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Political Power Interventionism in Bureaucrats' Appointments under the Abe Government

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ABSTRACT

For every government, controlling its bureaucracy is necessary to implement policies, and human resources management (HRM) is a crucial lever in order to enforce this control. Since the end of the Second World War, the Japanese bureaucracy has managed to keep a relatively strong independence toward politicians regarding HRM. But from the 1990's onwards, several reforms reinforced politicians' intervention power in high-rank bureaucrats' appointments. Since the return of Abe Shinzō to power, this tendency seems to have accelerated. Observers frequently draw attention to the particular amount of nominations influenced by prime minister's decisions, sometimes insinuating that the bureaucracy could become politicised and thusly see its principle of neutrality endangered.

This paper aims at explaining to what extent these interventions constitute a new phenomenon or not. After reassessing the situation under the "55-year system", it explores the factors that could explain the recent changes, and analyses their consequences on the bureaucracy. We consider that despite an obvious voluntarism from the Government and the creation in May 2014 of the Cabinet Bureau of Personnel Affairs, it would be overstated to speak of a revolution that could lead to a Japanese-style spoils system. In fact, we see that with some exceptions, these political interventions respect many of the old nominations habits, which suggests that senior civil servants' appointments are still resulting from a negotiation between politicians and ministries, and that the legal framework is not the only variable to take into account. We argue indeed that the prime minister's political stability determines to a great extent his room for manoeuvre regarding such interventions, and we think that his caution not to excessively antagonize bureaucrats is precisely what enabled him to break other HRM traditions.

KEYWORDS: bureaucracy; appointments; Abe; politics; institutional change

Introduction

In a state's political system, bureaucracy plays a pivotal role, as the efficiency of the government's policies and the realisation of the democratic principle are at stake. Among the different instruments that a government holds in order to control its bureaucracy, the power over human resources management (HRM) is crucial. Since the end of the

Second World War, the Japanese bureaucracy has managed to keep a relatively strong independence toward politicians regarding HRM. However, from the 1990s onwards, the rigidity of ministries' HRM and its lack of openness have been severely criticised, which led eventually to the introduction of several reforms aimed at reinforcing politicians' influence over high-rank bureaucrats' nominations. Nevertheless, the return of Abe Shinzō to power in December 2012 seems to have been the real turning point regarding this issue. Many unexpected bureaucrats' appointments have broken unwritten rules that were rather respected so far.

After reassessing the situation under the "55-year system", this paper analyses to what extent these nominations constitute a new phenomenon, and how the recent changes can be explained. We consider that despite an obvious voluntarism from the Government, and the creation in May 2014 of the Cabinet Bureau of Personnel Affairs, it would be overstated to speak of a revolution. In fact, these political interventions respect many of the old nomination habits, suggesting that senior civil servants' appointments are still resulting from a negotiation between politicians and ministries. We argue indeed that the prime minister's political stability determines to a great extent his room for manoeuvre regarding such interventions, probably more than the legal framework. In addition, although it might sound paradoxical, we think that his caution not to excessively antagonize bureaucrats in this negotiation process is precisely what enabled him to break other HRM traditions.

The Merit System versus the Spoils System

When facing the HRM issue in the Japanese public administration, and especially the politicisation of its nominations, one cannot forget to present two ideal-typical systems of recruitment in civil service, identified very early by political scientists: the spoils system (*ryōkansei* 獵官制), and the merit system (*shikaku nin.yō-sei* 資格任用制), also called career-based system. In the first system, high civil servants are nominated by politicians for political reasons, as they choose people whom they know to share their ideas or to be loyal to them. As a result, however, the staffers nominated in that manner are often quite unqualified and the risk of corruption is quite high. In addition, civil servants being replaced at each alternation of power, the administration cannot ensure the continuity of public services.

Strongly opposed to this "dilettante administration" (Weber 1963), so remote from his rational bureaucracy ideal, Max Weber advocated a merit system in which civil servants are professionals that are destined to stay in office for some time. They retain a status that they will keep throughout

their career (this is the guarantee of status, *mibun hoshō* 身分保障), and that will protect them from a discretionary demotion or an unjustified downgrading. According to the traditional conception of this system, recruitment is mainly (but not only) based on a competitive exam evaluating their knowledge and expertise. This guarantees a certain amount of knowledge, political neutrality and continuity in the delivery of public services. But this system has also some drawbacks: the administration is consequently excessively independent from the elected politicians, and can therefore open the possibility to resist the decisions made by the representatives of the people, jeopardizing the democratic principle. Although the didactic advantages of such ideal-types are undeniable, one can but only observe that today, the countries with a modern bureaucracy have in reality adopted a mixed system, some being rather on one side of the spectrum than on the other.

It has generally been noted in several countries that politicians' room for manoeuvre regarding recruitment, promotions and demotions is broader for agents occupying higher hierarchical positions in the bureaucracy than for those occupying a lower position¹. Unlike the latter, who are mainly in charge of the execution of public policies while respecting a certain neutrality towards the citizens, the former are in charge of elaborating these policies in collaboration with the politicians. It is therefore believed in some countries that politicians should be able to choose their collaborators so that the government's action can be effective without being constantly disturbed by internal feuds. But as in the spoils system, the politicisation of nominations in a merit system presents several dangers, which have often been put under the spotlight by the opposition or the media. The excessive shift of the selection criteria from agents' personal level of expertise to their social capital and ability to seduce politicians can lead to a lesser quality of the agents, a politicisation by contamination of lower levels, greater insecurity in careers and a loss of motivation for the staff. One of the consequences can also be the high-rank bureaucrats' reluctance to oppose their political leaders; in consequence, they become "yes men" (*hirame komuin* ヒラメ公務員, or "flatfish civil servants"). They are therefore deprived of what British journalist Hugo Young called "institutionalised scepticism" (Plowden 1994: 104), which can sometimes help to avoid some political mistakes.

¹ It is particularly true in France for positions such as administration directors (*directeurs d'administration centrale*) but also for those belonging to ministry cabinets), and in the USA for the Senior Executive Service.

The Case of the Japanese Bureaucracy from 1945 to the 1990s

After the war, under the supervision of the GHQ, Japan adopted a very strict merit system with no political appointees. Even now, if we compare the situation with other countries of the OECD, Japanese bureaucracy's recruitment system is the most characterised by a career-based system (alongside with the French bureaucracy's recruitment system). But, contrary to the French system, Japanese politicians' influence over the nominations at the highest positions in the bureaucracy was regarded as very limited. According to some scholars, this autonomy of the bureaucracy regarding HRM was one of the elements supporting the theory of a "bureaucratic domination" (*kanryō shihai-ron* 官僚支配論) over the decision-making process (Tsuji 1969). That being said, from a purely legal point of view ministers clearly hold the power to nominate, to promote, to downgrade and to demote civil servants of their ministry, with some restrictions due to the guarantee of status for the latter two (article 55, 58 and 61 of the National Civil Service Act, NCSA). In practice, movements of personnel were largely decided by the high-rank bureaucrats, and ministers usually rubber stamped the proposals (*jinji-an* 人事案) presented by the human resources division of their secretariat (*daijin kanbō jinjika* 大臣官房人事課) (Iio 2009: 40-42). If they tried to influence these nominations on political or personal considerations, they would risk infuriating the bureaucrats, who would see it as an attack on the two major values on which they build their professional ethics: political neutrality and expertise. The fact that bureaucrats disliked political interventionism in their human resources was often described in the media as a corporatist reaction from an elitist group that sought to preserve their privileges and their autonomy vis-à-vis the political power.

Despite the fact that scholars underlined that the Liberal Democratic Party (LDP) became more and more active in the decision-making process from the 1960's, the narrowness of ministers' room for manoeuvre regarding their ministries' HRM has rarely been denied (Muramatsu 2012: 78-79). Nevertheless, in Tatebayashi Masahiko's opinion, during the long period when LDP was in power, politicians of the majority were able to shape high-rank bureaucrats' preferences as much as if they had appointed them in a spoils system (2005: 209). In fact, without power-shift, bureaucrats could even have adopted as their own the ruling-party's preferences so that political interventionism in the HRM would have been unnecessarily risky (Nonaka 2012: 55). Moreover, Tatebayashi suggested that in this political context, a mechanism of self-censorship (*jiko sentaku* 自己選択) could have acted in such a way that students not sharing LDP's preferences chose

not to enter the bureaucracy in the first place. In addition, a mechanism of mutual selection (*sōgo senbetsu* 相互選別) could have, on the one hand, led superiors to promote subordinates who were regarded as able to collaborate with LDP politicians, and on the other hand put aside those who were not. If we can agree on the fact that such dynamics might have existed, one must not forget that LDP was ideologically extremely heterogeneous. Ministers and influential LDP backbenchers of specific policy areas (*zoku giin* 族議員) had different opinions and were sometimes opposed to one another, so it is hard to see how bureaucrats could have anticipated such blurry preferences to manage their human resources. According to several interviews we conducted with high-rank bureaucrats in January 2018, we could say that in the Japanese bureaucracy it is most likely that only few agents were anti-LDP, but it does not mean that the other agents were fervent supporters of the LDP². A bureaucrat explained to us that a senior civil servant working with an influent politician could have more chances to be promoted because the ministry would consider that it could use his trust relationship to convince the party, but if he or she was too close to him (*bettari* べつたり) and appeared to accept whatever this politician asked of him, he would, on the contrary, be seen as potentially dangerous and put aside. In the end, the safest behaviour for bureaucrats was to stay relatively neutral and respect their legal and deontological duties of loyal subordination (article 98 of the NCSA).

Some Insights into Assessing the Politicians' Power of Intervention over Bureaucracy's HRM

Assessing the extent to which Japanese ministers have been able to intervene in human resources in the years 1945-1990 is not an easy task. But in order to give a more nuanced analysis, we can distinguish three modalities of political intervention available to ministers: (1) the selection of a specific bureaucrat to appoint him to a position; (2) the demotion and the downgrading of a bureaucrat; and (3) the deselection or veto (i.e. the fact that a minister rejects the appointment of a specific bureaucrat to a position).

² That being said, two surveys conducted in 1977 and 1983 with bureaucrats showed that they were more conservative and that their support rate of the LDP was higher than the average in the Japanese society, especially among the students of the University of Tokyo. However, in 2001 support for LDP among bureaucrats clearly dropped (Muramatsu 2010: 81-88), following the general tendency.

1. The ministers' power of selection was quite limited by several obstacles. As explained above, bureaucrats were almost all career civil servants, so a minister could not appoint a person who had not passed the first category (*isshu shiken* 一種試験) national civil service examination³. The principle of seniority was also very strictly observed, so that a minister could only choose a bureaucrat whose grade was the same or just below the one of the position he wanted to appoint him to. Thus, even if a minister wanted to intervene in the nominations at the highest positions such as director general of bureau (*kyokuchō* 局長) or administrative vice minister (*jimu jikan* 事務次官), it meant that the remaining candidates available had all already been filtered by the ministry during their 25 or more years of career. Furthermore, the habit was (and still is) that almost every personnel transfer in the bureaucracy occurred at a fixed period (in June or July). It was then hard for a minister whose time in office was generally limited to one or two years, to weigh in such bureaucrats' appointments. The bureaucrats we interviewed added also that most of the ministers could not tell before having spent a certain amount of time in their ministry who to trust and who they wanted to appoint.

2. As for the ministers' power of demotion and downgrading, it is even more limited by the legal norms related to civil servants' guarantee of status (article 78 of the NCSA, article 7 and 7-2 of the decree 11-4 of the National Personnel Authority). A minister could still transfer a bureaucrat to a position of the same grade (*ten.nin* 転任) but of minor importance or obtain from him a resignation by negotiating with the ministry to offer him a position in the private or semi-public sector with a large retribution (*amakudari* 天下り). The risk of scandal was actually quite high, as was the risk of antagonising the entire ministry so it was in fact technically very difficult to stay in office after that. Although these took place in the 2000s, the cases of the Minister of Foreign Affairs Tanaka Makiko (2002) and the Minister of Defence Koike Yuriko (2007), who were in conflict with their administrative vice ministers and tried to demote them, are striking. In both situations, the prime minister had to resolve the conflict by obtaining letters of resignation from both ministers and administrative vice ministers.

3. Based on the interviews we conducted, it appears that the safest modality of intervention for a minister was to use his veto power to reject a specific bureaucrat that the ministry proposed. Indeed, the guarantee of status does not work in such a case. But according to the interviewees,

³ Before 1984, it was the upper category civil service examination (*jōkyū shiken* 上級試験), and it became the general employee civil service examination (*sōgōshoku shiken* 総合職試験) in 2012.

most of the time, the minister did not even have to use his veto power because if they knew there was a risk he would refuse an agent; bureaucrats would not propose his name in the first place.

What conclusion can we draw if we combine the analysis of these three modalities of intervention with our previous remarks regarding bureaucrats' behaviours and preferences? If we consider that the Japanese bureaucracy was mostly filled with agents supporting the LDP or at least politically neutral and professionally loyal, it is not surprising that most of them only used their veto power occasionally, when the filter applied *ex ante* by the ministry had not been efficient enough in their view. But had they tried to intervene in a more proactive manner, the ministries would have strongly opposed their ministers, as in fact happened on some occasions. Although according to some scholars it was useless for LDP politicians to intervene actively in bureaucrats' appointments, it seems that if they could, they would have done so, considering the numerous reforms aiming at reinforcing the ministers' power of intervention in bureaucracy HRM that were debated afterwards.

The Reforms: Centralisation and Politicisation

Since the end of the 1990s onwards, we have been able to witness several reforms aiming at widening the politicians' room for manoeuvre and breaking some nomination habits regarding high-rank bureaucrats. Some reforms largely inspired by the new public management were supposed, among other things, to open the bureaucrats to the private sector; to foster the movement of personnel between ministries in order to reduce the compartmentalisation of the bureaucracy (*tatewari gyōsei* 縦割り行政); to introduce notions of results and performance in career development; and to regulate *amakudari* practices. At the same time, we have seen a double phenomenon of centralisation of the HRM toward the Cabinet and a reinforcement of the prime minister's influence. We can observe the same tendency of centralisation of the HRM for the highest positions in the USA with the Senior Executive Service (1979), in Great Britain with the Senior Civil Service (1996), or in the Netherlands with the *Algemene Bestuursdienst* (1995). But whereas the agencies in charge of the HRM of high-rank bureaucrats are relatively independent from the government in these cases, the centralisation of this HRM is directed towards the core of the executive branch in Japan. From the year 2000 onwards, the appointments of bureaucrats to positions of a grade equal or superior to director general of bureau have to be examined and approved by a

committee (*kakugi jinji kentō kaigi* 閣議人事検討会議⁴) composed of the prime minister, the chief cabinet secretary and the three deputy chief cabinet secretaries. Before that, the nominations at these positions (about 200) were merely acted during cabinet meetings without proper control. But the most important reform regarding this issue was the creation of the Cabinet Bureau of Personnel Affairs (CBPA) (*naikaku jinjikyoku* 内閣人事局) in May 2014, after long discussions started at least in 2006. Since May 2014, this bureau has been supervising the nominations and promotions of 680 senior managers (*kanbu shokuin* 幹部職員)⁵ in every ministry. The bureau examines agents' personnel assessments made in each ministry for aptitude to become senior managers (*tekikakusei shinsa* 適格性審査). Two CBPA bureaucrats explained to us that this examination is a mere formality as ministries usually give good evaluations to the agents they want to promote. Things are different though for the candidates coming from the private sector, which is rare⁶. A list of candidates that can be appointed to a senior manager position (about 1100 agents) is then sent to all ministers, who will have to pick up names in collaboration with the prime minister and the chief cabinet secretary. One of the goals of the centralisation of senior managers appointments was to foster movement of personnel between the ministries for the highest positions (as the list contains all the candidates, regardless of their ministry of origin), but there is not much change as the proportion of senior managers working in a different ministry is still around 25% (about 170 agents), most of them being detached in the Cabinet Office (*naikakufu* 内閣府) or in the Cabinet Secretariat (*naikaku kanbō* 内閣官房) to deal with an issue related to their ministry of origin. Another goal was to reinforce politicians' influence – and especially that of the Prime Minister – over high-rank bureaucrats' appointments. The Japan Federation of National Service Employees in a document addressed to the Prime Minister on 7 October 2013 expressed its concern regarding the possible undermining of the principle of civil servants' political neutrality written in the article 15 of the Constitution. Although it is mainly symbolic, the fact that the Prime Minister Abe decided that the director general of the CBPA would be a political deputy chief cabinet secretary (*naikaku kanbō fukuchōkan seimu tantō* 内閣官房副長官政務担当), and not the administrative one (*jimu*

⁴ From May 2014, the name has changed to *jinji kentō kaigi*.

⁵ Senior managers occupy positions of a grade equal or superior to director of department (*buchō*).

⁶ For example, since its creation in 2015, the director general of Japan Sports Agency (*supōtsuchō chōkan*) is Suzuki Daichi, a former swimmer who won a gold medal in 1988 Olympics in Seoul.

tantō 事務担当) as initially planned, was seen as another expression of this tendency to a more active political intervention over high-rank bureaucrats nominations (Tōkyō Shinbun, 20 May 2014). One could argue that since 2017, it has been the administrative deputy chief cabinet secretary who occupies that position, but he happens to be also very close to the Prime Minister Abe.

Recent Developments under the DPJ and the Abe Governments

As mentioned before, reinforcing politicians' influence over bureaucrats' nominations was not a new idea. In 2009, when the Democratic Party of Japan (DPJ) won general elections, one of its slogans was to end politicians' excessive dependence on bureaucracy (*datsu kanryō izon* 脱官僚依存) and to create a true politician-led government (*seiji shudō* 政治主導). The Prime Minister Hatoyama Yukio had even declared before the elections that he would demand the resignation of all directors general of bureau and administrative vice-ministers after the alternation of power (Zakowski 2015: 55), but he eventually did not, fearing that it would create much discontent in the bureaucracy. However, he tried to pass a bill intended to put every senior manager position at the same grade, so as to enable a politician to practically “downgrade” an agent without any consideration for his guarantee of status, as it would have officially been regarded as a transfer at the same grade (*ten.nin* 転任). The bill was never passed – partly because it tried to bypass the guarantee of status – and in the end, one has to admit that during the three years it remained in power, the DPJ did not intervene in ministries HRM much more than the previous LDP governments. Maybe Hatoyama Cabinet's inability to surround itself with trustworthy bureaucrats led it to evict bureaucrats altogether from the decision-making process, instead of using them. But even if ministers could have been entirely free to appoint whoever they wanted, a Diet member from the DPJ and a former bureaucrat of the Ministry of Economy, Trade and Industry (METI) confessed that most of them did not know who to pick up (Shiozaki 2013: 76-77).

Since the return of Abe Shinzō to power in December 2012, journalists have frequently emphasized the interventionism of the Prime Minister and his staff in the appointments of senior civil servants. These journalists usually applaud the increasing number of women appointed to the highest positions in the ministries, although the percentage of women senior managers was still at 3.8% in 2017 (while the objective is to reach 5% in

2020)⁷. But the observers especially draw attention to the particular number of appointments of bureaucrats described as “close to the Prime Minister”, speaking every year since June 2013 of “extraordinary” or “surprising movements of personnel” (*irei na jinji idō* 異例な人事異動 or *sapuraizu jinji* サプライズ人事) that break many nominations habits (Makihara 2016: 102-107. In fact, it would be more accurate to say that nominations habits are not as rigid as before – which creates more uncertainty in bureaucrats career development – but it seems that the Prime Minister Abe and his Cabinet Chief Secretary Suga Yoshihide remain careful not to antagonise bureaucrats excessively. There is a growing number of exceptions, but the seniority rule is still generally respected. There are very few agents skipping one grade (*tobikyū* 飛び級) when being promoted to a higher position in the ordinary national civil service (*ippan-shoku* 一般職). There are some exceptional cases, such as the nomination in 2017 of Saiki Kōzō (42 years old) as executive secretary to the Prime Minister (*naikaku sōri daijin hishokan* 内閣総理大臣秘書官) who is about ten years younger than the other executive secretaries, but this position belongs to the special national civil service (*tokutei-shoku* 特別職), for which political appointments are allowed (they are not protected by the guarantee of status). Abe had known him since 2007 and decided to appoint him to be in charge of the writing of his speeches (in Japanese). Twenty years earlier, in 1996, the Prime Minister Hashimoto Ryūtarō had appointed Eda Kenji (45 years old at that time) to the same position because he was his administrative secretary when Hashimoto Ryūtarō was minister of International Trade and Industry (1994-1996). Therefore Saiki’s nomination was not as unprecedented as it might seem. That being said, it is obvious that one of Abe’s strengths is that he personally knows from the time he was in office (2006-2007) some bureaucrats who now have reached higher positions. This includes for example his First Executive Secretary Imai Takaya, whom he trusts and relies on regarding METI’s movements of personnel, according to a bureaucrat of the ministry we interviewed.

But as mentioned before, Abe is far from being entirely free to nominate whoever he wants. In 2013, although he wanted to appoint the director general of the tax bureau as administrative vice minister of Finance, the unwritten rule was that the director general of budget bureau was to occupy

⁷ Cabinet Office, “Dai yon-ji danjo kyōdō sankaku kihon keikaku” [The Fourth Basic Plan for Gender Equality], 25 December 2015, p. 13: http://www.gender.go.jp/about_danjo/basic_plans/4th/pdf/print.pdf. Accessed 2018.02.24.

that position. Abe decided then to respect the rule and to transfer the director general of the tax bureau to the budget bureau so that he could appoint him the next year. In 2015, newspapers were surprised that for the third consecutive time, a bureaucrat who entered the ministry in 1979 was appointed administrative Vice-minister of Finance. The following year, bureaucrats of the ministry succeeded in getting Satō Shin.ichi, who was director general of the tax bureau at that time, appointed as administrative Vice-minister, although he had strongly opposed the government's idea to postpone the raise of the consumption tax to 10%.

Conclusion

We can clearly see that even if political interventionism in ministries' HRM is more important than before and not limited to the use of veto, senior managers' appointments still result from a negotiation with the ministries. Moreover, the stability of the Cabinet and the political aura of the Prime Minister still determine his room for manoeuvre to a greater extent than the legal framework. In fact, the institutional change of May 2014 is not sufficient to explain the recent break of HRM habits and we argue that it should be, before all, regarded as the expression of an evolution in the mentalities and the power balance between bureaucrats and politicians, even though it will certainly contribute to the consolidation of the Prime Minister's power over bureaucracy's HRM and reinforce the idea that such consolidation is more democratic. The recent clash between the government and the Administrative Vice Minister of Education Maekawa Kihei regarding the so-called "*kake gaku*en scandal"⁸ indicates that bureaucrats are paying more attention to the Prime Minister's intentions than before – whether clearly expressed or implicit (*sontaku* 忖度) – and we can fairly assume that this is partly because they know that his power over their careers has increased. But at the same time, this shows that this power is not unlimited and that high-rank bureaucrats can still resist and protest – essentially by leaking information – especially when they feel that the general interest is endangered by politicians. In the end, with this scandal and the rise of criticism of Abe's unilateral power (*Abe ikkyō* 安倍一強), it seems that after twenty years of reforms that reinforced

⁸ Maekawa Kihei alleged that the Cabinet Office have pressured the Ministry of Education (MEXT) by citing the intent of the prime minister in approving the creation of a Faculty of Veterinary Medicine at a university run by Abe's close friend, although the project did not meet any of the four criteria. Even though there was no direct order, bureaucrats from the MEXT followed what was implicitly presented as the Prime Minister's intention. After that, Abe's support rate went down in the poll, but he nevertheless managed to win the general elections of December 2017.

the Prime Minister's political leadership and control over bureaucrats, some Japanese citizens are beginning to understand that such top-down leadership and political control over the bureaucracy also comes with disadvantages.

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