



Bureaucracy, Discretion and the Dark Side of Organizations

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Bureaucratic Power

- “Bureaucrats have power because they have discretion as they interpret the rules and implement policy.”
- “Research shows that explaining how workers use their power requires understanding how they see themselves as government officials.”
 - [Z Oberfeld, 2009, p.18]



Bureaucracy's Predicament



- Weber saw bureaucracy as a two-edged sword.
- By limiting the discretion of officials it allows for greater administrative efficiency, but also thereby deprives such officials of their autonomy – ‘iron cage’ of bureaucracy.
- “Bureaucratic personality” (Merton): tendency to prioritise means over ends; to follow rules ahead of achieving the goals of organisations.



Service Roles – Not a ‘Straightjacket’



- “Although divisions of labor demand dependable role performances, few persons enact solely their formal scripts, even in highly stratified organizations with complex divisions of labour.”
- “Because human beings are ‘wholes’ performing roles (Goffman), their wholeness precludes exclusive role performance.”
- **“Much happens in organizations that is not predicted nor explained by formal roles and responsibilities.”** [Silbey et al, “The ‘Sociological Citizen’, 2009]



Choices Influenced by Values



Every decision made, and each action taken, by a public servant involves a choice which is influenced by the individual's values. The fact that, as Figure 3.1 indicates, employees perceive that the Values and Code of Conduct do not operate strongly to drive performance, or influence decisions in their everyday work, is not surprising. It is likely that the APS Values and Code of Conduct affect decisions and actions in an unconscious way; that people act in accordance with them without thinking, simply because that is 'the way we do business'.



Client-Processing Mentality

- “One cannot practice [public service] without an implicit model of the people on whom one is practicing.
- Differentiation of clients allows for allocation of scarce resources, justification of deservingness.
- **“Unsanctioned distinctions between worthy and unworthy clients** narrow the range of clients for whom street-level bureaucrats must provide their best efforts” (Lipsky, 152)
- **Query: who are the ‘unworthy clients’ in your field?**



Duty, Indifference, Discrimination and Misconduct

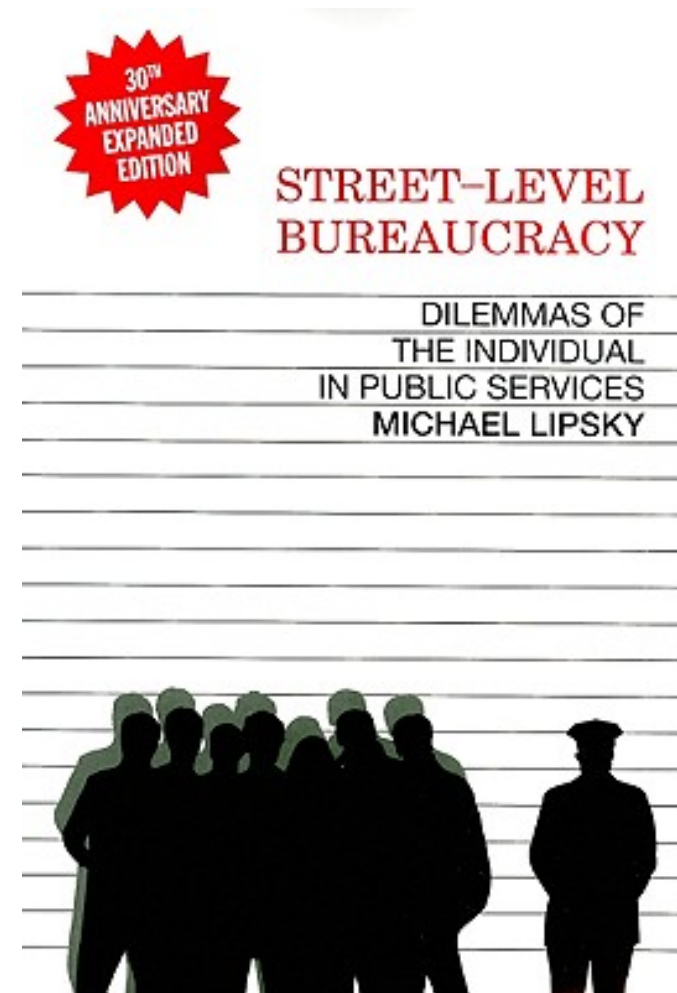


- Roles related to particular public service positions – ‘office’.
- Clienteles with entitlements and expectations.
- Limited resources, time, human preferences/prejudices among public service officials.
- Intersection between formal definitions of role, formal powers, actual resources, and dynamics of human interaction between public officials, clientele etc.
- Discretion is a fact of public service delivery, the operation of human service organizations, bureaucracies.



Street-Level Bureaucracy

- **“street-level bureaucrats”** – public service workers who interact directly with citizens in the course of their jobs, and who have substantial discretion in the execution of their work.
- Typical examples: teachers, police, social workers, judges, public lawyers, health workers, gatekeepers to government programs, benefits and services.





Discretion – a Key Concept



- “a sphere of autonomy within which one’s decisions are in some degree a matter of personal judgment and assessment.” [Galligan 1990, 8]
- “the space between legal rules in which legal actors may exercise choice.” [Hawkins 1992, 80]
- “the hole in the donut..an area left open by a surrounding belt of restriction.” [Dworkin 1977, 31]



More Definitions



- Discretionary decision-making: “a continuing process, a subtle and shifting affair that is the result of substantial human interpretative work.” [Baldwin 1995, 25]
- Discretion exists “wherever the effective limits on [a public officer’s] power leave him free to make a choice among possible courses of action and inaction.” [Davis 1969, 4]



Discretion – ‘Competition’ for Influence



- “Experience, professionalism, and ideology are likely to have their greatest influence when laws, rules and circumstances do not precisely define operator tasks.”
 - [James Q. Wilson, *Bureaucracy*, p. 70]



Discretion as Unchecked Power



- Overwhelming urge to regulate, restrict discretion.
- Widespread recognition that discretion is inevitable, even can be desirable.
- Its existence as unchecked power means that it is open to being abused, exploited.
- Abuse of power/discretion can amount to misconduct, corruption.



Bureaucratic Discretion and the Rule of Law



- “Not even the deeply entrenched rule of law can dispense with the discretionary judgment of those best placed to judge the rightness or wrongness of courses of action.” [Uhr, 69]
- “No code or form of guidance can take the place of individual discretion and judgment about the appropriate use of public power in particular circumstances.” [Uhr, 45]



The 'Outer Limits' of Law



- “Discretion is directed by political processes but is driven by personal values.
- “Almost by definition, discretion is intended to be exercised at the outer limits of the law: procedurally consistent with the law but substantively beyond the regulatory capacity fo the law.



Policing – Discretion is Inevitable



Discretionary decision making is an inherent part of police work. There is simply no reasonable alternative to granting significant discretionary abilities to police officers. It would be neither practical nor prudent to attempt to establish a policy or procedure to address every possible situation that an officer may face. Police officers are expected to properly assess situations and to exercise judgment as to when and how they should use their power. The ability to make responsible choices based on training and experience is the distinguishing feature that makes a police officer a professional.



Police Discretion



- ***Whether*** to intervene, as well as ***how*** to intervene
- “the police department has the special property... that within it discretion increases as one moves *down* the hierarchy.” [JQ Wilson, 1968, 7]
- “The patrolman is almost solely in charge of enforcing those laws that are the least precise, most ambiguous (those dealing with disorderly conduct, for example), or whose application is most sensitive to the availability of scarce resources and the policies of the administrator (those governing traffic offenses, for example).” [Wilson, 8]



Discretion – a Function of the Character of Particular Jobs



- “The patrolman handles matters about which there are apt to be great differences of public opinion.”
- Expected to ‘prevent crime’ and ‘keep the peace’ – inherently vague concepts open to differences of opinion about *whether* or not, and *how*, to intervene.



Discretion and the Nature of Clientele

- “the police in large urban areas are in adversary relationships with large segments of the population.”
- “Once other are seen as untrustworthy and different...they become, like all clients to some degree, objects to be controlled, manipulated, coerced, and perhaps lied to.”
 - [Manning, “Police Lying” (1974), p.290]



Table I. Review of Factors Assumed to Have an Impact on Ethical Decision Making

	Individual factors	Situational and environmental factors
Ford & Richardson (1994)	<ul style="list-style-type: none"> • Cognitive moral development • Locus of control • Age • Work experience • Years of employment • Gender • Machiavellianism • Personal value systems • Personal ethical philosophy • Economic value orientation • Foreign nationality • Motivational orientation 	<ul style="list-style-type: none"> • Reward and punishment structures • Significant or referent others • Organizational policies and codes of conduct • Top management commitment • Ethical work climates • Opportunity • Ethics training programs • Formalization • Centralization • Control • Organizational size
Loe, Ferrell, & Mansfield (2000)	<ul style="list-style-type: none"> • Cognitive moral development • Gender • Moral philosophy • Age • Education • Work experience • Nationality • Religion • Locus of control • Intent • Moral intensity 	<ul style="list-style-type: none"> • Opportunity • Codes of ethics • Rewards and sanctions • Culture and climate • Significant others
Wittmer (2001)	<ul style="list-style-type: none"> • Personal attributes: religion, nationality, sex, age • Education and employment background: type of education, years of education, employment, and years of employment • Personality, beliefs and values: Machiavellianism, values, locus of control, role conflict, and acceptance of authority 	<ul style="list-style-type: none"> • Referent groups: peer group influence, top management influence, rewards and sanctions • Codes of conduct • Type of ethical decision • Organizational factors: size and organizational level • Industry factors: industry type, business competitiveness



Why Abuse of Discretion Occurs



- Laws ‘allow’ it – don’t specify sufficiently what to do in some cases.
- Bureaucrats empowered by their role as gatekeepers to public goods – resources, security.
- Personal, situational, structural factors that impact upon exercise of bureaucratic discretion.



Bureaucratic Discretion and Misconduct



- Street level bureaucrats are forced to make choices in a dynamic, demanding and complex environment.
- Routines are developed as one way of coping, reduce complexity.
- They develop '**standard operating procedures**' in order to avoid the constant need to make decisions in a series of particular cases.



Potential for Abuse can be Great



Police officers abuse their power when they engage in certain types of deception. Officers similarly abuse their power when they inappropriately abuse their discretion. The nature of police work demands that a significant level of discretionary decision making be placed in the hands of what are most often the least trained and the least seasoned officers in the organization. These officers, unlike professionals in other fields, typically work by themselves in a field environment where access to a supervisor is limited and seldom immediately available. Yet these officers routinely make decisions that have a tremendous impact on an individual's personal liberties. The officer has the discretion to decide to detain, arrest, and/or use force to gain compliance.



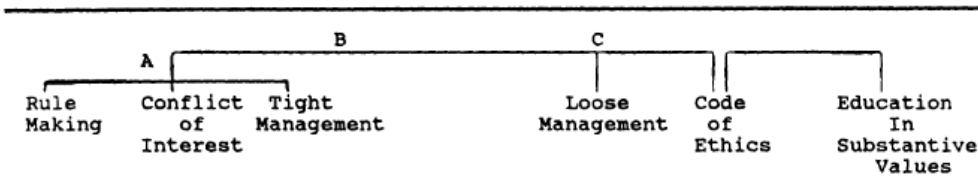
Where abuse of discretion occurs



- Failure to follow the law.
- Lack of application to duties (failure to act, respond to call for service).
- Overzealous application of law (excessive charging).
- Discrimination towards certain persons, groups (racism, prejudice) – “driving while black.”
- Favouritism towards certain persons, groups (nepotism, cronyism).
- Exploitation of position (harassment, sexual exploitation, seeking bribes).

Controlling discretion

Methods of Controlling Discretionary Abuses



A. TYPES OF DISCRETION

1. Technical

2. Political

3. Planning

4. Professional

B. TYPES OF ABUSE

1. Arbitrariness

2. Irrationality

3. Improper

4. Loss of Control
& Lack of
Planning

5. Harm to client

C. WORK ORIENTATION

1. A Job

2. A Career

3. A Profession

Varieties of Administrative Abuse : Some Reflections on Ethics and Discretion

Douglas F. Morgan
Administration & Society 1987 19: 267



Dark Side of Organizations

- Diane Vaughan (1999)
- “How things go wrong in socially organized settings.”
- 3 kinds of routine non-conformity in or by organizations that can harm the public:
 - Mistake,
 - Misconduct, and
 - Disaster.



Dark Side (*Bis*)

- Vaughan interested in ***organizational deviance***.
- ‘any system of action inevitably generates secondary consequences that run counter to its [official] objectives.’
- In order to understand, need to consider:
 - the environment of the organization,
 - the characteristics of the organization itself (tasks, processes, structure), and
 - the cognitive practices of individuals within them.



Dark side

- Organizational characteristics:
 - ‘**structural secrecy**’: the way labour is divided, controlled, leads to segregated knowledge, no person knows everything; control of knowledge gives power, more information becomes the solution to all problems; concealment possible to avoid responsibility.
 - Processes: demands of financial budgets, rules can distort what is done in the workplace (‘gaming’).
 - Tasks: typically involve technologies that are ‘unruly’; rules for their use emerge after practice and experience, rather than in advance of use.



A Different Sense of Role Potential

- The ‘**sociological citizen**’.
- “Apprehending what seems like inescapable, inevitable interconnectedness, the sociological citizen realizes that whatever the current configuration of that world, it is the outcome of human actions, connections, links among persons and things.
- “As a consequence, sociological citizens experience a sense of freedom to try things, experiment, intervene in organizations and arrangements where others would hesitate.
- “By recognizing one’s location in an extended network of associations, a sociological citizen has an extended, rather than constricted, set of opportunities (resources, schemas, persons) with which to fashion solutions to local problems.
 - [Silbey et al, 2009, 223]



Implications for Control, Governance



- “In virtually all socially organized settings, routine non-conformity is met with efforts to keep it from becoming publicly identified as mistake, misconduct or disaster.