

Administrative Models, Traditions and Reform:

Explanations of last resort?

(work in progress)

Frits van der Meer
Jos C.N. Raadschelders
Theo Toonen

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“Before entering on that study (of administration FM/JR/TT), however, it is needful: (I) to take some account of what others have done in the same line; that is to say, of the history of the study”. (Woodrow Wilson, ‘The study of Administration’ Political Science Quarterly November 1886.)

1. *Introduction*

Past events and experiences, for better or worse, are considered important points of departure for comprehending current problems in the public domain and for finding appropriate solutions to deal with these challenges. Nevertheless, how knowledge of history exactly can help us to understand today’s complex administrative reality is an altogether different question. In this paper, we concentrate on the question how historical analysis helps our understanding of the nature and direction of public sector reform. In addition, we want to assess whether and how public sector reform take a different shape in various West European countries given variation in administrative tradition and political administrative models in the course of time.

Addressing these issues, confronts us with complex conceptual challenges such as the (exact) relationship between historical change and public sector reform. In terminology, concepts and explanations in the current debate have been vague or indeterminate at least. Though popular, terms as ‘administrative model’, ‘administrative tradition’ and ‘administrative culture’ are used interchangeably. In addition, they are often utilized as explanations of last resort that is when other explanations do not suffice. In order to examine these issues, we will first provide an analysis of what exactly concepts such as administrative traditions and models mean.

Another point that merits attention is the one-sided and mono-dimensional interpretation of the ‘reform’ concept. In many analyses, reform is rather narrowly defined and constricted to field of public management (see also Loffler 2003). A more systematic analysis of reform does reveal that this term includes a wider set of reforms. The importance of dissecting reform types is that the occurrence and success of reform might vary according to particular traditions and models. This remark is rather important as, particularly in Anglo-American literature there is a tendency to point to the success of the managerial reforms in the English speaking world as compared to (mainly southern and middle European) lagging continental systems (See for instance

Pollitt & Bouckaert, 2004). Does this claim hold true or is it just a myth constructed and coveted in a mainly Anglo-American oriented reform community?

The structure of this paper is as follows. First, we will discuss the reform concept and look into the different dimension of reform. We will primarily concentrate on administrative reform and not so much on policy change. Having thus defined reform for the purposes of this paper, we will examine the historical dimension involving the effects of administrative traditions and models on different types of reform. For reasons of limitation, we will confine ourselves to illustrate the effects of administrative traditions and models by concentrating on the legal dimension. Finally, we will re-examine our main question and draw some conclusions.

2. *Public service reform*

Examining the level and intensity of public sector reform in political-administrative systems all over the world, it is hard not to be overwhelmed by the extent to which - at least on paper - all levels of government confess themselves to reform. It almost looks, as it is the ultimate criterion of decent government (Van der Meer 2002). Peters and Pierre even exclaimed, "Except perhaps during major wars there has never been the extent of administrative reform and reorganizations that has been occurring during the period from approximately 1975 onwards" (2001). Likewise, similar remarks are heard from many regarding the scale civil service system reforms across the globe. The intensity and proximity of contemporary experiences can be so overwhelming that the beholder may be blinded by the perceived uniqueness and singularity of events. But, do these observations about a new and unprecedented wave in reform efforts hold true? Using an administrative history point of view, we probably have to tone down the presumed distinctiveness of reforms in terms of their number, of their level of penetration, and of their intensity. For instance, an 19th and early 20th century beholder expressed similar statements. In article of Woodrow Wilson (1887), we can find the following interesting observation: "in brief, if difficulties of governmental action are seen to be gathering in other centuries they are to be seen culminating in our own." Again, an imaginary French or Prussian observer would hold the same sentiments witnessing the revolutionary changes in administration under respectively Napoleon and the reformer of the Prussian government and bureaucracy Freiherr Vom Stein in the early 19th century. A brief glance in the yield of recent work done by (ad-

ministrative) historians and like-minded experts makes it abundantly clear that large-scale reform plans and initiatives has been common to governments and administrative systems of all times and certainly since the late Middle Ages. A number of examples will illustrate this. The wave of redesigning political-administrative systems started around the turn of the 18th to the 19th century all over the western-European continent (i.e., not the far eastern part) and the United Kingdom (the abolition of sinecure and the reform bill of 1832). Again, around the middle of the 19th century a redesign of the institutional structure of government started in many countries. The rise of the nation state and the creation of a large number of new states (Belgium, Germany, Italy, the Balkan states etc) also prompted a widespread reform comparable to what happened after the fall of the Wall in the 1989. Reform was not confined to creating a new political and constitutional infrastructure (including intergovernmental relations and structures), but also included the introduction of the rule of law and - on the continent – of the *Rechtsstaat*. The introduction of the *Rechtsstaat* led to what can be called a ‘Weberian’ bureaucratic revolution in 19th century Europe. The development of the (democratic) *Rechtsstaat* in continental Europe has occurred almost simultaneously with the ascent of legal (-rational) bureaucracy and it is mirrored in comparable (government) reforms in Britain grounded in the Rule of Law concept. With this bureaucratic revolution, comprehensive efficiency and effectiveness (often in terms of rationalisation drives) have been well documented for the last hundred years for many countries (Van der Meer 2002; Hood 1998; Raadschelders and Rutgers 1996; Van der Meer and Raadschelders 1998; Van de Berg, Van der Meer & Raadschelders 2005).

Reform is thus ubiquitous and really of all time. In general, most European countries are invested with a tradition of reform with respect to their constitutional design, their institutional frameworks and their respective national political-administrative models. In much of the current literature and debate reform is confined to the managerial dimension. This is a rather limited and misleading interpretation. In reality public sector reform is composed of a series of intertwined reform dimensions (Peters and Savoie 1998; Toonen 2001; Van der Meer; 2002). To understand the extent and the dynamic of reform in various European countries over time we have to work with this wider perspective upon public sector reform that ranges from the more extensive to the ever more specific reform layers:

1. The demarcation between the public and private realms of life (thus determining the scope of the state) involving issues as privatisation and deregulation;
2. The distribution of power between central and sub national levels of territorial and functional government;
3. The relations between government at large and the public (i.e. people as subjects, citizens and customers);
4. The relations between political officeholders and the public;
5. The relations between political officeholders and career civil servants;
6. The relations between career civil servants and the public;
7. The personnel management system including changes in the legal status of civil servants, optimising the size and functional distribution of the civil service, introducing HRM and management development programmes;
8. Internal management procedures and structures associated with NPM including decentralising and disintegrating the (former integral) system of internal management handing over power to the line manager, introducing civil service leadership and civil service empowerment.

This listing includes the overall institutional arrangements (1, 2 and 3), the specific relations between the main individual actors (4, 5 and 6) and the two features that enable government to do its work (7 and 8). Indeed, Ruge has argued that administrative systems are more pervasive than political systems and/or constitutional arrangements (Ruge 2003: 178). Before we can say more about this we have to examine the historical dynamics behind reform and particularly the role of administrative traditions and models and the fuzziness of these concepts.

3. Institutional opportunities and constraints; types of administrative systems and historical context; historical legacies and state traditions.

The citation by Woodrow Wilson in the introduction has been taken from an extensive introductory historical section arguing for the need of a study of administration in the U.S.A. It illustrates the fact that from the out start of the modern study of government and administration the (comparative) historical dimension was included as an integral part. Similar quotes can be taken from late 19th and early 20th century European texts in the wider field of government studies. In addition, the historical approach was

combined with an international comparative approach, rather customary in academic studies of society in Europe in the 19th and early 20th century. See for instance the historical and cross national approach of Weber. What happened with that historical-comparative approach after the Second World War? Pollitt and Bouckaert (2004:160) point to a 'history is dead, everything is new literature' attitude and that both with regard to private and to public sector management. Management is be confronted by new challenges due to rapid environmental changes and cannot but be "rapidly leaving old concerns behind" (Pollitt & Bouckaert 2004). Perhaps such an a-historical attitude can be found among the circles private and public managers, and perhaps to lesser extent in those units of academe that study NPM. Nevertheless, assuming something, i.e. a-historical attitude, does not make it true. Furthermore, can we afford an a-historical attitude?

While a historical approach to public administration never really was absent, certainly not in Europe (Gladden, 1972; we refrain from listing many studies) and not even in the United States (e.g., White 1948-1958; for overview (see Raadschelders, 2000). But, we do see a since a revival of historical (institutional) approaches in the past two decades or so. Testimony to this is the publication of several new journals (e.g., *Journal of Policy History* since 1989; *Journal of Management History* since 1994; and *Management and Organizational History* since 2006), a major yearbook (*Jahrbuch für Europäische Verwaltungsgeschichte* since 1989) and two handbooks (Finer, 1997; Raadschelders 1998). Both in Europe and the U.S. studies that can be characterized as administrative history have been booming in the past decade. The organizers of this conference acknowledged this resurgence of the past. In the flyer to this conference, they state, "governing proceeds by 'looking back' as much as by 'looking forward'. The importance of the former is often underappreciated. ... The past has made a comeback. Scholarly attention has now shifted to governing by looking back." Well, it has perhaps not shifted to, but it is at least balancing the looking forward habitus. Can we say the same for the habitus of the practitioner?

Having a past or being embedded in time is hardly a sufficient reason for contemporary PA experts to be involved with studying the historical dimension of current government and administration apart from pleasing the antiquarian appetite. What is the usable benefit? According to general wisdom past choices influence present-day issues and problems. Equally, contemporary public policy and organization are embedded in the past. It is often pointed that this is the reason why the "current genera-

tion of citizens, public servants and future leaders in politics and administration would benefit from knowledge about the making of the administrative state and the role it played in shaping today's society" (Raadschelders 2003). This view of the use of history opens important, and often unanswered, questions. Can we learn from history and, if so, what is it exactly that we learn that is beneficial? Indeed one could even accuse proponents of historicism of some degree of naivety. Wisdom from the past could easily be supplemented by folly of the past given (see also Raadschelders 1998), for instance, experiences in the Balkan and Russia, where an approach is promoted to be oblivious to certain aspects of the past. In addition, elements of normative and prescriptive use of history can easily be involved. Often history or historical experience is used to make a point or reach a conclusion that needs authoritative blessing and what is more authoritative than Time itself? Although history as an instrument for justifying present-day action can be seen as an essential component and elaboration of "tradition", a normative or prescriptive view of historical knowledge should be handled carefully by PA experts in order to avoid getting involved in supplying legitimisation grounds for government.

History as such is meaningless without providing a framework that helps to explain the importance and impact of the passing of time. How can we use the temporal dimension more thoughtfully in explaining the current political-administrative realities and challenges? Attention should be paid to the exact content of the effects of temporal dimensions on our understanding of current situations and problems. As Lynn argued: "gaining perspective on the importance of the past depends on attempting to understand... how history affects the comparative evolution of state and governmental evolution" (2006). Kickert and Hakvoort point to the fact "that (the) institutionalized context of a particular state and administration is relevant for the form and content reforms assume there, and for their success and failure" (2000: 223). See also in this respect the observation on the importance of the institutional context for reform capacity: Christoph Knill (1999)

For determining how history exactly affects this evolution of reforms, depends on empirical observation (Lynn 2006). Then again, the gathering of empirical evidence is only relevant after defining the relevant dependent and independent variables. For our purposes, our object of study is the comparison of the level, content and mode of political-administrative reform in various western European countries. Reform is seen as an intentional process of change in order to improve the institutional

design of the public sector. The adjective 'institutional' in its basic meaning refers to characteristics as persistency, external recognisability and reproduction of relevant rule systems thus giving structure and meaning to, in this case, processes of (public) governance. Institutional arrangements do not appear from nothing by means of spontaneous creation. The evolution of state and government, and thus institutional development, is considered and perceived as a series of decisions in time regarding, affecting, and - from time to time - redeveloping the institutional design of a certain polity; building on to the norms and values germane to these particular systems. It is here that the historical institutional dimension enters our discussion of reform. Decisions are made over time. Events take place that have a bearing on the institutional design of a given administrative system. However we might desire it, we can never (completely) escape the choices made in the past given the fact we cannot reinvent society and the organizational structures we live in all the time. Education, enculturation in a wider sense, and socialization moulds the individual as a societal being and encapsulates human beings within the institutional framework of society. Paths of past institutional choices have developed in time, constraining present-day options. What social scientists regard as constraint (as expressed in the concept of 'path-dependency') is evidence of continuity in the eye of the historian. At the same time, change does occur resulting in, sometimes overwhelming, diversity. Again, to the historian it does not appear as unusual that continuity, diversity, and change are each manifest in any time (Tholfsen, 1967). Social scientists prefer a stronger contrast between periods of status quo and times of rapid change. Hence, the distinction is made between evolutionary and punctuated change (Lynn 2006; Baumgartner and Jones 1993; Bezes & Lodge 2007). Following Darwin, evolutionary change is gradual, with the organism adapting to changing environmental circumstances. What drives evolution is small, continuous, and individual change. In public administration, this approach is visible in Lindblom's incrementalism. But, Darwin's nephew, the statistician Francis Galton, disagreed and argued instead that long periods of stasis are punctuated by relatively brief periods of rapid, that is, large and discontinuous change (Gregory, 2008:474). Stephen J. Gould called this 'punctuated equilibrium', a terms happily embraced by historical-institutionalists. Too quickly, the notion that any period shows signs of continuity, diversity and change has been discarded.

This neo-historical institutional path dependency approach can reveal itself though so-called administrative traditions, administrative models and the values and

norms they embody. Terms as traditions, models and culture are not clear-cut but rather fuzzy. Perhaps this explains their popularity and usefulness. The concept of tradition is often discussed and invoked but is generally not delineated. Tradition is seen as a custom, a practise, considered as handed over time through processes of socialization and enculturation. Tradition is considered to provide structure and meaning to and thus simplify human interaction. Tradition can also be seen as an inheritance from the past and thus having a contemporary dimension. For instance, Raadschelders (2007) contends that traditions provide a way of organizing and comparing potentially complex social realities and are developed on the basis of 'what is'. The latter is quite interesting as traditions are thus reformulated and conceived from the present situation. We have to be careful when invoking (administrative) tradition, given that tradition can be (re)invented or pointing to an imaginary past or myths (Hobsbawm 1983). For instance, in many countries and cities the precise origins of institutional arrangements and the meaning of particular events have been lost in the mists of time and in order to upgrade history and boost citizen moral a loftier past was created or annexed; preferably Roman or somewhat in the neighborhood of the Roman or Greek antiquity. Notwithstanding this invented nature of these 'new' traditions they still operate as a binding force within a certain polity. In the case of the public domain these administrative traditions serve as a barrier to the transient nature of governmental structures and processes. Because there is a need for continuity of the work of government, Ruggie argued that administrative systems that it is thus that bureaucracy is more pervasive than political systems and/or constitutional arrangements (Ruggie 2003: 178). We return to this issue in the next section.

Apart from administrative tradition, there is a vast and growing literature that points to the importance of the characteristics of (political-) administrative models for the content, direction and success for realizing reform initiatives. Interestingly enough, though the importance and existence of administrative models and traditions are emphasized in fields of comparative politics and public administration, actual attention and thorough analysis of how the characteristics of these models affect, stimulate or hinder reform is conspicuously missing. There are two related sets of difficulties involved.

The first problem relates to what constitutes these administrative systems. The word system implies a certain 'wholeness' or some elements that can be defined as 'whole' for analytical purposes. Most simple, this could be defined for a particular

national system. A certain degree of coherence and interconnection between various features of dimensions is supposed to be in existence (See for instance Ziller¹). A first important point concerns the selection of salient features or dimensions that are more or less fixed or loosely coupled. These dimensions thus constitute a model of administration that lasts over some period and is externally recognizable. The concept of administrative model is rather too limited and this limitation often gives rise to confusion. For instance, the administrative Whitehall model is referred to as the political Westminster model. Below, during our discussion comparative models, we will argue that these models should include the political system, the state system, the interaction patterns with society, and the legal system as variables.

A second problem is the grouping of national models into families of systems. In the field of comparative government we find (regarding the determination of political-administrative models in Western Europe and related areas) a classification pointing to Anglo-American models, a continental model divided in Napoleonic (or French inspired) and a Germanic *rechtsstaat* models, Scandinavian models, and some indeterminate mix model as the Dutch one. Impressive though their names might sound a real thorough analysis of these models and, more specific, how countries are grouped together is relatively absent perhaps with the possible exception of the IAS working group's analysis of the Napoleonic model edited by Bernd Wunder (1995).

We argue that the modelling in families of systems is rather superficial. The Napoleonic model, the Continental *Rechtsstaat* model, the Scandinavian model, the resurgent Central European models are all but a few European examples of quite ambiguous concepts.

We should consider with the conceptual dimensions lying behind these models. Global configurations of civil service systems as developed by respectively Heady (1996) and Morgan (1996) are of limited use since Western countries are lumped together in one cell or element of the configuration. They do not provide the kind of detail desired. Then again, scholars from Western countries may be too much inclined to overestimate differences. B. Guy Peters uses as defining concepts the definitions of the boundaries between and the relationship between state and society, the orientation of political-administration on management or law, the relationship between politics

¹ Ziller is therefore arguing in his comparison of a so-called standard European model (including the UK) and the Scandinavian model that 'borrowing' one aspect without taking into account other constituting dimensions would have negative effects.

and bureaucrats, and the degree of uniformity (Peters 2003). A similar definition of administrative tradition including accountability is used by Painter & Pierre (2007). Steen et.al. (2005) look at role and position of state, the role of law and legal foundation, political administrative relation, and intergovernmental relations. Pollitt and Bouckaert (2004) point to the state structure, the executive government, the minister/mandarin relations, the administrative culture, and the diversity of policy advice to typify public administration systems. Their work concentrates on the administrative system in a more limited sense. Combining the different approaches, we can distinguish seven dimensions to be considered in any modeling of state, administrative systems and thus traditions: the structure of state, the relationship between state and society, the features of the political system, the nature of administrative systems, intergovernmental relations, political-administrative relations, and legal foundation.

Given the limitations mentioned earlier and explicit relations laid between legal structure, systems and traditions lets take a closer look at these legal models, traditions and reforms.

4. The legal dimension of reform

For comparative purposes, it is important to realize that there are certain basic differences in the role which legislation -both as an activity as well as in terms of specific laws and regulations - plays in state affairs. In this respect, we can speak of legal models with certain traditions embodying a more or less persistent legal culture. Often a crude division between civil and common law systems is introduced in which the former is more formalistic and less flexible than the latter. Thus, an easy relation with (particular management) reform is easily laid. The matter is whether this assessment is valid. Later in this section, we will question this opinion. In addition, we have to consider different dimensions of legal systems in order to understand possible effects of the legal system on the content, direction and speed of reform. More in particular, the constitutional and administrative legal traditions are important. In addition, we will examine the degree to which a legal orientation of civil servants in the various countries has an effect on reform success or failure.

A starting point can be found in how the *res publica* or 'common interest' translates in legal terms. In political theory and public administration, the relationship between state and society, and how this influences conceptualization in the study of

public administration (Stillman 1990; Rutgers 2004), has received ample attention in the last decades. In this literature, repeatedly the differences between Anglo-Saxon common law based and Continental European (mainly codified and Roman law based) civil law interpretation of state concepts are expounded (Dyson 1980). According to interpretation, states with a civil law tradition are closely linked to society often resulting in an organic state vision. The state is more than a mere collection of individuals. This perception has particularly been manifest in the German organic state theory. Societal development is thus both an endeavour and interest of the state and of the individual. In this tradition, a more active role of the state and its government institutions is expected. In the inductive (presuming pluralist) public interest articulation models the role of the state would be more limited and even the existence of institutional state concept would be doubted. To what extent is this normative political-theoretical reading of the relation between legal tradition and the size of government empirical valid? If it is true, we might imagine common law systems less prone to government expansion and more inclined to public sector contraction than in civil law systems. We have to realize that concepts of state(lessness) are grounded in deeply treasured political theoretical beliefs and convictions. How, could one, for instance, in the early USA cherish a (strong) state conception given the Revolutionary and republican ideology and after fighting of the outrages and presumptions off King George of England (See for instance Stillman 1990; Rutgers 2001). Oddly enough, that presumed statelessness is also considered relevant in the British case. British statelessness has its treasured moments in the myth of the Freeborn Englishman dating to the Saxon resistance to the feudal Norman rule, the Magna Carta and the Glorious Revolution. Through Britain, this conception reached its other former colonies as Ireland, Australia and New Zealand. To return to the validity of the qualification that the public interest model features limited government might hold true with respect to a limited *social-economic interference* with respect to the the Reagan and Thatcher era in respectively Britain, New Zealand and, to lesser degree, the USA but from a historical perspective –and now we do have to look back- this argument looks rather weak. The New Deal in the USA and the development of the welfare states are important examples. The situation in Australia and New Zealand has not been very different. For instance, government intervention and health care and education involvement in the UK has been (and still is) quite high. The same applies to education size (in terms of personnel) in the USA. Comparative figures regarding the number of civilian government

employees in the UK, France and the USA are quite comparable and in cases even higher than for instance Germany and the Netherlands.(Van der Meer 2008) Thus in both public interest systems based on a common law tradition and the civil law ‘statist’ countries have experienced big government. The emphasis on current personnel cuts and less policy interference is rather limited to social-economic policies and does not include, for instance, security policies. Particularly in the UK and New Zealand (not so much the USA), cuts and changes have been made in respectively in personnel size and in operations of government. Part of its relative success can be explained by financial-economic necessity and political leadership issues.

In addition to the legal tradition in conceptualizing the state, we have to introduce a second dimension: how and to what extent legal models and the traditions they contain affect reform? This dimension relates to the varying constitutional designs and principles within legal systems. In constitutions, whatever their characteristics might be (see below), at least part of the institutional design of the political-administrative system and of its relation to society is described. These constitutional aspects are important as they –at least partially- describe how changes in those institutions can be brought about and realized. In addition to this constitutional level, from a collective choice perspective we might look at how reforms in general have to be legislated as parts (particular the administrative systems) are not included in the (formal) constitutional design. It is argued that reforms in some political-administrative systems have to be 'legislated' in order to be effective, others do not or in a different - framework - way. Can this division be allocated along the lines of a common law versus civil law traditions as is sometimes proposed? The answer has to be negative. When looking at the constitutional dimension we have the distinction between written and unwritten or codified and uncoded constitutional systems. This distinction does not run parallel to differences in law systems and traditions. The USA has a written and more or less codified constitution² and the UK has at present not such a constitution though written documents are present.

Whether a constitution is written/codified or not does not have much effect on reform capacity of the constitution. Much more important are the rules contained in the constitutional design regarding the necessity of qualified majorities and special

² H. Patrick Glenn in his ‘Legal traditions of the World’ argues that the legal system of the USA has increasingly become more ‘civil’ized: In many respects US law represents a deliberate rejection of common law principle, with preference being given to more affirmative ideas clearly derived from civil law’ 248.

procedures needed to change the constitution. This becomes even more important when constitutions have more encompassing list of topics and detailed regulations within the text. It is understood that constitutional systems with elaborate and complex constitutional change processes reform of the political-administrative system will be more difficult than in simple majority systems. The UK might be an example of the easy constitutional system while the USA has complicated systems just as most of the other constitutional systems. Nevertheless, in the UK this flexibility has become more and more limited as major changes (devolution and, often, European treaty proposals) require a referendum for getting popular support. Though in some of the continental European countries we find extensive constitutional texts, this is certainly not a common feature. The constitutional stability particularly in the North-West shows that this constitutional design gives ample possibilities to accommodate change. In addition, for instance in the case of the Netherlands, we find a deconstitutionalization process. An additional element is found in the process of legal or judicial review (Künneke 2007) often in the responsibility of constitutional courts. These constitutional courts play an important role, particularly in federal systems where sovereignty issues have to be mediated and in countries that adopted democracy rule after a dictatorship when still some doubts exist concerning the quality of the political process. These review procedures can seriously limit and impede government's freedom to introduce institutional change from the centre. Again, this particular tradition cannot be confined to a particular system.

In addition to these constitutional dimensions, we have to consider the effect on the form that legislation takes at the non-constitutional level. An 'act of parliament' does not have the same operational meaning everywhere as a vehicle for administrative change. In continental-European systems detailed, instrumental and enforceable legislation by which the legislator tries to directly affect and even determine operational action, is said to play a more important role than in Anglo-American traditions. But is this really true? In systems of statutory regulation by means of framework-law, the basic idea is that laws and regulations may shape outcomes, but not determine them. Through legislation, the general constraints and conditions are formulated within which operational action is taking place. In many continental systems there is potential for non-legislated reform of even constitutional proportions. In addition, in Westminster models an act of parliament is necessary to legitimize state activity and induce change. In systems that operate from the idea of an organic or 'living constitu-

tion' even fundamental changes and transformations of the system may take place without parliament actually paying attention.

In addition to the constitutional dimension(s), we have the form and role of legislation to take in consideration. An 'act of parliament' does not have the same operational meaning everywhere as a vehicle for administrative change. In continental-European systems detailed, instrumental and enforceable legislation by which the legislator tries to directly affect and even determine operational action, plays a more important role than in Anglo-American traditions. But, is this really true? In systems of statutory regulation by means of framework-law, the basic idea is that laws and regulations may shape outcomes, but not determine them. Through legislation, the general constraints and conditions are formulated within which operational action is taking place. In many continental systems there is potential for non-legislated reform of even constitutional proportions. In addition, in Westminster models an act of parliament is necessary to legitimize state activity and induce change. In systems that operate from the idea of an organic or 'living constitution' even fundamental changes and transformations of the system may take place without parliament actually paying attention. Ziller (2003) argues that ...' law as such is not an obstacle to administrative reform, nor to the introduction of management: it is a set of tools which can be used well or badly according to the legal education of those who have set up and implement new modes of management."

Another dimension with respect to the relation between legal traditions and reform has to do with the primary orientation of the civil servants: allegedly as legal experts in civil law traditions and as managerial in common law traditions. A problem is that no distinction is made with respect to different levels of government. In all systems, local government and regional field agencies have always been relatively, more service and performance oriented than central core institutions. Likewise, within both civil and common law much variation is to be seen across policy areas. But the notions that in the Rechtsstaat model reforms have to be prepared in law and that legally trained civil servants may have difficulty adapting to a more managerial or performance-oriented perspective is quite interesting (Pollitt & Bouckaert, 2000:53-54). It is argued that there is ample evidence when one takes the rise in popularity of NPM ideas in the UK, New Zealand and to lesser extent other Anglo-American countries during the 1980s and 1990s in consideration. But does a solid connection exist between this presumed forerunner's role with an enhanced reform capacity of the An-

glo-Saxon system(s) due to their system of common law and their management orientation? As argued, the harsh economic climate at that particular period and the dire financial and budgetary conditions these countries were experiencing fostered radical reform. Helped by strong political leadership and supported by a societal sense of urgency, a hitherto rigid political-administrative and societal mould - hampering socio-economic and public sector reform - was broken. This would explain the relative strong position of Britain and New Zealand in the managerial reform ratings. Nevertheless, the reform record of accomplishment in the period before the 1980s is rather weak. The UK has a tradition of slow and incomplete reform as even the slow implementation of the much-applauded Northcote Trevelyan proposals in the 19th century showed (Fry 2000; Greenway 2004). In, for instance, the USA the load of proposals on paper was not matched by real (administrative) reform. In addition, one has to point out that the managerial perspective on public administration has always been endemic to these nations. Therefore, in a certain sense framing reforms in a managerial perspective is more business as usual in the UK and New Zealand, perhaps only a little more radical. Thus, managerial style reforms are customary and more easily introduced there than in countries with a continental policy or legal leadership orientation. In those countries, reform has often taken a different and wider shape as can be witnessed in the respective administrative historical experience of these countries.

Then, what are the effects of the presumed legal orientation of continental civil servants on the level of reform? To describe Northern European civil services in terms of legalistic would be misleading and a-historical. The early development of a relatively strong bureaucracy and administrative elite has historically led to a situation where 'political control' could be kept at arms length, preventing clientele and political spoils systems to develop less deep into the organisational structures. There a legal (and policy oriented) approach dominated, where actors (politicians, civil servants, third sector bodies) were expected to behave according to the spirit of the law. Again as Page & Wright (1999) have argued both the French and Prussian bureaucracies in the 19th century were (already) enjoying policy discretion and quite pro-active in their operations. The same applies to for instance the Netherlands. The rule of law in this tradition is not one of being a straightjacket, but rather one of service or facilitator in the pursuit to meet societal demands.

In systems like Italy, Spain, Portugal and Greece, but also Belgium, the bureaucracy traditionally has always had a low status. This is partly because civil servants are generally appointed through patronage. But, paradoxically, government officials and civil servants regard themselves as the neutral servants of the state. In an effort to gain legitimacy, but also by professional conviction "They perceive their roles in formal legalistic terms as interpreters of the law and most senior civil servants will be trained lawyers." (Page, 1995b: 278). In such systems, law serves as the alpha and omega of reforms that are being approached in legal rather than in policy terms. Law easily becomes a vehicle for the politics of reform. However, it is obvious that the legal reality may differ substantially from the social, the political and the bureaucratic realities. The analytical consequence is that, in a comparative perspective, we should expect quite different modes, forms and subject matters of administrative reform - if present - than in systems where law is generally perceived in a closer one-to-one relationship to the operational practice of the public sector system. Effective efforts to improve control or steer the performance of the civil service at local levels of government, for example, would not manifest themselves so much in changes in the formal intergovernmental system. This system as such is not highly relevant to the actual operation. Efforts to formally reform will informally be bypassed in the usual ways (old boys network, clientele relations' etc.). The same applies to efforts to shape their policies. More important in these systems are, for example, the procedures to detect and limit illegal actions by local and regional governments (cf Page, 1995b: 278): effective managerial reform takes on the form of administrative integrity reform.

Finally, Knill (1999) has argued that reform capacity of administrative systems depends on the level of autonomy of administration and thus in states with a high level of autonomy reform capacity (as the German *rechtsstaat* types) is more self adapting and incremental than the radical forms in for in stance a common law country as Britain. Remarks must be made regarding the implications of this observation. First in the case of Germany, the often-perceived lack in reform capacity pertains to the Federal level and the intergovernmental relation within the Federal Republic. Secondly, it refers to the speed and promptness of reform not the volume on the longer run. Furthermore, it is perhaps more related to the constitutional aspects than the legal orientation and the *Rechtsstaat* per se. Finally, though administrative change may occur here generally in an incremental way, from a longer time perspective more comprehensive reform can be observed in a punctuated manner in these countries.

5. Conclusion

In our introduction we have argued that knowledge of history can help us to understand today's complex administrative reality. How we know this so remains a complicated issue. In this paper, we have concentrated on the question how historical analysis helps our understanding of the nature and direction of public sector reform. Our main question was to what extent has public sector reform taken different shape in various West European countries given variation in administrative tradition and political-administrative models in the course of time. Administrative traditions and models are fuzzy concepts. As argued before, the consistency and the empirical usefulness of Napoleonic model, the Germanic *Rechtsstaat* model, the Scandinavian model and the newly re-emerging Central European models - to name some European examples - can be seriously questioned at present. For instance, the grouping of nations under these models is rather arbitrary as these models are often forged upon (and thus closely) associated with one prime national example. In addition, pronouncements as the acclaimed legalistic inclination of continental civil servants can easily be misleading. Nevertheless, these models have a certain use as they can point to areas of (national) traditions: the structure of state, the relationship between state and society, and the features of the political system, the nature of administrative systems, intergovernmental relations, political-administrative relations, and legal foundation. Given the limitations mentioned earlier an explicit relation has been laid between legal structure, systems and traditions.

Within public management literature, the notion has become quite popular that to a large degree differences in legal setting, systems and traditions would be responsible for the level of reform and the ease reform can be implemented. A well-known example is the suggestion mentioned by Pollitt and Bouckaert (2004) and Painter & Peters (2007) that countries with civil law and often *Rechtsstaat* traditions are slower to respond to social, economic, and political change than, e.g., Anglo-American states based on common law traditions with their inductive public interest models. From a longer term historical perspective and looking to reform issues wider than the field of management this assertion is debatable. The empirical proof is limited and often differences in reform capacity and speed have to do with the design of the constitutional design and more particularly the scope and the procedures of administrative change. This does not coincide with the major division between common and civil law sys-

tems. To repeat what has been said above, the dire (financial) economic circumstances at the end of the 1970s combined with a change in political leadership in particular the UK and New Zealand were experiencing did more to promote radical (NPM) reform. We have to keep in mind that during for instance the 19th century similar substantial reforms (e.g. the bureaucratic revolution and the changes in constitutional design) were introduced on the continent.

In the 1960s, the Westminster model was believed to be a superior model for reform, the best of what democracy could establish. Nowadays, the virtues of the more Germanic *Rechtsstaat* model are rediscovered and not only in Europe. Even in American public administration, hesitant steps have been taken not only to reacquaint with the 'state' but also to revalue the importance of the study of (administrative) law to the study of public administration (see for instance the work of Rosenbloom). Much of the attention for reform has always been on the day-to-day basis of immediate decisions. It has concentrated on cures at the operational level and, in some countries at the level of collective choice, joint decision making and public policy. With the exception of a few countries, reforms in the western world have even less affected the political system (Raadschelders & Bemelmans-Videc, 2007) and the constitutional levels. Reforms therefore have taken place within a rather stable constitutional context. With marked national variations and despite all rhetoric about 'postmodernist' public administration, the overall constitutional pattern of Western European administrative systems at the end of the 1990s still very much resembles the Weberian bureaucratic model identified to have emerged about a century earlier. Many of the attempts to arrive (again) at general civil service 'core departments' actually seem to amount to an effort to restore the traditional elite of general administrative specialists once labelled 'bureaucracy'.

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