

A Reasonable Public Servant: Constitutional Foundations of Administrative Conduct in the United States

Lee, Yong S., with David H. Rosenbloom. NY: M.E. Sharpe, Inc. September 2005; 320 pages; paperback (ISBN 978-0-7656-1645-6), \$34.95; hardcover (ISBN 978-0-7656-1644-9), \$88.95.

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Students enrolled in introductory public administration courses often grapple with the not always apparent linkages between the Constitution and the day-to-day functions of government. This compelling book offers future practitioners an extraordinary glimpse into the workings of constitutional law in the context of administrative practice. But this book should not be reserved for college freshmen. It's a readable, accessible book that should benefit any future or current public sector employee or member of the general public who is curious as to what motivates the behavior of public servants.

"Reasonableness" is a constant theme throughout the book, reinforcing the tension between personal responsibility, the collective demands of society, individual rights, administrative theory and actual practice. The authors bridge three disciplines (public administration, human resources management and administrative law – occasionally venturing into ethics and organization theory as well) as he attempts to reconcile the tension between the promises of the Constitution and the more pragmatic concerns of government, which he defines as maximizing the values of "economy, efficiency and effectiveness in providing public goods, services and regulations" (8).

The book is divided into four parts. Part I explores the constitutional foundations of public service. The introductory chapter frames the discussion by identifying the principles that lie at the heart of constitutional law. The authors pay particular attention to three of those principles, the first of which is contractarianism, the premise that the Constitution is a contract among "we the people" that simultaneously empowers and limits government (4). Viewing the Constitution from this contractarian perspective, the reader gains an insight into why the Founding Fathers enumerated the powers of the federal government. This

perspective also exposes the disconnect that often occurs between the expectations of the public and the constraints on governmental power.

The second principle is that incursions on constitutional rights "must be necessary and bounded" (4). While no enumerated right is absolute, he argues, any government action that infringes on constitutional rights must be justified. This principle has been tested repeatedly since the passage of the Patriot Act, but the book does not address this legislation. It's a glaring omission, although it might reasonably be argued that the focus of the book is on the public servant rather than on any particular policy. Nonetheless, the Patriot Act has had such an impact on the contractarian principle that it merits some mention here. The third principle is that the Constitution is always a work in progress; it continues to endure precisely because it is a living, evolving document that is subject to change to suit the demands of a changing society. Part I also confronts the potentially conflicting challenges of personal responsibility and official responsibility.

Part II focuses on the constitutional rights of the civil servant, including procedural due process in the context of public employment, liberty and property rights of public employees, freedom of speech (specifically the right to criticize one's employer), right to privacy, equal protection under the law and affirmative action. Part III turns its attention to the public employee's civil rights. Here, the authors address discrimination in public employment, covering such issues as discrimination on the basis of race, color, religion, sex or national origin, as defined under Title VII of the Civil Rights Act of 1964. While sexual harassment and the Americans with Disabilities Act of 1990 are discussed in detail (a chapter is devoted to each topic), the book does not grapple with the more controversial issue of gender discrimination, which seems like a major oversight in our current social climate.

In spite of that small lapse, these two sections are the book's greatest strength. Whereas most textbooks on the Constitution stress the rights of the people, this book delves into the impact of the Constitution – and complexity of constitutional law – on the public servant. Each chapter in these two sections is augmented with cases drawn from administrative law. The cases help to illuminate salient aspects of administrative theory and practice.

Part IV concludes the book by using the lessons of the previous chapters to offer the reader a glimpse into the complex world of the "reasonable public servant." The author defines the "reasonable public servant" as one who "exercises those qualities of attention, knowledge, intelligence and judgment that a constitutional democracy expects of a reasonable person under like circumstances" (282). The authors conclude that the reasonable public servant serves three "constitutional masters" (the executive, legislative and judicial branches of government) as well as the public, but stresses that the people are "the ultimate master in constitutional theory" (231). A reasonable public servant is one who understands both the power of the Constitution and its limitations – especially the limited protections it affords them in comparison to ordinary citizens. A reasonable public servant is one who understands the responsibility of his or her position and is prepared to engage with all the challenges that come with the job.

Each chapter is annotated and includes a list of references. There are three appen-

dices: The U.S. Constitution, the Bill of Rights, and Title VII of the Civil Rights Act of 1964 (as amended). In addition, the book includes a 12-page glossary of terms common to administrative law.

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