

## CHAPTER 27

# THE CIVIL SERVICE UNDER SIEGE

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Taken together, the contributors to the sixth edition of *Problems and Prospects* present a rich mosaic of public human resource management's current challenges. Seven chapters set out the fundamentals and the most critical challenges of human resource management (HRM) in federal, state, and local government and in the nonprofit sector and discuss the values and constitutional principles underpinning public HRM. Traditional HRM techniques, including performance appraisal, motivation, and grievance administration, are reexamined along with newer ones including benchmarking, volunteer management, and the contracting out of HRM functions. And new as well as enduring issues are addressed including the constitutional rights of public workers, pay and benefits, emotional labor invested in their jobs by public servants, gender, diversity, and disability, the attack on public employee unions and collective bargaining, and HRM concerns with the use of social media. Two chapters are devoted to nonprofit HRM issues.

In this concluding chapter, we attempt to build on our contributors' work and take a critical look at what the changes and forces buffeting the public sector portend for the future of merit-based civil service in general and public HRM in particular.

Almost 20 years ago, Kearney and Hays (1998) wrote a controversial essay in the *Review of Public Personnel Administration* attacking the negative aspects of what had become known as "reinventing government" in the United States and the "new public management" in Europe and elsewhere, while defending the virtues of a traditional merit-based civil service. New public management (NPM) represents a global paradigm shift in public administration with important implications for HRM. Arguing that "the reinventing government movement represents a pervasive and potentially pernicious attack on bureaucracy that may ultimately undermine the professional service," Kearney and Hays (1998: 39) lamented the scapegoating of government and its workers by "those espousing anti-bureaucratic, non-statist ideologies" at the expense of professionalism and neutral competence. Hays and Kearney's article was greeted with both praise and criticism (see Van Wart 1999). We expect that this essay will receive similar mixed responses as we unburden ourselves of some gnawing concerns about the future of the public service. (A great thing about editing this book is having an opportunity to write what we really think.)

NPM's prevalent themes of decentralizing administrative authority (debureaucratization), increasing

managerial flexibility (politicization), and embracing of market-based approaches to providing public services (privatization) were widely celebrated as leading components of a new wave of long-needed administrative reforms (e.g., Barzelay 1992, 2001; Kettl 2000; Light 1997; Osborne and Gaebler 1992). As Kathy Naff (Chapter 26) points out, some NPM-style reforms have been appropriate and are needed, particularly customer service improvements, productivity measurement, greater concern for outcomes, improving techniques for facilitating recruitment and hiring new workers to replace the rapidly retiring baby boom generation, and revising antiquated position classification systems to reflect the needs of the contemporary public workplace. But taken to an extreme, NPM in the U.S. puts reformist lipstick on the pig of “new-conservative efforts to eviscerate public employee unions, shrink government, and punish public servants” (Kearney and Hays 1998: 46; see also Hood 1991). Such ideological attacks on government and public service continue today.

Reinventing government and NPM have lost some currency in today’s broader discussion and debate on administrative reform. However, their principal elements of debureaucratization, politicization, and privatization endure, and some concerns raised by Kearney and Hays have, if anything, become even more salient during the intervening years. One cannot deny the powerful changes occurring in the nature of work and their implications for the public workforce. The public sector must evolve, just as the private sector has, but in what direction? What sort of civil service best serves the nation and its people? One staffed by competent, qualified professionals hired based on objective criteria and granted strong job rights, one staffed by politically loyal, contracted, at-will employees, or a civil service that combines the best qualities of the two polar approaches? We elaborate on several of these concerns below.

### CIVIL SERVICE DYNAMICS

Civil service systems exist to meet several purposes, including recruiting qualified workers for government jobs, rewarding and developing the public workforce, and providing rules for the public workforce to meet public

objectives (Ingraham 1995). As these purposes suggest, civil service systems are directly linked to government performance (Kellough and Nigro 2005; Kellough and Selden 2003; Ingraham, 1995). Typically, civil service systems embody merit principles designed, in part, to insulate public servants from political interference and abuses and to capitalize on their professional expertise and competence (Brewer and Walker 2013; Selden 2006; Kellough and Nigro 2005). In other words, “merit” has long represented the ideal for public employment, and civil service systems have been the means to that end (Moynihan and Ingraham 2012). Since merit has been the hallmark of public HRM, we would do well to remind readers what merit means in practice. Perhaps the clearest statement of merit principles is found in Title V of the Civil Service Reform Act of 1978 (see Table 27.1).<sup>1</sup> In practice, merit-based civil service systems have provided public servants protection from political interference and helped facilitate the professionalization of the public sector, something that has served governments and the people quite well (Coggburn et al. 2010). As Bowman (2012: 50) puts it, “The establishment of a unified, permanent, merit-based, apolitical civil service has certainly been one of the distinctive accomplishments in United States history.”

Despite their accomplishments, civil service systems have been frequently targeted for reform (Light 2006). The centralized and rule-based systems that have evolved reflect an underlying bureaucratic paradigm (Moynihan and Ingraham 2012), and bureaucracy is an easy target; after all, it has few defenders (but see Goodsell 2004). It is the nature of civil service systems to be bureaucratic, with all of the Weberian bureaucracy’s virtues and problems (see Tompkins 2005: 54–57). This, in turn, has led to a familiar list of criticisms of civil service systems, including that they are inflexible, inefficient, unresponsive to political direction and citizens, and—by making it difficult both to remove poor performers and reward superior ones (Brewer and Walker 2013)—performance hindering. Reformers trumpeting NPM-inspired themes (e.g., achieving results, injecting market competition, ensuring responsiveness, and streamlining management) advocate for radical civil service reforms

**Table 27.1 Merit System Principles (5 USC § 2301)**

1. Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a workforce from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge and skills, after fair and open competition which assures that all receive equal opportunity.
2. All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.
3. Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.
4. All employees should maintain high standards of integrity, conduct, and concern for the public interest.
5. The Federal workforce should be used efficiently and effectively.
6. Employees should be retained on the basis of adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.
7. Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.
8. Employees should be—
  - A. protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and
  - B. prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.
9. Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—
  - A. a violation of any law, rule, or regulation, or
  - B. mismanagement, a gross waste of funds, an absence of authority, or a substantial and specific danger to public health or safety.

Source: <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title5/html/USCODE-2011-title5-partIII-subpartA-chap23-sec2301.htm>.

that debureaucratize, decentralize, and deregulate HRM decision-making authority and reflect market-based tools like pay-for-performance and outsourcing (Kellough and Nigro 2005; Kellough and Selden 2003; Selden, Ingraham, and Jacobson 2001; Condrey and Battaglio 2007). In effect, such reforms propose to improve government performance by providing greater political

and managerial control over public employees and making government operations “more businesslike.”

The dynamism of civil service, as witnessed by reforms either proposed or adopted, reflects the presence of competing values (Kaufman 1956, 1969; Rosenbloom 2010; Kellough and Nigro 2006; Kellough 1998). Long ago, Kaufman (1956, 1969) described how fluctuating

emphasis on three sets of values—neutral competence, executive control, and representativeness—explains the content of various reforms. Scholars have since identified additional important values, including managerial, political, and legal (see Chapter 2 by Rosenbloom and Chanin); accountability and procedural fairness (Kellough 1998); and management flexibility (Kellough and Nigro 2006). As Donald Klingner (Chapter 1) points out, these shifting values have aligned with various waves of reform and eras in American civil service. Klingner’s analysis describes the current era as one in which the “emergent paradigms” are privatization and partnerships.

### OUTSOURCING AND PRIVATIZATION

Privatization—whether clothed in the dress of contracting out, outsourcing, vouchers, or other such attire—is designed to move traditionally public work and workers to private provider organizations. Like all such reforms, it produces winners and losers. The chief beneficiary is the business community, reaping profits from government contracts and deregulation (though nonprofit organizations win a substantial number of contracts). The political class also comes out ahead by gaining influence with private sector patrons and, in all too many instances, steering government contracts to cronies and political supporters.

Public employees and public employee unions are the direct losers. Public sector jobs are eliminated and replaced by jobs carrying less security, less compensation (both pay and benefits), and less status. Indirectly, the values of professionalism, bureaucratic accountability, neutral competence, and the merit principle itself suffer (Cogburn 2007). As Fernandez, Malatesta, and Smith (Chapter 24) point out, there are some things that employers can do to mitigate the effects on employees, thereby reducing worker resistance to outsourcing and, from an ethical perspective, demonstrating a modicum of fairness to employees (Lawther 1997). Still, public employee (individual and collective) resistance to outsourcing is indicative of the stakes facing men and women who have dedicated their careers to the service of others.

In some cases, the general public also loses, as a decentralized, downsized, politicized, and privatized

public administration results in confusion over who or what is responsible for delivering “public” services and presents new opportunities for waste, fraud, and abuse by contractors (Kearney and Hays 1998: 48–49). Ironically, privatization and other elements of NPM done badly can engender some of the very same dysfunctions usually attributed to bureaucracy. Quality and levels of service delivery sometimes decline, and promised monetary savings often prove to be illusory. Privatization has become highly controversial in prisons and schools. There are several recent cases of states canceling contracts for “private prisons” and resuming public control after determining that promised cost savings were not realized and prison conditions had deteriorated. Indiana’s decision to cancel a \$1.34 billion IBM contract to privatize welfare services and the 2014 bankruptcy filing of the company that won a 75-year concession for operating a toll road present other instructive examples of failed privatization (Schneider and Ruthhart 2009).

Lurking beneath the surface of the privatization and outsourcing tide are important and enduring public values. With outsourcing and privatization, a premium is being placed on cost-effectiveness but at the expense of other salient values like merit, equity, and accountability. In the public sector, the means matter—or at least they have historically. We are not arguing that cost-effectiveness is not important (indeed, it is), but we are pointing out that accepting a little less efficiency and economy in preserving merit while ensuring accountability is a bargain that the public has been willing to strike (Romzek 1998).

### THE ATTACK ON PUBLIC EMPLOYEES AND THEIR UNIONS

Public workers throughout the United States were major victims of the Great Recession as hard-pressed governments laid off teachers, office workers, and even police and firefighters. The ranks of public employees declined precipitously across all levels of government. According to the U.S. Bureau of Labor Statistics (2013), state government employment (excluding education) in 2011 had fallen by 173,000 from its peak in August 2008 and local government employment had declined by 581,000 from

its June 2008 peak. Moreover, the long-awaited baby boom exodus is fully underway, threatening to leave some public organizations without senior leadership and institutional memory.

The Great Recession brought dramatic—and decidedly negative—changes in the political and economic environments of public employee unions. They have suffered membership losses from the aforementioned layoffs and, even more damaging, frontal attacks from their enemies in business and conservative political circles. As Mareschal and Ciorici explain (Chapter 23), conservatives argue that public employees enjoy higher pay and better benefits than their private sector counterparts, thereby commanding a larger portion of public budgets than they should. However, as shown by Llorens (Chapter 11) and Calabrese and Marlowe (Chapter 13), empirical data cast significant doubt on these assertions. Nonetheless, unions and nonrepresented employees as well have been forced to accept substantial pay and benefits reductions in many state and local jurisdictions.

The conservative narrative of overpaid and underworked public employees has enabled opponents of unions and collective bargaining to win important victories in states such as Wisconsin and Michigan, where Republican governors effectively declared war on public employee collective bargaining, eventually garnering hard-fought victories that curtailed collective bargaining and clipped union-negotiated pay and benefits. Not surprisingly, the number of dues-paying union members in these and other states has declined precipitously. Unions have responded by taking up their case in ballot initiatives, litigation, and public demonstrations, but with only modest success to date. For the first time in some 50 years, public sector unions are confronting today an existential threat to their relevance and continued existence (Kearney and Mareshal 2014).

Public employees working under collective bargaining agreements have rights and responsibilities contractually delineated and enforced in the courts. For millions more who are not represented by unions, merit protections and employee rights are embodied in civil service system regulations, employment law, and constitutional safeguards. Such protections were developed and have evolved in

association with the goal of insulating the public service from politicization. But union bashing has been accompanied by new employment-at-will laws, which effectively remove job protections for career public servants and replace them with at-will arrangements or fixed-term contracts (Coggburn et al. 2010; Hays and Sowa 2006).

From an HRM perspective, massive employee layoffs resulting from the ravages of the Great Recession, along with declining unions and potent threats to collective bargaining, create new problems and worsen old ones. Recruiting, motivating, and retaining a workforce in demographic and technological transition, under constant and sometimes withering criticism, present daunting challenges, including low employee morale, high rates of employee grievances and absenteeism, and increases in litigation. Forever caught in the middle between organizational leadership and rank-and-file workers, HR managers confront dilemmas and crises not of their own making. Yet their ability to serve as public sector linking pins between top management and employees has never been of greater importance.

### THE SUBVERSION OF THE PUBLIC SERVICE

For more than a century, people have been attracted to government service by the promise of a secure job with good benefits and reasonable pay. For many, public service has served as a calling, providing deep meaning and engagement from their work in service of the people (Bowman 2012). Employees were encouraged to believe in their employer's mission and purpose and to aspire to "making a difference" (Crum 2012). Professional public employees were respected and frequently consulted by elected officials for their expertise and independence (Lee and Whitford 2012). Though it may seem quaint today, there was considerable support for holding government to account as a "model employer." These features helped make a government job desirable for intrinsic, and well as extrinsic, reasons (Moynihan 2010) and gave birth to the notion of a public service "ethos."

At the time of this writing, the attractions of public work appear to be dissipating from efforts to debureaucratize, politicize, and privatize government work. In the

asserted interests of enhancing government performance and responsiveness to political leadership, NPM reforms have put merit systems in jeopardy of being supplanted by increased numbers of political appointees, short-term at-will employment contracts, and noncompetitive pay and reduced benefits for civil service workers. The Great Recession was a convenient excuse to cut total public employment to its lowest level in some 30 years (Greenstone and Looney 2012) and to reduce pension and health care benefits nationwide while implementing strategies to outsource work to private providers.

As noted above, political assaults on public employee unions have exacted a membership and economic toll in a growing number of collective bargaining jurisdictions. The effects of virulent and sometimes mean-spirited attacks by public officials and organized interests against public employees can be seen in recent public opinion polls on trust and confidence in government. For instance, a 2013 Pew Research Center poll found that only 28% of the people trust government in Washington “to do the right thing” (Pew 2013). Citizens indicate a much higher level of trust in their state (57%) and especially their local (63%) governments, though even here there has been a decline since 1999 (Jones, 2012; Pew 2013).

In these and other respects, public service is becoming less attractive to new labor market entrants. Take compensation, for example. In Chapter 11 of this book, Jared Llorens addresses the issue of pay comparability between the public and private sectors and its importance for recruiting and retaining a qualified public labor force. As he points out, ideological agendas have politicized the issue, with those aligned against government and public employees asserting that public workers are paid excessively generous wages and awarded retirement, health care, vacation, and other benefits far superior to those available to most private sector workers. Careful research, however, that accounts for levels of employee education as well as differences in professions and job categories, finds that the alleged pay and benefit disparities are at best overstated and at worst misleading. When workers doing comparable

work are compared through a human capital approach, results show that though some public workers do enjoy pay premiums, most suffer a pay disadvantage, a disadvantage that has gotten worse, particularly in management and administrative positions (Center for State and Local Government Excellence 2011). More specifically, lower-level clerical and blue collar workers in government, and particularly in the federal sector, enjoy compensation advantages over their private sector counterparts; higher-level managers and executives in government tend to be significantly underpaid relative to private counterparts (see Kearney 2009: 164–168). Moreover, in recent years average public employee pay appears to have grown at a rate below that of average private sector pay, as the shortfalls of the Great Recession are gradually worked out of public budgets through reduced appropriations and concessionary collective bargaining settlements.

There is truth to the assertion that public employees have traditionally had retirement and health care *benefits* superior to those prevailing in the private sector. And, as pointed out by Mareschal and Ciorici (Chapter 23) and Calabrese and Marlowe (Chapter 13), unsustainable unfunded liabilities in retiree pensions and health care programs have driven many state and local governments into a condition of serious long-term financial distress. As a consequence, a growing number of legislative bodies have imposed defined contribution retirement plans on new and future employees, phasing out longstanding defined benefit plans. Legislatures have also begun to take steps to reduce employee and retiree health insurance costs by hiking premiums and copays, extending vesting periods, and implementing related dollar-saving actions. In collective bargaining jurisdictions, management pressures have resulted in significant union benefits givebacks.

If somewhat modest pay but superior benefits have acted as important inducements for high-quality employees to join the public workforce in the past, any recruitment and retention advantage is being substantially weakened. The implications for recruiting, retaining, and motivating a high-performing public workforce

in the years ahead should be obvious. As a consequence, the staffing demands on HR professionals will need to adapt to what Kathy Naff (Chapter 26) terms powerful demographic forces and the subsequent “deep organizational transformation” buffeting the public sector, while searching for new tools to recruit, retain, and motivate the future public workforce.

Increased employee probationary periods, indefinite provisional and temporary appointments, reductions in force, contracting out, and the spread of employment at will are all developments that threaten public sector job security and erode the public service ethos. But there is more to the story. Limits on public employees’ workplace speech following the U.S. Supreme Court’s 2006 *Garcetti v. Ceballos* decision, in conjunction with the developments outlined above, mean that the current environment for many public employees is not one that encourages the internal voicing of dissent (O’Leary 2006). Even where managers and organizations embrace constructive conflict management and ostensibly encourage dissent, the incentive for public employees to speak truth to power, take creative risks, or otherwise engage in organizational controversies may be lacking. If employee-drones and downtrodden cynics come to dominate the public labor force, the potential ramifications for government performance should be obvious. The prospects would be in place for a self-fulfilling prophesy of government underperformance leading to further declines in public trust and confidence in government and diminished interest in government service (Moynihan 2010).

Should fundamental public service values be rejected like unwanted jetsam? Are merit, neutral competence, and professionalism no longer important? Will a reinvented public service be “more servile, more specialized, more responsive to political direction, yet lacking in continuity, competence, and fortitude of its predecessors” (Kearney and Hays 1998: 51)? Should positive and still-relevant public service values and methods of conducting the public’s business be rejected in the name of efficiency, markets, and political control? Other questions arise: Is “the problem” an outdated, nonresponsive

merit-based civil service system and poor public service provision? Is it poorly designed or outdated government employment policies and approaches to service delivery problems? Or is it politics?

## PROSPECTS

Despite the rather grim patterns and trends outlined above, there are seeds of hope for reversing course and preserving the most important elements of a competent, merit-based public service. For one, evidence indicates that the public service ethos survives (Bowman 2012). Perhaps the innate desire to serve the people and “do good” will be sufficient to overcome the declining extrinsic rewards of public employment. In Chapter 26, Naff finds reason for hope in Gen Y, the so-called Millennial Generation born after 1982. Surveys indicate that Gen Y desires to make the world a better place and, in general, has a much more positive assessment of government than older generations (Pew 2013; Molyneux and Teixeira 2010). The Millennials, however, join their elders in wanting to eliminate government inefficiencies and improve performance.

More broadly, perhaps a Hegelian dialectic will bring about a “value oscillation” as described by Kaufman (1969) or a counter “tide of reform” written about by Light (2006), which will manifest in a resistance to and rejection of some of the excesses of NPM and the negative rhetoric and actions of those ideologically opposed to government. Perry and Buckwalter (2010), among others, discern signs of a revaluing of public service through a broader understanding of the legitimate role government plays in our lives and well-being, ranging from trash collection to national security.

Scholars and other researchers in public administration generally and HRM specifically can contribute much of value through studying the efficacy of NPM reforms and, through evidence-based research, determining what is worth keeping and what should be tossed into the waste bin with past fads and reforms. An important consideration for public HRM’s prospects concerns the field’s knowledge base. If the practice of HRM is to avoid being grounded in a rejection of traditional merit

system values and practices, then a solid evidentiary base is needed (Light 2006). Too often, the rhetoric of reform drowns out careful analysis, with the result being the adoption of the wrong “solutions” to ill-defined “problems” (e.g., Colley, McCourt, and Waterhouse 2012; Light 2006). Writing in the 30th anniversary edition of the field’s most prestigious journal, *Review of Public Personnel Administration*, James Perry (2010) sketches out a strategic research agenda for public HRM. His list of topics includes compensation, motivation, cultural and political context, efficacy and effectiveness, and training and development. With more time devoted to exploring what does and does not work in these topical areas, public sector HRM may be able to break free of the reform spiral where “Yesterday’s reform is swept aside by today’s, which will be quickly forgotten by tomorrow” (Light 2006: 17).

An example of HRM research that contradicts a key NPM principle has to do with the value of merit pay, or pay-for-performance. Research clearly demonstrates that pay-for-performance plans have a dismal track record in the public sector (Brewer and Walker 2013; Bowman’s Chapter 10 in this volume) because of such problems as flawed performance appraisal systems, supervisory bias, poor performance indicators, and political unwillingness to provide a merit increase or bonus sufficient to effectively motivate would-be recipients.

For a specific example of a “keeper” NPM principle, research by Brewer and Walker (2013) is instructive. In examining both the carrot (rewards) and stick (punishment) techniques in public HRM, the authors’ findings show that the inability to remove poor performers hinders performance and creates morale problems. In any organization, public, nonprofit, or private, in schools or sanitation departments, poor performers should be counseled then rooted out if they fail to bloom. So long as basic due process is ensured and relevant laws and regulations are followed, very few individuals would disagree. Yet government, as viewed through vivid but unrepresentative anecdotes, is notorious for tolerating and even protecting underperforming, incompetent, and misbehaving workers. Those who caution about the abuses of employment at will and union representation are usually not apologists for poor performers; to

the contrary, there is explicit appreciation for the fact that pruning the ranks of underperformers is important.

The focus should be on recruiting, retaining, and motivating high performers with an appropriate mix of intrinsic and extrinsic incentives (see Moynihan 2010; Crum 2012), and at the same time facilitating removal (while protecting due process rights) of chronic underperformers. But to attract the right individuals to government service, those who seek to be productive and do something worthwhile, HRM systems must be better aligned with public service values. Otherwise, there is a risk of attracting and retaining the wrong sort of worker, one motivated to pursue narrow self-interest and nonaltruistic ends.

The public service ethos will surely endure in some context—if not in government, then perhaps in segments of the nonprofit sector. Indeed, in many respects, a transformation is occurring now with the growth of nonprofit organizations charged with direct and indirect service delivery responsibilities (Moynihan and Ingraham 2012; Mesch 2010). Recent research by Park and Perry (2013) finds that whereas government and private employee attitudes about government size, spending, and scope are trending similarly, nonprofit workers tend to favor a larger and more expansive role for government. Should the patterns we lament continue, the nonprofit sector may become the primary reservoir for those who subscribe to the public service ethos.

We conclude by returning to the theme of continual reform. Similar to Newton’s laws of motion, every administrative action seems to generate an equal and opposite reaction. And so, contemporary reformers are unwittingly planting the seeds for the next round of reform. The arguments made in support of this inevitable next wave will very likely have a familiar ring to students of public administration and public HRM. We can well imagine that discussion will turn, in the not-too-distant future, to the need to restore the professional public service, root out political influence (e.g., inexperienced appointees, overresponsiveness to political control), and again embrace the notion that governments should be model employers. A public service staffed by committed professionals, responsive to the needs and wishes of the



public (both directly and through their elected representatives), possessed of technical and substantive expertise, and pursuing the public interest will be a welcome reaction to the current fixation on debureaucratization, politicization, and privatization.

## NOTE

1. Title V also includes a statement of “prohibited personnel practices,” which applies to any federal employee with human resources decision-making authority. A summary of these prohibited practices can be found on the U.S. Merit Systems Protection Board’s webpage (<http://www.osc.gov/pppwhatare.htm>).

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