

The QoG Podcast

Ep 10, Jennifer L. Selin: The US public policy debate

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Victor Lapuente:

Welcome to the podcast for the quality of Government Institute, where we have conversations with well known experts who try to make sense of politics and governments all over the world. I am Victor Lapuente, professor in political science at the University of Gothenburg, and today in the podcast we have, political scientist Jennifer L. Selin, a well known scholar of public administration and market regulations, formerly professor at the University of Missouri, University of Illinois. She also has been at Vanderbilt University. She was the Co director of the Washington, DC Office of Levin Center, and now it's at the Administrative Conference of the United States. Welcome to the podcast, Jennifer. It's great to have you here.

Jennifer Selin:

THqank you, I'm excited to be here.

Victor Lapuente:

And the first question is, what is the Administration Conference of the United States? What is also the Levin Center? Because, I mean, we lack these kind of institutions probably in other democracies outside the US and I think they could be very important for public debate on issues related with public policy in general and public administration in particular.

Jennifer Selin:

So I'll start cronologically with Levin Center. The Levin Center was established by one of our former United States Senators, Carl Levin. After he retired from the Senate, he wanted something to help improve governance, and so he set up an institute within a university to promote the legislatures ability to Investigate and and learn the truth about the state of the world in the hopes that that will help them both write better legislation and oversee the executive branch in a more high quality manner. So what I did with the Levin Center was work with both state and federal legislators and helped train them on how to interact with the executive branch of the US government and then from there I moved over to the executive branch actually so I work in the Biden administration and I am an attorney there and what my agency does, the Administrative Conference of the United States, is that we are a legal agency that advises all of the other agencies and the federal government on how best to achieve their mission. So how do agencies like the Environmental Protection Agency or the Department of Agriculture work within their statutory mandates to work within the law and still promote good public policy.

Victor Lapuente:

Thank you very much. You are having in Washington, lots of advisory institutions, lots of think tanks that advice, give pieces of advice, to legislators, to the executive that provide lots of information to the media, and to the academia on public policy. But the question is how is it possible that given all this knowledge, the public debate in the US has become so stupid? Let's say we...you've seen some terminology of Yoshua Monk or Jonathan Hyde, so why we live in this moment in which public policy has been subject to the post truth drama, why we have more institutions providing more facts. On

which sustain different opinions and we do not argue about opinions, but we actually argue about the facts. So what has gone wrong in the US and public policy debate?

Jennifer Selin:

Well, that's a very big question. I would say that if you look at what's covered by the news, you would say things are out of control and crazy like like you said. But if you, some of my own more contemporary research has shown...one piece I have that's forthcoming actually shows that there is a lot of nonpartisan working together in Congress and in the executive branch. Working together is actually more frequent than these like big policy clashes, but because the nature of the debate right now in the public arena is very contentious that's what gets covered. So I would push back a little bit against anyones idea that like Washington is incredibly dysfunctional. That is true in certain respects and not true in other respects.

So one of the things that was very frustrating to me work on the hill in Congress, was that people, when speaking even at private events, like at advocacy groups or working with nonprofits, it seems like they had a script and they couldn't get off of it. So they just kept saying the same thing over and over again. And then that perpetuates this problem of craziness. Like if you only have one line and you keep saying it over and over again, you're not willing to listen to the other side, then that creates a problem. But here, say in the Administrative Conference of the United States, the entire agency on a daily basis is all about problem solving and working to improve the efficiency and accountability of government and even our most contentious debates over really big policy issues are both bipartisan and very respectful, and ultimately we come to a conclusion and there's a lot of compromise. And again, that sort of thing, compromise doesn't really get a lot of media coverage because it's not entertaining. Like oh, yeah, whole group of people got together and they agreed on something. So that's my take on it.

Victor Lapuente:

Yeah, that is very interesting because that breaks up the image that we have on the US administration. Which is your hypothesis on how could you prevent at least big chunks of the administration of some executive agencies from being trapped in the increasing polarization we see in in politics, as you say at the level of speeches in the Congress or in the daily workings of of elected politicians.

Jennifer Selin:

I think it's a tricky thing because there's a need to balance responsiveness to the public, in which case any administration needs to be sensitive to their constituents and that can, but at the same time, that can lead to pandering and the boiling down of the issues to really overly simplified situations, which then allows for this sort of polarization and fighting. So you need being responsive to constituents and including constituents and debating with constituents, but at the same time be able to take a step back and recognize when that sort of debate is not helpful and where that line is something that scholars have been studying for years. I will say that in my experience at least, working in government right now, even the most politicized agencies are only politicized in certain respects, but these are very, very large agencies, so you might have a group of people who are at the top who are very politicized in the way that we were traditionally think, but the rest of the thousands of employees who are in that agency just go about their jobs and are truly trying to make public policy as as best they can to to really improve good governance.

Victor Lapuente:

Having said that, one of the things that emerged from the US administration, at least from outside, was this idea of Donald Trump that the administration in the US has an entrenched interest has a

deep state. And there was this debate that, OK, why shouldn't Trump? Because he represents millions of voters. Why shouldn't he be able to fire Fauci, for example, or some other high-ranking official and some National Health Agency for contradicting him? Why should the, for example, the Congress try to protect the directors of this various part of the administration simply because we don't like maybe Trump and I don't know, from the outside this is kind of a terminal debate and kind of reversion of Andrew Jackson kind of father of the spoil system in the US in the 1830s with his idea of the government of the common man. Now it would be the common person. Well, maybe the common man for Trump. Anyway, but why this problem has not been increasing is it? Is it false this accusation from Republican from Trump is particularly that the agencies, maybe, as you say, they are only slightly biased, but they are biased towards towards the left?

Jennifer Selin:

So I think that this is a perpetual problem. Trump brought it to the forefront right, like it was part of his message to his constituents in a way that other presidents haven't chosen to raise this issue to as high of a profile, but every president has had to deal with the fact that they might want to fire someone who is protected and cannot be fired, or they've gone ahead and fired someone that it's a little bit questionable whether they had the power to do so. And that's been both on the Republican side, on the conservative side and also on the on the Democratic side, the liberal side. What my research on independent agencies and the literature on this more generally has said is that when Congress is to decide how to insulate an agency from this sort of these big political swings, like if we go from say President Trump, to someone like Bernie Sanders, there is inevitably going to be these big policy swings that come with a new president and to a certain extent, with Congress too, when there's a wave of new people coming into Congress, they have different ideas. They want to pass new legislation. What we have found is that both Congress and the President will come to an agreement and credibly commit to tie their hands to prevent future leaders from exerting their political influence over certain agencies. Because that's what's in the best interest of the country. So we tend to see this occur with really highly complicated policy areas. For example, in the United States economic policy, most of the agencies, the leaders of those agencies, are not, they're not able to be, I mean, the president and Congress can't remove them. Once you're appointed, you can serve for 7–14 years and unless you just fail to show up to your job or you're grossly incompetent then you cannot be removed from office, and the idea behind that is we don't want our economic policy tinkered with for political reasons. I mean, inevitably, there's politics and everything, but we want to insulate that for a little bit and with the one of the debates in the United States right now is what to do with healthcare, and that's a pretty difficult one because many of the healthcare agencies in the United States, well, healthcare in the United States is just incredibly complicated to begin with, but many of the healthcare agencies deal directly with constituents and others are highly scientific and are, like Doctor Fauci, really driving important policy standards when it comes to infectious disease. So how do we protect the scientific aspect from political tinkering but still maintain that connection to constituents who rely on these same agencies to get healthcare benefits and support if they need financial support in order, if they go to the hospital or something like that. So it's a pretty, very tricky balance.

Victor Lapuente:

You are pointing out the issue of politicization and firing civil servants, but there is also the civil servants that remove themselves. So the politicization of the pandemic drove basically many career government scientists out of the National Health agencies. They resign about over their frustration with the Trump administration because of his disregard for scientific expertise. Have these people come back? We know that the Biden administration have been able to recruit very promising and and highly reputed scientists like you. But do we know something about people? Are people

coming back to the Biden administration or in some way there is a loss of reputation of working for the private public sector because this is what we see in many European countries, they are in a city of public agencies to attract young people. I mean 20–30 years ago you asked a class of highly motivated students at the university who wanted to make a difference in the world. Almost everyone invariably chose some public sector type of job, either in politics or in the administration, and so nowadays they want to go to, NGO's, they wanna even to go to the high tech companies. They think they might make a difference in a high tech company actually, when government is more important now than it was 20 or 30 years ago because it managed more a larger part of the economy and and regulates the the other half. So I would like to ask you about that in the US, at the other side of the Atlantic.

Jennifer Selin:

I think we have that same problem in the US, although I don't know 100 percent. I don't have the statistics in terms of how many people have come back and what government looks like now. I think that there are a couple of factors that certainly there was in particular agencies like health agencies in our State Department which does foreign affairs during the Trump administration, there was also a sort of mass exodus. A lots of turn turnover and but I think you're right, still people have a desire and a need to work in public affairs, in some capacity and then it's just kind of how they figure out where is the best fit for them. I think the Biden administration for a group of like minded individuals are more like though that same group are likely to come back into government and and in some ways that's the same whenever there's a change in party at in the president's. Inevitably, that President will talk to us particular group of individuals and and those people may or may not decide to join public service. I think what we see in Congress is it still highly competitive to get to work as, say a staffer or on a committee or something like that. But there is a pretty high burnout factor and it's well known that it's a pretty toxic environment and that has been a perpetual problem in Congress, in federal agencies, it is more there's not like a common threat in terms of toxicity or good or bad places to work. It is agency by agency, but a consistent theme both across the legislative and the executive branch in the United States is just the pay. And so when it comes down to dollars and cents, if someone and it's not a small difference, it's a very large difference, so if you could do the same work and get paid twice as much for working for a private company I mean, that's twice as much as our lot. It's not an additional \$5000, right? And so, so there's been lots of discussion about how to make federal service more attractive in that way and President Biden has been trying to raise the the pay scale across the federal government to make it more attractive to both recruit and to retain the people who work in government.

Victor Lapuente:

Which is a tricky thing to do because you know that there are many experiments pointing out that it's not very clear which is the effects of salary and increases are in terms of both more or less motivation or attracting the right type of people, or actually you only attract careerists and not people who really want to serve the public. Continuing with this idea that you have already mentioned before in your previous research on the control oversight of the bureaucracy I mean, who controls the the bureaucracy? According to the New York Times, the control of the bureaucracy is a comedy that invites a fresh national tragedy as you know, but together with Yoshua Clinton and David Lewis at Vanderbilt University, you try to answer this question that for a long time has been occupying researches - does the President or the Congress have more influence over policy making by the bureaucracy in the US.

Jennifer Selin:

So in the US, the bureaucracy is solidly attached to the Presidency. Hierarchically you start from the

President, everything flows from there. So on a daily basis, both surveys have suggested over the course of decades as well as both anecdotal evidence and qualitative evidence suggests that on a daily basis, agencies probably are a little bit more sensitive to the President's needs. There are good reasons for that. Most agencies are led by people who can be hired or fired by the President. Congress doesn't have that authority, however at the same time, in the United States, Congress is the one who ultimately funds the agencies. So there is pressure across the executive branch to demonstrate a certain level of productiveness to Congress so that they are more likely to give you more funds and so many agencies think about that. So the incentive structure there is to respond to Congress in a very specific way, knowing that Congress will want to have very tangible things that they can point to their constituents and say, this is what this agency is doing. And so agencies 100 percent are responsive to Congress in that way.

Now what some of my work has suggested is that when you think of the President and Congress, it is sort of one thing right? Like is an agency responsive to Congress or the President? That's one consideration. But in the United States, what's happens is that oversight and political control are divided amongst many committees within our legislature. And as the power to direct an agency gets diffused across multiple different committees who all want different things from the agency, Congress ultimately loses a little bit of its authority because now instead of it just being one legislature against one president against maybe four or five different committees with four or five different subcommittees, with hundreds of legislators attached to them, who are all pulling the agency in a different way. And so if the agency has to pick something to follow it's much easier to hear the President's message.

Victor Lapuente:

It happens with the Congress, like with the European Union in foreign policy - there's not very clear which is the telephone you have to ring to talk to so.

Jennifer Selin:

That's a very good analogy.

Victor Lapuente:

Yeah. Which I don't know if this is too much, which would be your proposal for change, but I would like to know a little bit your thoughts on the comparison with the other type of administrative control, the one that we have in Westminster, democracies and parliamentary democracies. I mean, I think it's kind of a myth but a lot of people say that, well, the control is easier because here we only have the executive. The executive emerges from the parliament, like in the UK that would be kind of electoral dictatorship, so the Prime Minister, who enjoys a large majority or in principle traditional, large majority in the House, then they decide on the bureaucracy and that one of the good side effects would be that you have a relatively low administrative burden so you don't need to write down very clear instructions to the bureaucrats because the boss is the one, let's say writing instruction. So the instructions to the bureaucrats would be the most efficient ones.

On the contrary, in the US, the Congress is writing the instructions, but the executive is overseeing and controlling the the fact of the bureaucracy. And then there is this excess of administrative procedures and this would have led to this relatively high on red tape administrative procedures act that you have in the US, always surprise me because I remember that many Southern European countries and Latin American countries, in particular the case of Spain, they literally copy the Administrative Procedures Act that is meant to be kind of a monster son of the separation of powers in the US and actually it was copied by dictator Franco in the case of Spain, so the most dictatorial authoritarian executive ended up reproducing the same. Clearly that could be a problem of the

system of separation of powers when it comes to control of bureaucracy, but I would like to know your view on this.

Jennifer Selin:

Well, when you were asking this question. What is interesting is when I was thinking about what the US system would look like if it was a sort of Westminster system like you just described, I thought, well, OK, what are the agencies that are traditionally? You know when do we hear about problems? And it turns out that those are the agencies that tend to be the most politicized, that do change very often with the political tides. So our Environmental Protection Agency, when you have a Conservative President often there is a different there.

Victor Lapuente:

Reagan. Yeah, or Trump?

Jennifer Selin:

There is a different type of leadership in that agency and a different type of focus on that agency than there is when, say, there's a democratic president like President Obama and so, what is interesting is that those same swings, the same changes in policy would still occur under a Westminster system. It would just be that the only difference is that the swings are coming from the legislature. But more broadly thinking about the effects of political change on administrative agencies, I feel actually pretty comfortable with the way that the American separation of power system is set up and the way that administrators operate within that system, things like the Administrative Procedures Act, ironically, were initially passed to facilitate more interaction with constituents, and as you point out, they are incredibly burdensome and they are really only facilitating interaction with a very specific type of constituent, and those are people who have a lot of money and talent and are able to hire law firms to represent their interests.

And so I think that there are things that could be done to reduce the administrative burden, to encourage more agencies and administrators to interact with constituents and perhaps the Westminster system does that because things are more attached to the legislature, which does seem to have a feel for more connection to the average citizen. But at the same time, when you do that, you do lose a little bit of the independence and insulation that often fosters a specific type of expertise that we need when we're developing public policy.

Victor Lapuente:

That's a very good point, Jennifer. I think that there is a lot of connection between the bureaucrats and the regulated agents in a society and in parliamentary systems, and I can think that a good measure, at least in some European countries, is to look at the number of high civil servants who sit in the board of directors of large companies in the stock market. Companies whose future, whose prospects, depend a lot on government regulation and by chance, they do not only have politicians, which is normally the case, but they have in many countries large numbers of civil servants. So in some way the connections with civil servants seem to be more important for businesses that connections with a particular political party makes sense, and civil servants might be there for life. They enjoy this kind of 10 years absolute 10 years in some of these on these countries.

This leads me to the issue of the independence of the civil of the agencies. You have been studying the independence of agencies and trying to measure that and providing a novel measure of independence and I would like you to explain to our listeners, how can we know that an agency is independent from government, from politicians in general?

Jennifer Selin:

Well, we can never know for certain, that's number one. But what my research really stresses and what I stress when I am, say, advising legislators who are considering creating a new agency or thinking about how to alter the organization of existing agencies is that there are so many different ways that agencies can be designed. So with David Lewis, I have catalogued over 67 different features, different design features across the federal government, so some agencies will have one of these design features but not another. And we can group those design features in two categories that either facilitate a little more interaction with the President or a little less interaction with the President, a little more interaction with Congress or a little bit less interaction with Congress.

And so ultimately, what ends up happening is that this is a strategic decision that politicians have to make. How insulated do we want an agency to be, and what does that mean? Do we want the agency to have the ability to raise its own funds, which then sort of removes it from congressional control, do we want to protect the leaders from being able to be fired by the President? That's something that would remove an agency from the presidential control, and every agency looks different. And there is a conscious decision by politicians when they're designing the agencies, you know, inevitably we it is a product of compromise, so there's never going to be a purely independent agency and there's never going to be a purely political agency. It is all Shades of Grey, shall we say.

And one thing that my research has not done up to this point, although will it is something I'm currently working on is then thinking about well, given how an agency operates within both its statutory framework in terms of how responsive it is to the President and how responsive it is to Congress. There's also a third branch in the federal government in the United States, and that's the court system. And so in some preliminary research, what my co-author and I find is that Congress actually thinks about this when they're constructing the ability of the courts to review agency policy so often if politicians insulate an agency from political control, they often grant the courts a lot of authority to oversee the public policy and review the public policy of that agency. So it's a really complicated but really interesting story and it's really fun to think about all the different ways that agencies can be structured to to make them more or less responsive to various actors.

Victor Lapuente:

So ultimately, the politicization of bureaucracy ends up with the judicializing of politics. I think that's a problem that we see in many democracies, and actually in many cases members of the Congress are happy to know that it's going to be the judges who take the decisions that might be, I mean they can blame the responsibility to the judges for those controversial decisions, at least in, for example, issues of abortion and so on. The conservatives in Europe have relied quite a lot on the constitutional culture, or what we call constitutional court, and you call Supreme Court. I would not like to finish without talking about something very particular of the public administration down to Earth, down to the street level bureaucrat because you have also been doing research on that, and in particular on a very important part of the administration, which is teachers. And you have been looking at the turnover of teachers and I think that's very important and one thing that surprised me first of all is like the annual rates of employee turn over in general for federal employees in the US seems to be between 13 and 14 percent and 16 percent for school public teachers. Is that a lot? Is it too little? How would you compare that? I mean, with people in the private sector or which kind of lessons can we learn from this turnover?

Jennifer Selin:

So, and I think that the teacher turnover might even be higher post COVID because there it was an incredible amount of stress on our public school teachers during COVID and still afterwards, like currently as students are getting back on track and and overcoming the learning gaps that inevitably

occurred during a really, you know, during a pandemic, I think that the important comparison is to compare public servants more generally. Because the pressures on them are slightly different than those in the private sector, both in terms of pay, which we've discussed, in terms of things like whether someone can be hired or can be fired or promoted and how restrictive the human resource policies are with respect to that.

What we find is that turnover tends to occur in many ways for non pecuniary or non financial reasons. And my opening example of COVID and teacher turnover probably being high right now is a perfect example. It's just not healthy or worth it to continue in public service if your work environment is not very good or you are overburdened. As a public servant you are constantly striving to be better and to make your organization better, but you are surrounded by people who don't seem to be putting in the same amount of effort and and we all experienced that. But those, those things, the distribution of of those stresses and those frustrations really do depend on how long you stay in an agency. And so what we would really encourage those who study street level bureaucrats to think about is what are the factors that make someone happy in their job and not, and a lot of the literature from public administration tends to focus on this thought that public servants are motivated by a commitment to public service, and that is certainly true. But many people in the private sector, as you pointed out earlier, are also motivated by public service. They've just made a different decision for either financial or other reasons. And so moving beyond that and really thinking about the environment in which public servants work is incredibly important.

Victor Lapuente:

You're pointing out something that is very important, both out of the Atlantic I think, or in the whole world which is this prevailing idea that the new teachers should have fixed salaries but relatively low, because then do we make a low initial investment in the profession and then when they get older they get higher salaries. This idea of differ compensation. So we don't pay them much now but they will have better payment and better pensions than in the private sector, but this leads us, as you also have been doing research to this idea of sink or swim mentality which new teachers with very low pay, they are thrown into isolated classrooms with very little support. And in that sense, turnover kicks in maybe. Is the turnover affecting more teachers with certain ethnic backgrounds: hispanics, blacks and so on, because representative bureaucracy seems to also be an increasing field of research in public administration, and some research shows that actually a more representative bureaucracy leads to better outcomes for their represented groups, such as higher test scores for girls with a female teacher, higher likelihood that black students are proposed for gifted programs when taught by black teachers or better treatment of minority citizens by police officers when having more police officers from those ethnic minorities. But other studies actually indicate the opposite such an increase in racial profiling in the police divisions with more minority officers.

What do you make of this research on representative bureaucrats and the importance of having a representative progress, in particular in the teaching profession. Which is your expertise?

Jennifer Selin:

Well, obviously, representative bureaucracy is incredibly important and in in an educational setting in particular because it is, it has been well documented that often we subconsciously or consciously need to see someone like us in order to believe that we can do something. So I am a woman. If I am taught by a super intelligent mathematic wizard, I see a woman doing incredibly smart math and that might motivate me in a different way than if I saw someone who didn't really look like me doing that same thing. So from from that perspective, from a mentoring perspective and an example perspective, I think it is absolutely important that we have a representative bureaucracy.

We also know from studies that we all have different backgrounds and we bring our backgrounds and experiences in ways that we don't even may be conscious of to our daily work and the way that we interact with others is informed by our previous experiences. And so in that way it's also very important to have a representative bureaucracy. Now going to the negative example it is more complicated than that because one has to look at the statistics that you've cited and say, OK, well, what's going on in that organization? Is that just a really toxic culture in general? So this isn't a question of representative bureaucracy. This is a question of a really toxic workplace that is attracting people of a certain type and or maintaining a people of a certain type. So I think thinking about socioeconomic status and demographics is incredibly important. But it is thinking about socioeconomics and demographics in context of the organizations in which one works.

Victor Lapuente:

Thank you Jennifer for your thoughts on this and for a fantastic conversation. It has been a pleasure talking to you and I hope we have the opportunity to discuss further. I don't know are we going to have a new president? But apparently Biden is going to announce, maybe today?

Jennifer Selin:

He did this morning officially, officially this morning. Breaking news!

Victor Lapuente:

Breaking news that reached this side of the Atlantic as well. That means that you're gonna stay in an executive agency trying to make sense a little bit of the complex American bureaucracy that will have been worthwhile. Thank you very much Jennifer. Have been a pleasure and great to have you here at this podcast.

Jennifer Selin:

Thank you so much for having me.