional personality, they are effectively anonymous, as befits their subordinate constitutional position. They act only in the name of their minister, who is politically accountable for the conduct of business within the department that he/she personifies’ (p. 119).

Reading the book gives rise to ample reflections – perhaps the greatest merit a scholarly book could have and certainly a justification for the essay character of this book review. Among those reflections, three questions particularly seem worthy of further thought.

Who is the serving actor?

Public officeholders appear in many forms. Qua positions they vary from the traditional postman publicly employed by the former *Royal Mail*, to the King. They are active in areas ranging from defence (soldiers) to education (teachers at a local primary school). Bureaucrats, judges, military: they all are in public service, which implies that ‘public servants’ can have a civil, juridical or military status (p. 1). Cabinet ministers, truly *amateurs*, daily observe ‘the role of civil servants as first and foremost servants of the state’ (p. 149). Within the civil service the authors focus on ‘senior officials’. As ‘permanent servants of ministers of the Crown’ (p. 105) they may adopt the role of ‘administrative statesmen’ functioning as ‘counsel of government’ (p. 17). Senior civil servants occupy a unique position: they ‘cannot give their commitment to the government of the day precisely because their “constituting” role in political life depends upon their being able to serve any government’ (p. 125).

Of course, the aim to make a case for the state justifies the authors’ choice to focus on a particular segment of state bureaucracy. At the same time the public service as an institution is inhabited by a variety of public servants of all sorts. Even at department level there are also junior officials who, involved in policy formation, may function as policy advisers as well. In the world of implementation, public agencies are run by public managers – whether the authors like this terminology or not. In those agencies street-level bureaucrats as true *professionals in public service* endeavour to achieve the state’s objectives. They do so in the public encounters with individual citizens. What roles do citizens play vis-à-vis public service? If citizenship concerns a public office too, what does this mean? Apart from their

generic policy co-making role, citizens as public actors can also demonstrate a commitment towards public service, i.e. towards serving the public cause. Public figures such as Mahatma Gandhi, Martin Luther King, Nelson Mandela or Mother Teresa were not publicly employed, but most of their actions have been widely acknowledged as oriented towards the public interest.

Who or what is to be served?

The authors speak of ‘the unique *political* role the public administrative apparatus plays, in the sense of promoting the fundamental ends of the state it serves’ (p. 95; italics from this reviewer). With “public service” they mean: ‘in the service of the state’ (p. 53). Public service is ‘acting in an official capacity on behalf of the state’ (p. 167). The authors even go a step further, by equating state and public interest throughout the book. They focus on ‘those officials who work in the service of the state *and, by extension, the public interest*’ (p. 15; italics from this reviewer). ‘(T)he proper conduct of government should first and foremost be directed as promoting the safety and welfare of *the person of the state*, and thus, as a result, the “common good” or “public interest” of the people as a whole’ (p. 39, repeated on p. 8, 160 and 161; italics from the original; bold from this reviewer). ‘(O)nce a state exists, the term public is synonymous with it. It has no independent existence to which appeal may be made’ (p. 47).

Hence: Public service = Serving the state. Serving the state = Serving the public interest. Public = State. This set of straightforward equations can be deemed problematic. Alternatively, it can be argued that public service and *the* public service do not coincide. *The* public service (as a locus) is an institution, while “public service” (as a focus) is a person-bound orientation of conduct which may be seen as inherent to public office, but which can be demonstrated *outside* the institution of the state as well. Furthermore, ‘serving the state’ and serving the *res publica* as acting for the well-being of the polity, are not identical. This goes irrespective of how the *salus populi* Hobbes speaks about (p. 138) is being labelled: as the public good, the public interest, the public cause, the common good, the common wealth, the common interest, the general interest, the interests of the polity. Besides, “of the state” and “public”, as in “public sphere”, are not synonymous. The latter realm, Habermas’ *Öffentlichkeit*, has a partly virtual character nowadays. Beyond the state, in the public sphere additional institutional actors are involved, including those from civil society, labour unions, mass media and, importantly, social media.

The authors’ linear mode of reasoning implies a set of hierarchical relationships, as well as a top-down perspective with an instrumentalist orientation. When asking how to act, what is demanded from the public servant stems from state and public office – and from them only. Their requirements *a priori* are seen as legitimate because the state embodies the common good. An exclusive but also closed and excluding relationship is at stake here. Instead, the claim can be made that there are relevant points of reference *beyond* “the fundamental ends of the state”. Historical, political and ethical reasons can be given why this overall argument developed, despite the book’s substantial merits, implies a flawed, threefold, reduction.

Historical reasons. “Serving” transcends individuals and makes them part of a larger realm. A reference point beyond the subjective rationale of one’s own actions offers an

orientation. This even goes for “the person of the state”. *Noblesse oblige* for the aristocracy always has implied that the fact of an inherited wealth and social standing sets a norm of using one’s privileges to the benefit of all. “*Ich dien*” (I serve) is the motto of the Prince of Wales. As expressed in the coronation ceremony of King Charles III on May 6, 2023, the reference point for the British monarch is God, with Jesus Christ as the “King of Kings”. In his sermon the Archbishop of Canterbury stated that the latter has created ‘the unchangeable law that with the privilege of power comes the duty to serve. Service is love in action. We see active love in our care for the most vulnerable, the way we nurture and encourage the young, in the conservation of the natural world’ (Archbishop of Canterbury, 2023). With the “upward” orientation of the British monarch seems directly connected a “downward” obligation to help the poor and to care for the ill. In other monarchies, such as the Dutch one of the House of Orange, this latter orientation of service is established and expressed in an almost “sideward” reference to the constitution, or the people of the nation concerned. In other words, serving has a multi-lateral character. Except in a fully asymmetrical relationship of enforced and internalized power, it tends to go beyond a one-sided hierarchical orientation.

Political reasons. The authors speak of ‘the Janus face of one and the same entity: the Western sovereign territorial state’ (p. 38). Focusing on the latter they exclude the Soviet Union and Nazi Germany. The authors consider the adjective “totalitarian” an appropriate description because the ideological neutrality of the state was undermined here (p. 40), leading to ‘the return of a modern version of the “confessional state” enforcing ideological truth across private and public spheres ...’ (p. 40). This exclusion of authoritarian, let alone totalitarian, manifestations of the state from the central argument is interesting. It is not very helpful to public servants of North Korea – to say the least. If ‘the public interest’ is conceived as a dynamic construction, the question to what extent the state of North Korea is serving the public interest of the polity of North Korea seems a legitimate one. And how about circumstances of authoritarian populists having reached official positions from which they can exercise public authority. Examples can be found in “Western sovereign territorial states”, across the Atlantic and even within the European Union. ‘(D)espite globalization and the emergence of numerous international organizations, the Western territorial state is, in the end, subject only to its own laws’, the authors state (p. 41). This seems true only to a certain extent. A particular state has a specific history. Each state has a unique history and operates within a context that is largely, though not entirely, predetermined. In their actual conduct states differ from one another. If the state is a person, then there may be states showing “good conduct” and ones with “bad conduct”.

That conduct may be less rationalist than the “realist”, market-similar, picture of an authority-lacking global anarchy may suggest. Acts of (neo) imperialism, sometimes revanche and resentment-driven, are unmistakably evident even in modern times. However, the resistance to such acts expressed in fierce opposition may have more legitimacy than border-crossing interventionism. This not only goes in ethical terms but also in terms of the system of international relations. In that system, counter-acts, for instance in the form of supra-national treaties, are facts as well. As multi-lateral organizations the United Nations and particularly the UN Security Council may not have the power needed to function as a “global sovereign”, however their decisions do have an impact. To a certain extent, in the form of sanctions and otherwise, such decisions can function to push back the imperialist acts of a single state. The Universal Declaration of Human Rights, the European Convention on Human Rights, the International Court of Justice – they are world-scale institutions established to create and

maintain a supra-national order of law. They do the latter by making decisions with a formal character, in principle superseding national law. Far from being a ‘world government’ these institutions exercise a certain form of power, as an institutionalized counterweight to the power of single states. If the authors claim to pursue a ‘realist view’ on empirical reality, such factual phenomena, going beyond the state as the ultimate focal point, are to be included as well.

Ethical reasons. ‘The ethical attributes of the good bureaucrat – adherence to procedure, acceptance of sub- and superordination, *esprit de corps*, abnegation of personal moral enthusiasm, commitment to the purposes of the office – are not some incompetent subtraction from a complete (self-concerned and self-realising) comportment of the person’, the authors state (p. 73). Then they already have quoted Max Weber (p.74):

‘An official who receives a directive which he considers wrong can and is supposed to object to it. If its superior insists on its execution, it is his duty, even his honour to carry it out as if it corresponded to his innermost conviction, and to demonstrate in this fashion that his sense of duty stands above his personal preference ... This is the ethos of office.’

The linear mode of reasoning the authors develop while taking Weber’s quote as a starting point makes the public servant rather defenceless in case of state directives deemed incompatible with the interests of the polity. Different to what the authors suggest, this can be debated. Scholarly, there is room for varying interpretations, while in the practice of public service there are limits. Public servants remain entitled to – no: must – have a view of their own on the legitimacy of the directives received. Otherwise, Adolf Eichmann could not have been sentenced to death. Rather than exorcising him as a bureaucratic anomaly, part of a ‘modern version of a “confessional” state’, with his “I was only obeying orders” one can hardly see him otherwise than as a deadly version of a bad public officeholder. The authors appear to refrain from a discussion of ethical border cases. What to do, when one, being in public office, observes a clear violation of internationally adopted human rights? How to deal with a discriminatory political directive?

How to deal with the dilemmas of public office?

Hierarchies may function appropriately – that is: without too many adverse consequences – if embedded in contexts of checks and balances and countervailing powers. Otherwise, misuse of power is lurking, while subordinates may feel trapped. In their practice, particularly professionals in public service working at the street level of government bureaucracy now and then are confronted with the ethical limits of “serving the state”. Apart from in overtly autocratic states, also in ‘Western sovereign territorial states’ those public officials, precisely because they are committed to their task, may sound the alarm. The informal styles of governing demonstrated by Cabinet heads such as John F. Kennedy, Tony Blair and, recently, Boris Johnson have been documented. This also goes for the authoritarian ‘jumping the line’ style of former president Trump, when reaching directly down to subordinates (p. 86). The cross-Atlantic collaboration at the time Saddam Hussein was suggested to have secretly stored weapons of mass destruction has become infamous. The subsequent invasion of Iraq would later prove to have been legitimized, by both the governments of the USA and the UK, with illegitimate and even illegal justifications. This and other contemporary cases of bad state

conduct led to examples of whistleblowing (see, for instance, the film *Official Secrets*, released in 2019).

In the book a bottom-up perspective is missing. There is no attention to the ‘dilemmas of individual public officeholders’, to paraphrase the subtitle of Michael Lipsky’s (2010 [1980]) classic in Public Administration. Nevertheless, the acknowledgement of a relative autonomy of state bureaucracy and the public servants doing their work within them, would fit in the realist view adopted by the authors. Then, the limits of the public service ethos of ‘serving a state’ could be illustrated, as bottom-up orientation points for proper conduct. What do those limits look like and, not in the least, how can they be recognized? How to act in situations in which the demands of the state being served are deemed in conflict with the common good? How are public servants to relate to directives (actions) of a head of government or another political superior with a populist attitude? When does the public office ethos, broadly conceived, imply that the public servant needs to become a whistleblower? What we do know already is that public officials, at whatever layer of government, act in an all-around context of a 360 degrees visibility (Behn, 2001). In these surroundings they are constantly asked to give reasonings for their actions towards a variety of accountability forums. For public officeholders at the street level, the action prescriptions stemming from the state as accountability forum may be number one, but then those from society number two, with those of the profession concerned, as position-bound standards, as bringing balance (Hupe and Hill, 2007).

Conclusion

In concluding this review essay, one can observe that in a context of a waning NPM reform ideology, a growing impact of populist political sentiments and an increase in political regimes with more or less authoritarian traits, a positive assessment of the state can only be welcomed. Even more then, the negative, sometimes straightforwardly dismissive, stance of the authors towards approaches and concepts of peers and endeavours of fellow intellectuals is striking. The authors are very critical of contributions from others in the social sciences. For instance, in note 10 of chapter 5 (p. 154) they speak of ‘a field, now termed “public management”’ as ‘dominated by folk wedded to the moralistic ideals of “network governance” or “public value”, for example’. Why this tone? A scholarly theme such as public service motivation – one would say: directly related to the subject of the book – remains unmentioned; let alone more traditional parts of the study of public administration, such as political-administrative relations and bureaucratic politics. “Public service gaps” and other relevant concepts are ignored. Broader knowledge and insights gained within the theoretical and empirical social sciences are hardly addressed, if not overtly dismissed. Renowned social theorists such as Habermas, Giddens, Beck, Rose and Bauman, active in the “critical” social and human science’ (p. 90), are set aside as ‘academic prophets’ (p. 61).

In addition, politically, the tone towards those with differing views is harsh. The authors speak of a political mood ‘dominated by cosmopolitan ideals dedicated to a liberal, democratic, rule or norm-based global order: one with little or no interest in “realpolitik”, in prudence as a official virtue, and the idea of an impartial state interest’ (p. 152). Championing

Henry Kissinger’s diplomatic statecraft (‘viewed, not incorrectly, as the arch-realist of his age’), the authors adopt disdain about ‘one world moralists’; (p. 152) and ‘the ongoing predilections for abstract, universal, axiomatic norms’ (p. 153). It is clear the authors do not believe in ‘higher truths’ (p. 172) of “cosmopolitans”; that is to say: truths higher than reasons of state. In a rather generalizing way, the authors claim: ‘(T)he “grand strategy” of democratization and human rights has proven less than successful’ (p. 165).

All in all, while the authors are critical even of the concept of “public sphere”, they think of an *external* orientation of individual persons in public service as required, but one towards a reference point not going beyond the state. In this way the authors seem to be building, both conceptually and normatively, a high wall around the state as the object of their argument – an expression of scholarly identity politics? Now the book seems to embody what, with a bit of polemical exaggeration as well as some irony, could be called a scholastic form of “state fundamentalism”. Even if meant to counter the widespread *anti-étatisme* rightfully observed by the authors, there is no reason other than an ultimate cynicism to be dismissive about attempts towards the enhancement of some kind of humanist universalism, scholarly approaches to such attempts included.

The book’s contribution can be summarized as follows now. First, the book offers a well-formulated account of what it, normatively, takes to be a public servant. Second, the authors present a foundational grounding of the state as an identifiable institution and a theoretical underpinning of what lately has been labelled as “the return of the state”. They do so, third, with a clinical view on the *raison d’être* of the state and its implications, as worthwhile to be studied as such. The authors wanted to demonstrate the idiosyncrasy and typical rationale of the state. Well, they have succeeded in that task – in fact, they performed it too well.

A ‘venture in political realism’ (p. 131) is what the authors undertook, with reason of state as their focal point, contra humanist stances, while overlooking dilemmas of conduct in the practice of public officeholding. Therefore a few flaws of the book could be identified as well. Addressing those in somewhat robust terms, one could observe a reductionist, top-down, perspective on public office, leaving aside the dilemmas of the individual in the practice of public service. Furthermore, the argument shows a structuralist *étatisme*, ignoring the functions of *politics* for the well-being of the polity (it almost seems as if the authors have adopted an apolitical, not to say anti-political, stance which prohibits them to look at agency). And, finally, the authors express a scholarly solipsism, critical of a substantial part of the social-scientific approaches to the practice of governing in its institutional context.

In a book review it always seems a bit minimalistic to emphasize aspects left aside by the authors of the book concerned – the latter may have done so for good reasons. Here, one could say the wish to make a case for the state needed a proper focus. That is why the characterization mentioned above in a critical sense equally could be recommended as an agenda for further scholarly work. Attention to the dilemmas on the ground floor of the state and to the politics of the state in action then would benefit from making connections with insights from the existing body of knowledge on the functioning of modern public administration.

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