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Bureaucratic discretion, social equity, and the administrative legitimacy dilemma: Complications of New Public Service

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Abstract

Bureaucratic discretion continues to be one of a public administrator's primary powers while at the same time being one of their most controversial. Used in a positive way, bureaucratic discretion can enhance social equity; however, this practice can create administrative legitimacy dilemmas. As such, this paper conceptually discusses the theoretical position of public administrators that contributes to their engagement in legitimacy dilemmas, which is further complicated by the tenets of New Public Service. We argue that if public administrators are engaged in authentic interactions with the public and use their discretion to reflect the interests of the public, then they are engaged in truly democratic governance. We place this argument in the context of achieving social equity and highlight an avoided question in public administration. Finally, recommendations for future research are offered as a means progressing the social equity agenda in public administration.

KEYWORDS
bureaucratic discretion, governance, legitimacy, New Public Service, social equity

Evidence for practice

- Acting "objectively" to pursue *subjective* and ever-evolving interests and goals can contribute to administrative legitimacy in the eyes of some but not others.
- When public administrators cut out the "middleman" they are engaging in more direct forms of democracy and subsequent administrative responsiveness.
- As a profession, public administration needs a better understanding of the public's conceptualization of social equity, and whether they want to pursue it.

INTRODUCTION

Although the traditional view of the bureaucracy has been one that emphasizes its role in the implementation of policy and enforcement of guidelines, Lowi (1969) and Kerwin (1994) maintain that their function has evolved over time to also include the creation of policy through its implementation. Generally, bureaucracies and the individuals that compose them have the potential to stimulate new policies based on their day-to-day functions of determining who gets what, when, and how. As such, bureaucrats use their discretion in answering central questions of politics (Lasswell, 1936), molding future politics and policies by contributing to policy feedback processes (Pierson, 1993; Skocpol, 1992), and implementing the on-going interests and activities of the welfare state (Racine, 1995; Walzer, 1988).

According to Keiser (1999) bureaucrats have this effect on politics and the policy environment because they can exercise their choice in the administration of policies, as opposed to rules dictating how to implement programs. Public administration scholars (Fredrickson, 1993; Keiser, 1999; Maynard-Moody & Musheno, 2000; Selden, 1997; Selden et al., 1998; Visser & Kruyen, 2021) have studied the implications of bureaucratic discretion in relation to the implementation of welfare state policies. For example, various studies have highlighted the positive effects of discretion wielded by street-level bureaucrats in which they "stretch the law" to serve clients' needs more effectively (Keiser, 1999). The potential implications of these actions result in more equitable outcomes among the citizenry and beneficiaries of programs (Handler, 1992) because discretion is used to meet social justice goals

(Danet, 1973; Goodsell, 1981) that have been difficult to formally infuse into public administration goals and practices (Fredrickson, 2005). The reason for this difficulty stems from definitions of social equity ranging from "simple" conceptualizations of fairness and equal treatment to reducing inequalities through redistributive policies (Maynard-Moody & Musheno, 2000; Wooldridge & Gooden, 2009). However, despite how one defines social equity, discretion can be used to enhance the concept's goals by bringing various public spheres into greater alignment.

Alternatively, scholars have raised concerns about the negative implications of bureaucratic discretion. Lowi (1969) and Koven (2019) argue that discretion is problematic because it violates the norms and values that guide democratic governance. Specifically, when individuals exercise discretion, bureaucrats, not elected representatives, determine the allocation of government benefits that can be subject to personal ideological or moral judgments (Bell et al., 2020; Harrits, 2019; Maynard-Moody & Musheno, 2003; Pfaff et al., 2020). Thus, and in contradiction to the positive effects of discretion, street-level bureaucrats have the ability, through their intentional behaviors and choices, to restrict the allocation of government benefits (Koven, 2019). According to Lipsky (1980) (see also Bardach, 1977), when provided with certain levels of discretion, bureaucrats can effectively disentitle citizens that result in inequitable policy implementation. Although this may be a byproduct of intentionality, it may also be a byproduct of time and other resources available to a street-level bureaucrat. For example, in a work environment pressured by deadlines and limited resources, street-level bureaucrats can potentially cut corners by ignoring proper procedures (Davis, 1969; Prottas, 1979) in pursuing their own job security and organizational interests (Su, 2020), which can result in citizens being denied services to which they are legally entitled to by the welfare state (Keiser, 1999; Maynard-Moody & Musheno, 2000). Keiser (1999) also maintains that discretion can be problematic when federal policies, which are implemented at the state level in environments that are systematically, politically, and socially different. Moreover, Bobbio (2019) maintains that local governments are not consistent in their inclusion of the public, with more preferring to keep the public out of decision-making and policy implementation processes. As a result, "…where citizens live will determine whether they receive services…" (Keiser, 1999, p. 89) based on their ability to be heard, which again violates notions of equity. Finally, Koven (2019) argues that bureaucratic discretion can even be used to intentionally resist and subvert democratically crafted policies; thereby, endangering democratic functions.

Therefore, because of these potential abuses of discretion, various recommendations on how to control this phenomenon in the interests of democratic governance have been developed (Koven, 2019; Sowa & Selden, 2003). However, Denhardt and Denhardt (2000) argue that adherence to democratic governance does not necessarily mean adhering to or following the direction of extant public policies and guidelines. Instead, democratic governance is about behaving in an action-oriented way that progresses public interest through more direct interaction and cooperation with citizens—including historically marginalized groups (i.e., racial and ethnic minorities and other people from relatively low socioeconomic classes)—as opposed to only their representatives to help ensure that citizens are actively and informatively included in public affairs (Lasswell, 1948). Under this governance framework, New Public Service (NPS) (Denhardt & Denhardt, 2015a), the question of who bureaucrats should be responsive to comes into question due to an increased interest to bring the public more intimately into policy design. It presents a shift in accountability for bureaucrats from traditional public authorities (e.g., legislatures, the executive, or the courts) to that of the citizenry. Moreover, it creates a new arrangement of the welfare state in which public administrators make themselves available to support and reinforce citizen interests directly as opposed to implementing policies that are abstractly conceived at higher levels of government (Racine, 1995). As such, bureaucrats enhance democratic governance not necessarily by following traditionally developed policies, but by exercising their discretion based on interactions with the public that they have come to understand are more effective at enhancing equity (Meier & Stewart, 1992; Meier & Bohte, 2001).

Yet, this pursuance of equitable service provision, although never publicly argued when framed as such, does create an administrative legitimacy crisis for bureaucrats and the organizations they work in (Keiser & Soss, 1998; Knox, 2016) because the pursuance of social equity through bureaucratic action is a deliberate manifestation of individual morals and ethics. As Habermas (1987) notes, a legitimation crisis is a collapse of the social integration and failure of cultural reproduction of individuals in the lifeworld, which leads to a loss of loyalty and support from the public to the government. The resulting crisis stems from this need of legitimation "that arises from changes in the political system (even when normative structures remain unchanged) and that cannot be met by the existing supply of legitimation" (Habermas, 1975, p. 48). As such, individual expression of morality, in the pursuance of socially equitable governmental service provision, is viewed as illegitimate because it may violate the expectations of the respective political environment in which they are immersed (Brown, 1998; Downs, 1967; Habermas, 1996; Knox, 2016; Rivera & Uttaro, 2021). Moreover, because of democratic deficits (Lasswell, 1948) in which there is a lack of enforceable procedures that provide *everyone* a voice in policy development, the legitimacy of all acts of discretion is or can be questioned.

As such, this article conceptually grapples with the notion of achieving a more equitable and just American society using bureaucratic discretion. For the purposes of this paper, we use the National Academy of Public Administration's (2000, para. 3) definition of social equity, which says,

> The fair, just, and equitable management of all institutions serving the public directly or by contract, and the fair and equitable distribution of public services, and implementation of policy and the commitment to promote fairness, justice, and equity in the formation of the public policy.

This adopted notion of social equity does not specifically emphasize beneficiaries belonging to a particular social or demographic group but emphasizes fairness, justice, and equity as applied to *all*. However, to pursue our goal, this paper will first explain how bureaucratic discretion contributes to an administrative legitimacy dilemma. Then we will explain how the advancement of NPS as an action-oriented approach to governance further complicates this dilemma through its emphasis on administrators' direct accountability to citizens to achieve more equity in society as opposed to market dynamics. Thus, we highlight how public administrators can theoretically develop an understanding of the public that would guide bureaucratic discretion under an action-oriented governance paradigm. We then apply our logic of democratic bureaucratic discretion in the pursuit of social equity to recent political and social circumstances in American society and settle on a potentially ominous set of circumstances for equity scholars. Finally, we make future research recommendations for enhancing this preliminary conceptual work across a variety of administrative contexts.

THE BUREAUCRATIC LEGITIMACY DILEMMA IN VARIOUS MANIFESTATIONS

Extant literature has depicted the bureaucratic legitimacy dilemma in different ways and stemming from various actors. As such, it is important to understand how scholars discuss this phenomenon and their true philosophical implications within democratic practice. This section discusses legitimacy originating from objectivity, public organizations, elected officials, and the public, which are the dominant sources of legitimacy discussed in the public administration literature (Box, 1998; Foster, 1980; Habermas, 1987; Knox, 2016; Wallner, 2008).

Legitimacy from objectivity

According to Simon (1965), public administrators are concerned with making decisions but making decisions that are "correct." To achieve this goal, rational public servants make decisions based on facts, or in other words, verifiable information. While Knox (2016) maintains that government is viewed as legitimate when it makes fact-based decisions that benefit everyone, Storing (1962) argues that these facts are far from objective. According to Foster (1980, 498),

> Facts are embedded in a context of values, and if one looks at administration as the direction of resources to solve problems, then it should be clear that at the most basic level, problems are defined as such because they conflict with certain values.

Therefore, every decision a public servant makes that is based on "facts" is built on subjective, value-laden, information that the public further evaluates through additional and varied value systems. Because different individuals and communities contain different value systems (Simon, 2000), every decision an administrator makes is vulnerable to being evaluated as being illegitimate. As a result, bureaucrats were traditionally taught and encouraged to apply universal policies to all situations in a consistent and "neutral" way, ignoring the notion that facts are value-laden and nothing is actually neutral (Thompson, 1985). Yet, Keiser and Soss (1998) observe that most studies of bureaucratic action do not reflect this idealized goal. Moreover, Plant (2018) maintains that due to the value-laden environment that public administrators find themselves in, the exercise of discretion is inevitable.

The reason behind this disconnect is that objective decision-making and the neutral implementation of policy cannot occur in a policy and social system that is itself not objective and/or neutral. Subsequently, bureaucrats are expected to employ formal (Weber, 1979) or instrumental rationality (Habermas, 1984) when implementing policy. If employed properly, the bureaucrat's actions can be objectively evaluated, even if the policy goals/outcomes are subjective (G. E. Fung, 1984). By applying instrumental rationality to decision-making, the public can use evaluative techniques to observe whether a bureaucrat is acting in "legitimate" ways. However, adopting this type of rationality, again, assumes that the facts bureaucrats rely on are universally true and not value-laden (i.e., the adoption of a positivist worldview). This is inherently problematic for attaining bureaucratic legitimacy. As Habermas (1979) maintains, modern democratic governments are responsible for pursuing economic growth and meeting collective needs, while also correcting social inequities. Yet, the pursuit of these responsibilities requires making decisions to meet economic goals that can be evaluated in more objective ways while meeting political and social goals that are embedded in values; the end to which requires making decisions that are motivated by similar non-objective values. Foster (1980, p. 500) maintains that the state, and subsequently bureaucrats, is in a situation in which,

> …in order to administer economic growth effectively and remove social inequality, it must use its legitimate power as a state; yet to use this power is to destroy one of the norms supporting its legitimacy, that "private autonomy may not be violated" (Habermas, 1979, p. 195).

One traditional way in which bureaucrats make "legitimate" decisions is by adhering to organizational/institutional norms and values in which they work, in addition to being accountable to the same organizational principle. Bart (1997) argues that this occurs because mission statements indicative of the organizations in which a public administrator works provides a sense of purpose, ensures allegiance to the organization's interests and stakeholders, controls and inspires employees, and promotes shared values and behavior standards for those working within the organizational system.

Legitimacy from public organizations

When bureaucrats operate with instrumental rationality while bounding their decision-making alternatives with the values and interests of the organization (Simon, 2000), the institutional roles and structures within that organization relieve individual responsibility from the direct and latent effects of decisions (Kelman & Hamilton, 1989; Lasswell, 1971). In this situation, the bureaucrat makes decisions and acts accountably toward the administrative hierarchy by completing duty requirements while "abdicating any personal or social responsibility, or accountability, for the effects of the resulting actions" (Dillard & Ruchala, 2005, p. 611). Moreover, Balfour et al. (2020) maintain that in such situations a bureaucrat's own conscience is subordinate to the structures of organizational authority, which are viewed as objective and in the public's interest.

However, what defines the public's interest is a byproduct of evolving interests belonging to the organization's stakeholders (i.e., regulators, politicians, potential service beneficiaries, citizens) that are neither homogeneous nor objective in and of themselves (Dillard & Ruchala, 2005). As such, when evaluated by different segments of the citizenry, bureaucrats working in this situation have the potential to unknowingly engage in decision-making and direct actions that not only contribute to a legitimacy dilemma, but also to "administrative evil" (Balfour et al., 2020). While operating with the legitimacy of a government institution and with little individual bureaucratic discretion, public servants can engage in decision-making and actions that they are told and perceive are justified and serving the public interest at the same time as doing profound damage to various segments of the population (Balfour et al., 2020; Staub, 1992). Thus, bureaucratic decisions, in addition to the organizations they work in, are legitimized by adhering to the sociopolitical expectations and norms of elected officials.

Thus, when bureaucrats follow their elected officials' directives, they are engaged in legitimate behavior. However, these actions have the potential to also violate notions of social equity manifested in the principles of organizational justice because they may not only violate the fair treatment of the public but also public administrators personally (Greenberg, 1993; see also Lasswell, 1971). As a result, organizational structures theoretically are altered to correct for unjust practices and provide for more socially just service provision, in addition to more socially equitable organizational environments (Ambrose & Schminke, 2003; Leventhal, 1980; Schminke et al., 2000). But, this only has the potential to occur when the behavior becomes perceived as illegitimate, as expressed through the rhetoric and actions of elected officials when they respond to such actions sometime later.

Legitimacy from elected officials

Principal-agent theory has been traditionally used to describe a "preferable" relationship between elected officials and bureaucrats in which bureaucrats behave in more "democratic and legitimate" ways as they pursue the interests of elected officials. As Fredrickson et al. (2016, p. 35) explain,

> …principal-agent theory seeks to explain how the principal can motivate the agent to behave in the principal's interest, despite the fact that the principal cannot completely control or even completely monitor the agent.

Under this premise, the agent or bureaucrat is expected to be ambivalently motivated to follow the will of elected officials in the day-to-day operation of the state. However, this relationship is not simple or straightforward (Huber & Shipan, 2002) and it violates traditional notions of public administration theory in which politics is ideally divorced from policy implementation (Wilson, 1887). As a result, Meier and O'Toole (2006) state that scholars typically assume the presence of goal conflict between politicians and bureaucrats, and in response, politicians attempt to take actions to get bureaucrats to comply. Therefore, although principal-agent theory is typically used to explain this relationship, a more appropriate theoretical orientation to describe this phenomenon is overhead democracy.

Under this orientation, elected officials specifically attempt to oversee and control the actions of the bureaucracy (Redford, 1969). As Durant (1995, p. 166) argued more than 25 years ago, this focus on compliance accountability, as opposed to performance or capacity accountability (Light, 1993), devolves into a fight between an elected official and the bureaucracy, which is perceived as an "administratively dysfunctional bout of interference." To the extent that bureaucrats have political and technical expertise, they are not limited by time constraints dictated by office terms. Moreover, the tools used

by politicians to force bureaucrats into subordinate and obligatory roles are typically unpopular. As such, the effectiveness of overhead democracy to "motivate" bureaucratic action in more "legitimate" ways is limited (Meier & O'Toole Jr, 2006). As Durant (1995, p. 166) states,

> The greater the degree of micromanagement pursued, the less political control over policy results, and the less advanced are either presidential or congressional interests of policy (as opposed to distributional) goals.

Dahl (1970) and Brehm and Gates (1997) maintain that the primary control of the bureaucracy to make "legitimate" decisions rests with the bureaucrat's values, which again are normative and subjective. However, individualized bureaucratic values are typically developed and motivated by an interest in progressing the benefit of one's own community (Meier & O'Toole Jr, 2006), vaguely defined, which points to an additional form of legitimization/illegitimacy, direct accountability to citizens as opposed to politicians or organizations.

Legitimacy directly from the public

According to Knox (2016) and Maynard-Moody and Musheno (2000), bureaucrats operate between the lifeworld and the systems world, which encourages them to use communicative rationality, instead of instrumental rationality, when working for the public. Thus, some bureaucrats have a citizen-serving orientation; they place more emphasis on how to better directly serve citizens' needs and interests than responding to political principles or policy directives (Fredrickson et al., 2016). Subsequently, external or internal stakeholders can view bureaucrats as the "vanguards of social justice in an otherwise hard-hearted political system" (Durant, 1995, p. 169; see also LaPorte, 1971); protectors of the public interest from elected or judicial principles that are more interested in personal gain (Rohr, 1986); or even as "moral entrepreneurs" (Hart, 1984). Despite how one might define themselves, bureaucrats who inform their practices with client responsiveness theories emphasize agency effectiveness in addition to equity (Fredrickson, 1997) as opposed to pure economic efficiency.

In reality, public administration has most explicitly manifested the principles of client responsiveness theory in the acceptance and application of representative bureaucracy. According to Meier and O'Toole (2006), a US bureaucracy that is representative of the public (in all its dimensions)[1] legitimately exercises discretion and pursues its own values, which are also the values and interests of the public. Using this perspective, public administration rejects the notion, at least partially, that bureaucrats are to operate and use their discretion in "value free and completely neutral" ways (Herbert, 1974, p. 563). The reason lies in the ideological purposes of diversifying bureaucratic organizations, which include the notion that public servants exercise their discretion to enhance the potential benefits to either their own or historically marginalized groups. When referring to bureaucrats belonging to racial or ethnic minority groups, it is argued that in the context of their jobs these individuals may feel a sense of responsibility to their own and other minority communities, and subsequently act as a "trustee" of their interests (Karnig & McClain, 1988). In other words, minority bureaucrats framing their decisions and actions through the lens of representative bureaucracy engage in active representation (Mosher, 1982), which is an act directly violating notions of objectivity.

Despite the concerted effort to diversify bureaucracies at all levels of government based on the pursuance of social equity and enhanced service provision to various communities—particularly communities of color—that society and elected officials have generally legitimized, the pursuance of these goals creates another legitimacy dilemma. According to Selden et al. (2003, p. 136),

> …[The] public administrator may experience cross-pressures to conform to organizational norms emphasizing bureaucratic routine, efficiency, and strict interpretation of the rules, while also feeling a need to shape policy decisions responsive to particularized interests.

This situation again places public administrators in a position in which they are either legitimate in their decisions and actions by one set of actors and not others. However, in this situation, to follow the ideals of representative bureaucracy, one must act on value-oriented facts that are not objective in economic terms. Therefore, they gain legitimacy for themselves, the government, and the organizations they serve in the eyes of the citizenry. But by not practicing value-free, "objective" decision-making, they potentially violate the internal legitimacy of the organizations in which they work.

Although this has been generally true about the practice of representative bureaucracy and its inability to fulfill expectations of social equity, a similar situation has occurred more recently with the advent, development, and acceptance of NPS (Denhardt & Denhardt, 2000) as a guiding paradigm of governance within public administration theory and practice. Under this paradigm, the potential for the presence of a legitimacy dilemma is evermore present due to an ideological emphasis on an "action orientation" on behalf of the bureaucrat to pursue social equity (Denhardt et al., 2014) and enhance democratic practice (Nickels & Rivera, 2018).

LEGITIMACY COMPLICATIONS IN NPS

The complicated accountability positions in which bureaucrats find themselves have historically contributed

to the notion that bureaucratic discretion is undemocratic; it has the potential to disregard the public's interests as expressed by elected officials. However, the question of whether elected officials accurately understand these interests has been raised many times over the last 30 years, which has led to various governance paradigms, including, but not limited to, New Public Management (NPM) and NPS. These two paradigms emphasize increased citizen participation and interaction with public administrators to increase government legitimacy (A. Fung, 2006; Kettl, 2015) and improve administrative responsiveness (Elias & Alkadry, 2011). But, despite various efforts, NPM's fundamental emphasis on aligning more with private sector practices, treating the citizen as a client as opposed to a citizen with political agency, and using market-driven measures to evaluate effectiveness has resulted in a more disillusioned public that views government as less legitimate (Denhardt & Denhardt, 2015a; Rivera & Nickels, 2018). As Shamsul (1994, p. 265) states,

> The hallmark of public bureaucracy is its accountability to the public for its policies and actions. Without the realization of such accountability, public bureaucracy loses its identity of publicness, surrenders its public legitimacy, and may regulate itself to the fetish of self-seeking private interests.

Moreover, "inclusionary" practices guided by NPM generally resulted in public participation in policy development processes by groups and/or individuals that were not necessarily representative of the public and subsequently resulted in government pursuance of private interests (Rivera & Nickels, 2018).

In reaction to this latent effect, Rivera and Nickels (2018) maintain that NPS developed as a new governance paradigm in which public administrators "serve" the public and treat them as citizens with agency instead of clients. Thus, the public theoretically will begin to evaluate government institutions based on their enhancement of broad public interests (i.e., achievement of social equity) and long-term expectations instead of their personal self-interests defined by market-driven indicators or instrumental rationality. Specifically, within the scope of NPS, the source of public administrators' power is the citizenry; they are employed to exercise that authority on the public's behalf. Bureaucrats are not divested from the public or the political community in this relationship but are one of the citizenry themselves (Cooper, 1991; Maynard-Moody & Musheno, 2000). As such, bureaucrats use their discretion in responsible and legitimate ways when they pursue making governmental programs and agencies more responsive to the public (Cayer, 1986) after interacting with and listening to other citizens in ways that empower citizens and reinforce the role of democratic governance and participation (Durant & Ali, 2013; Yang & Callahan, 2007).

However, as previously noted, theoretically this direct interaction between bureaucrats and the citizenry—and bureaucrats' subsequent utilization of discretion to realize citizens' expressed interests—sidesteps the democratic role of elected officials. To this argument, Weber (1979) maintains that true democratic practice is not simply the one-way exercise of authority by elected officials in which they exert their will on bureaucrats in the name of the public, as expressed in overhead democracy. Alternatively, Weber (1979, p. 454–455) and Habermas (1979) argue that the more accurate expression of administrative responsiveness, accountability, and legitimacy stems from "both top-down policy commands from political and administrative superiors and bottom-up input from community-based stakeholders." Under the premise of NPS, bureaucrats are supposedly legitimate in their use of discretion when they follow the general direction set by elected officials, which is contextualized to the confines of organizational policy and the market, and is informed by citizen expression of interests through communicative interactions (Denhardt & Denhardt, 2015a). When bureaucrats use their discretion while following NPS principles, they are not necessarily side-stepping democratically elected representatives; they are engaging in more direct forms of democracy and subsequent administrative responsiveness. In other words, they are cutting out the "middleman" (i.e., the elected official) that seeks their own legitimacy through catering not only to aggregated interests of the public majority, but also private entities and the market. Thus, the use of bureaucratic discretion, within the framework of NPS, enhances democratic practice and public administration's legitimacy in the eyes of the public; however, this does not seem to be true with the continued suspicion surrounding bureaucratic discretion (see Koven, 2019).

Figure 1 depicts the ideal relationship of the public administrator to other actors within the traditional conception and the NPS scheme. The model on the left highlights the situation in which bureaucrats find themselves in relation to balancing their accountability and the subsequent legitimacy of their actions in the eyes of stakeholders. The "ideal" bureaucrat operates and uses their discretion in ways that manifest the interests of the public, elected officials, economic markets, and the organizational system in which they are constantly situated; it is the ideal and perfect relationship of representative democracy. However, as various scholars (Foster, 1980; Keiser & Soss, 1998; Meier & O'Toole Jr, 2006; Simon, 2000) have discussed, none of these four systems individually influence bureaucrats to use their discretion in purely "ideal" ways. Bureaucrats seeking legitimacy from the perspective of one system or another will unfortunately result in becoming less legitimate from the perspective of either one or various other systems. This is further complicated by context or situation that may also determine the import of bases of legitimacy; thereby altering who a bureaucrat may be legitimate to at varying times.

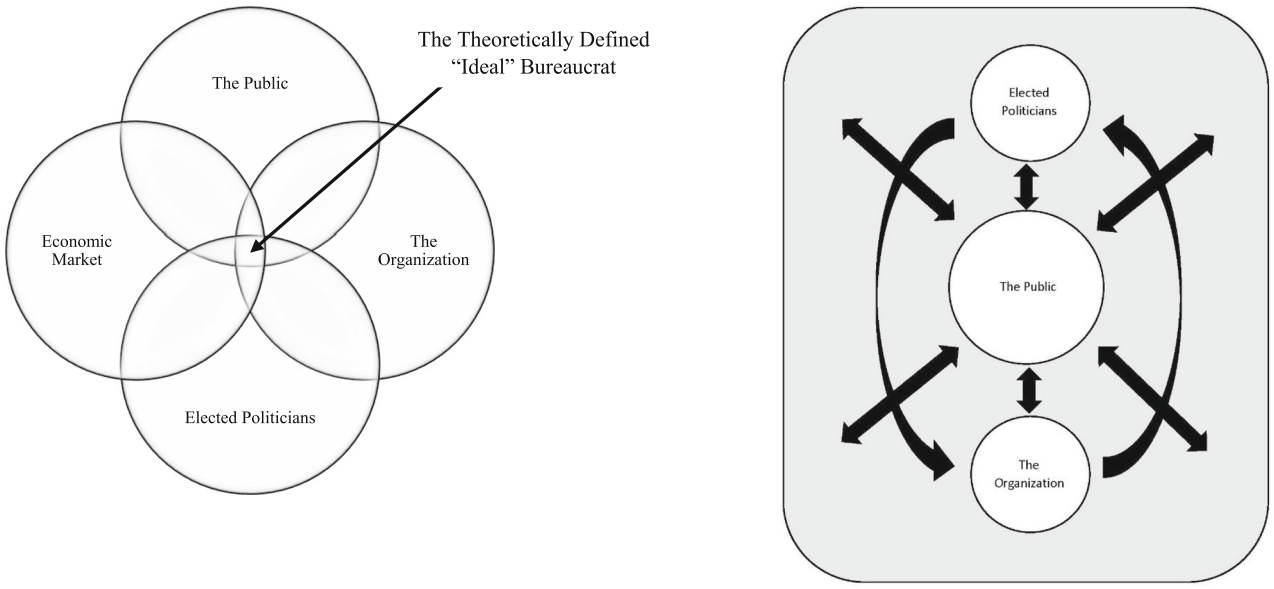

FIGURE 1 Comparison of ideal accountability for bureaucrats

Alternatively, the model on the right illustrates the bureaucrat's ideal relationship to actors under a NPS paradigm. Illustrated in the form of solid arrows, the public administrator (i.e., street-level bureaucrats) acts as the bridge between the public, politicians, and the organizations where they work as they interact, deliberate, and serve the public. They also act as a two-way bridge between the market, exemplified as the box bounding all interaction, and the public. Public administrators' actions, which are ideally and directly reflective of the public interest, create policy feedback effects (Larsen, 2019; Pierson, 1993) between each element in the overall system. As a result, who the bureaucrat is legitimate to does not change by context or situation, but is firmly situated with the public's expressed interests. However, based on this logic, the subsequent question is not whether the use of bureaucratic discretion violates democratic norms, but whether the ways in which the bureaucrat engages with the citizenry is able to truly yield an accurate understanding of the public interest and manifest democratic ideals. As discussed below, the ways in which bureaucrats engage the public has the potential to elicit different varieties and qualities of information.

LEGITIMACY, PUBLIC INTEREST, AND DIRECT PARTICIPATION

Before understanding how to garner a better understanding of the public's interests, it should be noted again that many local governments prefer to keep the public out of decision-making processes (Bobbio, 2019). Loeffler (2016) and Williams et al. (2016) maintain that bureaucrats typically do not perceive citizen-bureaucrat *collaboration* as essential to meeting their goals because it is only limitedly mandated by law and creates opportunities for community conflict (Rivera & Nickels, 2018). However, when public participation is viewed as more than just complying with federal or state mandates to develop the substance of policy and, rather, as a process that promotes democracy and holistic participant learning (Bobbio, 2019; Deyle & Slotterback, 2009), policy makers, planners, and bureaucrats have an opportunity to understand public interests. Therefore, public participation is not necessarily about sharing information among participants but placing public values about a particular policy topic at the center of the discussion (Webler et al., 2001). However, the question remains: What participatory mechanisms are best at eliciting accurate and representative public interests?

Public participation can mean a variety of things; however, here we distinguish between two types, indirect and direct, and focus on the latter. Indirect participation refers to the phenomenon of individuals selecting others to make decisions on their behalf (i.e., voting), while direct participation refers to individuals becoming involved, providing their input, making decisions, and solving public problems (Nabatchi & Leighninger, 2015). As previously indicated, indirect modes of participation can cloud elected officials' perception of what the public values because it relies on the aggregated sentiments of those that participate; whereas direct participation provides public administrators and elected officials a potentially more accurate idea of public interests and values. This more accurate picture stems from the direct expression of the public in reference to their policy preferences and choices, assuming that an appropriate range of

perspectives and interests, especially those that have been normally excluded from decision-making (i.e., racial/ethnic minorities; people from relatively low socioeconomic classes) (Bryson et al., 2013; Schlozman et al., 2012), are sincerely integrated into policy deliberations. Moreover, direct participation has been observed to individually benefit participants by increasing issue awareness, competence, trust in government, and self-empowerment depending on which way individuals are allowed to participate (Jo & Nabatchi, 2020). While it is important to understand how public participatory designs can elicit relatively more accurate depictions of public interest, attention needs to be given to creating a *representative* participatory process as a means of achieving socially equitable goals.

Scholars (Clark, 2018; A. Fung, 2015; Schlozman et al., 2012) maintain that enhancing the representativeness of public participation in policy processes and achieving social equity are intimately related. The traditional efforts used to engage the public in participatory practices have the potential to increase disparity in participation levels from certain groups (e.g., historically marginalized communities) (Rivera & Nickels, 2018). As such, Bryson et al. (2013) maintain that to increase representativeness in participatory practices, better outreach and the optimization of accessibility of the process itself are required. Hence, advertising of participatory opportunities is important (Laurian et al., 2004), but so too is providing translation services, childcare, transportation assistance, and the choice of convenient meeting times and locations for various segments of *the public* (Bryson et al., 2013). This type of outreach and complimentary service provision to public participation helps mitigate public administrators' own unconscious or direct biases about who "represents" a community and why they should be asked to participate in policy processes that potentially impact the extent to which public interests and values can be understood (Nabatchi, 2012). Finally, achieving more representation in public participation means paying attention to historical differences between groups, reexamining assumptions about group participation, and potentially breaking institutional/organizational norms that create disempowering environments for marginalized peoples (Clark, 2018; Holley, 2016; Lee, 2015; Lee et al., 2015). Ignoring these considerations can result in the social exclusion of minorities, the recently institutionalized, immigrants, the disabled, and the homeless from participatory processes even if there is no intention to do so (Clark, 2018).

However, assuming public administrators make these considerations and participation is truly representative of the community's interests, the participation design affects the public administrators' ability to understand the public's interests as well. Nabatchi and Amsler (2014) argue that some traditional participatory process designs that are based on legal mandates (i.e., public meetings, hearings, review and comment boards) emphasize efficiency and directed information sharing (McComas, 2001) over empowerment and/or authentic deliberation and understanding (Denhardt & Denhardt, 2015b). Even when public administrators host these traditional designs virtually to broaden participation, there is a great deal of skepticism regarding their ability to authentically engage people in an exchange of ideas that truly informs public administrators on the community's interests (Baker et al., 2005; Chan, 2018; Innes & Booher, 2004; Rivera & Uttaro, 2021; Wang et al., 2017). Rivera and Uttaro (2021) have observed that in local contexts, both traditional and virtual public meetings and hearings have the opposite intended effect—these participatory contexts tend to highlight political interests and rhetoric of the most vocal/loud stakeholders of a policy as opposed to providing an environment for candid discussion. Additionally, these types of participatory designs allow for the potential repression of democratic practice by allowing nonrepresentative local individuals and groups to engage in informal acts of social control against those with differing opinions. As such, these situations directly violate the norms of equality and symmetry that are supposed to guide public participatory policy deliberations (Benhabib, 1996) and enhance authentic democratic discourse (Fox & Miller, 1995) that promotes social equity.

Partly in response to the diminished utility of public hearings and meetings, public administrators have used other forms of direct participation to gain a better understanding of the publics' interests and values (Geuijen et al., 2017; Meijer et al., 2017). Participatory designs including participatory budgeting (Gret & Sintomer, 2005), Deliberative Polls® (Fishkin, 1991), focus groups (Bishop & Davis, 2002), and deliberative mini-publics (Jacobs & Kaufmann, 2021) facilitate discussion in which the public engages in two-way communication with public administrators on policy matters. One type of mini-public, citizen juries, are argued to provide the most intensive participatory experience (Gastil & Levine, 2005) in which public administrators and the public seek to develop a better understanding of each other. These juries use random probability sampling methods when recruiting public participants to create a microcosm of a specific resident population (Crosby & Nethercut, 2005; Rowe & Frewer, 2000); they can come as close to representing a particular community without engaging in universal direct participatory practices, which is not feasible. Public administrators using this participatory design can develop a reasonably accurate understanding of the public's interests and values within a bounded geographic area. When using these methods, they are actively engaged in the legitimate expression of the public's interest and values while also representing normally excluded groups instead of surmising their interests second and third hand from politicians and the organizations where they work, respectively. Therefore, if and when the public expresses its values and interests in favor of social equity, then it is by definition the public administrators' job to act

on those interests as an expression of democracy; thereby, removing the legitimacy dilemma entirely—theoretically.

THE "ACHIEVEMENT" OF SOCIAL EQUITY THROUGH THE DEMOCRATIC SYSTEM

To this point, we have discussed how public administrators continually operate under professional circumstances that not only yield legitimacy dilemmas but also are institutionally structured in ways that perpetually create new ones. As an academic discipline, public administration has accepted that bureaucrats will and should use their discretion to pursue the public's interests in social equity. This stems from the notion that despite the rhetoric surrounding social equity in American society, no government agency has the primary mission to achieve equity (Frederickson, 1971; Waldo, 1972), especially in relation to race/ethnicity, gender, or income (Wooldridge & Gooden, 2009). While some initiatives have been developed to address inequalities, those crafted to advance equity have been more controversial because they challenge ingrained power relations (Guy & McCandless, 2012). At higher levels of government where the rhetoric of social equity abounds, there is no consensus on what social equity means nor how to realize it (Guy & McCandless, 2012; Pitts, 2011; Riccucci & Van Ryzin, 2016). However, we highlighted how public administrators might theoretically develop an enhanced and relatively accurate understanding of local publics' interests surrounding social equity through varied participatory designs. Consequently, if public administrators are guided by the tenants of NPS and actualizing the public's expressed interests, they are avoiding legitimacy dilemmas and have used their discretion to correct democratic deficits in pursuance of social equity; however, this does not seem to be the case.

Since the 1970's, the public administration discipline has accepted the notion of social equity as an ideological pillar and that bureaucrats should not be value neutral, which was manifested by socio-political calls for social equity (Fredrickson, 1990; Waldo, 1971; Wooldridge & Gooden, 2009). Although institutionalized in the latter half of the twentieth century, calls for the enhancement of socially equitable government practices were notably vocalized throughout 2020 in response to inequitable governmental practices related to policing and COVID-19 pandemic response efforts, to name a few. The importance of social equity permeated almost every facet of the American Society for Public Administration's 2021 and 2022 conferences. However, despite this continued academic emphasis and rhetoric, the discipline has struggled to integrate social equity into its curriculum in addition to making its pursuance in professional contexts a reality (Blessett et al., 2019; Frederickson, 2015; Fredrickson, 1990; Gooden, 2014; Gooden & Portillo, 2011). When public administrators use their discretion to enhance social equity within broad political discussions, politicians and the public regularly viewed it as a violation of democracy and challenged their legitimacy.

This legitimacy dilemma is tied to public administrators' pursuance of social equity and raises concerns about bureaucrats' ability to use their discretion to act with moral agency (O'Kelly & Dubnick, 2005) and enhance equitable welfare state service provision within their jurisdictions. However, it also raises fundamental concerns about the ideology that the public administration discipline has been situated in for more than 50 years. Specifically, if public administration is designed to act on the public's interests, but administrators and bureaucrats are viewed as illegitimate for pursuing social equity goals, then are public administrators inaccurately understanding the public's interests and the role of the welfare state? In other words, if public administrators are viewed as illegitimate for using their discretion to pursue social equity, is the American public truly not interested in achieving social equity and it only says it does because to do otherwise is taboo?

Public administration as a discipline has avoided this question, often taking the moral high ground with assuming the American public has an interest in pursuing social equity through addressing social needs, and that it has been the established power structures that have kept society from achieving this goal. But, what if this is not the case? What if the use of bureaucratic discretion in the pursuance of social equity *is* violating democratic principles because it is not what vast portions of the public want? What if the American welfare state, as it is currently conceived, intrinsically perpetuates inequality as opposed to stemming it? Along these lines, 2020 presidential election exit polls indicated that almost half of the American voting public was supportive of political principles that openly expressed the pursuit of government policies aimed at not only reducing the goal of social equity, diversity, and social welfare but also wiping away the very notion that there are various groups our society has historically marginalized and inequitably treated. If this is the case, the notion that public administration should predominantly serve and not steer (Denhardt & Denhardt, 2000), might need to be revisited if it is to hold the moral high ground and avoid broad-scale administrative evils in American society. More specifically, the same ideological tenets that support bureaucratic discretion that reflects public interests to pursue social equity may be the same justification used to provide support for bureaucratic actions that seek to reduce the welfare state and subsequently social equity more broadly.

However, before we become too pessimistic about the situation, further investigations of the public's interest in social equity, bureaucratic discretion, and the role of the welfare state are needed. First, and probably most important, the public administration discipline should make a concerted effort to develop a more accurate or agreed on measure of social equity. By using various indicators and continuing to use the term arbitrarily in the

vernacular only contributes to its misunderstanding among researchers, to say nothing of the public and politicians; it is a form of distorted communication (Habermas, 1984; Pitts, 2011). Second, once new measures of social equity are developed, public administrators should seek to measure the public's interest in the actualization of social equity. This might be done in multiple ways, but it should occur at various units of analysis and across geographic contexts to avoid making inferences that are subject to ecological fallacy (Robinson, 1950). Moreover, researchers should measure the public's interest in social equity using representative and inclusionary means to reduce democratic deficits. This not only refers to the inclusion of "weak publics" (Habermas, 1996) (i.e., historically marginalized and underrepresented racial and ethnic minorities), as we typically think of representation in heterogeneous populations, but also those marginalized communities in more racially homogeneous populations in which socioeconomic status is a more important differentiator. Only in these ways can there be a more holistic and representative understanding of varied communities' support of socially equitable policies.

Third, and with particular attention to public administration, scholars of democratic practice should attempt to measure the public's interests and values surrounding the use of bureaucratic discretion and accountability so that changes can be made within either organizational or programmatic contexts to reduce the occurrence of bureaucratic legitimacy dilemmas. Finally, these theoretical concepts should be applied to various public organizational settings (e.g., emergency management, education, housing policy, community development planning) as a means of determining whether support for bureaucratic discretion and/or the pursuit of social equity as a function of the welfare state varies across professional and policy contexts.

CONCLUSION

With calls for a renewal of social equity goals in US public institutions and the public administration discipline, this paper wrestled with extant theoretical literature and frameworks to consider the role of bureaucratic discretion to achieve these goals. Yet, this daily discretion can lead to bureaucratic legitimacy dilemmas for public administrators, as the source of their legitimacy is often divided between the organization, elected officials, and the public, with market system dynamics constantly at play. NPS provides an action-oriented governance structure in which the public administrator acts as a liaison between these different sources of legitimacy to correct social inequities within their community. However, as noted, actions toward achieving socially equitable outcomes are not always positively accepted by the public because such actions potentially violate democracy and/or contribute to a democratic deficit. Moving forward we must continue to evaluate our progress toward achieving social equity, but also continually measure and seek support from the public for achieving this noble goal. But, before we can do so, we must first settle on a widely accepted definition of the term "social equity," which also requires us to explore the sociohistorical factors that have created the inequitable power structures that continue to plague society. Only by understanding the contributing historical factors that have led to inequitable circumstances can we hope to develop policies that seek to avoid similar dynamics. If we are an action-oriented discipline, a day may come when we have to question what is better, serving a society that has polarized levels of interest in achieving social equity or steering society to achieve more equitable outcomes for people.

ENDNOTE

[1] Meier and O'Toole (2006) make the argument that representative bureaucracy, as it has manifested in the US context, emphasizes the role of race, ethnicity, and gender as characteristics upon which diversification within the bureaucracy should be pursued; however, this is limited in scope. These authors argue that representation should also include other individual characteristics (e.g., socioeconomic status, geography, ideology), which other scholars (Kingsley, 1944; Rivera, 2016) have proposed as a means of more fully representing the American public.

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